182. Key Dutch regulatory aspects of financial sector acquisitions

MR. B. BIERMAN AND MR. M. KUILMAN

In this article, we consider the most important regulatory aspects of an acquisition of a financial institution. We discuss certain key subjects to be considered in a due diligence (DD), which supervisors are involved and the declaration of no objection as referred to in Section 3:95 of the Financial Supervision Act (Wft). We conclude with a few practical tips.

1. Introduction

The acquisition of a company naturally involves many things.[1] Depending on the nature of the business of the company, various areas of law play an important role in the successful completion of the acquisition. An important factor is whether the parties involved are subject to some kind of supervision, which is usually the case in the financial sector.

The acquisition of a company licensed by De Nederlandsche Bank N.V. (**DNB**) or the Netherlands Authority for the Financial Markets (**AFM**), such as a bank, insurer or investment firm, also referred to as a financial institution, triggers various regulatory aspects. Approval from the regulator must be sought prior to *closing* and the actual transfer of the shares. This also applies if the buyer is not a financial institution itself.

Below we consider the main regulatory aspects of a share acquisition or a takeover of a financial institution. We discuss a few key subjects to be considered in *due diligence*, which supervisors are involved, what approvals are required under the Financial Supervision Act (*Wet op het financieel toezicht*, **Wft**) and what the procedure generally looks like. We focus on the declaration of no-objection (*verklaring van geen bezwaar*) as referred to in Section 3:95 Wft.[2] We conclude with a few practical tips.

2. What regulatory aspects might play a role in an acquisition?

2.1 Due diligence – key subjects

First, in the due diligence phase, it is crucial for the buyer to examine all relevant information about the company's or financial institution's licence and other communications with the regulator.[3] For example, the financial institution may have been sent a stern letter or even had a formal enforcement measure imposed (such as an instruction or a fine) by the regulator. This has implications for the institution; it may have to adjust its business operations or face a fine and the associated publication thereof. In the worst-case scenario, there is a risk that the financial institution will lose its licence to operate. The length and depth of the due diligence varies per institution and its regulatory history.

> It is essential for the buyer to understand the financial institution's internal operations

Second, it is essential for the buyer to understand the financial institution's internal operations. To this end, the data room should contain policies such as a procedure manual, internal control policy, IT policy, outsourcing procedures, customer identification procedures, anti-money laundering procedures and (integrity) risk analyses. This is because the Wft prescribes in detail how a financial institution must be structured.[4] From this information, the buyer can therefore

1 A previous version of this article was published in *Tijdschrift voor de Ondernemingsrechtprakijk* (*TOP 2022/325*, number 5 – September 2022). The article has been translated and updated to include most recent developments and legislation.

2 For example, a bank's *acquisition* of a company or acquisition of assets may require a declaration of no-objection as referred to in Section 3:96 Wft. We do not discuss this declaration of no-objection herein. Also, we do not focus on the transfer or regulated activities to a third party and the obligation of such third party to apply for a (new) license.

3 On *due diligence,* see for example: M. Brink, *Due diligence. A consideration of due diligence under Dutch law (diss. Maastricht)*, The Hague: Boom Juridische uitgevers 2009.

4 Section 3:10, Section 3:17, Section 4:11, Section 4:14 Wft jo. Section 10-26k Prudential Rules Wft Decree (Bpr).

deduce how compliance-oriented the financial institution is and how high the risk of supervisory measures is.

Third, in the due diligence phase, it is important to examine standard services and products (and related contractual and pre-contractual information) and review whether they comply with the Wft. Complaints about these products are very relevant. These can lead to claims directed at the financial institution and are signals for the regulator to investigate.

The buyer can anticipate on potential losses by reducing the purchase price or by requiring a warranty or indemnity in the transaction documentation.[5] Whether the seller is willing to do this depends very much on the nature of the regulatory risks.

