

# Investing in real estate in the Netherlands



# **Investing in real estate in the Netherlands**

# Preface

The background of the page is a complex, abstract composition of various shades of blue. It features a dense network of overlapping lines, some straight and some curved, creating a sense of depth and movement. The lines vary in opacity, with some appearing as bright, sharp streaks and others as faint, ghostly traces. The overall effect is reminiscent of a digital or architectural structure, possibly a network or a complex geometric pattern, viewed from a low angle looking up.

Real estate is an investment category in which all three disciplines of Loyens & Loeff play a dominant role in the preparation, structuring and execution of a transaction. A broad scope of laws governs aspects that co-determine the value of real estate, such as landlord-tenant laws, zoning laws, environmental laws and corporate law. This, together with the complicated tax aspects and sometimes even privacy aspects of a real estate transaction, makes the request for the advice of attorneys and tax lawyers virtually routine practice in the preparation of such a transaction. The mandatory role for the civil law notary, in connection with the establishment or transfer of real estate rights, places real estate civil law notaries in the centre of any real estate transaction. Loyens & Loeff is the first firm where attorneys, tax lawyers and civil law notaries work together on a large scale in offering integrated professional legal services in the Benelux countries and Switzerland. Real estate, in view of the aforementioned features, is one of the many areas where Loyens & Loeff's integrated formula has proved to be successful.

Since 2004, Loyens & Loeff has published new editions of the book *Investing in real estate in the Netherlands* on a regular basis. The aim of this book is to inform foreign companies who invest in Dutch real estate about the main legal and tax issues that may arise during such an investment. This is the sixth edition of the book. Its contents are entirely geared towards investments in Dutch real estate in 2022.

From a legal perspective, there have been several changes of note since the publication of the fifth edition of this book in 2019. The Dutch government has taken various measures to improve the position of first-time buyers and of those who move up in the housing market. Since 1 January 2021, the transfer tax has been increased from 6 to 8% (whereas a reduced rate of only 2% applies to the acquisition of residential real estate by natural persons who will use it as their main residence). Additionally, from 1 January 2022, municipalities have the authority to introduce a ban on 'buying-to let' with respect to social and mid-rent housing.

It should be noted that many of the complex issues that can arise in the context of an investment in Dutch real estate cannot be dealt with in a book this size. However, we trust that the content will serve foreign investors with quick orientation in the major legal and tax aspects of investing in real estate in the Netherlands. If, in addition to investments in Dutch real estate, you are also interested in project development in the Netherlands, do not hesitate to ask your contact person at Loyens & Loeff for a copy of our 2021 publication *Project development & construction in the Netherlands*.

We would like to thank all who have contributed to this sixth edition (for a complete list of all contributors, please see page 262). Their knowledge and experience is reflected in many sections.

