# 5-minute Insight
## *The Dutch Disadvantage?*

pwc

## *The Netherlands is strict on bonuses but pay for performance is here to stay*

In the Netherlands, the variable part of remuneration is not allowed to exceed 20% of the fixed remuneration. This is stricter than the 100% cap used elsewhere in the EU. The Dutch regulation on bonuses in the financial sector may affect decisions if and how to enter the Dutch market.

The relatively strict rules on bonuses may lead to higher labour costs, as bank and insurance companies may raise fixed salaries to offer a competitive remuneration. A higher fixed remuneration raises labour costs, as certain expenses are related to fixed and not to variable remuneration, such as pension contributions. The Dutch bonus policy for the financial sector can also lead to lower flexibility: bonuses are often linked to the financial performance of the institution, while fixed salaries are not. So higher fixed salaries are also potentially increasing the default risk of an institution, especially if the year-to-year profits are uncertain in the changing market environment.

Although scientific research is ambiguous about the relation between bonuses and risk-taking, bonuses are considered to stimulate excessive risk-taking and focus on short-term profit. If this is true, a cap on bonuses will enhance financial stability.

The bonus cap is often seen as factor which reduces the attractiveness of the Netherlands as a gateway to the European market for financial institutions. Our analysis show that the effects are not straight forward. One can not assume that the attractiveness of the Netherlands is reduced by the bonus cap.

*Find a detailed analysis in our report The Dutch Disadvantage?, a research into the effects of the Dutch regulation for the financial sector.*

The competitive position of Dutch banks and insurance companies on the domestic or international market is likely to be adversely affected, although, at the same time, they might benefit from increased financial stability in their home market.

Find a detailed analysis in our report *The Dutch Disadvantage?*, a research into the effects of the Dutch regulation for the financial sector.

***The bonus cap applies to financial institutions with offices registered in the Netherlands***

**The bonus cap of 20% applies to:**

- All headquarters, subsidiaries and branches of banks and insurance companies with the head legal entity in the Netherlands.
- All foreign subsidiaries and branches of a Dutch headquartered financial institution.
- All subsidiaries of foreign banks and insurance companies in the Netherlands.
- Branches of foreign financial institutions in the Netherlands that do not fall within the scope of Capital Requirements Regulation and Directive (CRD IV).

**The bonus cap of 20% does not apply to:**

- Pension funds.
- Asset managers.
- Branches of banks and investment firms located in the Netherlands with a ‘mother firm’ in another member state of the European Union and which are subject to the Capital Requirements Directives IV (CRD IV).
- Investment institutions and institutions for collective investment in securities. These institutions should invest on their own account with their own resources and capital, and have no external customers.

### *The bonus cap of 20% in the Netherlands is stricter than European regulation (CRD IV)*

| European regulation | Dutch regulation |
| --- | --- |
| CRD IV restricts the bonuses to 100% of fixed annual salary: With shareholders' approval bonuses can be raised up to 200% of fixed annual salary. | The cap is five times lower (20%). |
| The CRD IV bonus cap only applies to employees of banks and investment firms in Europe, not to insurance companies. | The cap applies to a larger group of financial institutions. |
| The CDR IV bonus cap is restricted to a specific group of employees: senior managers, risk management officials and staff whose professional activity involves activity involves taking risk with a material impact on the institution's risk profile. | The cap is not restricted to identified staff and applies to all employees. |

There are several exemptions related to the bonus cap

- Employees of a financial institution (to whom the bonus cap is applicable) not covered by a collective labour agreement. Their variable remuneration is capped at 100% of fixed remuneration. However, the average variable remuneration of the entire group of employees may not exceed 20%.
- The bonus cap is 100% of fixed salary for employees working mainly abroad, but within the EU. If the employees work mainly outside the EU, the bonus is capped at 200% of the fixed remuneration.
- Managers of investment institutions or of organisations for collective investments in securities, are exempt from the bonus cap of 20%. This also applies to investment firms investing for their own account and with their own resources and capital, which have no external customers.
- For Dutch headquartered institutions of which the activities are for at least 75% located outside the Netherlands, the bonus cap is 100% of fixed salary.

With these exemptions the effect of the bonus cap is mitigated for internationally focused financial institutions.

### PwC: 'The Dutch bonus cap requires financial institutions to differentiate more'

The remuneration rules do allow for individual bonuses to amount to maximal 100% of the fixed remuneration. The strict 20% average bonus cap however, requires financial institutions to apply more differentiation in their remuneration. 'It means they truly reward outstanding performance. This is a prerequisite for any effective performance related pay system,' says remuneration specialist and partner Janet Visbeen.  Furthermore, the parts of the financial industry where performance related pay is an integral part of the business model, either specific exemptions to the cap apply or alternative arrangements (e.g. investment schemes or partnership models) are allowed.

**The Netherlands is perceived to be strict on the financial sector, but reality is much more balanced**

In the Dutch debate it has been frequently suggested that financial regulation in the Netherlands is stricter than the regulation in other countries, and that this leads to unfair competition for Dutch financial institutions and to a lesser attractiveness of the Netherlands as a country to establish local presence. We committed a thorough study into this (perceived) Dutch disadvantage and one of the main conclusions is that, across the board, the Netherlands is not stricter than other countries. Regulation in the Netherlands is actually less strict than other countries regarding some important aspects. For example Dutch banks were not required to split their retail and investment banking, or to issue new equity to improve capital ratios.

In an international perspective, the Netherlands is stricter concerning four areas: remuneration (bonuses), the leverage ratio for banks, the ban on inducements and the assessment procedures for (non-)executives of financial institutions. At the same time we found that the consequences of this strict regulation are not as straightforward as it is often suggested. Each measure has its potential effects but they are not the same for every financial institution or for every legal form. And strictness as such doesn't necessarily affect the attractiveness of the Netherlands. Financial institutions who choose the Netherlands as its location may benefit from it as well.


Our experts have analysed the effects of the Dutch regulation for banks and insurance companies in a very balanced way. Their results are presented in [The Dutch Disadvantage?]

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