

Corporate in control



Foreword

With Corporate in control, a module-based legal service allows us to specifically focus on the legal housing of a business, from the structure itself and its maintenance to the company rules and codes of conduct that apply.

This covers more than just classic corporate housekeeping, which focuses on fulfilling company-law obligations, administrative - legal obligations and obligations under the articles of association.

It also covers more than the territory of corporate governance – safeguarding the interests of the shareholders and stakeholders by strict monitoring of the company and, when necessary, increasing transparency and accountability at a company. Our modular model enables you to deal with anything that has the highest priority. Ultimately, all elements of the model lead to a reduction in compliance risks, a reduction in structural costs, being in constant control of important (legal) compliance processes and improvements in the quality of decision-making and the monitoring thereof.

The Corporate in control model can be offered and managed nationally and internationally as a multi-competence service (Tax, Assurance and Advisory) in every market segment, preferably with active participation from representatives of the client.

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Corporate in control

- The following three dimensions of governance are discussed:

- Institutional
- Procedural
- Relational

- PwC Legal Management Maturity model
- Scan of the maturity level of the corporate housekeeping function, supported by a web-based application
- Suggestions for improvement, if applicable

- Corporate compliance health check with rectification suggestions, if applicable
- Outsourcing of corporate compliance, of Dutch and foreign group entities
- With a web-based application that serves as an electronic corporate file for the client, accessible 24/7. Also suited for contract management.

- Lifecycle of entities: from incorporation to dissolution
- Legal support services, including the drafting of directors' and shareholders' resolutions, filing at the Commercial Register and interim staffing
- Organising and preparing shareholders' and managing directors' meetings and taking the minutes of those meetings (domiciliation)



- Analysis of the legal structure, multi-competence ideas or advice
- With a calculation model that provides insight into costs and savings
- Implementation of the elimination of national and international entities, coordinated from the Netherlands

- Digital archiving of the substantive contracts and other information
- Registration of the identified contract features in a web-based application
- Accessible 24/7
- Including triggering schedule
- Management reports

L3M



The Legal Management Maturity Model (L3M) provides for a mature corporate housekeeping function. The management board of companies are responsible for sound risk management and control systems. Still, top management and the supervisory bodies (Supervisory Board or Board of Overseers) often seem to want to know more about where they are, currently, in terms of corporate housekeeping.

The introduction of the Legal Management Maturity Model (“L3M”) can contribute to this. Also, L3M is a bit more than just a source of information for the management board: it is a method of integrated work processes, with checks & controls, so that the management board and supervisory bodies know they are in control of the subjects that have been addressed. Because only a mature corporate housekeeping function can reduce corporate compliance risks to a minimum.

Sphere of activity

The core task of the corporate housekeeping function at a company is the legal administration of national and international group companies and ensuring that every group company complies with national, local legislation and that it acts in accordance with its articles of association.

Control

Organisations attach great importance to the prevention of corporate compliance risks (liability and publicity risks), and many executive and supervisory directors feel the need to have more control over the internal corporate housekeeping functionality.

Questions that arise include:

- Does the company have a vision and mission?
- Has final responsibility been centrally organised?
- Is there sufficient knowledge?
- Are centrally organised procedures followed?
- Are the corporate files and shareholders’ registers in place and complete?
- And is there sufficient insight into the corporate compliance status of the national and international group companies?

Improving the corporate housekeeping functionality first requires a company to carry out analyses in this area and to establish how professionally, i.e. how maturely, it operates, not only on separate issues but particularly also from a holistic point of view in order to achieve the desired, coherent picture. This requires uniform frameworks and standards

Legal Management Maturity Model (“L3M”)

We have elaborated this approach in L3M, using existing COSO and CobiT models. L3M is a simple web-based application. The vertical axis in the model gives environment, operations, management and monitoring as main categories, which are subsequently elaborated in various sub-categories (see figure 1).

On the horizontal axis, a subdivision of the maturity is given (from level 1: starting, to level 5: optimised and self-developing), which organisations use to shape and execute their corporate housekeeping function. The model has a final level at which the scores on maturity and the extent of control can be substantiated (the evidence).

Scan

Together with the client, we make an online selection in L3M of the most appropriate description for each category or sub-category, after which a single objective and coherent total picture of the maturity of the corporate housekeeping function is created in the main overview (see figure 2).

