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The Annual Accounts in the Netherlands

A guide to Title 9 of the Netherlands Civil Code

2020 Edition

Preface

Over the last fifty years, and due to European Directives, the regulations and legislation with respect to the annual accounts in the Netherlands have increased significantly.

This publication provides an overview of Title 9 Book 2 (hereinafter: Title 9) of the Netherlands Civil Code (NCC) with respect to the annual accounts in the Netherlands. The primary focus of this publication is on the annual accounts of non-listed B.V.'s and N.V.'s in the Netherlands and its main goal is to provide structured guidance with respect to the headlines of Title 9. This publication is intended for financial years starting on or after 1 January 2020.

For listed entities Deloitte Netherlands has made a series of publications 'Financial reporting requirements for Dutch listed and other public interest'. This series provides an overview of the financial reporting requirements that these entities need to comply with. The aim of these publications is to provide a comprehensive list of specific financial reporting requirements that listed and other public interest entities need to apply. These publications are available on https://www.iasplus.com/en/tag-types/member-firms/netherlands.

I would like to express our gratitude to Arjen Hofman and Corné Kimenai for their efforts in revising and editing this publication.

Ralph ter Hoeven
Partner Deloitte Accountants B.V.

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1. Executive summary

The legal requirements relating to the annual accounts are included in Title 9 Book 2 (hereinafter: Title 9) of the Netherlands Civil Code (NCC). Title 9 is applicable to the annual accounts of certain types of legal entities, such as the public limited liability entity (N.V.) and the private limited liability entity (B.V.). The Dutch Accounting Standards Board (DASB) issues authoritative and interpretative accounting standards. The NCC and Dutch Accounting Standards (DASs) comprise the Netherlands Generally Accepted Accounting Principles (NL GAAP). Entities are well advised to comply with DASs and are furthermore recommended to use the DASs for reference when interpretation of Title 9 of the Netherlands Civil Code is required. However, DASs do not formally have the status of law. Title 9 offers legal entities the possibility to prepare both the consolidated financial statements and the separate financial statements[1] in accordance with International Financial Reporting Standards as endorsed by the EU (IFRS-EU). Reference is made to paragraph 2.5 'IFRS-EU'.

The annual accounts consist of the management board report, the financial statements and the other information section. The financial statements consist of the separate financial statements consisting of the balance sheet, the profit and loss account and the notes, and the consolidated financial statements (if applicable). The financial statements must provide an 'insight' such that a reasonable judgement can be formed regarding the financial position and results of the entity, and, to the extent that the nature of the financial statements permits, its solvency and liquidity. Depending on whether a group relationship exists, consolidated financial statements shall be prepared. Certain exemptions to consolidation may apply.

The management board of an entity is required to prepare the annual accounts within certain time limits. The financial statements of an N.V. or a B.V. are adopted by the general meeting. An entity must publish its annual accounts within certain time limits following the adoption of its financial statements.

Entities are classified by means of certain size criteria into four categories: large, medium-sized, small and micro entities. Micro, small and medium-sized entities may take advantage of certain exemptions, if they do not prepare financial statements in accordance with IFRS-EU. A distinction can be made between exemptions relating to preparation of the financial statements, and those relating to publication of the financial statements.

Micro and small entities have no legal audit requirement if they apply NL GAAP in the separate financial statements. The financial statements of medium-sized and large entities must be audited (unless the group exemption in article 403 NCC is applied, refer to paragraph 6.3 'Consolidated financial statements').

The Decree on financial statements formats lays down certain formats for the balance sheet and profit and loss account which are applicable to the entities defined in the Decree (except for micro entities). The formats are included in Appendix 2 of this publication for the reader's convenience.

The NCC sets out a number of requirements for the management board report of large and medium-sized entities.

1 According to Dutch law separate financial statements are also used as term if an entity does not prepare consolidated financial statements.

2. Introduction

2.1 Annual accounts

The legal requirements relating to the annual accounts are included in Title 9 of the Netherlands Civil Code (NCC), based on the EU Accounting Directive 2013/34/EU. The annual accounts comprise:

- management board's report
- financial statements, consisting of:
  - balance sheet
  - profit and loss account
  - notes
- other information.

Consolidated financial statements, when required, are part of the annual accounts.

A cash flow statement is required for medium-sized and large entities based on DAS 360.104. The cash flow statement is however not mentioned in the NCC as a primary financial statement. DAS 360.101 states that the cash flow statement is part of the financial statements. Given the definition of financial statements in article 361-1 NCC, it could be argued that the cash flow statement forms part of the notes to the financial statements. However, in practice, medium-sized and large entities present the cash flow statement together with the balance sheet and profit and loss account, as a third primary financial statement. A cash flow statement is not required if the capital of a entity is fully provided by another entity[2] which prepares an equivalent cash flow statement as part of its consolidated financial statements. A entity which applies this exemption shall disclose where such consolidated financial statements can be obtained (DAS 360.104).

2.2 Scope of Title 9

Title 9 is applicable to the annual accounts of the following legal entities (article 360 NCC):

- public limited liability entity (N.V.);
- private limited liability entity (B.V.);
- cooperative;
- mutual guarantee association;
- limited partnership (C.V.) or general partnership (V.O.F.) where all partners who are fully liable to creditors for debts, are capital entities incorporated under foreign law; and
- foundations or associations holding on their own, one or more businesses (so-called commercial foundation or association) with net turnover of at least EUR 6 million.

In this guide, all these types of entities are referred to as 'entities'.

2.3 Impact of Title 9

Title 9 contains a considerable number of legal requirements relating to the management board's report and the financial statements (including audit and publication requirements), as well as requirements on valuation. Because these requirements vary depending on the size of the entity concerned, entity size is discussed initially in Chapter 3. Publication and audit requirements are discussed in Chapter 4 and 5 respectively.

Disclosure requirements are dealt with throughout this publication on a high-level basis, mainly in Chapter 6. The prescribed models for disclosure and publication of the balance sheet and the profit and loss account are set out in Appendix 2 and explained in Chapter 7.

The management board's report, the items to be included in the other information section are dealt with in Chapters 8 and 9 of this publication.

2 Either directly or indirectly.

2.4 NL GAAP

Netherlands Generally Accepted Accounting Principles

The DASB issues authoritative and interpretative accounting standards. The NCC and Dutch Accounting Standards (DASs) comprise Netherlands Generally Accepted Accounting Principles (NL GAAP). DASs do not formally have the status of law. However, it should be emphasised that DASs do have a great degree of authority and status in the Netherlands. The significance of DASs has been confirmed by the Court of Appeal ('Ondernemingskamer') and the Supreme Court ('Hoge Raad') in various cases. Compliance with DASs is important in demonstrating that the financial statements provide the legally required insight (see Chapter 6 'Financial statements', paragraph 6.1). Entities are therefore well advised to comply with DASs and to use DASs for reference when interpretation of Title 9 of the NCC is required.

DASs differentiate between bold type statements (indicating a higher definitive status) and non-bold type statements. Deviation from the bold type statements is only allowed when there are sound reasons for such deviation (DAS 100.407).

Annual accounts may be queried by any interested party, at the Court of Appeal in Amsterdam. The Court may decide that current and future annual accounts must be changed to be in conformity with the insight required by entity law or with any other specific legal stipulations of Title 9. It is possible to appeal against such decisions in the Supreme Court of the Netherlands.

Entities Formally Registered Abroad Act

The Entities Formally Registered Abroad Act (Wfbv) applies to a foreign (non-European Union member state) entity that conducts its activities entirely or almost entirely in the Netherlands and does not have real ties with the state in which the entity was created (article 1-1 Wfbv). If an entity is in scope of the Wfbv, its directors are required to enter such entity in the Trade Register of the Chamber of Commerce in the Netherlands. Amongst other requirements of the Wfbv, directors are required to prepare and file financial statements and a management board's report which shall comply with Title 9 (article 5-2 Wfbv). Reference is made to the Wfbv for more details and other relevant requirements.

Tax accounting principles

Micro and small entities may elect to apply the accounting principles in Chapter 2 of the Dutch Corporation Tax Act 1969, provided that all such stipulations are applied. The use of such accounting principles shall be disclosed (article 396-6 and 395a-7 NCC).

2.5 IFRS-EU

Article 362 NCC offers entities the possibility to prepare both the entity-only financial statements and the consolidated financial statements under IFRS-EU. IFRS-EU are European Union (EU) endorsed International Financial Reporting Standards. It should be noted that listed entities are obliged to prepare their consolidated financial statements under IFRS-EU. For this purpose, the definition of a listed entity is a entity of which securities are traded on a regulated stock exchange, as referred to in Article 4-14 of EC Directive 2004/39/EC, of a European Union member state.

Non-listed entities are free to prepare their entity-only financial statements or consolidated financial statements in accordance with IFRS-EU. A entity may, however, only prepare its entity-only financial statements in accordance with IFRS-EU if its consolidated financial statements have been prepared under the same standards. The table below outlines the possibilities the law offers if a entity prepares entity-only financial statements and consolidated financial statements (combination 1 through 5) and if a entity prepares entity-only financial statements only (option 6 and 7). Please note that IFRS-SME is not considered in the table below.

