

**DENTONS**

# **Investment Screening in the Energy Sector in the Netherlands**

February 2025







The Netherlands currently has sectoral screening regimes, and a residual general screening regime, the Dutch Investments, Mergers and Acquisitions (Security Screening) Act (*Wet veiligheidstoets investeringen, fusies en overnames*) (**Act Vifo**). Both regimes may have a profound impact on companies and investments in the energy space.

Sectoral screening regimes such as the Electricity Act, Gas Act, Nuclear Energy Act or Mining Act provide for investment screening and approval mechanisms in very specific sectors. The purpose of the screening mechanisms under these Acts is generally to preserve the security of energy infrastructure and of supply and delivery of energy, and to promote public safety and efficient exploration and production of natural resources.

The purpose of the Act Vifo is to protect national security. The Act Vifo provides for a screening mechanism of investments in companies providing goods or services vital to the Netherlands ('vital providers'), operators of tech campuses and companies active in (highly) sensitive technology. The latter category comprises goods and services with a military purpose, dual-use products and services and certain specifically designated technologies such as semiconductor technology. If the Act Vifo applies, notification of qualifying investments is mandatory.

Upon notification, the Minister of Economic Affairs and Climate Change (**Minister**) will confirm whether further investment screening is needed. If so, the Minister has the authority to prohibit the investment or permit it with conditions.

Companies subject to an existing sector-specific review are not in scope of the Act Vifo, as the Act Vifo serves as a residual safety net.

The table below outlines the applicability of the sectoral regimes and the Act Vifo to various categories of businesses within the energy sector. The table is intended as an overview of investment screening mechanisms. We do not outline general license or permitting requirements.

*The information provided in this document is for informational purposes only and should not be construed as advice, and it may not be applicable to your specific situation. You should seek personalized advice to address your individual situation.*

Classification	Netherlands
<b>Upstream: Exploration and Production</b>	
<b>Oil</b>	<p><b>Mining Act</b></p> <p>The holder of a share in the license for the exploration or production of oil under the Mining Act may transfer their share in the license to another party only with the written consent of the Minister.<sup>1</sup></p>
<b>Natural Gas</b>	<p><b>Act Vifo</b></p> <p>The Nederlandse Aardolie Maatschappij B.V. (NAM) as holder of the extraction permit of the Groningenveld under art. 6 and 52a of the Mining Act (<i>Mijnbouwwet</i>)<sup>2</sup> is a 'vital provider'.</p> <p>As long as GasTerra performs its designated task regarding the Groningenveld under article 10a, paragraph 15 of the former Gas Act, it is a 'vital provider'.<sup>3</sup></p> <p><b>Mining Act</b></p> <p>The holder of a share in the license for the exploration or production of gas under the Mining Act may transfer their share in the license to another party only with the written consent of the Minister.<sup>4</sup></p>
<b>Coal</b>	<p>At present, there is no exploration or production of coal in the Netherlands.</p>
<b>Heat</b>	<p><b>Mining Act</b></p> <p>The holder of a geothermal start or continuation permit may transfer this permit to another party only with the written consent of the Minister. The Minister may attach conditions or limitations to such consent.<sup>5</sup></p>

1. Art. 20 Mining Act
2. Art. 7 lid 9(a) Act Vifo
3. Art. 7 lid 9 sub b Act Vifo
4. Art. 20 Mining Act
5. Art. 24ad & art. 24aq Mining Act