Figure 1: example of a normative description from the “Application Use” sub-category

Corporate housekeeping operations processes	Level 1 Ad-hoc	Level 2 Repeatable	Level 3 Defined	Level 4 Managed	Level 5 Optimised
Application use	Certain software is used and the use thereof is based on standard desktop tools. There is no systematic approach with regard to the use of this software.	There is a standard approach with regard to the use of software, but it is based on solutions developed by specific persons. Standard applications can be used, but they are not used (shelfware) or they may not have been implemented correctly.	Applications are implemented in line with a standardised schedule. The entire organisation uses a single standardised application for the corporate housekeeping function. As such, the organisation tries to be in control of corporate housekeeping, but it is not yet able to steer matters that way.	Applications are implemented in line with a standardised schedule. The organisation aims to be in charge of corporate housekeeping by using a single standardised application with scheduling functionality (reminder function).	The organisation ensures that it is continually up to date on the latest developments with regard to application use for corporate housekeeping, with a view to purchasing such new software.

Figure 2: example of a completed main overview for an organisation that scores high in the field of “soft controls” and low in the fields of “communication” and “organisation”.

		Level 1 Initial	Level 2 Repeatable	Level 3 Defined	Level 4 Managed	Level 5 Optimized
Corporate housekeeping environment	Strategy: + Mission and vision + Mandate + Objectives, KPIs and remuneration					
Corporate housekeeping environment	Awareness: + Knowledge + Training + Importance for the management board + Costs					
Corporate housekeeping environment	Soft controls: + Ethics + Human resource management + Incident management					
Corporate housekeeping operations	Processes + Workflow management + Application use					
Corporate housekeeping risk management	Communication + Risk reporting					
Corporate housekeeping monitoring and testing	Organisation + Roles and responsibilities + In control statement					

Level of ambition

It is important to know the position of an organisation in terms of corporate housekeeping. But it is often also the start of an improvement process. The big advantage of L3M in that regard is that normative descriptions also offer an objective reference framework to define the level of ambition with regard to the performance of the corporate housekeeping function.

Improvement tools

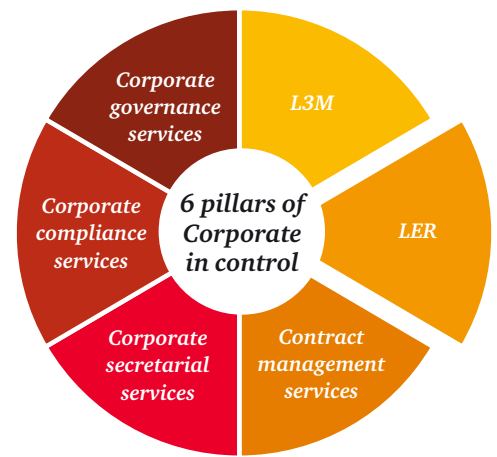
In addition to the aforementioned analysis, PwC Corporate Secretarial Services can, on the basis of years of experience, also offer support in order to realise the chosen ambitions of your organisation on a national and international level (using our global network of offices).

For example:

- organising or reorganising the internal corporate housekeeping function;
- providing an insight into the costs in connection with the corporate housekeeping functionality;

- knowledge support from experienced corporate housekeeping specialists;
- on-site support;
- corporate health checks;
- assistance when choosing a web-based application for the management of corporate dossiers of group entities;
- outsourcing certain yet-to-be-determined elements of the corporate housekeeping function of your organisation; and
- providing assistance in the selection of suitable candidates for a corporate housekeeping function.

Legal Entity Reduction



Companies want to be cost-effectively organised. At companies with a complex corporate structure, this increasingly led to an interest in Legal Entity Reduction (“LER”): reduction of the number of entities in a group, where possible. In order to obtain the internal buy-in for such an operation, those responsible at the company need to be able to indicate where costs can be saved and, particularly, how much. PwC has developed a calculation model that provides a qualitative and quantitative insight into these savings.

Structural complexity is a source of quite a lot of unnecessary costs caused by, for instance, overlapping management structures, double staffing of back-office positions, a lot of administration due to inter-group transactions and a lot of compliance obligations. Also, a complex business structure can lead to a higher effective tax rate, as no tax consolidation of the operating results is possible between the various companies that are located in different countries. Furthermore, a complex business structure may lead to ‘fragmentation’ of cash and risks.