2.2 Supervisory approval

The acquisition of certain financial institutions, for example banks, insurers, investment firms and payment institutions, may require a prior declaration of no-objection (*verklaring van geen bezwaar*) from DNB or the European Central Bank (the **ECB**) pursuant to Section 3:95 Wft. We discuss this declaration of no-objection in detail in Section 3. Also, in case of an interest of more than 50% in a financial institution subject to *consolidated supervision,* such as banks, investment firms and insurance undertakings, the buyer may qualify as a financial holding or investment holding. In this case the buyer itself will also be included in the consolidated supervision. This entails additional – far-reaching – own capital and governance requirements for the buyer.[6] Also, the day-to-day policymakers of the buyer will be tested on fitness and properness (*geschiktheid en betrouwbaarheid*). A financial holding with a proposed majority interest in a bank will have to separately apply for prior approval at DNB or the ECB.[7]

Acquisitions of so-called financial service providers (which are supervised non-bank intermediaries, advisors and providers of, for example, loans or other financial products) also require prior approval from the AFM.[8] According to the AFM, persons who can exercise material influence on day-to-day management, who directly or indirectly hold more than 50% of the shares or voting rights in the financial institutions, are so-called co-policymakers.[9] Under the Wft, co-policymakers (or, if the relevant party is a legal entity, the directors) must be tested for propriety by the AFM.[10]

Finally, we briefly mention the recent legislative proposal for the Dutch Act on the Security Assessment Investments, Mergers and Acquisitions (*Wet veiligheidstoets investeringen, fusies en overnames* (VIFO)).[11] Under this law, 'acquisition activities' must be reported to the minister of Economic Affairs and Climate Policy. Acquisition activities include investments in a target company that is a *vital provider* or in a company active in the field of *sensitive technology*. Dutch vital providers in the financial sector include: significant banks (institutions with a consolidated balance sheet total of more than EUR 30 billion),[12] trading platforms and central counterparties.[13] The minister may subject the acquisition activity to a review decision taken in agreement with the minister of Justice and Security and other ministers of concern. [14]

Include a broadly worded condition precedent for obtaining required regulatory consents and notifications

Approval by a regulator is usually included as a condition precedent for the actual transfer of the shares at closing. Since it is not always clear in advance whether, and to what extent, approval is required, the condition is often broadly defined. Instead of specifically stating as a condition precedent for closing that DNB or the ECB has granted the declaration of no-objection to the buyer and indirect shareholders, it is then more generally stated that all necessary approvals have been obtained. This condition can then also be fulfilled in the situation where, for example, DNB is of the opinion that a declaration of no-objection is (after all) not required, e.g. if there is no qualifying holding by a shareholder in the group, see also below.

3. Declaration of no-objection

3.1 Background

The obligation to obtain a declaration of no-objection prior to the acquisition of a financial institution dates back to the previous century. In 2011, the framework for declarations of no-objection was radically changed by the implementation of the European Directive on holdings in the financial sector, the Antonveneta Directive.[15] This was caused by the (very protectionist) role played by the Italian authorities in the acquisition of the Italian bank Antonveneta by ABN Amro in 2005. It

5 On *indemnities*, see for example: R.J. Tjittes, 'The interpretation of warranties and indemnities in acquisition contracts', in: M. Holtzer & A.F.J.A. Leijten, *Geschriften vanwege de Vereniging Corporate Litigation 2007-2008*, Deventer: Kluwer 2008.

6 See Art. 11 and 18 Capital Requirements Regulation and Art. 21a Capital Requirements Directive (for banks), Art. 7 and 8 Investment Firm Regulation and Art. 25, 26, 28, 30, 32, 33 and 52 Investment Firm Directive (for investment firms) and Art. 218 et seq. Solvency II Regulation (for insurers).

7 See Section 3:280a and Section 3:280b Wft.

8 L.J. Silverentand & F.W.J. van der Eerden (ed.), *Hoofdlijnen Wft (Recht en Praktijk nr. FR6)*, Deventer: Wolters Kluwer 2018, paras. 7.5.3 and 10.2.1.