	Consolidated financial statements	Entity-only financial statements
1.	Title 9 plus Dutch Accounting Standards	Title 9 plus Dutch Accounting Standards
2.	IFRS-EU	Title 9 without application of the option to apply the accounting principles that have been used for the consolidated financial statements (plus Dutch Accounting Standards)[3]
3.	IFRS-EU	Title 9 with application of the option to apply the accounting principles which the entity used for preparing the consolidated financial statements[4]
4.	IFRS-EU	IFRS-EU plus certain applicable articles from Title 9
5.	Standards that are generally accepted in one of the other member states of the EU if the international entanglement of the group justifies this	Standards that are generally accepted in one of the other member states of the EU if the international entanglement of the group justifies this[5]
6.	N/A	Title 9 plus Dutch Accounting Standards
7.	N/A	IFRS-EU

It is important to note that based on article 362-9 NCC, a entity which applies IFRS-EU using combination 4 as well as a entity preparing unconsolidated financial statements under IFRS-EU (i.e. option 7) cannot use the size exemptions of articles 395a, 396, 397 and 398 NCC. Consequently, such a entity is classified as a large entity.

3 The application of combination 2 will, in most cases, produce differences in shareholders' equity when comparing the consolidated financial statements and the entity-only financial statements. These differences must be disclosed in the notes to the entity-only financial statements (article 389-10 NCC).

4 The application of combination 3 enables keeping the equity according to the entity-only financial statements equal to the equity according to the consolidated financial statements. Subsidiaries of the entity are to be accounted for using the net asset value method or the equity method, based on the pronouncements of the DASB. Presentation and disclosure requirements of Title 9 must be followed.

5 The application of combination 5 in accordance with article 362-1 (second sentence) NCC is rarely applied. Under this stipulation, the financial statements may be prepared based on standards that are generally accepted in one of the other member states of the EU if the international entanglement justifies this. A condition for application of this stipulation is that the legally required insight must still be provided.

3. Entity size

3.1 Criteria

Entities are classified by size using three criteria (articles 395a, 396, 397 and 398 NCC)[6]:

- total assets as recorded in the balance sheet;
- net turnover;
- average number of employees.

For a parent entity, the value of total assets and net turnover for this purpose are its own (stand-alone) figures plus those of its group entities (i.e. on a consolidated basis). The average number of employees includes the employees of group entities. This does not apply if the entity applies article 408 NCC, in which case the size criteria are determined on a stand-alone (unconsolidated) basis. Article 408 NCC is discussed in paragraph 6.2 'Valuation of participating interests in other entities'.

The entity's assets for this purpose must be determined on a historical cost basis.

3.2 Categories

Entities are classified into four categories:

- large;
- medium-sized;
- small; or
- micro.

3.3 Classification chart

For financial years starting on or after 1 January 2016, the following size criteria are applicable:

Amounts in EUR	Micro	Small*	Medium-sized **	Large
Total assets***	≤ 350 thousand	≤ 6 million	≤ 20 million	> 20 million
Net turnover	≤ 700 thousand	≤ 12 million	≤ 40 million	> 40 million
Average number of employees	< 10	< 50	< 250	≥ 250

* and not a micro entity

** and not a micro or small entity

*** on a historical cost basis

A entity is classified in a particular category (micro, small, medium-sized or large) if it meets at least two of the three criteria for that category on two consecutive balance sheet dates. The size of the entity calculated at the end of the first financial year is decisive for the classification of the first and second financial year. Please note that the quantitative size criteria may be subject to change (article 398-4 NCC).

6 As noted in paragraph 2.5 'IFRS-EU', an entity which applies IFRS-EU using combination 4, cannot use the size exemptions of articles 395a, 396 and 397 NCC (article 362-9 NCC). Further exceptions apply to investment entities to which article 398-6 NCC applies and public interest entities based on article 398-7 NCC. Consequently, such entities are classified as large entities. An entity which applies combination 3 prepares the separate financial statements in accordance with Title 9 and can hence use the size exemptions as noted above financial year. Please note that the quantitative size criteria may be subject to change (article 398-4 NCC).

4. Preparation, adoption and publication of annual accounts

4.1 Introduction

Article 10 of Book 2 of the NCC deals with general administrative requirements. The management board is required to maintain accounting records in order to determine the entity's financial position and its activities at any given point in time. It must archive its books, documentation and other data records for a period of seven years.

Please note that paragraph 4.2 until paragraph 4.6 below relates to the requirements for non-listed entities. Please refer to paragraph 4.7 below for the special requirements for listed entities.

Following the effects of the COVID-19 pandemic, per April 24, 2020, the 'temporary law COVID-19' was enacted. This law includes temporary changes to the NCC that among others relate to the preparation, adoption and publication of annual accounts[7]. Since this law is temporary (at the time of writing of this publication until 31 December 2020), it is not included in paragraph 4.2 until paragraph 4.6 below.

4.2 Preparation

The management board is required to prepare the annual accounts within five months after the financial year-end for the N.V. and B.V. and six months for the cooperative, mutual guarantee association, commercial foundation and commercial association. The general meeting of members (for a commercial association, a cooperative or a mutual guarantee association), the body designated in the articles (for a commercial foundation) or the general meeting (for an N.V. or a B.V.) may extend the period for preparing the annual accounts for a maximum period of five months (for an N.V. or a B.V.) or a maximum period of four months (for a cooperative, mutual guarantee association or a commercial foundation or association). The maximum extended period for preparing the annual accounts is therefore ten months.

4.3 Signing

An original set of financial statements must be dated and signed by the management board and, where applicable, the supervisory board.

4.4 Adoption

The financial statements of an N.V. and a B.V. must be presented to and adopted by the general meeting. Simplified adoption requirements apply for B.V.'s of which all shareholders are also directors of the entity. In that case, the signing of the financial statements by all management board members and (if applicable) supervisory board members qualifies as the formal adoption of those financial statements, if the following conditions have been met:

- all other parties with a right to attend the general meeting (e.g. share certificate holders, pledge holders or parties entitled to a usufruct ('vruchtgebruik') have been given the opportunity to read the prepared financial statements); and
- such parties have given their consent to such simplified adoption of the financial statements (article 210-5 NCC).

Once adopted, the financial statements cannot be revoked. Should it subsequently be found that the financial statements are seriously deficient in providing the legally required insight, specific procedures (outlined in Chapter 6, 'Financial statements', paragraph 6.1) must be followed (article 362-6 NCC).

7 The main relevant temporary changes resulting from the 'temporary law COVID-19' are that:

- the extension for the preparation period of the annual accounts as discussed per paragraph 4.2 'Preparation' for entities can be decided on without a decision by the general meeting of members, the body designated in the articles, or the general meeting; and
- non-compliance with article 394-3 NCC as discussed per paragraph 4.5 'When to publish' for the most recent financial year is not considered if it is due to the consequences of the COVID-19 outbreak;
- there is the possibility for an entity to hold the general meeting electronically.

For further details, reference is made to DAS alert 2020-7 *'Tijdelijke wet COVID-19 Justitie en Veiligheid'*.

4.5 When to publish

An entity must publish its annual accounts within eight days of adoption, in accordance with article 394-1 NCC. In addition, article 394-3 NCC requires the entity to publish its annual accounts twelve months after the financial year-end at the latest.

If the financial statements have not been adopted within two months following the maximum period for preparing the financial statements (five months for an N.V. and a B.V. and six months for a cooperative, mutual guarantee association, commercial foundation and association, or the extended maximum period of ten months after the end of the financial year), the management board must publish them without delay. In that case the financial statements must clearly disclose that they have not yet been adopted (article 394-2 NCC). The maximum period for publication of the annual accounts (either adopted or not) is therefore twelve months (article 394-3 NCC). Non-compliance with article 394-3 NCC is an economic offence within the context of article 1 sub 4 Economic Offences Act (WED) and may, in case of bankruptcy of the entity, trigger director liability for the entity's deficit.

4.6 How to publish

In general, the publication of the annual accounts is effectuated through electronic filing at the Trade Register where the entity is registered according to its articles of association in accordance with the Decree on electronic filing Trade Register ('Besluit elektronische deponering Handelsregister'[8]). Mandatory electronic filing is gradually introduced for entities based on their respective size and is currently applicable for micro, small, and medium-sized entities. For financial years starting on or after 1 January 2019, exemptions from mandatory electronic filing are in place for large entities and certain other legal entities in accordance with the Decree on electronic filing Trade Register.

The date of adoption must be stated on the filed copy or included in the electronic format. In principle, the information to be published must be prepared in Dutch. If the original information was not prepared in Dutch, filing the information for publication in English, French or German is permitted (article 394-1 NCC)[9].

The management board report (refer to Chapter 8) and certain parts of the other information section (refer to Chapter 9) contained in the annual accounts of medium-sized and large entities do not have to be filed with the Trade Register at the Chamber of Commerce, provided the documents concerned are kept at the office of the entity for public inspection and a copy thereof is obtainable upon request at no more than cost price. The entity must register a notice of this procedure with the Trade Register at the Chamber of Commerce (article 394-4 NCC), which means that the management board report is (effectively) made publicly available (upon request). Medium-sized entities may however elect to apply an exemption to make publicly available certain sections of the other information section (article 397-7 NCC). Medium-sized entities need not include information on non-financial performance indicators in the management board report (article 397-8 NCC).