Classification	Netherlands
<b>Midstream</b>	
<b>Hydrogen</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Ammonia</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Biofuels</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Oil, Gas transportation (onshore/offshore pipelines, trailers, tankers, shipping terminals)</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Oil storage</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Gas storage</b>	<p><b>Act Vifo</b></p> <p>A company is designated as a vital provider in the field of gas storage if it holds a permit under article 25 of the Mining Act or is designated as the operator of a gas storage facility pursuant to article 9a of the Gas Act.<sup>6</sup></p> <p>Gas storage facility is defined in the Gas Act as <i>a facility for the storage of gas, including the part of an LNG facility used for storage, but excluding the part used for gas production, and excluding facilities that are solely at the service of the national gas transmission network operator in the performance of its duties.</i></p> <p>Underground gas storage requires an underground gas storage permit under Article 25 of the Mining Act.</p> <p>However, the operation of an underground gas storage facility may be conducted by an entity other than the permit holder, and storage may also occur above ground. To include these operators within the scope of the Act Vifo, article 7 (10)(b) extends the designation to the operators of gas storage facilities identified under Article 9a of the Gas Act.</p>

6. Art. 7 lid 10(a) Act Vifo



## Midstream (continued)

**LNG liquefaction, storage and regasification****Gas Act**

Any change in control as referred to in Article 26 of the Competition Act (*Mededingingswet*) (the ability to exercise a decisive influence on the activities of an undertaking based on factual or legal circumstances) in an LNG facility or an LNG company must be reported by one of the parties involved in the transaction to the Minister.<sup>7</sup>

The Minister may, on grounds of public safety, security of supply, or reliability of delivery, prohibit the change of control referred to or attach conditions to it.

**Act Vifo**

The designated operator of an LNG facility, as referred to in Article 9a of the Gas Act, is classified as a vital provider.<sup>8</sup> Article 9a of the Gas Act states that the person to whom an LNG facility belongs shall appoint an operator for that facility. The definition of LNG facility is provided in article 1 of the Gas Act: *a facility used for the liquefaction of gas, or for the import, loading, or regasification of liquefied gas, including ancillary services and temporary storage necessary for the regasification process and subsequent delivery to the transmission system, excluding the parts of the facility used for storage.*

**LNG transportation (pipelines, carriers, shipping terminals)**

Not in scope of sectoral regimes nor of the Act Vifo.

7. Art. 66e Gas Act

8. Art. 7 lid 10 sub b Act Vifo

## Midstream (continued)

## Hydrogen/ammonia storage

## Act Vifo

A company is designated as a vital provider in the field of gas storage if it holds a permit under article 25 of the Mining Act or is designated as the operator of a gas storage facility pursuant to article 9a of the Gas Act.<sup>9</sup>

Gases originating from renewable sources (such as biogas) may also qualify as 'gas', provided the below conditions are met.

Gas is defined in the Gas Act as:

1. natural gas that is in a gaseous state at a temperature of 15° Celsius and a pressure of 1.01325 bar, and consists mainly of methane or another substance that is equivalent to methane in its properties, and
2. a substance that:
  - is produced in a production facility that exclusively uses renewable energy sources, or
  - is produced in a hybrid production facility that uses both renewable and fossil energy sources, and
  - is in a gaseous state at a temperature of 15° Celsius and a pressure of 1.01325 bar and consists mainly of methane or another substance that is equivalent to methane in its properties, insofar as it is possible and safe to transport this substance in accordance with Chapter 2.

The definition of gas in the Gas Act can therefore also include gas from renewable energy sources, provided the gas is in a gaseous state at the legally specified temperature and pressure and consists mainly of methane or is equivalent in properties to methane.

In case gases from renewable sources qualify as gas under the Gas Act, the operator of the gas from renewable sources storage facility is designated as a vital provider under the Act Vifo.

9. Art. 7 (10) Act Vifo

**Classification****Netherlands****Midstream (continued)****Hydrogen/ammonia transportation (pipelines, trailers, tankers, shipping terminals)**

Not in scope of sectoral regimes nor of the Act Vifo.

**Electricity infrastructure (high/mid/low voltage lines, transmission)****Electricity Act**

Article 93 of the Electricity Act mandates that ownership of a grid or rights to a grid are held directly or indirectly by the state, provinces, municipalities, or other public bodies and the shares of a grid operator are held directly or indirectly by the state, provinces, municipalities, or other public bodies.