9 https://www.afm.nl/nl-nl/professionals/veelgestelde-vragen/adv-bem-betrouwbaar-geschikt/kwalificaties

10 See Section 4:10 Wft.

11 Passed by the House of Representatives on April 19, 2022. On May 17, 2022, the Senate disposed of the proposal as a hammer piece. On May 18, 2022, the law was signed and on June 10, 2022, the law was published (*Official Gazette* 2022, 215). Entry into force will be determined by Royal Decree, which at the time of writing has not yet been published.

12 Examples include: ING, Rabobank, ABN AMRO and De Volksbank.

13 Section 7(5), (6) and (8) of the VIFO Act.

14 Section 10 of the VIFO Act.

15 Directive (EC) No 2007/44. For the Dutch implementation, see Wet implementatie Richtlijn deelnemingen in de financiële sector, *Staatsblad* 2011, 206.

became clear that such a role had to be limited to a prudential assessment within a clear procedure with a limited set of clear assessment criteria. European sectoral directives such as the Capital Requirements Directive (**CRD**),[16] the Markets in Financial Instruments Directive (**MiFID II**)[17] and Solvency II[18] have taken over the requirement of a declaration of no-objection from the Antonveneta Directive. The obligation for a declaration of no-objection under the current Section 3:95 Wft is largely based on these European directives.

3.2 Role ECB

A declaration of no-objection under Section 3:95 Wft is granted by DNB, unless it concerns a participation in a Dutch bank. In that case, the decision on the declaration is taken by the ECB. This ECB competence was introduced in 2014 with the entry into force of the Banking Union (under the EU Single Supervisory Mechanism (**SSM**) Regulation).[19] This concerns all Dutch banks (regardless of their size), including both significant and less significant banks.[20] DNB remains the '*single point of entry*'; it assesses the application and prepares a draft decision for the ECB in which it states whether it is in favour or against the granting of a declaration of no-objection. The ECB must object to the participation before the end of the statutory consideration period. The ECB is not bound by DNB's proposals.

In the rest of this article, we do not each time distinguish between DNB and the ECB, but refer to DNB instead.

3.3 Section 3:95 Wft

Pursuant to Section 3:95 Wft, anyone (both legal entities and natural persons) who acquires or increases a qualifying holding in a financial institution must have a declaration of no-objection prior to an acquisition. The declaration of no-objection under Section 3:95 Wft covers qualifying holdings in, for example, (i) credit institutions, (ii) investment firms, (iii) insurance undertakings and (iv) payment service providers.

A 'qualifying holding' is a direct or indirect holding of at least 10% of the issued *capital* of a company or at least 10% of the *voting rights* in a company. In addition, a qualifying holding is deemed to exist if the company can directly or indirectly exercise *control comparable* to 10% of the voting rights in a company (as defined in Section 5:45 Wft).[21]

If the buyer itself has shareholders, it must be determined whether there are holders of an 'indirect qualifying holding'. Any entity with an indirect qualifying holding is required to have a declaration of no-objection. In this respect, the requirement of a declaration of no-objection also applies to natural persons with a qualifying holding – often the ultimate beneficial owner of the buyer. A takeover of a financial institution by a buyer belonging to a group can therefor lead to a series of applications for a declaration of no-objection.

Determining the existence of an indirect qualifying holding is quite complex. DNB uses the calculation method from the Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (**Joint Guidelines**).[22] The Joint Guidelines contain the example of the calculation of indirect holdings below, where 'T' is the financial institution.[23] This example can be explained as follows:

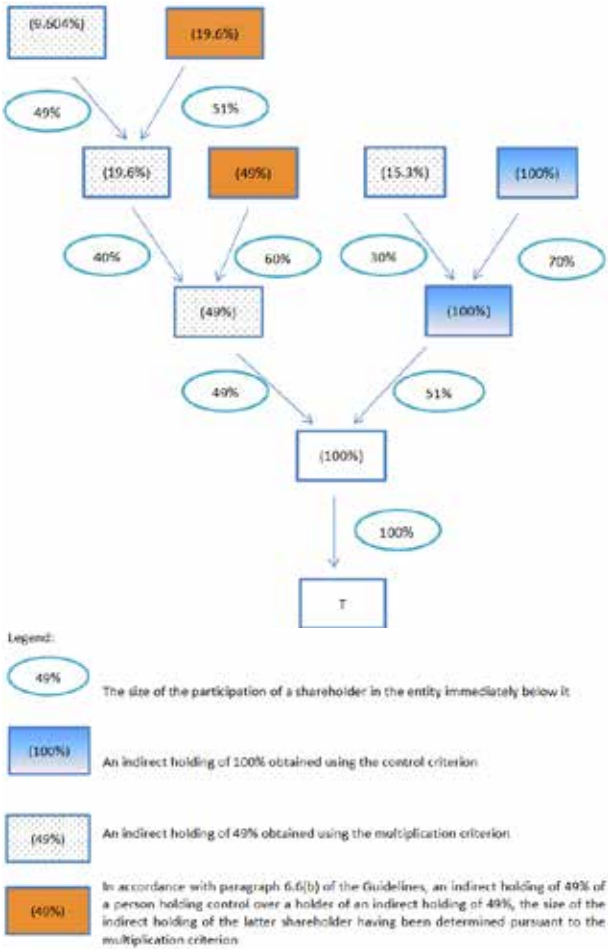

Chart 1: Example of a calculation included in the Joint Guidelines

Control criterion: First, in the case of an indirect shareholder of a financial institution, DNB determines whether it holds a controlling interest (more than 50% of the voting rights) in its direct subsidiary. The shareholder with a controlling interest is deemed to hold a participation of the same size as its direct subsidiary.

16 Directive (EU) No 2013/36.
17 Directive (EU) No 2014/65.
18 Directive (EC) No 2009/138.
19 Regulation (EU) No 1024/2013.
20 See Art. 4(1)(c) SSM Regulation and Art. 85 and 86 SSM Framework Regulation.
21 Section 1:1 Wft.
22 Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01). See also: B.C.G. Jennen, 'The prior assessment of shareholders of financial companies', *Business Law* 2018/131, vol. 17. The Joint Guidelines have been applied by DNB in its supervision since October 2017.
23 See p. 47 and 48 of the Joint Guidelines.

Multiplication criterion: If an indirect shareholder has no controlling interest, the total multiplied capital interest of the indirect shareholding in the financial institution is considered. This involves multiplying the percentages of holdings in the shareholder chain up to the financial institution, starting from the direct holding with the holding directly above it and then moving up and up.

The Joint Guidelines specify that in addition to capital and voting rights, the buyer's ability to exercise *significant influence* over the management of the financial institution should be considered. This includes a participation of less than 10%, but where the shareholder can exert influence over the company, for example by participating in strategic decision-making of the company. Holdings of shareholders *acting in concert* are also added up.

Given the definition of qualifying holding, a declaration of no-objection is not only required in the case of a complete acquisition of all shares in the financial institution. This may already be the case in the event of an issuance or transfer of shares as a result of which the holder of that participation exceeds the 10% limit. The declaration of no-objection is granted for a certain bandwidth, namely up to 20%, 33%, 50% or 100%.[24] If one of these thresholds is exceeded as a result of an increase in the shareholding, a declaration of no-objection is required once again. DNB will then again fully assess whether the new declaration of no-objection can be issued.

A takeover of a financial institution by a buyer belonging to a group can therefore lead to a series of applications for a declaration of no-objection

In addition to the scope and specification of a qualifying holding, the Joint Guidelines include assessment criteria and a recommended list of information required for the assessment of an acquisition of a qualifying holding (see Annex I to the Joint Guidelines). Recently, the ECB consulted a Guide of how to assess buyers of qualifying holdings in banks.[25] The draft Guide aims to clarify how the ECB assesses applications to acquire qualifying holdings in banks in order to increase the transparency of this process for market participants. It builds on the applicable legal framework included in Section 3:95 Wft and the Joint Guidelines.

