



GUIDE TO GOING GLOBAL CORPORATE

Netherlands



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INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Corporate*.

GUIDE TO GOING GLOBAL SERIES

To compete and be successful today, companies need to develop and scale their businesses globally. Each country presents its own set of unique laws, rules and regulations and business practices that companies must understand to be successful. In order to help clients meet the opportunities and challenges of expanding internationally, we have created a handy set of global guides that cover the basics companies need to know when going into and doing business in new countries. The *Guide to Going Global* series reviews business-relevant corporate, employment, intellectual property and technology, executive compensation, and tax laws in key jurisdictions around the world.

CORPORATE

The *Guide to Going Global – Corporate* has been created based on our research, our experience and feedback we have received from clients in both established and emerging businesses that have expanded internationally. We hope it will be a helpful resource for you.

The *Guide to Going Global – Corporate* covers corporate basics in 54 key jurisdictions across the Americas, Asia Pacific, Europe and the Middle East. We touch on a wide range of corporate issues for companies expanding internationally, including establishing a corporate presence and choice of entity, liability considerations, tax presence and tax filings, capital requirements, the formation process, director, officer and shareholder requirements, registration processes, office lease processes and possible exit strategies.

With more than 600 lawyers, DLA Piper's global Corporate group is one of the largest in the world, with one of the widest geographical footprints of any global law firm and experience across the legal areas companies need as they expand internationally. With both global experience and local knowledge, we partner with our clients wherever they do business to find solutions and manage their risk in relation to their challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to seek advice regarding the specific matters that concern you. If you wish to speak to any of our contributors, you may find their contact details at the end of the guide.

We hope you find this guide valuable, and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that corporate law is dynamic, and the legal regime in the countries surveyed could change.

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NETHERLANDS



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FORM OF ENTITY

Branch office

Not a separate legal entity. A branch office is a local office of a non-Dutch legal entity in the Netherlands (the head office).

B.V. (private company with limited liability)

Separate and distinct legal entity. Managed by a board of directors, which is responsible for making major business decisions, overseeing the general affairs and running the day-to-day operations of the BV. Directors are appointed by the shareholders of the BV. A BV can have a supervisory board to supervise the policies of the board of directors and the general course of affairs of the BV and its affiliated business. It is also possible to create a so-called I-tier board, consisting of executive and non-executive directors.

Co-operative U.A.

Separate and distinct legal entity. Managed by a management board, which is responsible for making major business decisions, overseeing the general affairs and running the day-to-day operations of the co-operative. Directors are appointed by the members of the co-operative. A co-operative can have a supervisory board to supervise the policies of the management board and the general course of affairs of the co-operative and its affiliated business. It is also possible to create a so-called I-tier board, consisting of executive and non-executive directors.

C.V. (a limited partnership)

A CV is not a legal entity under Dutch law. It is a partnership agreement between 1 or more general partners and 1 or more limited partners. The general partner has overall management and day-to-day responsibility. The partnership agreement can provide for the possibility that the partners elect a management committee, which will manage the day-to-day business activities of the CV and carry out the business and activities of the CV on behalf of the general partner in accordance with the power granted to them by the general partner.

ENTITY SET UP

Branch office (local office of a non-Dutch legal entity in the Netherlands)

- Not a separate legal entity. The branch office is a local business office of a non-Dutch legal entity in the Netherlands (the head office)
- A branch office is 'established' by a resolution of (the appropriate corporate body under the governing law of) the head office to establish a branch office, followed by registration thereof in the Dutch Trade Register
- Governing law of the head office applies in respect of all corporate legal matters (such as liability of the shareholders, charter documents, responsibility of directors and capital requirements), and
- If the head office under its governing law requires to file annual accounts in its country of origin, then such annual accounts shall also be filed for the branch office with the Dutch Trade Register

B.V. (a private company with limited liability)

- Unlimited number of shareholders
- Generally no personal liability of the shareholders
- Taxed on its earnings at a corporate level and shareholders are taxed on any distributed dividends
- Typical charter documents include: articles of incorporation (included in its deed of incorporation or later deed of amendment, which both require to be executed before a civil-law notary in the Netherlands) and shareholders register
- Board of directors has overall management and day-to-day responsibility
- Shareholders typically acquire shares at incorporation of the BV or by deed of issue thereafter. Shares in the capital of a BV are registered shares for which, in general, no (non-transferable) share certificates are issued. Different types of shares can be created (common, preferred, without voting rights or without profit entitlement), and
- A BV requires to file annual accounts with the Dutch Trade Register. Exemptions can apply – for instance, in the case of consolidation and when certain conditions are met.