Micro and small entities are not required to prepare the management board report in conformity with article 391 NCC nor to publish the management board report (article 395a-6/8 and article 396-7/8 NCC respectively). Reference is made to Chapter 8.

4.7 Special requirements for listed entities

Paragraphs 4.1 up to and including 4.6 describe the requirements for preparation, adoption and publication of annual accounts for non-listed entities. The requirements for listed entities are different. Deloitte Netherlands has made a series of publications 'Financial reporting requirements for Dutch listed and other public interest entities'. This series provides an overview of the financial reporting requirements that Dutch Public Interest Entities (PIEs) need to comply with. The aim of these publications is to provide a comprehensive list of specific financial reporting requirements that PIEs need to apply. These publications are available on https://www.iasplus.com/en/tag-types/member-firms/netherlands.

8 In accordance with Handelsregisterwet (Law of Trade Register), article 19a.

9 The annual accounts including the management board's report (refer to Chapter 8 of this publication) to be presented to the Works Council must always be prepared in Dutch (article 31a-2 WOR and article 391-1 NCC).

4.8 What to prepare and what to publish

Micro, small and medium-sized entities may take advantage of certain exemptions if they do not prepare financial statements in accordance with IFRS-EU. A distinction can be made between exemptions relating to preparation of the financial statements, and those relating to publication of the financial statements (articles 396 and 397 NCC). Refer to the below overview of publication requirements for the different entity sizes;

Large entities	Requirement
Financial statements	Full
Management board report	Full
Other information	Full

Medium-sized entities	Requirement
Financial statements	
• balance sheet and disclosures	Somewhat limited
• profit and loss account and disclosures	Somewhat limited
• other disclosures and accounting policies	Almost full
Management board report	Almost full
Other information	Almost full

Small entities	Requirement
Financial statements	
• balance sheet and disclosures	Very limited
• profit and loss account and disclo-sures	None
• accounting policies	Full
• other disclosures:	
– with regards to balance sheet	Almost full
– with regards to profit and loss account	None
Management board report	None
Other information	None

Micro entities	Requirement
Financial statements	
• balance sheet	Very limited
• profit and loss account	None
• disclosures	None
Management board report	None
Other information	None

5. Audit requirements

5.1 Which entities require an audit

Medium-sized and large entities

An audit of the financial statements is required to be conducted by a registered auditor or accounting consultant authorised to certify financial statements (article 393-1 NCC). A entity of which the financial data has been included in the consolidated financial statements of another entity may be exempt from audit, subject to certain conditions being met (i.e. article 403 NCC, which is discussed in Chapter 6 'Financial statements', paragraph 6.2). Any stakeholder may require a entity to comply with its audit requirement (article 393-8 NCC). Non-compliance is an economic offence in the context of article 1 sub 4 Economic Offences Act (WED).

Micro and small entities

No audit required.

5.2 Appointment of auditor

The authority to appoint the auditor lies with the general meeting. If the general meeting does not appoint the auditor, the supervisory board may. If there is no supervisory board or if it also fails to appoint the auditor, the management board may appoint the auditor.

5.3 Scope of the auditor's report

The auditor examines whether the financial statements provide the insight required by article 362-1 NCC. He will also verify whether the financial statements meet the requirements set by law, whether the management board's report, to the extent that he is able to assess this, is prepared in accordance with Title 9 and whether it is consistent with the financial statements, and whether the other information referred to in article 392-1 under (b) up to and including (f), has been included (article 393-3 NCC) in the other information section of the annual accounts. In connection with the knowledge and understanding of the entity and its environment accumulated in the audit, the auditor shall verify whether the management board's report contains material errors (article 393-3 NCC). The auditor reports the outcome of his audit by means of an opinion whether the financial statements present a true and fair view. The auditor may issue separate opinions for the entity-only financial statements and for the consolidated financial statements. The auditor's report shall include in any event (article 393-5 NCC):

- a statement to which financial statements the audit relates and which legal requirements apply to these financial statements;
- a description of the extent of the audit and which auditing standards were observed when performing the audit;
- a statement whether the financial statements provide the required insight and comply with the requirements pursuant to law;
- a reference to certain matters to which the auditor calls attention, without issuing a qualified opinion (as referred to in article 393-6b NCC);
- a statement about deficiencies identified in connection with the verification of the management board's report and other information as required by article 393-3 NCC whether the management board's report has been prepared in accordance with Title 9 and whether the other information required pursuant to article 392-1, under (b) up to and including (f) NCC, has been included;
- an opinion whether the management board's report is consistent with the financial statements; and
- an opinion whether, in connection with the knowledge and understanding of the entity and its environment accumulated in the audit, material errors were identified in the management board's report including a description of the nature of such errors.

The auditor must issue an opinion and report on the audit to the supervisory and management board. The auditor must at least report the findings in respect of the reliability and continuity of electronic data processing (article 393-4 NCC). The body authorised to adopt the financial statements cannot do so if the other information section does not include an auditor's report, unless that body has been informed of the fact that, and the reasons why (i.e. legal grounds only), the auditor's report has not been included (article 393-7 NCC).

6. Financial statements

6.1 General stipulations

The full financial statements consist of the entity-only financial statements comprising the balance sheet, the profit and loss account and the notes, together with the consolidated financial statements (if applicable).

Insight to be provided

In accordance with principles generally accepted in the Netherlands, the financial statements must provide an insight[10] such that a reasonable judgement can be formed regarding the financial position and results of the entity, and, to the extent that the nature of the financial statements permits, its solvency and liquidity (article 362-1 NCC).

In order to provide the insight referred to above, it may be necessary that the financial statements disclose information in addition to that required by Title 9. If it is necessary for the insight to be provided, a entity must deviate from legal requirements. The reason for such deviation must be stated in the notes, and if necessary, with an indication of the effect on the equity and results of the entity (article 362-4 NCC).

General principles

The entity's equity, assets and liabilities as well as income, expenses and result must be presented fairly, clearly and consistently (article 362-2 and 3 NCC). Income and expenses relating to a particular financial year must be included in the financial statements for that year, regardless of whether they have led to receipts or payments in that year (article 362-5 NCC).

Financial year

The financial year of a entity is the calendar year, if the articles of association do not specify another financial year (article 10a NCC).
A change in financial year requires a change in the articles of association and a formal decision by the general meeting.

Financial year in consolidated financial statements

The balance sheet date of the consolidated financial statements shall be the same as at the balance sheet date of the entity-only financial statements (article 412-1 NCC). The consolidated financial statements may under no circumstances be prepared on the basis of data more than three months prior to or after the balance sheet date (article 412-2 NCC). Therefore, entities to be consolidated with financial years differing from the parent entity's financial year, may be included in the consolidated financial statements of the parent, provided that the figures of those entities date from less than three months before or after the balance sheet date of the parent entity.

Shorter or longer financial period

A financial period shorter or longer than twelve months is permitted in specific cases. The first financial year commences at the date that the entity is incorporated. As this moment of incorporation often takes place during the calendar year, this often results in a first financial period that is either shorter or longer than twelve months. A financial period shorter or longer than twelve months is also possible in different cases, such as a restructuring or efforts to harmonize the balance sheet date of different entities within a group. A deviation from the twelve-month financial period is to be determined in the articles of association of the entity. In case of a financial period shorter or longer than twelve months, the entity needs to disclose the reporting period, as well as the reason for the shorter or longer financial period and the fact that the comparative figures are not comparable (article 110.104 DAS).

Events subsequent to the adoption of the financial statements

The financial statements must be finalised and submitted to the general meeting for adoption, with due regard to any matters affecting the entity's financial position as at the balance sheet date that have become known since the financial statements were prepared and before the general meeting at which they are to be presented. This implies that all matters concerning the entity's financial position as at the balance sheet date must be included in the financial statements. Should it be discovered subsequently to the adoption of the financial statements by the general meeting that the financial statements seriously fail to provide the insight required, management must inform the shareholders without delay and file a notice of such event with the Trade Register at the Chamber of Commerce.
The notice must be accompanied by an auditor's report in case the financial statements have been audited (article 362-6 NCC). Events after the balance sheet date that do not provide evidence of conditions that existed at the balance sheet date with important financial consequences for the entity (including consolidated participating interests) shall be disclosed including the financial effects of such events (article 380a NCC).

10 Insight: the capacity to discern the true nature of the entity's financial affairs.

Currency and language

The items in the financial statements must be reported in euros. This rule may be departed from if reporting in a foreign currency is justified by the entity's activities or by the international character of the group to which the entity belongs. Reporting in a foreign currency may apply to the financial statements as a whole, or only to the consolidated financial statements (article 362-7 NCC).
The financial statements must be prepared in the Dutch language, unless the general meeting has resolved to use a different language (article 362-7 NCC).

Breakdown of figures

Setting-off assets against liabilities or income against expenditure in the financial statements is not permitted when these items are required to be shown as separate items by Title 9 (article 363-2 NCC).

Combination of items is permitted only if the items taken together are of negligible significance with respect to the insight to be provided in the financial statements (article 363-3 NCC).

Comparative figures and consistency

For each item in the financial statements, the corresponding figure for the preceding financial year must be shown as far as possible. Where necessary and in the interest of comparability, that item must be adjusted and the change resulting from the adjustment must be disclosed (article 363-5 NCC).