Furthermore, article 93a of the Electricity Act stipulates that the shares of the operator of the national high-voltage grid are held directly or indirectly by the state.

**Heat Distribution Infrastructure****Act Vifo**

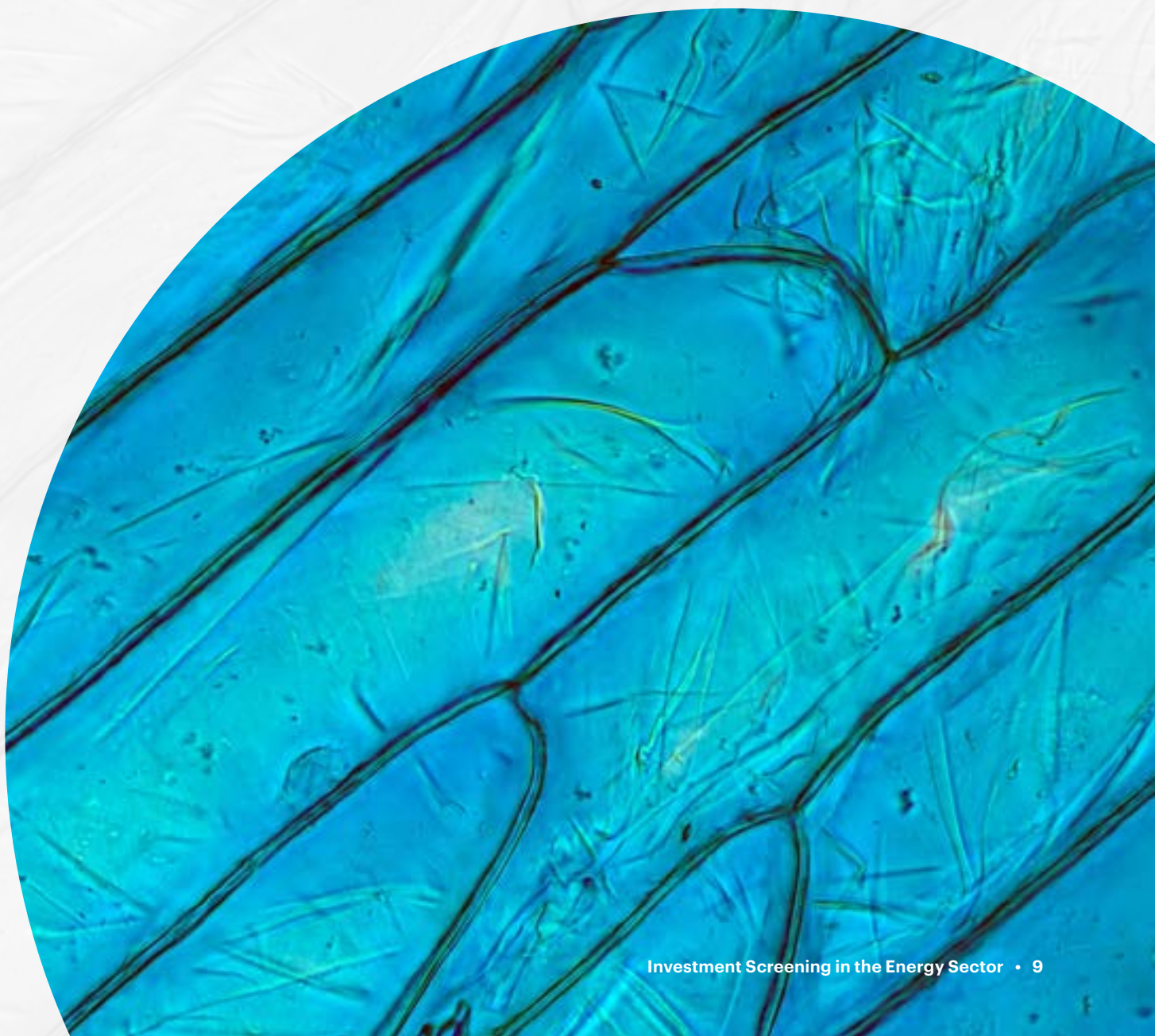
A company qualifies as a 'vital provider' in the field of heat transport if it manages an integrated system of interconnected pipelines, associated installations, and other resources for the transportation of heat that is important for the regional supply of heat.<sup>10</sup> As far as we are aware, only the heat transport grid in the province of Zuid-Holland qualifies as such. The company managing this heat transport grid is Warmtelingq.