Co-operative U.A. (a co-operative association with exclusion of liability)

- Unlimited number of members (with a minimum of 2)
- Generally, no personal liability of the members (which is indicated by use of "U.A." in the name of the co-operative). Please note there can also be co-operative associations in the Netherlands with a different level of liability for its members to contribute to a deficit upon liquidation, such as the co-operative BA (with limited liability of its members) and the co-operative WA (with statutory liability for its members). This overview is limited to the (most commonly used) co-operative UA (with exclusion of liability for its members), hereinafter also referred to as "co-operative."
- Taxed on its earnings at a corporate level, and members are taxed on any distributed dividends

- Typical charter documents include: articles of incorporation (included in its deed of incorporation or later deed of amendment, which both require to be executed before a civil law notary in the Netherlands), a membership agreement (agreement between the members and the co-operative) and a members' register
- Management board has overall management and day-to-day responsibility
- Members typically acquire a membership interest at incorporation of the co-operative or at a later date by being admitted as a new member of the co-operative. A co-operative does not have a capital divided by shares. Capital contributions made by each member to the co-operative are kept in the member accounts kept by the co-operative in the name of each member, and
- A co-operative requires to file annual accounts with the Dutch Trade Register

C.V. (a Dutch limited partnership)

- Unlimited number of partners (with a minimum at least 1 general partner and at least 1 limited partner)
- A general partner is jointly and severally liable for any indebtedness of the CV towards third parties. The liability of a limited partner is limited to the amount of its contribution to the CV, provided that the limited partner does not act on behalf of or for the benefit the CV towards third parties
- A CV is not a legal entity under Dutch law. It is an (partnership) agreement between 1 or more general partners and 1 or more limited partners. The partners can either be legal persons or natural persons
- Since the CV is not a legal entity, it is not possible for the CV to own goods. Therefore, in most limited partnership agreements, it is provided that the general partner will hold all assets (for example, shares in subsidiaries) of the CV from a property law perspective. The general partner and the limited partner will jointly hold the beneficial ownership of the assets on behalf of the CV
- A CV that qualifies as a so-called open CV, meaning that the limited partners may be admitted or replaced without the consent of all partners (both limited and general partners), is opaque for Dutch tax purposes. A closed CV is transparent for Dutch tax purposes
- Typical charter documents include: partnership agreement to be signed by all partners and a partners register
- The general partner has overall management and day-to-day responsibility. The partnership agreement can provide for the possibility that the partners elect a management committee, which will manage the day-to-day business activities of the CV and carry out the business and activities of the CV on behalf of the general partner in accordance with the power granted to them by the general partner
- A CV is being established by means of execution of the partnership agreement and contribution of capital or other assets as to be agreed by the partners. Capital contributions made by each partner to the CV are kept in the capital accounts kept by the CV in the name of each partner, and

- A CV only requires preparing and filing annual accounts with the Dutch Trade Register if, in short, all its general partners are capital companies under foreign law.

MINIMUM CAPITAL REQUIREMENT

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

No minimum capital requirement. Issued capital can be as small as EUR0.01 (or 1 cent in any other currency).

Co-operative U.A.

No minimum capital requirement. The membership agreement or, if so determined in the articles, the general meeting of members, can commit a member to make a payment of initial or additional equity into the co-operative.

C.V. (a limited partnership)

No minimum capital requirement, as long as each partner contributes some capital or other assets to the CV, as to be agreed by the partners.

LEGAL LIABILITY

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Shareholders of a BV are generally not liable for the debts of a BV aside from their financial contribution to the BV.

Co-operative U.A.

Members of a co-operative UA are not liable for the debts of the co-operative aside from their financial contribution to the co-operative.

C.V. (a limited partnership)

A general partner is jointly and severally liable for any indebtedness of the CV towards third parties. The liability of a limited partner is limited to the amount of its contribution to the CV, provided that the limited partner does not act on behalf of or for the benefit the CV towards third parties.

TAX PRESENCE

Branch office

Entities that are not a resident of the Netherlands for tax purposes are subject to Dutch corporate income tax, only if and to the extent income is derived and gains are realized from specific Dutch sources. An important category of income that is subject to Dutch corporate income tax is tax profit derived from a business carried on in the Netherlands by a non-tax resident entity via a Dutch permanent establishment or a Dutch permanent representative.

B.V. (private company with limited liability)

Dutch corporate income tax is imposed on worldwide profits of the BV. The tax rate on the first EUR200,000 of taxable profit is 19 percent. The rate on taxable profit in excess of EUR200,000 is 25.8 percent. Benefits derived by the BV from a so-called participation (*deelneming*) in an entity are exempt from Dutch corporate income tax (participation exemption) (*deelnemingsvrijstelling*). The participation exemption seeks to prevent double taxation of business profits at different corporate levels.