Decree on financial statements formats

Article 363-6 NCC stipulates financial statements formats and further regulations, which are applicable to the entities defined therein. The Decree pertaining to financial statements formats is addressed in Chapter 7.

6.2 Valuation of participating interests in other entities

Definitions

Valuation of participating interests

When an interest has the characteristics described in article 23c NCC, the legal entity or partnership concerned is considered to be a participating interest, regardless of the percentage of ownership. The valuation of participating interests is a complex matter.

Participating interests must be accounted for using the net asset value method, if an investor has significant influence on those interests' commercial and financial policy (article 389-1 NCC). Where the parent entity, together with its subsidiaries, can exercise at least twenty per cent of the votes of the members or shareholders, there is a rebuttable presumption that significant influence exists (article 389-1 NCC). Deviation from the net asset value is allowed only if there are sound reasons and such justification is disclosed in the annual accounts (article 389-9 NCC). In these circumstances, the participating interests may be measured at historical cost price. It should be noted that it is not allowed to measure participating interests with significant influence at current value (article 10-3c BAW).

In the absence of significant influence, a participating interest is measured at historical cost or at current value.

The valuation rules set out in articles 384 and 389 NCC are summarised below.

a. Valuation according to the net asset value method (389 NCC)

Under this method, the book value of the investment when it is initially acquired is determined based on the net asset value method[11]. Net asset value is the fair value of the individual assets and liabilities of the participating interest at initial recognition. This value is subsequently adjusted for the share in the result of the participating interest and dividends in accordance with the accounting principles of the investor.

Reference is made to the legal reserves section in Chapter 6, paragraph 6.5 below, specifically the legal reserve for participating interests as per article 389-6 NCC.

Goodwill
Any goodwill resulting from the use of the net asset value method shall be capitalised as intangible fixed assets and subsequently amortised (article 389-7 NCC) and impaired if necessary. Impairments of goodwill cannot be reversed in the future (article 387-5 NCC). Goodwill must be amortised in accordance with their expected useful lives. In exceptional circumstances where such useful lives cannot be reliably estimated, goodwill is amortised over a maximum period of ten years. In such cases, the reason for the amortisation period shall be disclosed (article 386-3 NCC).

11 In specific cases, the book value of the investment when it is initially acquired is determined on the basis of 'another first book value'. This value may be used only when the net asset value cannot be determined because insufficient information is available. Net asset value according to the participating interest's own balance sheet or the cost of the shares acquired can be used as 'another first book value' (article 389-3 NCC).

b. Valuation at historical cost (384 and 389 NCC)

Under this method, the investment is carried at acquisition cost, considering the impairment provisions. Dividends deemed to have been included in the acquisition price are not recognized in profit and loss. These are deducted from the acquisition cost (DAS 214.504).

c. Valuation at current value (384 NCC)

Under this method, the investment shall be re-measured at current value each period end. If financial instruments such as participating interests without significant influence are measured at current value, then the fair value is used, unless the fair value is not reliably measurable (article 10 BAW).

6.3 Consolidated financial statements

The financial data of subsidiaries and other entities as described below, as well as those of the parent entity, must be included in the consolidated financial statements of the group.

The consolidation requirement is contained in article 406 NCC. A distinction is made between the consolidation requirement for a group head (article 406-1 NCC) and consolidation requirement for an intermediate holding entity (article 406-2 NCC). Article 407 and article 408 NCC provide certain consolidation exemptions, which are discussed on the following pages.

Consolidation requirement for group head (406-1 NCC)

A entity that heads a group – alone or jointly with another group entity – prepares consolidated financial statements that include the financial data of (article 406-1 NCC):

- the group head (the parent entity);
- the subsidiaries in the group;
- other group entities; and
- other entities over which it has control or over which it performs the central management.

If the financial data of the parent entity has been included in the consolidated financial statements, an abridged profit and loss account of the parent entity suffices, which discloses only the income from participating interests after taxation as a separate item. The adoption of this exemption must be disclosed in the notes to the consolidated financial statements (article 402 NCC). Article 402 NCC does not apply to Public Interest Entities (OOBs) as referred to in article 398-7 NCC (refer to the glossary of terms).

Consolidation requirement for intermediate holding entity (406-2 NCC)

The consolidation requirement for intermediate holding entities is contained in article 406-2 NCC. Based on this article, the entity to which paragraph 1 (consolidation requirement for group head) does not apply but that does have one or more subsidiaries or other entities in its group over which it has control or for which it performs the central management, must prepare consolidated financial statements. This stipulation implies that an intermediate holding entity with at least one subsidiary in its part of the group is obliged to consolidate that part of that sub-group. An intermediate holding entity with at least one other entity in its part of the group over which it has control or for which it performs central management is also obliged to consolidate. The law provides for an exemption from consolidation for such intermediate holding entities, if certain conditions are met (article 408 NCC, which is discussed later).

Consolidation exemptions (407 NCC)

The following entities do not have to be consolidated (article 407-1 NCC):

- group entities whose total significance is immaterial to the group as a whole;
- group entities whose financial data can only be obtained at disproportional cost or with great delay;
- group entities which are only held for disposal.

Furthermore, consolidation is not required for micro and small groups (applying the limits of micro entities and small entities respectively) under the following conditions (article 407-2 NCC):

- if none of the entities to be included into the consolidation is an entity as referred to in article 398-7 NCC;
- if no notices of objections have been lodged against the fact that a consolidation will not be carried out, within six months after the commencement of the financial year, by the general meeting.

Exemptions for group entities (403 NCC)

A group entity is exempt from the usual disclosure, publication and audit requirements relating to its financial statements if it meets all of the following conditions (article 403 NCC):

a. the balance sheet in any event states the total amount of the fixed assets as well as the current assets and the amount of shareholders' equity, provisions and liabilities, and the profit and loss account in any event mentions the result from normal business operations and the balance of the other income and expenses, all after taxation;

b. the members or shareholders have stated in writing, after the start of the financial year and prior to the adoption of the financial statements, to agree with a derogation from these requirements;

c. the financial data of the legal person is consolidated by another legal person or partnership into its consolidated financial statements to which, pursuant to the applicable law, the Regulation of the European Parliament and the Council regarding the application of international financial reporting standards, Directive 2013/34/EU or the applicable Directive for banks and other financial institutions or insurance entities;

d. the consolidated financial statements, as far as these are not prepared or translated into Dutch, are prepared or translated into French, German or English;

e. the auditor's report and management board's report are prepared or translated into the same language as the consolidated financial statements;

f. the legal entity or partnership referred to under (c) has stated in writing that it assumes joint and several liability for obligations arising from juridical acts of the legal entity; and

g. the statements referred to under (b) and (f) have been filed with the Trade Register at the Chamber of Commerce where the legal person is registered as well as, annually within six months after the balance sheet date or within one month after a lawfully made publication, the documents or translations listed under (d) and (e), or a reference to the Trade Office of the Chamber of Commerce where they are filed.

For banks, specific conditions apply. Article 403 does not apply to Public Interest Entities (OOBs) as referred to in article 398-7 NCC (refer to the glossary of terms).

As stated above under item (a), group entities meeting the above conditions must prepare only an abridged balance sheet and profit and loss account. The abridged profit and loss account should show:

- net profit or loss from ordinary operations (after taxation);
- the balance of other income and charges (after taxation).

These abridged financial statements must be adopted by the general meeting. No audit and publication of such financial statements are required.

Consolidation exemption for intermediate holding entities (408 NCC)

The exemption of article 408 NCC implies that an intermediate holding entity is not required to prepare consolidated financial statements if the financial data that the intermediate holding entity should consolidate has been integrally included in the consolidated financial statements of a larger group. Conditional to applying this exemption is that the consolidated financial statements (which include the data of the intermediate holding entity) and the management board report are either prepared in accordance with the stipulations of Directive 2013/34/EU or according to equivalent stipulations.

The IASB's standards (i.e. IFRSs) can be regarded as equivalent stipulations, while in practice financial statements that have been prepared according to, for example, United States GAAP are also considered equivalent. When applying non-EU principles, it will have to be established whether the view provided by the financial statements is not materially different (in a qualitative sense) from financial statements based on the stipulations of Directive 2013/34/EU.

This consolidation exemption can only be used if all conditions of article 408 NCC have been met. Therefore, the full text of this article is included below for reference.

An intermediate holding entity is not obliged to prepare consolidated financial statements provided that all of the following conditions are met (article 408 NCC):

a. no written objection has been made within six months after the beginning of the financial year, by at least ten per cent of the members or holders of at least ten per cent of the capital;

b. the financial data to be consolidated by the intermediate holding entity has been included in the consolidated financial statements of a larger group;

c. the consolidated financial statements and the management board's report have been prepared in conformity with the requirements of Directive 2013/34/EU or according to a similar method if these requirements are not applicable;

d. the consolidated financial statements including auditor's report and management board's report, as far as these are not prepared or translated into Dutch, are prepared or translated into French, German or English; and

e. the documents listed under (d) have been filed not later than six months after the balance sheet date or within one month after a lawfully made publication with the Trade Register at the Chamber of Commerce in the place where the intermediate holding entity has its domicile or registered address (although reference may be made to another Trade Register in the Netherlands).

In the notes to the financial statements of the intermediate holding entity disclosure should be made of:

- the fact that the exemption under article 408 NCC has been applied;
- the name and domicile of the entity that has filed the consolidated financial statements that include the intermediate holding entity's data;
- the location of the Trade Register in the Netherlands in which such consolidated statements have been filed.