Our approach

Although every situation has its own specific facts and circumstances, every LER project can, according to level of ambition, be allocated to one of the categories listed below (see figure 3). Before the decision to dissolve a group company can be taken, the parties do at least have to agree on the legal consequences (contractual consequences, for instance) and the fiscal consequences of such a decision.

As the level of ambition of an LER rises (see figure 3 below) and becomes more complex, more aspects have to be taken into consideration, such as the effects on business return and transfer pricing aspects. PwC Legal Services specialises in offering legal services in a multi-competence setting, enabling us to offer our services faster and as such in a more cost-efficient manner. This is all done in close cooperation with the client’s representatives, while we offer the opportunity to monitor progress of the project 24/7, anywhere in the world, in a Windows Sharepoint environment.

Figure 3: three levels of ambition

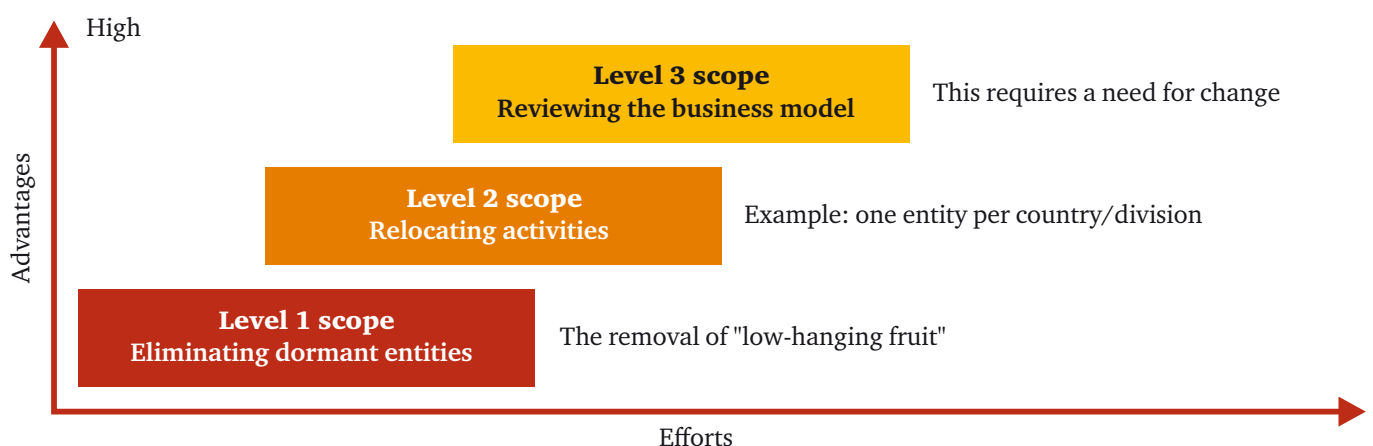


Figure 4: costs and benefits

Costs & benefits	Active company	Active holding	Dormant company
Costs related to cycle times for major projects:	●	Not applicable	Not applicable
Local overhead costs:	●	●	●
Local board related costs:	●		●
Accounting spend (costs):	●		●
Intra-group transaction (costs):	●		Not applicable
Costs related to transaction volumes:	●		Not applicable
Legal spend on 3rd party contracts (costs)	●		●
Staffrelated costs:	●		●
Current costs per product:	●	Not applicable	Not applicable
Legal spend on 3rd party European agreements (costs)	●	Not applicable	Not applicable
Back office costs:	●	●	●
Procurement costs:	●	Not applicable	Not applicable
Manufacturing costs:	●	Not applicable	Not applicable
Distribution costs:	●	Not applicable	Not applicable
Finished goods carrying costs:	●	Not applicable	Not applicable
Effective corporate tax rate cost:	●	●	Not applicable
It spend (costs):	●	●	Not applicable
Property spend (costs):	●	●	Not applicable
Telecom spend (costs):	●	●	Not applicable
Audit fee:	●	●	●
Local financial filing and reporting (including tax filings) (costs):	●	●	●
Costs local board meetings:	●	●	●
Other costs:	●	●	●

Cost-benefit analysis

In addition to non-recurring costs, a simplification of the business structure leads to permanent savings. We can clarify these savings for an active company, a holding company and a dormant company by means of a calculation model. In the first column (see figure 4), the model lists a number of categories of benefits of structure simplification, which are then elaborated in figure 4. The quantitative element of the model is based on years of experience at PwC with LER projects.