Co-operative U.A.

Dutch corporate income tax is imposed on worldwide profits of the co-operative. The tax rate on the first EUR200,000 of taxable profit is 19 percent. The rate on taxable profit in excess of EUR200,000 is 25.8 percent. Benefits derived by the co-operative from a so-called participation (*deelneming*) in an entity are exempt from Dutch corporate income tax (participation exemption) (*deelnemingsvrijstelling*). The participation exemption seeks to prevent double taxation of business profits at different corporate levels.

C.V. (a limited partnership)

A CV can either be considered tax transparent or opaque from a Dutch tax perspective. Depending on the partnership agreement, the tax status of the CV is determined.

INCORPORATION PROCESS

Branch office

A branch office is 'established' by a resolution of (the appropriate corporate body under the governing law of) the head office to establish a branch office, followed by registration thereof in the Dutch Trade Register. For such registration, notarized and apostilled copies of the charter documents of the head office are required, as well as an original apostilled extract of the head office from the local commercial register and original signed data cards and notarized and apostilled passport copies of the directors of the head office and any proxy holders of the branch office appointed in the resolution regarding its establishment.

B.V. (private company with limited liability)

Execute a deed of incorporation (including articles of association) before a civil law notary officiating in the Netherlands. The incorporator/shareholder can grant written power of attorney to the notary so that no personal appearance in the Netherlands will be required. After execution of the deed, the notary files the articles of the BV, and the details of its directors, its ultimate beneficial owners (natural persons directly or indirectly

holding more than 25 percent of the shares or the voting rights) and of the shareholder (only in case of 100-percent shareholding) with the Dutch Trade Register. The notary prepares a shareholders' register of the BV, which thereafter requires to be kept by the board of directors of the BV at its office address.

Co-operative U.A.

Execute a deed of incorporation (including articles of association) before a civil law notary officiating in the Netherlands. Incorporators/members can grant written power of attorney to the notary so that no personal appearance in the Netherlands will be required. After execution of the deed, the notary files the articles of the co-operative and the details of its board members and its ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the co-operative or the voting rights) with the Dutch Trade Register. The notary prepares a members' agreement (to be signed by the members of the co-operative) and a members' register of the co-operative, which thereafter requires to be kept by the management board of the co-operative at its office address.

C.V. (a limited partnership)

Execute partnership agreement. After execution of the partnership agreement, it is often the notary who files the details of the limited partnership, its general partners and its ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the CV or the voting rights) with the Dutch Trade Register.

BUSINESS RECOGNITION

Branch office

Widely used.

B.V. (private company with limited liability)

Well regarded and widely used.

Co-operative U.A.

Well regarded and widely used.

C.V. (a limited partnership)

Widely used.

SHAREHOLDER MEETING REQUIREMENTS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Required to hold annual meeting of shareholders to vote on certain items, such as appointment of directors and adoption of annual accounts.

Co-operative U.A.

Required to hold an annual meeting of members to vote on certain items, such as appointment of board members and adoption of annual accounts.

C.V. (a limited partnership)

The partnership agreement usually includes a requirement to hold an annual meeting of partners.

BOARD OF DIRECTOR MEETING REQUIREMENTS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Normally 1 annual meeting of the directors is held. Tax substance may require more than 1 meeting to be held per year in the Netherlands.

Co-operative U.A.

Typically an annual meeting of the board members is being held. Tax substance may require more than 1 meeting to be held per year.

C.V. (a limited partnership)

Generally no requirements.

ANNUAL COMPANY TAX RETURNS

Branch office

The foreign company that owns the branch (ie, the head office) must annually file tax returns with Dutch tax authorities.

B.V. (private company with limited liability)

Must annually file tax returns with Dutch tax authorities.

Co-operative U.A.

Must annually file tax returns with Dutch tax authorities.

C.V. (a limited partnership)

Must annually file tax returns with Dutch tax authorities, if the CV is considered an open CV.

BUSINESS REGISTRATION FILING REQUIREMENTS

Branch office

A branch office must be registered in the Dutch Trade Register within 8 days after its establishment.

Information on its directors and proxy holders must be up to date in the Trade Register. Changes must be filed within 8 days.

B.V. (private company with limited liability)

A BV must be registered in the Dutch Trade Register within 1 week after its incorporation. Information on its directors, its ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights) and shareholder (only in case of 100-percent shareholding) must be up to date in the Trade Register. Changes must be filed within 8 days.

Co-operative U.A.

A co-operative must be registered in the Dutch Trade Register within 1 week after its incorporation.