Article 408 NCC does not apply to a legal entity whose securities are tradable on a regulated market as meant in the Financial Markets Supervision Act (Wft) or a system comparable to a regulated market, from a state that is not a member state (article 408-4 NCC).

6.4 Valuation principles and determination of financial results

General requirements

The general requirements included in article 362-1 to 362-3 NCC indicate the principles to be used for valuation and determination of financial results. The most important requirement is to provide the necessary insight. This is the equivalent of the 'fair presentation' and 'true and fair view' requirement in English-speaking countries.

Additional general principles mentioned in Title 9 are the:

- accruals concept: income and expenses must be recorded in the period in which they are earned or incurred, regardless of the moment of receipt or payment[12];
- matching concept: income and related costs must be included in the same period;
- realisation concept: profits are not to be included until they are realised; all foreseeable liabilities and potential losses, on the other hand, are to be included;
- going concern concept: in the absence of evidence to the contrary, the entity must be treated as a going concern; and
- concept of prudence: accounting principles should be applied with prudence.

Changes in accounting principles

Accounting principles, once adopted, must be applied consistently (articles 362-2 and 362-3 NCC). Accounting policies may only be changed when there are sound reasons for a change. These reasons must be set out in the notes.

Furthermore, insight must be provided into the effect of the change on the financial position and the financial results; this must be done with retrospective effect. Retrospective adjustment equates to the recalculation of closing equity of the preceding financial year with adjustment of comparative figures (article 363-4 and 363-5 NCC).

12 A micro entity may make use of the exemption to the requirement to apply the accrual concept for the operating expenses. If the entity makes use of this exemption, disclosure should be made of this fact (article 2:395a-3 NCC).

Decree current value

The Decree current value (Besluit actuele waarde; BAW) is part of Dutch law and sets boundaries on the use of current values as basis for measuring assets and liabilities. It provides definitions for current value, current cost, value in use, fair value and net realisable value. Most important boundaries and requirements for the use of these current values are:

- intangible fixed assets are only allowed to be measured at current value if there is a liquid market for these assets;
- if current value (instead of historical cost) is used as measurement basis for tangible or intangible fixed assets (see previous bullet), current cost should be applied;
- if current value (instead of historical cost) is used as measurement basis for agricultural produce, net realisable value should be applied;
- if current value (instead of historical cost) is used as measurement basis for financial instruments, fair value should be applied;
- for financial and non-financial liabilities measurement at current value is only allowed for:
  - financial instruments held for trading purposes;
  - derivative financial instruments;
  - insurance or pension obligations;
- valuation at current value is not possible for (not applicable for insurance entities):
  - non-derivative financial instruments held to maturity;
  - loans and receivables not held for trading purposes;
  - particating interests for which article 389-1/2 NCC should be applied (see paragraph 6.2).

6.5 Overview of the financial statements

Title 9 contains requirements for:

- the balance sheet;
- the profit and loss account; and
- the notes.

Various formats for the balance sheet and the profit and loss account are prescribed by the Decree on financial statements formats (Besluit Modellen Jaarrekening or 'BMJ'). The BMJ is discussed in Chapter 7 and the BMJ formats are included in this publication as Appendix 2.

Legal Reserves

Specific reference is made to the requirements regarding the formation of a number of legal reserves in accordance with Title 9. Legal reserves are reserves that cannot be distributed to the shareholders and are intended to protect the entity's equity, and by doing so, to protect third party (e.g. creditors) interests.

Legal reserves are listed in article 373-4 NCC by means of references to the corresponding articles where they are introduced. A selection of common legal reserves are summarised below with references to their respective sources in Title 9.

Article 98c-4 NCC: financial support by an N.V.

Under certain circumstances, described in article 98c-2 NCC, it is permissible for an N.V. to provide a loan (financial support) to another party to acquire shares in that N.V. A legal reserve must be formed by the N.V. for the amount of such loans provided by the N.V.

Article 365-2 NCC: reserve intangible assets

A legal reserve is to be formed for share issue expenses and development costs to the extent they are capitalised.

Article 389-6 NCC: reserve participating interests

This legal reserve is triggered by the use of the net asset value method as described in articles 389-2 and 389-3 NCC with respect to an investor's participating interest. The investor may not have the power to instruct payments of dividend from post-acquisition (undistributed) profits. This implies that a parent entity (investor) may only distribute profits earned by its participating interests to the extent that either the parent can instruct payment of a dividend or, in the absence of such a power, the participating interests have distributed their profits to the parent (article 389-6 NCC).

Consequently, a legal reserve is formed for the undistributed profits from participating interests and direct capital increases (since the initial recognition) measured in accordance with the net asset value method. Subsequent to initial recognition, this reserve is reduced by:

- distributions to which the entity has become entitled (up to the date of adoption of the entity's financial statements);
- direct equity reductions at the level of the participating interest;
- distributions which the entity can arrange without restrictions.

Article 389-8 NCC: currency translation reserve

Foreign operations with a different currency than the reporting currency of the reporting entity are translated into the reporting currency of the reporting entity. The resulting foreign currency translation differences on the net investment in such operations are included in a legal reserve.

Article 390-1 NCC: revaluation reserve

This legal reserve is triggered by the use of current values for certain assets (e.g. tangible fixed assets, intangible fixed assets, inventories and certain financial instruments). Current value increases of such assets are included in this legal reserve.

Article 390-1 NCC: fair value (hedging) reserve

This legal reserve also pertains to fair value increases in connection with financial instruments which are accounted under the cash flow hedge accounting model (as hedging instruments).

6.6 Special regulations concerning the notes

Title 9 requires some specific additional disclosures in addition to common disclosures relating to the primary financial statements. Please find below a discussion of some of these disclosures.

Audit fee disclosure (382a NCC)

In the financial statements of large entities, information about the audit fee must be disclosed. The objective of this disclosure is 'to render the relationship between the statutory auditor or audit firm and the audited entity more transparent'.

The fees must be broken down into the following categories: audit of the financial statements, other audit engagements, tax advisory services and other non-audit services.

Under certain conditions, disclosure of professional fees may be omitted in financial statements of entities that are consolidated. This exemption applies for entities whose financial data is included in consolidated financial statements, which under applicable law are subject to the Regulation of the European Parliament and the Council regarding application of international financial reporting standards (IFRS Regulation) or Directive 2013/34/EU of 26 June 2013. In order to apply this exemption, the consolidated financial statements referred to in the previous sentence, must disclose the audit fees (article 382a-3 NCC). This means, for instance, that group entities of non-EU enterprises cannot use this exemption.

Remuneration of and loans, advance payments and guarantees to directors and supervisory directors

In the financial statements of medium-sized and large entities, the aggregate amount for the remuneration of (former) members of the management board as well as the (former) members of the supervisory board must be disclosed, including amounts charged to subsidiaries or group entities included in the consolidated accounts. This disclosure cannot be omitted due to immateriality (neither quantitatively nor qualitatively). Reference is made to article 363-3 NCC, last sentence.

Entities do not have to disclose this information where such information would make it possible to identify the remuneration of a single natural person. Based on Dutch legislative history, it can be concluded that 'identifiability to a single natural person' is only possible in a limited number of cases.

The outstanding amount, amounts impaired and amounts waived of loans, advance payments and guarantees granted to directors and supervisory directors of the entity, issued by the entity, its subsidiaries and entities of which it consolidates data, shall be disclosed (article 383-2 NCC). It should be noted that, in contrast to the director remuneration (article 383-1 NCC), there is no exemption to this disclosure if these amounts can be identified to a single natural person.

Remuneration of and loans, advance payments and guarantees to directors and supervisory directors of Open N.V.'s

An Open N.V. (refer to the glossary of terms) shall disclose the remuneration of each individual director and of each individual supervisory director, divided into the following categories (article 383c NCC):

- periodically paid remuneration;
- remuneration payable in the future;
- termination benefits; and
- profit-sharing and bonus payments.

This disclosure is required to the extent that these amounts were charged to the Non-listed public N.V. including its subsidiaries and group entities (article 383c-1 NCC) and apply equally to former directors and former supervisory directors as well (article 383c-2 NCC). Whether or not the amounts charged to the profit and loss account have already been paid is irrelevant.

For non-listed public N.V.s, the disclosure on the outstanding amount, amounts impaired and amounts waived of loans, advance payments and guarantees granted to directors and supervisory directors of the entity, issued by the entity, its subsidiaries and entities of which it consolidates data as referred to above shall be made for each individual director and for each individual supervisory director (article 383e NCC). In addition, non-listed public N.V.s are required to disclose in aggregate certain information on the rights granted to directors, supervisory directors and employees of the entity to obtain shares in the capital of the entity and its subsidiaries (article 383d NCC).

A listed public N.V. includes the information per individual director or individual supervisory director in a separate compensation statement, rather than in the notes to the financial statements. In the notes to the financial statements, the information on the total remuneration of the directors and supervisory directors is to be disclosed. Refer to paragraph 8.5 'Listed entities and other Public Interest Entities (OOBs)' for further requirements for such entities in relation to remuneration for directors and supervisory directors.

