

Funds may need to act before 1 March 2026 to avoid Dutch tax liabilities

As of 1 January 2025, the Dutch classification rules to determine whether an (investment) fund is transparent for Dutch tax purposes have fundamentally changed. A fund formed as a limited partnership should be treated as transparent for Dutch tax purposes, unless the fund is (also) classified as a so-called ‘fund for joint account’ (*fonds voor gemene rekening* or **FGR**). The fact that a fund can be classified both as a limited partnership and as an FGR has led to uncertainty amongst investors and fund managers whether the fund is tax transparent or not. Given the unintended complications arising from an FGR classification, the Dutch legislator introduced temporary transitional relief rules on Budget Day 2025. Furthermore, a legislative proposal for an amended regime (with effect from 1 January 2027 at the earliest) was published on 15 December 2025.

Investors and fund managers have the opportunity to make sure a fund has the desired classification, but action may be required before **1 March 2026**. Below we explain the rules in more detail and provide a flowchart with an overview of the various regimes and available options.

Current regime

Under the FGR definition per 1 January 2025, a fund qualifies as an FGR if:

- The fund carries out collective investment activities.
- The fund qualifies as a regulated ‘investment fund’ under the Dutch Financial Supervision Act (**Wft**) (which excludes Dutch entities with legal personality) (**Regulated investment funds**).
- The fund performs regular portfolio management (as opposed to ‘value adding’ management) within the concepts of Dutch tax law (**Regular portfolio management**).
- The fund issues transferable ‘units’ (i.e., the certificates of participation in the fund). If units can only be transferred back to the fund itself by way of redemption (**Redemption Fund**), this last condition is not met. The Dutch State Secretary of Finance has allowed for practical solutions to accommodate, amongst others, that investors in illiquid funds (e.g., PE and VC) can still sell their LP-interest to secondary buyers without the fund losing the status as Redemption Fund.

Funds established before, on, or after 1 January 2025, which do not qualify as a Redemption Fund, may under circumstances opt to (remain) to be considered as transparent until the Proposed Regime enters into force (**Transitional Rules**). These funds can be divided into three categories:

- **Category A: formation before 1 January 2025**

If the fund was transparent before 1 January 2025, it will remain transparent if it does not register itself as a Dutch taxpayer and its participants explicitly agree, before 1 March 2026, on the tax transparent treatment of the fund (**Participants’ Approval**). Participants’ Approval is not required if the fund properly documented, before 1 January 2025, an intention to restructure the fund to a Redemption Fund (this has been part of a former transitional rule from 2024).

- **Category B: formation between 1 January 2025 and 1 January 2026**

The fund will be transparent if it does not register itself as a Dutch taxpayer and it obtains Participants’ Approval.

- **Category C: formation after 1 January 2026 until proposed regime**

The fund will be transparent if it does not register itself as a Dutch taxpayer. The fund will not need to obtain Participant Approval.

Proposed regime

Under the FGR definition expected per 1 January 2027, a fund qualifies as an FGR if:

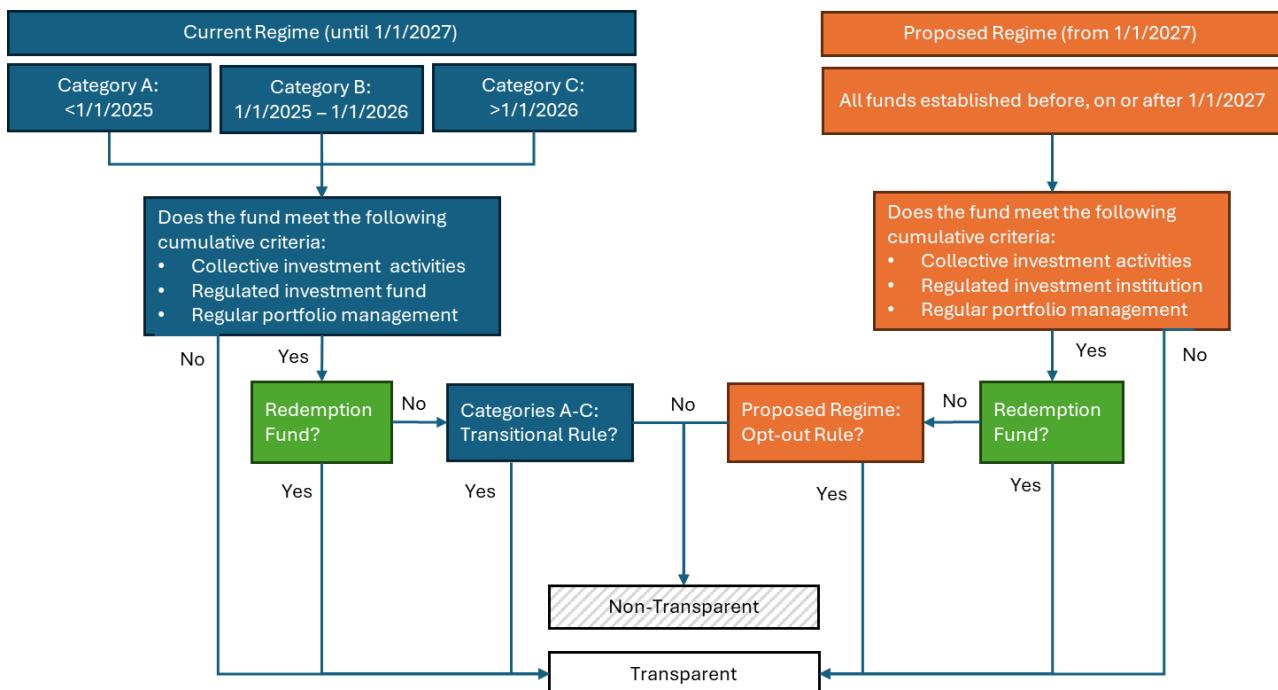
- The fund carries out collective investment activities.
- The fund qualifies as a regulated ‘investment institution’ under the Wft (which includes Dutch entities with legal personality) (**Regulated investment institutions**).
- The fund performs Regular portfolio management.
- The fund issues transferable ‘units’. This condition is still not met if the fund qualifies as a Redemption Fund.

Under the legislative proposal there are two structural routes to transparency:

- An elective opt-out regime for funds with no more than 20 ultimate taxpayers, subject to reporting obligations and a one-time election (**Opt Out Rule**), and
- The fund qualifies as a Redemption Fund.

Flowchart

Below, an overview of the current and proposed regimes, based on the assumption that the fund is an investment fund and does not already qualify as non-transparent based on any other Dutch tax rule.



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