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10. Art. 7 (1) Act Vifo



Classification	Netherlands
<b>Downstream</b>	
<b>Refineries</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Lubricants</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Fuels:</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<ul style="list-style-type: none"> <li>• Gasoline</li> <li>• Diesel</li> <li>• Jet Fuel</li> <li>• Sustainable Aviation Fuel (SAF)</li> <li>• Heating Oil</li> <li>• Bunker fuel</li> <li>• LNG</li> </ul>	



## Power Generation

**Thermal Power Plants****Electricity Act**

Any change in control as defined in article 26 of the Dutch Competition Act (*Mededingingswet*) (the ability to exercise a decisive influence on the activities of an undertaking based on factual or legal circumstances) in a production facility with a nominal electrical capacity of more than 250 MW, or a company that operates a production facility with a nominal electrical capacity of more than 250 MW, must be reported to the Minister by one of the parties involved in the transaction.<sup>11</sup> A production facility is defined in article 1 of the Electricity Act as a facility, consisting of one or more production units, for the generation of electricity.

The Minister may, on grounds of public safety, security of supply, or reliability of delivery, prohibit the change of control referred to or attach conditions to it.

**Renewable Power Plants  
(Wind, Solar, Hydro power)****Electricity Act**

Any change in control as defined in article 26 of the Dutch Competition Act (*Mededingingswet*) (the ability to exercise a decisive influence on the activities of an undertaking based on factual or legal circumstances) in a production facility with a nominal electrical capacity of more than 250 MW<sup>12</sup>, or a company that operates a production facility with a nominal electrical capacity of more than 250 MW, must be reported to the Minister by one of the parties involved in the transaction.<sup>13</sup> A production facility is defined in article 1 of the Electricity Act as a facility, consisting of one or more production units, for the generation of electricity.

The Minister may, on grounds of public safety, security of supply, or reliability of delivery, prohibit the change of control referred to or attach conditions to it.

11. Art. 86f Electricity Act

12. Pursuant to the proposed Energy Act (*Energiewet*), the threshold will be lowered to 100 MW. It is expected that the Energy Act will come into force during the course of 2025 or 2026.

13. Art. 86f Electricity Act



## Power Generation (continued)

**Nuclear Power Plants****Act Vifo**

In scope are holders of a permit under article 15b of the Nuclear Energy Act (*Kernenergiewet*).<sup>14</sup> Currently, this is only the nuclear plant in Borssele with EPZ as license holder.

Article 15, under b, of the Nuclear Energy Act, stipulates that nuclear installations require a permit for their activities. Nuclear installations are defined as facilities in which nuclear energy can be released, nuclear fuels can be produced, processed, or treated, or where nuclear fuels are stored. The vital products (energy, isotopes, nuclear fuel) and services (waste storage) offered by the vital providers all fall within the reach of the Act Vifo.

Additionally, companies qualify as vital providers if they have access to data necessary for the separation of different uranium isotopes present in nuclear fuel using gas ultracentrifuges, and for the production of tools and materials needed for the separation of different uranium isotopes present in nuclear fuel using gas ultracentrifuges.

