

> No prospectus required up to €12 million

Introduction

Later this year companies in the Netherlands will be able to raise EUR 12 million through issuing securities without preparing a prospectus that is approved by the AFM. This is a substantial increase from the current maximum of EUR 5 million, which means an increase of EUR 7 million.

On 5 June 2026, several important changes to the European prospectus regime will take effect.¹ These amendments are primarily intended to make the capital markets more accessible for small and medium companies. One of these changes is the increase of the maximum amount for which issuers of securities are not required to prepare a prospectus. That maximum amount is currently set at EUR 5M per year in the Netherlands and will be increased to EUR 12M per year across most of the EU.

Dutch implementation

As the EUR 12M exemption is included in EU legislation as optional for a national regime, the exemption itself and the requirements for the exemption must be further detailed in new Dutch legislation. The deadline for implementing these rules into Dutch law is also on 5 June 2026. At present, only a draft legislative proposal is available, and it seems unlikely that the 5 June 2026 deadline will be met. However, the increase in the standard exemption threshold to EUR 12M from European legislation will already apply as of 5 June 2026.²

EU Member States may deviate from the EUR 12M threshold by setting the maximum at EUR 5 million instead. In the Dutch draft legislative proposal, the choice has so far been to maintain the standard amount of EUR 12M. Due to the delayed Dutch implementation of this legalisation, the question arises which requirements will apply for the prospectus exemption in the Netherlands from 5 June 2026 onwards. From that date, the existing Dutch rules will no longer align with the new European framework, which will prevail.

Notification to the AFM

The explanatory memorandum to the Dutch draft legislative proposal outlines the requirements for using the EUR 12M exemption.³ In short, an information document must be prepared that meets the requirements for the summary of a regular prospectus. The Dutch legislator aligns with the core purpose of the prospectus requirement: ensuring that investors receive key information on the securities and the offer. The requirements for this information document differ from those for the current mandatory information document under the existing Dutch regime.

The obligations to (i) notify the AFM that the exemption is being used and (ii) include a disclosure statement that no approved prospectus is available on all documents and marketing materials for the offer, remain unchanged from the current regime.

1. Several provisions of the Listing Act (Regulation (EU) 2024/2809) will enter into force, which will amend the Prospectus Regulation (Regulation (EU) 2017/1129). The first part of the Listing Act already entered into force in 2024, a second part will enter into force on 5 March 2026, and the final part will enter into force on 5 June 2026.

2. Amendment of the Financial Supervision Act for the implementation of Directive (EU) 2024/2811 amending Directive 2014/65/EU, with the aim of making the public capital markets in the Union more attractive for companies and facilitating access to capital for small and medium enterprises (Implementation Act on the Listing Directive).

3. New proposed clause 5:4 Financial Supervision Act (Wet op het financieel toezicht) jo. new clause 3 Prospectus Regulation.

Changes to standard documents

Under the current Dutch exemption regime, AFM has published several standard documents, including a standard notification form, a standard information document, and the format of the exception disclosure statement.

It is currently unclear whether these standard documents will remain valid, be replaced, or be amended after 5 June 2026 but before the new Dutch legislation takes effect. The same uncertainty applies to the period after the Dutch legislative proposal enters into force. As a result, it is unclear what the notification process for the exemption with the AFM will look like after 5 June 2026.

Key changes

In summary, the main changes to the prospectus exemption are:

- ✗ The exempted amount within which companies in the Netherlands may offer securities to the public will be increased from EUR 5 million to EUR 12 million. This substantial increase of EUR 7 million means that companies can raise significantly more capital through the issuance of securities than before without the obligation to prepare a comprehensive prospectus.
- ✗ The information document that must be prepared for an offer of securities below EUR 12 million will need to meet different requirements and will therefore look different.
- ✗ For the EUR 12 million maximum offer, all issuances of all types of securities are added together. Under the current exemption regime, the exemption can be applied separately to offers of shares and bonds. As of 5 June 2026, all public offerings of securities for which no prospectus is published must be included in the calculation of the maximum of EUR 12 million. Securities offerings for which a prospectus has been prepared and approved are of course excluded from the calculation and the scope of the EUR 12 million threshold.
- ✗ For the application of this exemption, only securities issued per issuer or offeror are taken into account. Under the current exemption regime, issuances by group companies are also included in the maximum exemption amount.

After 5 June 2026, this will no longer be the case, and the assessment will simply be made per issuer or offeror.

Practical implications

All companies that issue securities to the public will soon be able to make use of the revised exemption. This means that companies will be able to issue securities up to a maximum of EUR 12 million without preparing a prospectus. An example would be a foundation issuing depositary receipts for shares. We recently advised on the exemption under the prospectus regime with respect to depositary receipts for shares. Of course, many other types of securities also fall under this exemption, such as shares and bonds.

Next steps

In the coming months, more clarity will emerge on how the Dutch legislator will implement the new exemption regime under the prospectus requirement and when the Dutch implementation legislation will enter into force. We would be pleased to provide you with further information on this.

Questions about this topic?

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