Information on its board members and its ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the co-operative or the voting rights) must be up to date in the Trade Register. Changes must be filed within 1 week.

C.V. (a limited partnership)

A CV must be registered in the Dutch Trade Register within 1 week after its establishing the CV. Information on its general partner, its ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the CV or the voting rights) and management committee members (proxy holders), if any, must be up to date in the Trade Register. Changes must be filed within 1 week.

BUSINESS EXPANSION

Branch office

No need to change as business expands.

B.V. (private company with limited liability)

No need to change as business expands.

Co-operative U.A.

No need to change as business expands.

C.V. (a limited partnership)

No need to change as business expands.

EXIT STRATEGY

Branch office

File a deregistration form with the Dutch Trade Register pursuant to a resolution of (the appropriate corporate body under the governing law of) the head office to terminate the branch office and terminate Dutch activities.

B.V. (private company with limited liability)

File dissolution documents with the Dutch Trade Register after completing a voluntary liquidation procedure (including a mandatory 2 month waiting period in which creditors can file opposition against liquidation accounts).

Co-operative U.A.

File dissolution documents with the Dutch Trade Register after completing a voluntary liquidation procedure (including a mandatory 2-month waiting period in which creditors can file opposition against liquidation accounts).

C.V. (a limited partnership)

File dissolution documents with the Dutch Trade Register after completing liquidation requirements as may be included in the partnership agreement.

ANNUAL CORPORATE MAINTENANCE REQUIREMENTS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Annual director and shareholder meeting.

Co-operative U.A.

Annual management board and members meeting.

C.V. (a limited partnership)

Annual partners meeting (if so required by the partnership agreement).

DIRECTOR / OFFICER REQUIREMENTS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

A BV must have at least 1 director. Tax substance rules require that at least 50 percent of the board consist of Dutch tax resident directors. There is no requirement to have any officers (which under Dutch law are proxy holders to whom the board of directors of the BV can grant representation powers).

Co-operative U.A.

A co-operative must have at least 1 board member. Only members of the co-operative can be appointed as board members, unless the articles of association allow non-members to be appointed as board members. Tax substance rules require that at least 50 percent of the board consist of Dutch tax resident directors. There is no requirement to have any officers (which under Dutch law, are proxy holders to whom the management board of the co-operative can grant representation powers).

C.V. (a limited partnership)

A CV must have at least 1 general partner and 1 limited partner. If provided for by the partnership agreement, a CV can have a management committee (who are proxy holders granted representation powers by the general partner).

For more information on directors' duties, see our [Global Guide to Directors' Duties](#).

LOCAL CORPORATE SECRETARY REQUIREMENT

Branch office

None.

B.V. (private company with limited liability)

None.

Co-operative U.A.

None.

C.V. (a limited partnership)

None.

LOCAL LEGAL OR ADMIN REPRESENTATIVE REQUIREMENT

Branch office

The head office may appoint 1 or more proxy holders who can represent the branch office in the Netherlands (limited or general power of attorney for the activities of the branch office). These proxy holders must be registered in the Dutch Trade Register.

B.V. (private company with limited liability)

None beyond the required director. If there is no presence in the Netherlands yet, a Dutch trust company can provide a local representative(s), office address and administration services to the BV.

Co-operative U.A.

None beyond the required board member. If there is no presence in the Netherlands yet, a Dutch trust company can provide a local representative(s), office address and administration services to the co-operative.

C.V. (a limited partnership)

None beyond the requirement of at least 1 general partner.

LOCAL OFFICE LEASE REQUIREMENT

Branch office

The head office must either own or lease the office address of the branch in the Netherlands or use domiciliation services of a Dutch trust company. The office address of the branch must be registered in the Trade Register.

B.V. (private company with limited liability)

An office address (in or outside the Netherlands) is required for incorporation. The office address of the BV must be registered in the Trade Register within 1 week after incorporation. Tax substance rules require that the BV has its office address in the Netherlands.

Co-operative U.A.

An office address (in or outside the Netherlands) is required for incorporation. The office address of the co-operative must be registered in the Trade Register within 1 week after incorporation. Tax substance rules require that the co-operative has its office address in the Netherlands.

C.V. (a limited partnership)

An office address (in or outside the Netherlands) is required for establishment of the CV. The address of the CV may be outside the Netherlands, if the CV is considered a closed CV for Dutch tax purposes.

OTHER PHYSICAL PRESENCE REQUIREMENTS

Branch office

None.

B.V. (private company with limited liability)

None.

Co-operative U.A.

None.

C.V. (a limited partnership)

None.

SUFFICIENCY OF VIRTUAL OFFICE

Branch office

Not sufficient.

