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Netherlands: A Social Structure: Steward-Ownership

3 July 2023

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While the Climate Summit in Glasgow is ongoing, the news channels and legal journals are flooding with news around climate change and sustainability. Corporate social responsibility, sustainability and social impact: it is impossible to imagine today's society and business landscape without these concepts. Companies are increasingly looking for a way to contribute to a better world in addition to making profit. They have a mission that is adapted to the challenges and ideals of today. That mission must be useful and create a positive social impact. But how do you ensure that within your company this mission is protected and respected?

Conclusion: steward-ownership

One way to safeguard your social, sustainable or social mission is steward-ownership. This concept has been around for some time, yet is relatively unknown. Steward-ownership separates control and economic interest. A steward-owned company belongs to no one. The company's mission is central. So-called stewards drive the company and are responsible for its direction. They have voting power and act in accordance with the company's mission. These stewards have no economic interest in the profits the company makes.

Every (start-up) company needs funding or investors, and this is no different with a steward-owned company. However, in the case of a steward-owned company, this means that there is real investment in the mission. The investors invest in the company, but get little or no control in return. Of course, this does not mean that as an investor you get nothing at all in exchange. Investors are compensated fairly, but are not automatically entitled to the entire profit. Clear arrangements are made about the profits: they are reinvested in the company, used in line with its mission, or partially distributed to investors. In a steward-owned company, purpose comes before profit.

Legal talk

How do you convert a 'normal' company into a steward-owned company? There are several steward-owned structures possible. Two of the most used legal forms are the following structures:

1. *The STAK (foundation)*

A common legal form for separating control and economic interest is the structure with a STAK (Stichting Administratiekantoor, a Dutch foundation). The company is a limited liability company (BV). The shares in the BV are not held by different shareholders, but by the STAK. The STAK issues depositary receipts of shares (*certificaten van aandelen*). These depositary receipts can be issued to the founders, investors or employees. The depositary receipt holders have no control over the company, but they do have economic rights. In principle, the profits of the company will be distributed to the depositary receipt holders. However, other arrangements can be made regarding the profits. For example, reserving (part of) the profits for the benefit of the company's mission.

his structure can be set up according to the principles of steward-ownership. The management board of the BV consists of the stewards. They can focus on the company's mission, without too much interference from shareholders. The STAK, as the sole shareholder of the BV, has the obligation to safeguard the mission of the BV. However, another foundation can also be used for this purpose. The management board of the STAK consists of a balanced composition of the depositary receipt holders/stakeholders. Result: control and economic interest are separated and the mission of the BV is safeguarded.

2. Cooperative

A different and less used form is the cooperative (*coöperatie*). This is a special form of an association (*vereniging*). The cooperative consists of members, who run a business under a common name. Members of the cooperative can be founders, investors or other stakeholders. They enter into membership agreements (*edenovereenkomsten*) with the cooperative. The members together form the general meeting. Each member has at least one vote. It is possible to grant multiple voting rights to a member. A cooperative may distribute profits to its members, but is not obliged to do so. The cooperative offers the possibility to use the annual profit for its mission, obviously taking into account its members. The profits must also be used for the benefit of the members.

The cooperative structure is well suited for steward-ownership. For example, there is one member who gets more votes than all other members in total. This member therefore controls the cooperative. The member is not a natural person, but a foundation. The statutory purpose of the foundation is to protect the cooperative's mission. The management board of the foundation includes delegates from the various stakeholders involved. This corresponds to the STAK structure as mentioned above. This way, there is one 'super member' with multiple voting rights who monitors the cooperative's mission alongside the stewards, while the other stakeholders (such as funders) are involved as members but do not have control.

1 conclusion

Steward-ownership is a great structure for companies that would like to protect their mission. The above-mentioned legal structures are just two examples of how you could make your business steward-owned. The steward-ownership structure comes in different shapes and sizes, and can be made to fit your business. Each company is different and has different preferences or wishes: it is and remains customization. We are happy to assist!

A common misconception is that a steward-owned structure is some kind of quality certificate for world improvement and that a steward-owned company is not allowed to make or distribute profits. We will clear up this misconception in our next blog.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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