We emphasise that, given the fact that each situation is unique, the results of this model by definition offer a rough picture of reality and can only be used as a high-level quantitative element to support the decision-making process with regard to structure simplification.

Contract management services



An increasing number of managing directors of organisations desire - in addition to the status of corporate compliance obligations - insight into the substantive financial obligations which the organisation has committed itself to, including the corresponding risks. By law, managing directors are obliged to have a permanent insight into the obligations ensuing from contracts concluded. In addition, the organisation as a whole has to be aware of rights under these contracts and when these rights can be invoked. Finally, it must be possible to answer questions about the financial scope of the obligations, term and authorisation with a view to daily business operations quickly and satisfactorily.

Contract management

Practice often does not tie in with the wishes of managing directors. Due to a lack of good contract management, contracts are lost, expired contracts are used, terms set in contracts may expire unnoticed and it is impossible to get a quick overview of current contracts and the most relevant information contained therein. As a result, contracts may not be extended or terminated in time and claims may not be submitted in time, i.e. within the warranty window, or other rights are not exercised in the stipulated timeframe, all of which has all sorts of financial consequences. This may also mean that the powers of managing directors when taking important decisions such as the hiving off of business units are unnecessarily restricted.

Also, it often becomes apparent, at the moment that certain information needs to be disclosed to third parties on short notice, that that information cannot be rapidly retrieved. During investigations at the organisation instigated by (e.g. fiscal or competition law) authorities, for instance, or in the case of requests from contracting parties for information on the basis of a contractual investigative power, information requested by shareholders or information provided to interested buyers with regard to an intended takeover of (part of) the organisation. If this information is not available in an organised form, such events may have a major organisational impact on the organisation.

Properly set up and organised contract management is therefore vital for every professional organisation.

Our answer

For good contract management, the use of a web-based application that facilitates the registration of contract details, after which output can be generated (management reports for instance), is vital. We can organise and, if necessary, manage this in close cooperation with the client's officers.

This contract management comprises the following activities:

- Management of contract details (but optionally also of other important business information, such as claims and property), in the course of which all data identified with the client is registered in the application, kept up-to-date and can simply be retrieved with the push of a button;
- Digital archiving of contracts, making it possible to efficiently consult a complete duplicate dossier;
- Triggering schedule, in the course of which reminders generated by the application are triggered on contract data;
- Management reports geared to the wishes of the managing directors of the organisation in question;
- Act as a central point of contact in order to be able to inform the managing directors of an organisation quickly about the status of contractual financial rights and obligations of the organisation, relevant terms contained in contracts and about to expire, and contracts that require attention during certain triggering events.

The process

The following elements do at least form part of the implementation process of a contract management system:

1. An analysis of existing contracts on the basis of a questionnaire to be prepared in consultation with the managing directors of the organisation, in order to gain an insight into the types of contracts, the rough scope, which materiality limit should be applied and which search criteria should form the basis of the system's data library.
2. Setting up the contract management system on the basis of the requirements referred to under 1. and making the contract management system accessible for relevant officers at the organisation, including a brief introduction on how the system works and can be used;
3. Making working arrangements about by whom and how contracts are submitted to PwC (when opting to outsource contract management to PwC) and how output can be generated and should be communicated to the correct persons at the organisation.

This analysis also provides an insight into where, how and by whom contracts are preferably registered, how the data library will be set up and how contracts will be archived;

Corporate secretarial services



Corporate secretarial services comprises a whole range of legal services of a mainly process-based nature. Domiciliation-related services focuses on service, advice and implementation with regard to the tax residency concept of legal entities.

Corporate secretarial services

The life cycle of companies:

- Incorporating legal entities with the assistance from a civil-law notary;
- Preparing for winding up and subsequent winding of companies established in the Netherlands;
- And effectuating legal mergers of companies established in the Netherlands with the assistance of a civil-law notary.

Corporate support services:

- Drafting decisions of corporate bodies, such as those about dividend payments, appointment and dismissal of managing directors and winding up a company;
- Organising registrations at the Commercial Register, e.g. of a director change or the opening of branch by a foreign legal entity;
- Organising and managing corporate files;
- And interim staffing based on a flexible cost structure (hours times rate, fixed sum or a membership system).

Coordination of international projects:

- We can coordinate all the aforementioned activities for foreign group members, by using the international PwC Legal Services network.