Lonne Rooseboom, chairman of the practice group Real Estate

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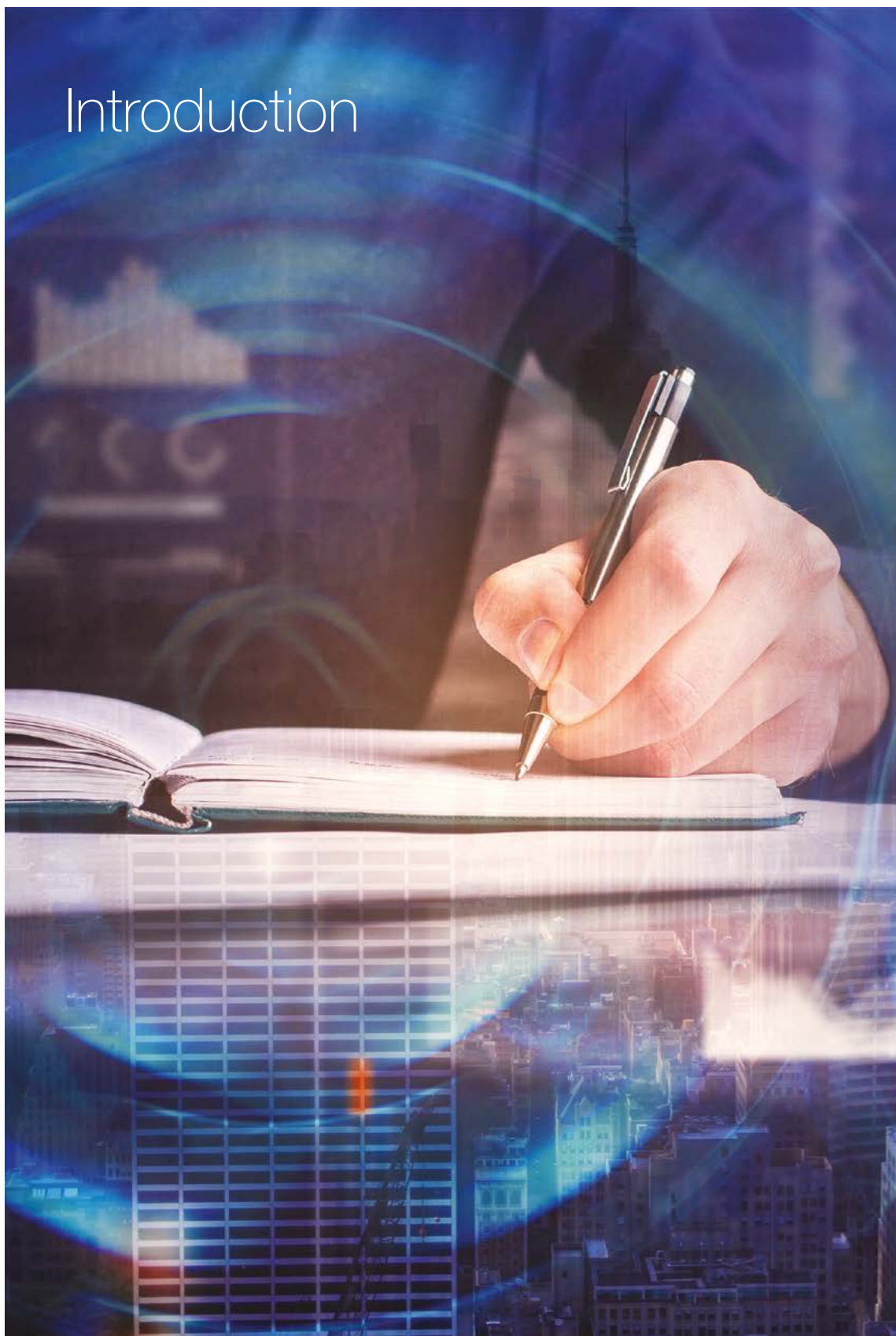
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# Introduction



*Investing in real estate in the Netherlands* serves to look at certain civil law, public law and tax aspects that may be involved when investing in real estate in the Netherlands. Its content is intended for those considering investing in real estate subject to Dutch law. It is addressed not only to foreign professional investors but also to financiers, advisors and high net worth individuals.

Chapter 1 describes real estate as an investment category. Chapter 2 deals with certain aspects of civil law pertaining to entitlements to real estate and the lease thereof. Chapter 3, focussing on the financing of real estate, is an entirely new chapter. Chapter 4 covers some of the public law aspects that relate to real estate. Chapter 5 discusses the various features of corporations and partnerships used as investment vehicles. Chapter 6 considers the supervision of investment institutions and chapter 7 focusses on the privacy aspects that need to be considered when investing in Dutch real estate. Finally, chapter 8 addresses the tax aspects of real estate investments.

This publication does of course not provide an exhaustive account of all the aspects relevant to investment in Dutch real estate. It is only intended to give a general impression of the various issues one can be confronted with when making such investment, up to date until January 2022. In view of possible changes in the laws regarding investments in Dutch real estate, we would recommend regularly ensuring you have up-to-date information about the latest developments and the implications thereof. Although the text has been compiled with the utmost care, Loyens & Loeff NV and the contributors to this book accept no liability for the consequences of using this publication or its contents without its collaboration.

The editor

Fokke Jan Vonck  
January 2022

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