**Nuclear Energy Act**

A permit granted under the Nuclear Energy Act may be transferred, in whole or in part, to another party if consent has been granted by the Authority Nuclear Safety and Radiation Protection (*Autoriteit Nucleaire Veiligheid en Stralingsbescherming*). Conditions may be attached to such consent.

**Biomass****Electricity Act**

Any change in control as defined in article 26 of the Dutch Competition Act (*Mededingingswet*) (the ability to exercise a decisive influence on the activities of an undertaking based on factual or legal circumstances) in a production facility with a nominal electrical capacity of more than 250 MW, or a company that operates a production facility with a nominal electrical capacity of more than 250 MW, must be reported to the Minister by one of the parties involved in the transaction.<sup>15</sup> A production facility is defined in article 1 of the Electricity Act as a facility, consisting of one or more production units, for the generation of electricity.

The Minister may, on grounds of public safety, security of supply, or reliability of delivery, prohibit the change of control referred to or attach conditions to it.

14. Art. 7 lid 2 Act Vifo

15. Art. 86f Electricity Act

Classification	Netherlands
<b>Energy Storage</b>	
<b>Batteries</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Others (Pumped Hydro Storage, Compressed Air Energy Storage, Flywheels, Thermal Storage, Hydrogen Storage)</b>	Not in scope of sectoral regimes nor of the Act Vifo.

Classification	Netherlands
<b>Supporting Products and Services</b>	
<b>Nuclear</b>	<p>The Act Vifo applies to companies active in production, processing, storage and research of nuclear fuels, isotopes, other nuclear materials and related data, or in nuclear waste disposal.<sup>16</sup></p> <p>Companies that qualify as vital providers in the field of nuclear energy are:</p> <ol style="list-style-type: none"> <li>1. Nuclear Plant in Borssele: EPZ (Elektriciteits-Produktiemaatschappij Zuid-Nederland N.V.);</li> <li>2. Nuclear waste collection, processing, and storage plant in Nieuwdorp: COVRA (Centrale Organisatie Voor Radioactief Afval);</li> <li>3. High flux reactor and other facilities in Petten: NRG (Nuclear Research and Consultancy Group vof</li> <li>4. Higher Education Reactor in Delft: Reactor Institute Delft (RID);</li> <li>5. Production facility uranium in Almelo: Urenco Nederland B.V.</li> <li>6. Nuclear Plant in Dodewaard (no longer in operation): Gemeenschappelijke Kenenergiecentrale Nederland N.V.<sup>17</sup></li> </ol>

16. Art. 7 lid 2 sub b Act Vifo

17. The website of the Authority for Nuclear Safety and Radiation Protection (*Autoriteit Nucleaire Veiligheid en Stralingsbescherming*) holds an overview of the permits per installation and can be accessed via the following link: [Nucleaire installaties | Autoriteit NVS](#)





<b>Classification</b>	<b>Netherlands</b>
<b>Supporting Products and Services (continued)</b>	
<b>Design and Construction (EPC), Installation</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Operation and Maintenance</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Drilling</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Seismic and Geophysical</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Well Completion and Production</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Subsea Engineering and Installation</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Reservoir Engineering and Management</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Wind Turbine Production and Installation</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Solar Panel Production and Installation</b>	Not in scope of sectoral regimes nor of the Act Vifo.
<b>Battery Production and Installation</b>	Not in scope of sectoral regimes nor of the Act Vifo.

## Classification

## Netherlands

### Technology and Innovation

#### Software

The Act Vifo does not apply to software specific to the Energy sector. However, the Act Vifo may apply to companies in the Energy sector if they are also active in the field of (highly) sensitive technology as stipulated in article 7 of the Act Vifo.