Domiciliation-related services

- In general, one should assume that the actual management of a legal entity rests with the board of that body. The focus is not on day-to-day management, but on the strategic management with regard to the business activities. When assessing the tax residency, it is about the facts, while a host of other factors play a supporting role in addition to the location of actual management. The financial interest of the correct tax residence is often large.

Based on law, case law and practical experiences with the Tax authorities, PwC has developed a set of criteria, making it possible to measure each entity in terms of its actual tax residence. Furthermore, we are - in close cooperation with the relevant (PwC) tax lawyer - able to advise companies on how they can reinforce their position in terms of preferred tax residence of a group entity, based on the same set of criteria. And we can suit the action to the word: PwC Corporate Secretarial Services has years of experience with organising shareholders' and directors' meetings, taking minutes at these meetings, preparing draft resolutions and taking all kinds of follow-up actions such as filing financial statements and registering and deregistering managing directors at the Commercial Register, all in cooperation with the client.

Corporate compliance services



Increasingly many nationally and internationally operating businesses are finding that being and remaining in control of the annual mandatory-law obligations imposed on the group entities at home and abroad (Book 2 of the Dutch Civil Code in this country) is an extremely time-consuming and at times complex matter. The range of duties of legal departments is often wide and diverse, which forces them to make choices based on cost considerations, for instance. One of those choices could be to outsource some or all of the less complex legal work like corporate housekeeping to appropriately specialised, professional service providers such as PwC.

Our answer

Our approach initially comprises a corporate compliance health check, using our network offices, where foreign group entities are in scope. The second step – if desired – is to take over (some of) the corporate housekeeping from the client (outsourcing), again with support from our network offices when necessary. We use a web-based application for this, as such an application enables businesses to have 24/7 global access to the corporate files of their entities, wherever these may be located.

Corporate compliance health check

We distinguish three phases for the corporate compliance health check:

- (i) The intake phase, where we collect the necessary corporate information from the client;
- (ii) The review phase, where we review this information against mandatory-law legislation in the field of corporate housekeeping and against the information listed in the local register;
- (iii) The reporting phase, where we publish reports of our findings, accompanied by suggestions for rectification when necessary and/or desirable.

Outsourcing

For outsourcing we regularly use the following standard scope (nationally and internationally):

- The management of the corporate files and the shareholders' and/or members' register of group entities in a web-based application;
- Monitoring terms and drawing up the resolutions of the management board and shareholders within the framework of the adoption and approval of the financial statements and all other approvals, such as the appointment or reappointment of managing directors, insofar as those resolutions form part of the agenda of the annual general meeting;
- And filing the annual reports and accounts or the declaration of consent within the meaning of Section 2:403 of the Netherlands Civil Code.

If so required, we can carry out additional activities, such as:

- drafting decisions of corporate bodies, e.g. concerning dividend payments, or the appointment and dismissal of managing directors;
- and organising listings at the Commercial Register, e.g. of director changes.

Corporate governance Services



Governance is about the process of stakeholders influencing the course of business at an organisation, both in terms of decision-making and with regard to execution of the policy. It also deals with how the management board, internally and externally, transparently accounts for itself with regard to strategy, results and risks.

We distinguish three governance dimensions:

Institutional

The institutional dimension concerns the way in which the performance of the various bodies in a single entity or among legal entities is legally embedded: what rules have they agreed on, in addition to the statutory regulations? The rules are recorded in formal documents such as articles of association, regulations, board resolutions, contracts, etc.

Procedural

The procedural dimension concerns the application of the rules. Examples include the preparation of the agenda for board meetings, the way in which the budget is drawn up, setting the retirement schedule for board members, the way in which the provision of information to a supervisory body is implemented and the realisation of the annual accountability in the annual report.

Relational

The relational dimension relates to the performance of the various bodies and their members in practice, as well as the reflection thereon. This is particularly about the quality of the relationships between the players involved.

Contact details

Let's enter the dialogue

Are you interested in our services?

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PwC Nederland employs more than 4,300 people from a total of 12 offices. PwC Nederland helps organisations and private individuals to create the value they are looking for. We are a member of the PwC network of companies with more than 184,000 people in 157 countries.

PwC offices in the Netherlands

PwC has offices in the following locations in the Netherlands:

- | | |
|-------------|--------------|
| - Groningen | - Utrecht |
| - Zwolle | - Arnhem |
| - Alkmaar | - Rotterdam |
| - Amsterdam | - Breda |
| - Enschede | - Eindhoven |
| - The Hague | - Maastricht |