B.V. (private company with limited liability)

Not sufficient.

Co-operative U.A.

Not sufficient.

C.V. (a limited partnership)

Not sufficient.

PROVISION OF LOCAL REGISTERED ADDRESS BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Branch office

Allowed. In the Netherlands, there are trust companies that provide these services. Law firms in the Netherlands are not allowed to do so.

B.V. (private company with limited liability)

Allowed. In the Netherlands, there are trust companies that provide these services. Law firms in the Netherlands are not allowed to do so.

Co-operative U.A.

Allowed. In the Netherlands, there are trust companies that provide these services. Law firms in the Netherlands are not allowed to do so.

C.V. (a limited partnership)

Allowed. In the Netherlands, there are trust companies that provide these services. Law firms in the Netherlands are not allowed to do so.

PROVISION OF LOCAL DIRECTOR OR CORPORATE SECRETARY BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Branch office

Allowed and commonly provided by Dutch trust companies. Law firms in the Netherlands are not allowed to provide these services.

B.V. (private company with limited liability)

Allowed and commonly provided by Dutch trust companies. Law firms in the Netherlands are not allowed to do so.

Co-operative U.A.

Allowed and commonly provided by Dutch trust companies. Law firms in the Netherlands are not allowed to do so.

C.V. (a limited partnership)

Allowed – however, not commonly provided for Dutch CVs.

NATIONALITY OR RESIDENCY REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND OFFICERS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

None from a pure legal perspective, however tax substance rules require that at least 50 percent of the board consist of Dutch tax resident directors.

Co-operative U.A.

None from a pure legal perspective, however tax substance rules require that at least 50 percent of the board consist of Dutch tax resident directors.

C.V. (a limited partnership)

None.

RESTRICTIONS REGARDING APPOINTMENT OF NOMINEE SHAREHOLDERS OR DIRECTORS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

The concept of nominee shareholders itself is not known in the Netherlands. However, there are possibilities under Dutch law to achieve a similar result.

Nominee directors not allowed.

Co-operative U.A.

The concept of nominee shareholders (members for a co-operative) itself is not known in the Netherlands. However, there are possibilities under Dutch law to achieve a similar result.

Nominee board members not allowed.

C.V. (a limited partnership)

The concept of nominee partners itself is not known in the Netherlands. However, there are possibilities under Dutch law to achieve a similar result.

Nominee directors not applicable.

SUMMARY OF DIRECTOR'S, OFFICER'S AND SHAREHOLDER'S AUTHORITY AND LIMITATIONS THEREOF

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Directors are elected by the shareholders' meeting, and the board of directors is responsible for making major business decisions, overseeing the general affairs and running the day-to-day operations of the BV. The directors of the BV have collective powers and responsibilities. They share responsibility for all decisions and acts of the board and for the acts of each individual director. If the board of directors has appointed any proxy holders (officers), their authority to represent the BV is limited by the content of the powers granted to them.

Co-operative U.A.

Board members are elected by the meeting of members, and the management board is responsible for making major business decisions, overseeing the general affairs and running the day-to-day operations of the co-operative. The board members of the co-operative have collective powers and responsibilities. They share responsibility for

all decisions and acts of the board and for the acts of each individual board member. If the management board has appointed any proxy holders (officers), their authority to represent the co-operative is limited by the content of the powers granted to them.

C.V. (a limited partnership)

The general partner is responsible for making major business decisions, overseeing the general affairs and running the day-to-day operations of the CV. The partnership agreement can provide for the possibility that the partners elect a management committee, which will manage the day-to-day business activities of the CV and carry out the business and activities of the CV on behalf of the general partner in accordance with the power granted to them by the general partner.

PUBLIC DISCLOSURE OF IDENTITY OF DIRECTORS, OFFICERS AND SHAREHOLDERS

Branch office

Identity of directors of the head office and proxy holders (if appointed) of the branch office is publicly disclosed, by registration in the Dutch Trade Register.

B.V. (private company with limited liability)

Identity of directors and proxy holders (officers) is publicly disclosed by registration in the Dutch Trade Register, although it is also possible not to register, and therefore not to disclose the identity of, proxy holders (officers); identity of the shareholder is disclosed only if it holds 100 percent of the shares of the BV. The identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights), although registered in the Dutch Trade Register, are not publicly disclosed. However, it is expected that such information will be publicly disclosed in the near future.

Co-operative U.A.

Identity of board members and proxy holders (officers) is publicly disclosed by registration with the Dutch Trade Register, although it is also possible not to register, and therefore not to disclose the identity of, proxy holders (officers); identities of the members are not disclosed. The identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights), although registered in the Dutch Trade Register, are not publicly disclosed. However, it is expected that such information will be publicly disclosed in the near future.