A declaration of no-objection under Section 3:95 Wft is granted unless one of six grounds for rejection applies.[26] These grounds for rejection are, for example: (i) the reliability of the applicant is not beyond doubt, (ii) the financial solidity of the applicant is not guaranteed and (iii) the financial institution will not be able to continue to comply with the prudential rules laid down pursuant to the Wft.[27]

4. Points of attention declaration of no-objection under Section 3:95 Wft

4.1 General

Hereafter we zoom in on some concerns of the application process for a declaration of no-objection, which falls into several phases: (i) the preparation phase, (ii) the formal application and (iii) the regulatory consideration period.

4.2 The preparation phase

Immediately after the *signing* of the transaction, the buyer and any possible other prospective holders of an (indirect) qualifying holding prepare their application for a declaration of no-objection. Often this is already started earlier. Preparing the application can be time-consuming and, in our experience, takes two to five months. In the case of a series of applications for a declaration of no-objection, by multiple entities within the buyer's group, the applications are usually coordinated.

For the application for a declaration of no-objection, information is required on (i) the identity of the applicant (buyer(s) and any indirect shareholder(s)), (ii) the reason for the application (acquisition), (iii) the bandwidth of the shareholding, (iv) the control structure of the group to which the applicant belongs, (v) the financing of the acquisition, and (vi) the financial solidity of the applicant. If the applicant is a legal entity, financial statements of the past three years must be provided and DNB asks for a medium-term (three years) financial forecast. In the case of a natural person, a personal statement of assets is requested.[28] This last demand is of course often a sensitive issue.

An important issue, in practice, is ensuring the financial soundness of the applicant. DNB generally asks for further substantiation of the applicant's financial soundness and capitalization. Although this is not an explicit requirement under the law, DNB often considers the applicant financially solid only if its equity capital is at least equal to the required equity capital of the financial institution

24 For a participation in a payment institution, contrary to a 33% participation, a 30% participation applies. This is due to the implementation of the Payment Services Directive 2 (PSD2).

25 See https://www.bankingsupervision.europa.eu/press/pr/date/2022/html/ssm.pr220928~1c72f0c2e8.en.html

26 Section 3:100(1) Wft.

27 See on the grounds for refusal and the declaration of no-objection application more generally: Jennen 2018 and, more specifically on the reputation test: D.M. Brinkman, 'The declaration of no-objection, reputation and Joint Guidelines: a brief overview', *Journal of Financial Law* 2019, no. 3.

28 For the list of information and documents to be provided, see Appendix I to the Joint Guidelines and Art. 138 Bpr. For an overview with information, see also DNB's note: https://www.dnb.nl/media/tqkjbk13/toelichting-bij-formulier-declaration of no-objection-aanvraag-artikel-3-95-wft.pdf. For a participation in an investment firm, see Delegated Regulation (EU) 2017/1946.

itself.[29] This may result in the applicant having to raise additional capital. When participating in a financial institution subject to *consolidated supervision*, one must also take into account that the applicant itself will be included in the consolidated supervision as well and will be confronted with own capital and governance requirements, as a financial holding or investment holding. The latter applies in particular to the acquisition of banks, investment firms and insurance undertakings.[30]

DNB further enquires whether the buyer will act as an active or passive shareholder after the acquisition of the financial institution and what the impact of the acquisition will be on the financial institution. DNB does this in order to be able to estimate the buyer's and the buyer's group's interference in the financial institution's operations and whether the financial institution can continue to meet its prudential requirements. The larger the size of the shareholding, the more detail the applicant must provide about its intentions with the target, according to the online application form for a declaration of no-objection. Thus, little detail is required for a participation between 10-20%, but for a participation above 50% and a controlling interest (the direct participation by the buyer in case of a 100% acquisition), a complete business plan is required. DNB is particularly interested in the buyer's short- and medium-term plans for the financial institution. In the case of a passive shareholder, these plans will be limited. An active shareholder may soon want to exercise influence over the financial institution's operations. Examples include implementing governance changes, cost-cutting measures, paying dividends, appointing new members of the management and/or supervisory boards, and entering into intra-group contracts, for example outsourcing contracts. If DNB anticipates that certain changes may have a negative impact on the financial institution's operations and/or capitalization, DNB may request that certain adjustments be made or that additional capital be held.