#### Carbon Capture Utilization and Storage

#### Mining Act

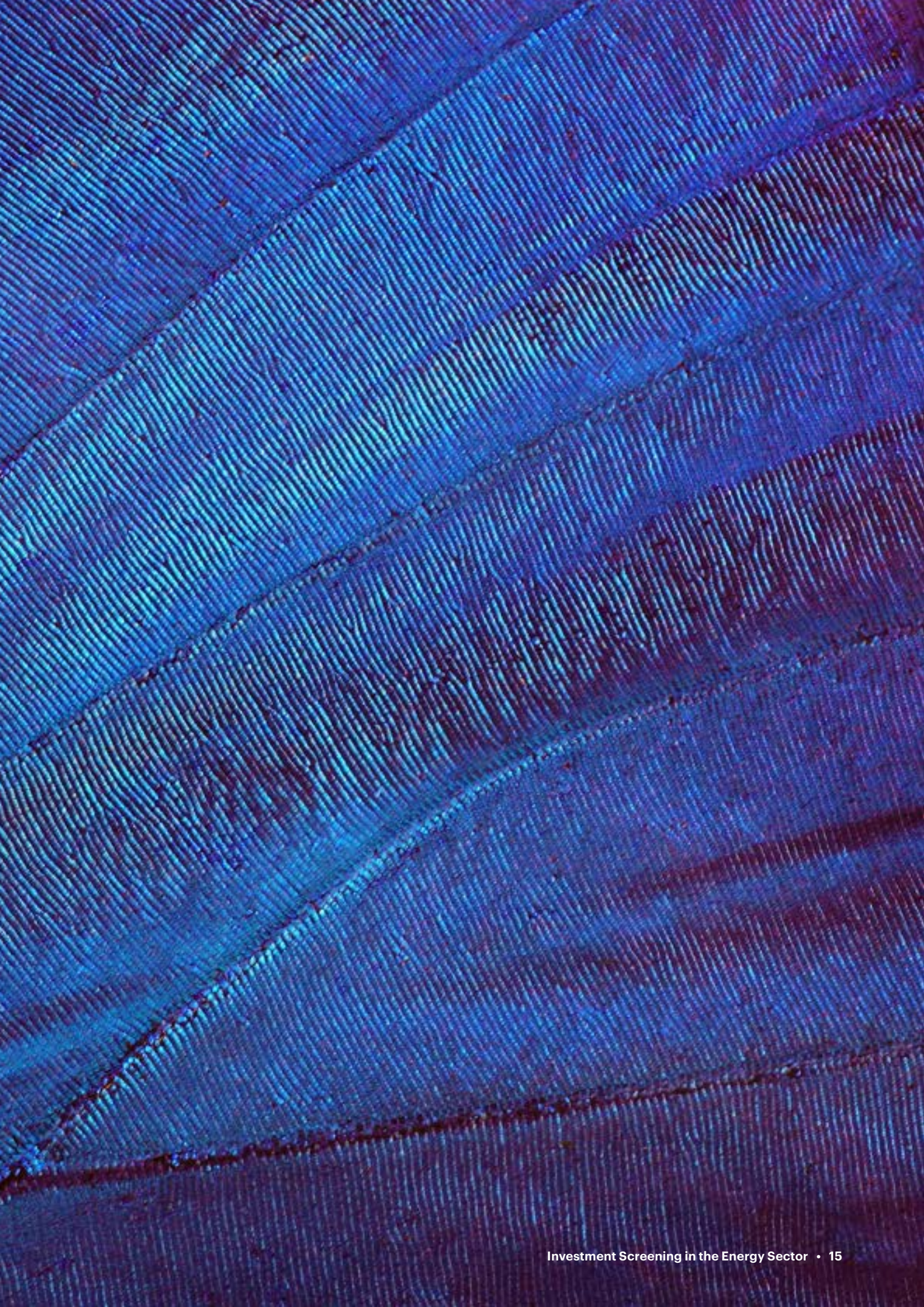
It is prohibited to store substances or to identify CO<sub>2</sub> storage complexes without a permit from the Minister.

The holder of a storage permit may transfer their permit to another party only with the written consent of the Minister.<sup>18</sup>

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18. Art. 31 Mining Act







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