C.V. (a limited partnership)

Identity of the general partner(s) and the management committee members (proxy holders), if any, is publicly disclosed, although it is also possible not to register, and therefore not to disclose the identity of, proxy holders (officers); identity of the limited partner(s) is not disclosed. The identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights), although registered in the Dutch Trade Register, are not publicly disclosed. However, it is expected that such information will be publicly disclosed in the near future.

MINIMUM AND MAXIMUM NUMBER OF DIRECTORS AND SHAREHOLDERS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

There must be a minimum of 1 shareholder, and there is no maximum number. For directors, the minimum number is 1 (sometimes more local Dutch tax resident directors are required for tax substance), while there is no maximum number.

Co-operative U.A.

A minimum of 2 members is required, although it is possible that a co-operative temporarily has only 1 member. There is no maximum number of members. For board members, the minimum number is 1, while there is no maximum number.

C.V. (a limited partnership)

A minimum of 2 partners (at least 1 general and 1 limited partner) is required, and there is no maximum number.

MINIMUM NUMBER OF SHAREHOLDERS REQUIRED

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

1 shareholder is sufficient.

Co-operative U.A.

A co-operative should have at least 2 members.

C.V. (a limited partnership)

A minimum of 2 partners (at least 1 general and 1 limited partner) is required.

REMOVAL OF DIRECTORS OR OFFICERS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Directors can be dismissed by a resolution of the shareholders meeting.

Co-operative U.A.

Board members can be dismissed by a resolution of the meeting of members.

C.V. (a limited partnership)

Members of the management committee, if any, can be dismissed in the way as provided for in the partnership agreement.

REQUIRED AND OPTIONAL OFFICERS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

None required; optional officers (proxy holders) are allowed.

Co-operative U.A.

None required; optional officers (proxy holders) are allowed.

C.V. (a limited partnership)

None required; optional management committee members (proxy holders) are allowed.

BOARD MEETING REQUIREMENTS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Typically 1 annual director meeting is being held, however more than 1 physical board may be advisable to create sufficient tax substance in the Netherlands.

Co-operative U.A.

Typically 1 annual board meeting is being held, however more than 1 physical board may be advisable to create sufficient tax substance in the Netherlands.

C.V. (a limited partnership)

None.

QUORUM REQUIREMENTS FOR SHAREHOLDER AND BOARD MEETINGS

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

For a shareholders' meeting, usually a majority of shareholders must be present (unless the articles of the BV prescribe otherwise). Shareholders can adopt resolutions without holding a meeting (for example, in writing). For directors, typically a majority of directors must be present during a board meeting (unless the articles prescribe otherwise); alternatively, the directors can execute written resolutions (observing the provision included in the articles and any restrictive tax substance requirements).

Co-operative U.A.

For a meeting of members, usually a majority of members must be present (unless the articles of the co-operative prescribe otherwise). If provided for in the articles, the members can adopt resolutions in writing without holding a meeting. For board members, typically a majority of them must be present during a board meeting (unless the articles prescribe otherwise); alternatively, the board members can execute written resolutions (taking into account the relevant provisions in the articles and any restrictive tax substance requirements).

C.V. (a limited partnership)

For a partners' meeting, usually a majority of partners must be present (unless the partnership agreement provides otherwise). The partners can adopt resolutions in writing without holding a meeting. If the partnership agreement provides for the possibility to elect a management committee, then it will also include requirements in respect of meetings of the management committee (such as minimum number of meetings per year, quorum requirements and place of meetings).

MUST A BANK ACCOUNT BE OPENED PRIOR TO INCORPORATION, AND MUST THE BANK ACCOUNT BE LOCAL?

Branch office

Not necessary in order to establish a branch office. When necessary, a bank account can be opened anywhere.

B.V. (private company with limited liability)

Not necessary in order to incorporate. When necessary, a bank account can be opened anywhere (however the tax substance rules require that the most important bank account is managed and controlled from the Netherlands).

Co-operative U.A.

Not necessary in order to incorporate. When necessary, a bank account can be opened anywhere (however the tax substance rules require that the most important bank account is managed and controlled from the Netherlands).

C.V. (a limited partnership)

Not necessary in order to establish a CV. When necessary, a bank account can be opened anywhere.

AUDITING OF LOCAL FINANCIALS. IF SO, MUST THE AUDITOR BE LOCATED IN LOCAL JURISDICTION, AND MUST THE COMPANY'S BOOKS BE KEPT LOCALLY?