Applicants who are natural persons and day-to-day decision-makers of legal entity applicants (i.e., directors/executive board members) must pass an initial or reputation assessment.[31] Required information for this includes a copy of passport, curriculum vitae, criminal record extract, track record with past investments in financial institutions and an integrity screening form. The integrity assessment uses antecedents of the relevant individual to determine whether their integrity is beyond doubt. This procedure is – logically – often perceived by the individuals involved as very personal and intrusive.

4.3 Formal application

DNB often offers the option of informally announcing and submitting drafts for an application for a declaration of no-objection. The informal announcement is recommended and even encouraged in the Joint Guidelines for complex transactions or acquisitions.[32]

The formal application procedure for a declaration of no-objection starts after an online application form is submitted through MyDNB, a digital portal made available by DNB. The application procedure for a declaration of no-objection at the ECB is also through DNB and MyDNB.[33]

4.4 Consideration period

The consideration period for a declaration of no-objection starts after DNB has received all information and documents necessary for the assessment and DNB deems the application complete. The Joint Guidelines contain a list of information and documents in Annex I that competent authorities can require in the context of the application for a declaration of no-objection.

The moment on which the application is deemed complete varies per application. DNB is not always transparent and applicants can be in the dark. When assessing the completeness of the application, DNB looks at all the documents it received. DNB may then ask for additional information and state that as long as this information has not been received, the consideration period will not commence. In our view, the applicant could argue that the consideration period has started the moment DNB has received the documents in the Annex I to the Joint Guidelines.

The integrity assessment uses antecedents of the relevant individual to determine whether their integrity is beyond doubt. This procedure is – logically – often perceived by the individuals involved as very personal and intrusive

The statutory consideration period is 62 working days, with an option for DNB to extend this period once by 20 or 30 working days. This is a strict deadline; if the application is not rejected within this period, the declaration of no-objection is deemed to be granted. Note that in case an

29 We will not further discuss here the quality requirements that DNB imposes on a financial institution's available capital under the applicable capital requirements (see in that context Section 48 et seq. Bpr and Art. 26 Capital Requirements Regulation).

30 See Art. 11 and 18 Capital Requirements Regulation (for banks), Art. 7 and 8 Investment Firm Regulation (for investment firms) and Art. 218 et seq. Solvency II Regulation (for insurers).

31 On the reputation test, see Brinkman 2019.

32 Section 9.3 of the Joint Guidelines.

33 It was intended that this application would have to be submitted through the ECB's IMAS Portal as of January 1, 2022, rather than through DNB's MyDNB, but we do not seem to be there yet. See: https://www.bankingsupervision.europa.eu/banking/portal/imas/html/index.en.html. For an explanation of how to submit an application for a declaration of no-objection, see also DNB's website: https://www.dnb.nl/media/tqkjbk13/toelichting-bij-formulier-declaration of no-objection-aanvraag-artikel-3-95-wft.pdf.

application for approval as financial holding of a bank is submitted to DNB simultaneously with an application for a declaration of no objection as referred to in Section 3:95 Wft, DNB may extend the decision period for the declaration of no-objection until a decision has been taken on the application for financial holding approval.[34]

In view of the preparation phase and the consideration period, an application process therefore takes quite some time, which might simply not be available to some financial institutions when they are in the need of cash or when parties are losing momentum for the takeover. Therefore, in the event that a financial institution needs funding quickly, it is always considered whether shares can be issued in a way that does not require a declaration of no-objection. This can be done, for example, by issuing shares in such a way that the holder of the new shares does not exceed any of the relevant threshold values (see section 3.3. above). In practice, therefore, we regularly see an issuance or transfer of shares in two phases. In the first phase, none of the threshold values are exceeded, making it possible to *close the deal* quickly, without a declaration of no-objection. In the second phase, after going through the application process for a declaration of no-objection, the larger shareholding (that exceeds a threshold value) is taken; provided, of course, that the declaration of no-objection is granted.