7. Decree on financial statements formats

7.1 The Decree

Article 363-6 NCC lays down financial statements formats and further regulations, by general administrative order, which are applicable to the legal entities defined therein. This Decree on financial statements formats is called 'Besluit Modellen Jaarrekening' (BMJ). In the implementation of those models and regulations, the layout, naming and definitions of the items included therein must be adapted to the nature of the entity's business to the extent permitted by the BMJ.

The BMJ has the status of law and full compliance is mandatory. Micro entities are exempted from the application of the BMJ (article 1-3 BMJ).

7.2 Scope

The BMJ is applicable to the N.V. and B.V. (article 1 BMJ) and partially applicable to banks (article 16 BMJ), insurance entities (article 16a BMJ) and investment entities (article 16b BMJ). The BMJ is not applicable to micro entities (article 1-3 BMJ) and entities which apply IFRS as endorsed by the EU (article 362-9 NCC) in their consolidated financial statements. However, for entities applying 'combination 3' (refer to Chapter 2, paragraph 2.5 above), the BMJ is applicable to the entity-only financial statements.

7.3 Balance sheet models

There are two general balance sheet models: a vertical format and a horizontal format. For the N.V. and B.V., large and medium-sized entities must use balance sheet model A (a vertical format) or model B (a horizontal format) (article 1-1 BMJ). Small entities may also use Model C (a vertical format) and model D (a horizontal format) (article 1-2 BMJ). Reference is made to Appendix 2 of this publication.

Whether or not the allocation of the result for the year has been included, must be stated at the top of the balance sheet (article 11 BMJ).

7.4 Profit and loss account models

There are two general profit and loss account models: by nature (article 2:377-3 NCC and by function (article 2:377-4 NCC), which are both in a vertical format. For the N.V. and B.V., large and medium-sized entities must use profit and loss account model E (by nature) or model F (by function) (article 1-1 BMJ). Small entities may also use Model I (by nature) or model J (by function) (article 1-2 BMJ). Reference is made to Appendix 2 of this publication.

8. Management board report

8.1 Preparation

An N.V. (article 101-1 NCC) and B.V. (article 210-1 NCC) shall present the management board's report for inspection by its shareholders annually and within five months after the financial year-end. In exceptional circumstances (e.g. loss of accounting records due to a natural disaster), this period may be extended by the general meeting for a maximum period of five months.

8.2 Publication

The management board's report is published simultaneously and in the same manner as the financial statements (article 394-4 NCC). Reference is made to Chapter 4, paragraph 4.5 of this publication.

8.3 Language

A management board's report that is to be published can be prepared in Dutch, French, German or English, but must always be in the same language as that of the published financial statements.

8.4 Requirements concerning the information to be provided

Article 391 NCC sets out a number of requirements for the information to be provided in the management board's report of large and medium-sized entities. The management board's report must provide an overview of the state of affairs of the entity at the balance sheet date and of the development of its business during the financial year. This overview must be given of the entity itself and of subsidiaries and group entities whose financial data is included in the entity's consolidated financial statements (article 391-2 NCC).

The management board's report should also include (article 391-3 NCC):

- a description of the significant risks and uncertainties to which the entity is exposed;
- expected business developments, especially regarding capital investments, financing, number of employees and the factors which determine turnover and profitability;
- the effect of significant events that have occurred since the balance sheet date, in relation to the expected developments referred to above;
- research and development activities;
- subsequent events;
- risk management with respect to financial instruments: objectives and policies;
- exposure to price risk, credit risk, liquidity risk and cash flow risk; and
- for public N.V.'s: remuneration policy of statutory directors and those charged with governance, including implementation of that policy during the year.

As per DAS 430, key figures presented in the annual accounts that cannot be deduced directly from the financial statements ('alternative performance measures') are to be properly described and explained.

The management board's report may not be inconsistent with the financial statements (article 391-4 NCC). Further specific guidance is included in DAS 400 'Management board's report'.

Corporate Social Responsibility (CSR)

In general, business activities are linked to three social aspects: (1) environmental, (2) social and (3) economic aspects. Entities can contribute to sustainable development by balancing these aspects with the impact of business activities. This is often referred to as Corporate Social Responsibility (CSR). It is recommended by the DASB to provide disclosure in the management board report in relation to CSR. DAS 920 'Guide to Sustainability Reporting' provides further guidance.

A trend is noted in the market with increased public attention for entities' performance regarding environmental, social and governance matters. There is increased interest and pressure from stakeholders on entities to enhance the prominence of environmental, social and governance ("ESG") matters in their reporting, as well as assurance on these matters. Such developments are closely followed by the European Commission and European Securities and Markets Authority ("ESMA"), currently working on disclosure standards aligned with the 2015 Paris Climate Agreement, including standardized industry specific metrics, including a requirement for (reasonable) assurance.

8.5 Listed entities and other Public Interest Entities (OOBs)

In the course of time, the regulations and legislation with respect to the financial reporting requirements for listed and other Public Interest Entities (OOBs) whose registered office is in the Netherlands has increased significantly. Deloitte Netherlands has made a series of publications 'Financial reporting requirements for Dutch listed and other public interest entities'. This series provides an overview of the financial reporting requirements that Dutch Public Interest Entities (PIEs) need to comply with. The aim of these publications is to provide a comprehensive list of specific financial reporting requirements that PIEs need to apply. These publications are available on https://www.iasplus.com/en/tag-types/member-firms/netherlands.

9. Other information

9.1 Other information based on article 392 NCC

Items to be included

Article 392 NCC lists the other information items that management must provide along with the financial statements and the management board's report:

a. The auditor's report, or a statement setting out the fact that, and the legal reasons why, the auditor's report is not included;

b. Details of the stipulations in the articles of association relating to the profit appropriation;

c. Details of the stipulations in the articles of association of a cooperative or mutual guarantee association regarding the contribution to be made to cover any deficit of such an association, where these differ from the legal rules;

d. A list of names of those to whom a special right to control the entity is granted by the articles of incorporation, with a description of the nature of that right;

e. A statement of the number of the number of shares without voting rights and the number of shares without profit rights or with limited profit rights, with an indication of the rights they confer;

f. A statement of the existence of branch establishments and of the countries where there are branch establishments and of the trading names thereof if different from that of the entity (article 392-1 NCC).

General requirements

The other information must not be inconsistent with the financial statements and the management board's report (article 392-2 NCC). The other information is published simultaneously with the financial statements (article 394-4 NCC).

Exemptions

Micro entities and small entities are not required to prepare and file other information (article 395a-6 and 396-7 NCC). In addition, certain parts of the other information section (i.e. articles 392-1b up to and including 1e NCC) contained in the annual accounts of medium-sized and large entities do not have to be filed with the Trade Register at the Chamber of Commerce, provided the documents concerned are kept at the office of the entity for public inspection and a copy thereof is obtainable upon request at no more than cost price.

9.2 "Country-by-Country reporting"

As of 2016, large-sized entities and Public Interest entities (OOBs, refer to the glossary of terms) active in the extractive and forestry industries are required to disclose information with respect to payments to governments in the countries in which they are active. The source of this legislation is referred to as the decree on "Country-by-Country reporting" (article 2:392a NCC).

Appendix 1 – Glossary of terms

Annual accounts

The financial statements, management board's report and the other information section presented together.

BAW (Besluit actuele waarde)

Decree on current value.

Besluit elektronische deponering Handelsregister

Decree on electronic filing Trade Register.

BMJ (Besluit modellen jaarrekening)

Decree on financial statements formats.

B.V. (Besloten vennootschap)

A private limited liability entity, which can only issue registered shares or registered trust certificates. In principle, shares and trust certificates of a B.V. are not freely transferable and they cannot be listed. Reference is further made to Chapter 11.

Cash flow statement

An overview of the cash and cash equivalents which became available during the reporting period including the use made of such resources. The cash flow statement does not have a legal basis in the NCC. However, a cash flow statement is required for medium-sized and large entities, based on DAS 360.104.

Consolidated financial statements

The financial statements which include the consolidated financial data of subsidiaries and which can also include, by consolidation, the financial data of group entities other than subsidiaries and the parent entity.

Cooperative

Cooperative association.

Credit institution

A entity that has been recorded in the register referred to in the Credit Institutions Supervision Act.
A credit institution may be described as any corporate body, partnership or natural person which in the course of business accepts funds, whether or not in the form of saving accounts, repayable on demand or on terms of less than two years and which/who on its or his own account grants loans and invests funds.

Current value

The value that is based on current market prices or data which may be deemed relevant for the value at the date of measurement.

C.V. (Commanditaire vennootschap)

A limited partnership based on an agreement between two or more partners who may be individuals or corporations.
A partnership is not a legal entity. The managing partners are individually liable for the partnership's liabilities.

The partners who contribute only capital are only liable for their capital contribution to the partnership. The purpose of the partnership is to make profit. The partners must contribute either capital property, labour or goodwill.

DASs (Richtlijnen voor de jaarverslaggeving)

Dutch Accounting Standard(s).

DASB (Raad voor de Jaarverslaggeving)

Dutch Accounting Standards Board.

ESEF

European Single Electronic Format.

ESG

Environmental, social and governance.

ESMA

European Securities and Markets Authority.

Fair value

The amount for which an asset can be exchanged or a liability settled between knowledgeable parties in an orderly transaction in which the parties are independent of each other.