Branch office

Determined by governing law of the head office. If the head office under its governing law requires filing annual accounts in its country of origin, then such annual accounts shall also be filed for the branch office with the Dutch Trade Register. The governing law of the head office also determines if the accounts need to be audited.

B.V. (private company with limited liability)

A local audit is not generally required for a BV, unless it is considered a medium company or large company (when certain threshold amounts are exceeded in respect of assets, net turnover and employee number). Generally, corporate books and records of the BV are kept at the address of the BV; it is the obligation of the board of directors to keep the books and records in such way that the BV's rights and obligations can be known at any time. Tax substance rules require that the bookkeeping takes place in the Netherlands.

Co-operative U.A.

A local audit is not generally required for a co-operative, unless it is considered a medium company or large company (when certain threshold amounts are exceeded in respect of assets, net turnover and number of employees). Generally, corporate books and records of the co-operative are kept at the address of the co-operative. It is the obligation of the board to keep the books and records in such way that the co-operative's rights and obligations can be known at any time. Tax substance rules require that the bookkeeping takes place in the Netherlands.

C.V. (a limited partnership)

A CV only requires preparing and filing annual accounts with the Dutch Trade Register if, in short, all its general partners are capital companies under foreign law. If this is the case, a local audit is not generally required for a CV, unless it is considered a medium company or large company (when certain threshold amounts are exceeded in respect of assets, net turnover and number of employees, which is very unlikely for a CV). Generally, corporate books and records of the CV are kept at the address of the CV. Tax substance rules require that the bookkeeping takes place in the Netherlands.

REQUIREMENT REGARDING PAR VALUE OF STOCK

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

The Minimum par value per share can be denominated in Euro or any other currency.

Co-operative U.A.

Not applicable. A co-operative does not have a capital divided into shares.

C.V. (a limited partnership)

Not applicable. A CV does not have a capital divided into shares.

INCREASING OF CAPITALIZATION IF NEEDED

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

The articles of a BV only require mentioning the par value per share, not the amount of issued capital. Issuance of additional shares requires execution of a notarial deed before a civil law notary in the Netherlands on the basis of a shareholders' resolution (and powers of attorney of the BV and the acquirer, unless they personally appear in front of the notary). A shareholder can also contribute capital on the already existing shares it holds in the capital of the BV by way of a share premium contribution (without issuance of shares).

Co-operative U.A.

The articles of a co-operative do not mention the amount of its capital; they only mention in which currency the member accounts are denominated. The membership agreement or, if so determined in the articles, the general meeting of members can commit a member to make a payment of initial or additional equity into the co-operative, which will be credited to the member account kept by the co-operative in such member's name.

C.V. (a limited partnership)

The partners of the CV must each make an initial contribution in the form of capital or other assets. Generally, the limited partner contributes cash and/or goods. If the general partner does not contribute cash or goods, it can, for example, contribute the know-how, skills and experience required to conduct the business of the CV. The partnership agreement of a closed CV often requires that additional capital contributions to the CV after its formation require the prior unanimous written consent of all partners.

SUMMARY OF HOW FUNDS CAN BE REPATRIATED FROM YOUR JURISDICTION (IE DIVIDENDS OR REDEMPTION)

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Funds can be repatriated via dividends (including repayment from reserves) or redemption.

Co-operative U.A.

Funds can be repatriated via dividends (including repayment from reserves) and repayments from the member accounts.

C.V. (a limited partnership)

Funds can be repatriated via dividends and repayments from the capital accounts (for which, in most cases, the partnership agreement will require prior unanimous written consent of all partners).

General contract law applies to the CV, mandatory rules of corporate law do not apply. General rules on reasonableness and fairness limit the contractual freedom of the parties involved. Please note that not all profits may be allocated to 1 partner and that partners cannot be excluded from a profit right.

RESTRICTIONS ON TRANSFERABILITY OF SHARES

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Shares must be transferred by execution of a deed before a civil law notary in the Netherlands. Articles of a BV often contain a share transfer restriction provision (in the form of a right of first refusal or the requirement of prior consent from the shareholders' meeting).

Co-operative U.A.

As a general rule, a membership interest in a co-operative is personal, but if the articles allow it, membership interests can become freely transferable. Based upon tax implications, a co-operative is generally organized in such way that its articles contain a certain restriction to the free transferability of membership interests (requirement of consent from the members). Unless the articles of the co-operative prescribe that a membership interest can only be transferred by notarial deed, it can be transferred by private agreement.

C.V. (a limited partnership)

Section 2(3)(c) STA defines the term "open CV." An entity qualifies as an open limited partnership if – save for cases involving bequests or inheritance – limited partners can join the partnership or be replaced without the consent of all partners, both managing and limited partners.

To safeguard the closed nature of a CV, all partners, both managing and limited, must each separately grant permission.