4.5 Decision

During the consideration period, DNB will ask detailed questions about the application in order to assess whether the requirements for a declaration of no-objection have been met. Before the end of the consideration period, DNB or the ECB (in case of a bank) will take the decision whether or not to grant a declaration of no-objection. Conditions may be attached to the decision to grant a declaration of no-objection. In short, DNB may impose requirements in the situation where, had there been no conditions, DNB would have had to reject the application.[35] Requirements that have been imposed in practice relate, for example, to the payment of dividends, the establishment and composition of a supervisory board and a surcharge on the minimum capital of the financial institution.

The applicant can file an objection (with DNB) and lodge an appeal (with the District Court of Rotterdam) against the decision, in accordance with ordinary administrative procedures. Against a decision on a declaration of no-objection by the ECB, i.e. with respect to banks, a legal remedy is available only before the Court of Justice of the European Union. In that case, the national court has no jurisdiction to rule on DNB's preparatory decision either.[36]

4.6 Consequences of acquisition without a declaration of no-objection

Transfer of shares without the required declaration of no-objection has no consequences on property rights.[37] This means that the buyer of the shares, even without a declaration of no-objection, can still obtain legal ownership of the shares through a valid transfer.

From a supervisory perspective, however, there are consequences. For example, for violation of Section 3:95 Wft, DNB can impose a high fine.[38] This fine will be imposed on the new shareholder(s), without them being directly supervised by DNB. DNB can also impose an instruction on the new shareholder(s).[39] The instruction then involves a certain line of conduct, such as selling shares in the financial institution, bringing the shareholding back below 10%.

Finally, the District Court may annul resolutions that were (partly) taken after the takeover through the exercise of control by the new shareholders, after being requested to do so by DNB.[40] To the extent necessary, the court shall regulate the consequences of the annulment.

5. Conclusion and practical tips

Supervisory law plays a crucial role in the takeover of a financial institution. In conclusion, our main practical recommendations are:

- Involve regulatory aspects in the due diligence process and possibly negotiate indemnities/guarantees if there appear to be regulatory risks.
- Include a broadly worded condition precedent for obtaining required regulatory consents and notifications. Include a (very) broad time limit for achieving this *condition precedent*.
- Prepare buyers and their shareholders well for the application process for a declaration of no-objection. For example, natural persons are examined for their integrity.
- A properly and thoroughly prepared application for a declaration of no-objection ensures faster processing by the regulator.

This article was finalised on 3 February 2023.

Over de auteurs

Mr. B. (Bart) Bierman
Lawyer/partner in Amsterdam at Finnius and visiting faculty at the Hazelhoff Centre for Financial Law at Leiden University.

Mr. M. (Marijke) Kuilman
Lawyer in Amsterdam at Finnius.

34 Section 1:106c Wft.

35 Section 3:104(1) Wft. See also the *Atradius decision* of the Trade and Industry Appeals Tribunal (CBb) September 12, 2016, ECLI:NL:CBB:2016:270, «JOR» 2016/306, with annotation by Lieverse, and ECJ EU 25 June 2015, case C-18/14, ECLI:EU:C:2015:419.

36 See ECJ EU, December 19, 2018, case C-219/17, ECLI:EU:C:2018:1023, «JOR» 2019/61, with annotation by Joosen.

37 See also Section 1:23 Wft.

38 This would be a fine of up to € 5 million, see Art. 1:81(2) Wft.

39 Section 3:104(3) in conjunction with Section 1:75 Wft.

40 Section 3:104(2) Wft.