Financial year

Usually, the financial year of Dutch incorporated bodies coincides with the calendar year, unless the articles of association state otherwise.

Financial statements

The balance sheet, profit and loss account and notes. They are a part of the annual accounts.

Goodwill

The excess of the amount paid for a entity over the fair value of its net assets at the time of acquisition.

Group

An organisational and economic unit of legal entities and entities.

Group entity

A legal entity or partnership which is part of a group.

Handelsregisterwet

Law of Trade Register.

Historical cost

The amount paid for an asset sometimes increased by certain additional direct and indirect costs.

Insurance entity

A legal entity to which article 28 of the Insurance Supervision Act is applicable.

Investment entity

A legal entity having as its sole object the investment of funds in such a way as to spread the risks involved and enable the members or shareholders to share in the proceeds.

iXBRL

A mechanism for embedding XBRL annotations ('tags') into xHTML documents.

Large entity

A legal entity that, on a consolidated basis, meets at least two of the following three criteria on two consecutive balance sheet dates:

- total assets more than EUR 20 million;
- net turnover more than EUR 40 million;
- average number of employees at least 250.

Legal reserve

A reserve required to be maintained by law. Legal reserves cannot be distributed to the shareholders. Some legal reserves can be converted into share capital.

Listed N.V. or B.V.

An N.V. or B.V. of which the securities (e.g. shares and/or bonds) are listed on a regulated market as meant in the Financial Markets Supervision Act (Wft).

Management board's report

A report written by the management board which gives an overview of the state of affairs at the balance sheet date, the development of the business during the financial year and expected major developments in the near future. This report forms part of the annual accounts.

Medium-sized entity

A legal entity that, on a consolidated basis, is not a micro and small entity and that meets at least two of the following three criteria on two consecutive balance sheet dates:

- total assets not more than EUR 20 million;
- net turnover not more than EUR 40 million;
- average number of employees less than 250.

Micro entity

A legal entity that, on a consolidated basis, meets at least two of the following three criteria on two consecutive balance sheet dates:

- total assets not more than EUR 350 thousand;
- net turnover not more than EUR 700 thousand;
- average number of employees less than 10.

Net asset value

Net asset value is the fair value of the individual assets and liabilities of the participating interest. This value is subsequently adjusted for the share in the result of the participating interest and dividends in accordance with the accounting principles of the investor.

Net turnover

Turnover after the deduction of rebates, discounts, VAT and similar taxes.

NCC (Burgerlijk Wetboek)

Netherlands Civil Code.

NL GAAP

Generally Accepted Accounting Standards in the Netherlands, comprising the Netherlands Civil code and the Dutch Accounting Standards published by the DASB.

N.V. (Naamloze vennootschap)

A public limited liability entity, which can have both bearer and registered shares or trust certificates. Shares are negotiable and can be listed.

Non-listed public N.V.

A limited liability entity whose articles of association not solely comprises registered shares or do not contain share transfer restrictions or allow bearer depository receipts to be issued with cooperation of the entity, not being an N.V. of which the securities are traded on a regulated stock exchange as referred to in article 1:1 Wft

OOB (Organisatie van Openbaar Belang)

Public Interest Entity:

- an entity domiciled in the Netherlands of which the securities are traded on a regulated stock exchange as referred to in article 1:1 Wft;
- a bank or a central credit institution domiciled in the Netherlands as referred to in article 1:1 Wft for which a licence was granted in connection with that law;
- a reinsurer, life insurance entity, or indemnity insurer domiciled in the Netherlands as referred to in article 1:1 Wft for which a licence was granted in connection with that law; or
- a entity, institution, or public body designated as such by governmental decree.

In July 2019, a decree to expand the OOB definition has been endorsed, applying to financial years starting on or after 1 January 2020. As a result of the decree, certain network operators, housing associations, science policy institutions, and pension funds have been included under the above definition.

Other information

Information that management must include in a section acentitying the financial statements and the management board's report. It is a part of the annual accounts.

Participating interest

Participating interest:

- a entity to which the participating entity, or one or more of its subsidiaries, has provided capital for its own account for the purpose of furthering its own business activities by establishing a long-term relationship (article 24c-1 NCC);
- an interest in a partnership in which the participating entity, or one of its subsidiaries, accepts full liability as a (general) partner for the partnership's liabilities (article 24c-2a NCC); or
- an interest in a partnership in which the participating entity, or one of its subsidiaries, is a partner for the purpose of furthering its own business activities by establishing a long-term relationship (article 24c-2b NCC).

Publication

Filing a copy of the legally required information with the Trade Register at the Chamber of Commerce of the district in which the entity has its statutory domicile or registered address according to its articles of association. For listed entities, the adopted financial statements need to be filed with the Netherlands Authority for the Financial Markets.

Rebuttable legal presumption of a participating interest

Where an interest, as defined by law, of at least twenty per cent of the issued capital is held in an entity, it will be presumed to be a participating interest of the investing entity. This legal presumption may be rebutted depending on the individual facts and circumstances.

Small entity

Legal entity that, on a consolidated basis, is not a micro entity and that meets at least two of the following three criteria:

- total assets not more than EUR 6 million;
- net turnover not more than EUR 12 million;
- average number of employees less than 50.

Statutory reserve

A reserve required to be maintained by the articles of association of a entity.

Subsidiaries

- A legal entity in which the entity (by itself or together with a subsidiary) is authorised to exercise more than half of the voting rights in the general meeting. This majority may be the consequence of an agreement with others entitled to vote.
- A legal entity in which the entity (by itself or together with a subsidiary) is authorised to appoint or dismiss more than half of the members of the management or supervisory board.
- A partnership of which the investing entity is a fully liable partner.

V.O.F. (Vennootschap onder firma)

A general partnership based on an agreement between two or more partners who may be individuals or corporations.
A partnership is not a legal entity. The partners are individually liable for the partnerships liabilities.
The purpose of the partnership is to make profit. The partners must contribute either capital property, labour or goodwill.

Wfbv (Wet op de formeel buitenlandse vennootschappen)

Entities Formally Registered Abroad Act.

Wft (Wet op het financieel toezicht)

Financial Markets Supervision Act.

WED (Wet economische delicten)

Economic Offences Act.

WOR (Wet op de ondernemingsraden)

Works Councils Act.

XBRL

A mark-up language used for expressing semantic meaning required for ESEF reporting.

xHTML

A mark-up language used to structure data within documents for presentation, commonly referred to as the “human readable layer” in the context of ESEF.

Appendix 2 – Prescribed formats for the balance sheet and the profit and loss account

Model A Balance sheet of a large or medium-sized entity

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Balance sheet as at				
A.	**Fixed assets**			
I.	*Intangible fixed assets*			
	1.	incorporation and share issue expenses	...	
	2.	development costs	...	
	3.	concessions, licences and intellectual property rights	...	
	4.	goodwill	...	
	5.	prepayments on intangible fixed assets	...	
				...
II.	*Tangible fixed assets*			
	1.	land and buildings	...	
	2.	plant and machinery	...	
	3.	other operating fixed assets	...	
	4.	tangible fixed assets under construction and prepayments on tangible fixed assets	...	
	5.	tangible fixed assets not used in operations	...	
				...
III.	*Financial fixed assets*			
	1.	participations in group entities	...	
	2.	receivables from group entities	...	
	3.	other participating interests	...	
	4.	receivables from shareholders and participating interests	...	
	5.	other securities	...	
	6.	other receivables	...	
				...
IV.	*Total fixed assets*			...
B.	**Current assets**			
I.	*Inventories*			
	1.	raw materials and consumables	...	
	2.	work in progress	...	
	3.	finished goods and goods for resale	...	

	4.	prepayments on inventories	...	
				...
II.	*Receivables*			
	1.	trade debtors	...	
	2.	group entities	...	
	3.	shareholders and participating interests	...	
	4.	other receivables	...	
	5.	called up share capital not yet paid in	...	
	6.	prepayments and accrued income	...	
				...
III.	*Securities*			...
IV.	*Cash*			...
V.	*Total current assets*			...
C.	**Short-term liabilities**			
	1.	convertible loans	...	
	2.	other debenture loans and private loans	...	
	3.	banks	...	
	4.	payments received on account	...	
	5.	trade creditors	...	
	6.	bills of exchange and cheques payable	...	
	7.	amounts due to group entities	...	
	8.	amounts due to shareholders and participating interests	...	
	9.	taxes and social security contributions	...	
	10.	pension liabilities	...	
	11.	other liabilities	...	
	12.	accrued liabilities and deferred income	...	
				...
D.	**Balance of current assets less short-term liabilities**			...
E.	**Total assets less short-term liabilities**			...
F.	**Long-term liabilities**			
	1.	convertible loans	...	
	2.	other debenture loans and private loans	...	
	3.	banks	...	
	4.	payments received on account	...	
	5.	trade creditors	...	

	6.	bills of exchange and cheques payable	...	
	7.	amounts due to group entities	...	
	8.	amounts due to shareholders and participating interests	...	
	9.	taxes and social security contributions	...	
	10.	pension liabilities	...	
	11.	other liabilities	...	
	12.	accrued liabilities and deferred income	...	
				...
G.	**Provisions**			
	1.	pensions	...	
	2.	taxation	...	
	3.	other provisions	...	
H.	**Shareholders' equity**			
I.	*Share capital paid up and called up*			...
II.	*Share premium (paid-in surplus)*			...
III.	*Revaluation reserves*			...
IV.	*Legal and statutory reserves*			
	1.	legal reserves	...	
	2.	statutory reserves	...	
				...
V.	*Other reserves*			...
VI.	*Unappropriated profits*			...
				...