OBTAINING A NAME AND NAMING REQUIREMENTS

Branch office

Proposed names cannot be reserved in the Dutch Trade Register. Usually, the notary checks in the online Dutch Trade Register if the name is still available (ie, not yet registered as name of another company). The name of a branch office is often composed of the name of the head office followed by “Netherlands branch” or “Dutch branch.”

B.V. (private company with limited liability)

Proposed names cannot be reserved in the Dutch Trade Register. Usually, the notary checks in the online Dutch Trade Register if the name is still available (ie, not yet registered as name of another company). The name of a BV must begin or end with “B.V.”

Co-operative U.A.

Proposed names cannot be reserved in the Dutch Trade Register. Usually, the notary checks in the online Dutch Trade Register if the name is still available (ie, not yet registered as name of another company). The name of a co-operative UA must include the word “*Coöperatief*” and “U.A.”

C.V. (a limited partnership)

Proposed names cannot be reserved in the Dutch Trade Register. Usually, the notary checks in the online Dutch Trade Register if the name is still available (ie, not yet registered as name of another company). The name of a CV must include “C.V.” To prevent the limited partner from becoming liable as if they were a general partner, the name of the limited partner shall not be included in the name of the CV.

SUMMARY OF "KNOW YOUR CLIENT" REQUIREMENTS

Branch office

Dutch civil law notaries and trust companies each have their own KYC requirements. Generally, clients are required to disclose the identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights) and provide documentation, such as notarized and apostilled passport copies, of individuals involved with the branch office as director or proxy holder.

If no ultimate beneficial owner, holding more than 25 percent, exists in the structure, pseudo-UBOs must be designated (for example, the members of the board).

B.V. (private company with limited liability)

Dutch civil law notaries and trust companies each have their own KYC requirements. Generally, clients are required to disclose the identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the shares or the voting rights) and provide documentation, such as notarized and apostilled passport copies, of individuals involved with the BV as director or (representative of) shareholder.

If no ultimate beneficial owner, holding more than 25 percent, exists in the structure, pseudo-UBOs must be designated (for example, the members of the board).

Co-operative U.A.

Dutch civil law notaries and trust companies each have their own KYC requirements. Generally, clients are required to disclose the identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the co-operative or the voting rights) and provide documentation, such as notarized and apostilled passport copies, of individuals involved with the co-operative as board member or (representative of) member.

If no ultimate beneficial owner, holding more than 25 percent, exists in the structure, pseudo-UBOs must be designated (for example, the members of the board).

C.V. (a limited partnership)

Dutch lawyers, civil law notaries and trust companies each have their own KYC requirements. Generally, clients are required to disclose the identities of ultimate beneficial owners (natural persons directly or indirectly holding more than 25 percent of the interests in the CV or the voting rights) and provide documentation, such as notarized and apostilled passport copies, of individuals involved with the CV as a partner (or management committee member).

If no ultimate beneficial owner, holding more than 25 percent, exists in the structure, pseudo-UBOs must be designated (for example, the general partners of the CV).

APPROVAL REQUIREMENTS FOR AMENDING CHARTER DOCUMENT

Branch office

Determined by governing law of the head office.

B.V. (private company with limited liability)

Any amendment to the Articles of Association of a BV requires a resolution of the shareholders meeting (with a majority prescribed in the Articles) and execution of a deed of amendment before a civil-law notary in the Netherlands.

Co-operative U.A.

Any amendment to the Articles of Association of a Co-operative requires a resolution of the general meeting of members (with a majority prescribed in the Articles) and execution of a deed of amendment before a civil-law notary in the Netherlands.

C.V. (a limited partnership)

The partnership agreement usually provides that it can be amended by all partners jointly.

LICENSES REQUIRED TO CONDUCT BUSINESS IN JURISDICTION

Branch office

Generally, no license is required to do business in the Netherlands, except for certain sectors, such as banking and insurance.

B.V. (private company with limited liability)

Generally, no license is required to do business in the Netherlands, except for certain sectors, such as banking and insurance.

Co-operative U.A.

Generally, no license is required to do business in the Netherlands, except for certain sectors, such as banking and insurance.

C.V. (a limited partnership)

Generally, no license is required to do business in the Netherlands, except for certain sectors, such as banking and insurance.

PROCESS OF PURCHASING AND UTILIZING A SHELF COMPANY

Branch office

Not applicable.

B.V. (private company with limited liability)

Since the BV can be incorporated within 1 to 2 weeks, the purchase of a shelf company has become very unusual, if at all available.

Co-operative U.A.

Not applicable.

C.V. (a limited partnership)

Not applicable.

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