Model B Balance sheet of a large or medium-sized entity

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Balance sheet as at

	Assets		
A.	**Fixed assets**		
I.	*Intangible fixed assets*		
1.	incorporation and share issue expenses	...	
2.	development costs	...	
3.	concessions, licences and intellectual property rights	...	
4.	goodwill	...	
5.	prepayments on intangible fixed assets	...	
			...
II.	*Tangible fixed assets*		
1.	land and buildings	...	
2.	plant and machinery	...	
3.	other operating fixed assets	...	
4.	tangible fixed assets under construction and prepayments on tangible fixed assets	...	
5.	tangible fixed assets not used in operations	...	
			...
III.	*Financial fixed assets*		
1.	participations in group entities	...	
2.	receivables from group entities	...	
3.	other participating interests	...	
4.	receivables from shareholders and participating interests	...	
5.	other securities	...	
6.	other receivables	...	
			...
B.	**Current assets**		
I.	*Inventories*		

	Shareholders' equity, provisions and liabilities		
A.	**Shareholders' equity**		
I.	*Share capital paid up and called up*		...
II.	*Share premium (paid-in surplus)*		...
III.	*Revaluation reserves*		...
IV.	*Legal and statutory reserves*		
1.	legal reserves	...	
2.	statutory reserves	...	
			...
V.	*Other reserves*		...
VI.	*Unappropriated profits*		...
			...
B.	**Provisions**		
1.	pensions	...	
2.	taxation	...	
3.	other provisions	...	
			...
C.	**Long-term liabilities**		
1.	convertible loans	...	
2.	other debenture loans and private loans	...	
3.	banks	...	
4.	payments received on account	...	
5.	trade creditors	...	
6.	bills of exchange and cheques payable	...	
7.	amounts due to group entities	...	
8.	amounts due to shareholders and participating interests	...	
9.	taxes and social security contributions	...	
10.	pension liabilities	...	

1.	raw materials and consumables	...	
2.	work in progress	...	
3.	finished goods and goods for resale	...	
4.	prepayments on inventories	...	
			...
II.	*Receivables*		
1.	trade debtors	...	
2.	group entities	...	
3.	shareholders and participating interests	...	
4.	other receivables	...	
5.	called up share capital not yet paid in	...	
6.	prepayments and accrued income	...	
			...
III.	*Securities*		...
IV.	Cash		...
			...
	Total		...

11.	other liabilities	...	
12.	accrued liabilities and deferred income	...	
			...
D.	**Short-term liabilities**		
1.	convertible loans	...	
2.	other debenture loans and private loans	...	
3.	banks	...	
4.	payments received on account	...	
5.	trade creditors	...	
6.	bills of exchange and cheques payable	...	
7.	amounts due to group entities	...	
8.	amounts due to shareholders and participating interests	...	
9.	taxes and social security contributions	...	
10.	pension liabilities	...	
11.	other liabilities	...	
12.	accrued liabilities and deferred income	...	
			...
	Total		...

Model C Balance sheet of a small entity

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Balance sheet as at			
A.	**Fixed assets**		
I.	Intangible fixed assets	...	
II.	Tangible fixed assets	...	
III.	Financial fixed assets	...	
IV.	Total fixed assets		...
B.	**Current assets**		
I.	Inventories	...	
II.	Receivables, including prepayments	...	
III.	Securities	...	
IV.	Cash	...	
V.	Total current assets		...
C.	**Short-term liabilities and accrued liabilities**		...
D.	**Balance of current assets less short-term liabilities**		...
E.	**Balance of assets less short-term liabilities**		...
F.	**Long-term liabilities**		...
G.	**Provisions**		...
H.	**Shareholders' equity**		
I.	Share capital paid up and called up	...	
II.	Share premium (paid-in surplus)	...	
III.	Revaluation reserves	...	
IV.	Legal and statutory reserves	...	
V.	Other reserves	...	
VI.	Unappropriated profits	...	
			...
			...

Model D Balance sheet of a small entity

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Balance sheet as at

	Assets		
A.	**Fixed assets**		
I.	Intangible fixed assets	...	
II.	Tangible fixed assets	...	
III.	Financial fixed assets	...	
			...
B.	**Current assets**		
I.	Inventories	...	
II.	Receivables, including prepayments	...	
III.	Securities	...	
IV.	Cash	...	
			...
	Total		...

	Shareholders' equity, provisions and liabilities		
A.	**Shareholders' equity**		
I.	Share capital paid up and called up	...	
II.	Share premium (paid-in surplus)	...	
III.	Revaluation reserves	...	
IV.	Legal and statutory reserves	...	
V.	Other reserves	...	
VI.	Unappropriated profits	...	
			...
B.	**Provisions**		...
C.	**Long-term liabilities**		...
D.	**Short-term liabilities and accrued liabilities**		...
	Total		...

Model E Profit and loss account of a large or medium-sized entity (expenses presented by nature)

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Profit and loss account for the year		
Net turnover	...	
change in inventories of finished goods and in work in progress	...	
capitalised production (on behalf of own business)	...	
other operating income	...	
Total operating income		...
raw materials and consumables	...	
other external charges	...	
wages and salaries	...	
social security costs	...	
amortisation/depreciation of intangible and tangible fixed assets	...	
other changes in value of intangible and tangible fixed assets	...	
impairment of current assets	...	
other operating expenses	...	
Total operating expenses		...
		...
income from receivables included in fixed assets and from investments		...
other interest income and similar income		...
changes in value of receivables included in fixed assets and of investments		...
interest expenses and similar charges		...
Result before taxation		...
taxation		...
share in result of participations*		...
Net result for the year		...

* Only the income or loss from participating interests that are valued using the net asset value method (article 389-2 NCC) is included in this item. Income from participating interests valued differently must be shown separately as the first item of the financial income section, as 'income from participating interests, not valued using the net asset value method' (article 7-4 BMJ).

Model F Profit and loss account of a large or medium-sized entity (expenses presented by function)

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Profit and loss account for the year		
Net turnover		...
cost of sales		...
Gross turnover result/Gross margin		...
selling expenses	...	
administrative expenses	...	
Total selling and administrative expenses		...
Net turnover result/Net margin		...
other operating income		...
income from receivables included in fixed assets and from investments		...
other interest income and similar income		...
changes in value of receivables included in fixed assets and of investments		...
interest expenses and similar charges		...
Result before taxation		...
taxation		...
share in result of participations *		...
Net result for the year		...

* Only the income or loss from participating interests that are valued using the net asset value method (article 389-2 NCC) is included in this item. Income from participating interests valued differently must be shown separately as the first item of the financial income section, as 'income from participating interests, not valued using the net asset value method' (article 7-4 BMJ).

Model I Profit and loss account of a small entity (expenses presented by nature)

Please refer to Chapter 7 'Decree on financial statements formats' above and the BMJ for further details.

Profit and loss account for the year		
Gross margin		...
wages and salaries	...	
social security costs	...	
amortisation/depreciation of intangible and tangible fixed assets	...	
other changes in value of intangible and tangible fixed assets	...	
impairment of current assets	...	
other operating expenses	...	
Total operating expenses		...
		...
income from receivables included in fixed assets and from investments	...	
other interest income and similar income	...	
changes in value of receivables included in fixed assets and of investments	...	
interest expenses and similar charges	...	
		...
Result before taxation		...
taxation		...
share in result of participations *		...
Net result for the year		...

* Only the income or loss from participating interests that are valued using the net asset value method (article 389-2 NCC) is included in this item. Income from participating interests valued differently must be shown separately as the first item of the financial income section, as 'income from participating interests, not valued using the net asset value method' (article 7-4 BMJ).

Model J Profit and loss account of a small entity (expenses presented by function)

Please refer to the section 'Resolution on financial statements formats' above and the BMJ for further details.

Profit and loss account for the year		
Gross margin		...
selling expenses	...	
administrative expenses	...	
Total selling and administrative expenses		...
		...
income from receivables included in fixed assets and from investments	...	
other interest income and similar income	...	
changes in value of receivables included in fixed assets and of investments	...	
interest expenses and similar charges	...	
		...
Result before taxation		...
taxation		...
share in result of participations *		...
Net result for the year		...

Other models

The BMJ furthermore includes balance sheet models K, N, Q and R and profit and loss account models L, M, O, P and S. These models pertain to specific industries such as financial institutions, etc., which are out of scope for this publication. Profit and loss account model G and H have expired per 1 November 2015.

* Only the income or loss from participating interests that are valued using the net asset value method (article 389-2 NCC) is included in this item. Income from participating interests valued differently must be shown separately as the first item of the financial income section, as 'income from participating interests, not valued using the net asset value method' (article 7-4 BMJ).

Notes

Deloitte

Professional Practice Department
Wilhelminakade 1
3072 AP Rotterdam
The Netherlands

Tel: 0031 88 288 1802
E-mail: nlppdsecretariaat@deloitte.nl

www.deloitte.com
This publication can be downloaded from www.deloitte.nl/annualaccounts

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