
# Banking Regulation 2026

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# TABLE OF CONTENTS

# Germany

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## Introduction

The financial sector in Germany and in Europe has undergone significant changes in recent years and the regulatory environment continues to evolve. Recent developments can be attributed to a multitude of economic, political and technological factors. In the aftermath of the financial crisis in 2008, the regulatory regime applicable to banks, investment firms and financial markets in general has tightened globally, resulting in stricter capital, liquidity and prudential requirements. While that trend of tightening the financial regulatory regime has continued in the past few years, a divergent development has emerged recently that emphasises the principle of proportionality and deregulation.

Aside from the banking package of the European Union (***EU***), which aims to finalise the implementation of the international Basel III agreement and other new rules such as on third-country branches, recent legislative changes that have significantly impacted the regulatory environment of the financial sector include digitalisation with digital operational resilience and crypto, sustainability as well as anti-money laundering/combatting the financing of terrorism (***AML/CFT***). Increased digitalisation in the financial sector has been mirrored in several fundamental legal acts at the EU level, including those on digital operational resilience and on crypto-assets that apply directly in the EU Member States. The EU sustainable finance strategy and related legislative packages aim to support the financing of the transition to a sustainable economy and reduce the greenwashing phenomenon in the EU, while institutions from the financial sector have to implement challenging environmental, social and governance (***ESG***) standards in their processes and products. New rules for credit institutions explicitly address the management and supervision of ESG risks. Increased risks in the AML/CFT sphere led to the adoption of a comprehensive EU AML/CFT legislative package, including the establishment of a new EU authority competent for AML/CFT and the provision of EU-wide directly applicable rules on key matters such as customer due diligence. Recent EU-wide legislative measures aim to integrate digital identity wallets in the financial sector (and other sectors) and may be expected to have a significant impact in the future on customer due diligence, digital payments and the overall digital customer journey. EU legislative works that aim to introduce a digital euro are pending and could be finalised in the course of 2026. Further, the consequences of the Russian invasion of Ukraine that began in 2022 led to the adjustment of the German sanctions regime, particularly with the objective of improving the enforcement of sanctions and prevention of money laundering.

## Regulatory architecture: Overview of banking regulators and key regulations

Banks and other financial institutions operating in Germany are subject to financial supervision at an EU and/or a national level. At the EU level, the competent regulators are the European Central Bank (***ECB***) and the European supervisory authorities, including the European Banking Authority (***EBA***), the European Securities and Markets Authority (***ESMA***) and the European Insurance and Occupational Pensions Authority (***EIOPA***) (together, the European Supervisory Authorities, ***ESAs***), each with specific competences. Even though the ESAs have only under very exceptional circumstances direct supervisory powers *vis-à-vis* financial institutions, they significantly influence financial regulation by developing technical and implementation standards, guidelines and recommendations applied by supervisory authorities and the financial institutions that are subject to supervision. Further, in the field of AML/CFT, an EU authority for anti-money laundering and countering the financing of terrorism (***AMLA***) has been established. AMLA is located in Frankfurt, Germany, and began its operations on 1 July 2025. Together with national supervisory authorities, AMLA is part of an integrated AML/CFT supervisory system at the EU level. AMLA is equipped with direct supervisory powers over selected obliged entities, such as high-risk, cross-border credit institutions and financial institutions operating in multiple EU Member States, and the power to impose certain sanctions. Among other AML/CFT-related powers, AMLA will develop draft regulatory or implementing technical standards and issue guidelines and recommendations. At the national level, the banking regulators in Germany are the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, ***BaFin***) and the German Central Bank (*Deutsche Bundesbank*, ***Bundesbank***), which closely cooperate for the supervision of financial institutions in Germany.

### The Single Supervisory Mechanism

The allocation of competences among the ECB and the national competent authorities (***NCAs***, i.e. BaFin and Bundesbank in Germany) results from the rules of the Single Supervisory Mechanism (***SSM***) established for the European Economic Area (***EEA***) (i.e. not necessarily for all EU Member States, although they do have an opt-in right) in 2014. Those rules have been set out in two key EU regulations: ECB Regulation (EU) No. 468/2014 (***SSM Framework Regulation***); and Council Regulation (EU) No. 1024/2013 (***SSM Regulation***). The SSM, however, provides for the allocation of responsibilities only with respect to the supervision of credit institutions within the meaning of Regulation (EU) No. 575/2013 (***CRR***, as amended). Such credit institutions include institutions engaged in the lending and deposit-taking business and investment firms dealing on own account, engaged in the underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis, whereby, in the case of the investment firms, an additional quantitative prerequisite applies: the investment firms engaged in the aforesaid businesses are considered CRR credit institutions if the total value of their assets (including any of their branches and subsidiaries established in a third country) or, subject to further conditions, on a group consolidated basis (including any branches and subsidiaries established in a third country) is equal to or exceeds €30 billion. Otherwise, NCAs are responsible for the supervision in any event.

Within the SSM, significant institutions and less significant institutions have to be distinguished between. Institutions are only captured by the SSM if they meet the criteria specified in the SSM Regulation. Institutions are significant if they meet, in particular, any of the following criteria:

- they have a total value of assets over €30 billion or over 20% of the GDP of the EU Member State of establishment, but not less than €5 billion;
- upon a decision of the ECB based on an NCA's notification (in Germany: BaFin);
- they are one of the three most significant credit institutions in an EU Member State of the euro area; and/or
- public financial assistance has been requested or received directly from the European Financial Stability Facility or the European Stability Mechanism.

Significant institutions are subject to the direct supervision of the ECB insofar as they perform the duties that an NCA would otherwise have to fulfil. The relevant NCA, however, is as involved in the daily supervision as the ECB by allocating members to the Joint Supervisory Team that is formed for each significant institution.

With respect to less significant institutions, ECB supervision is primarily of an indirect nature, as such institutions are generally supervised by NCAs. The ECB's part in the supervisory process for less significant institutions is therefore generally limited to the issuance of regulations, directions and guidance for NCAs (such as BaFin) as well as monitoring the national supervisory practice. However, there are a few exceptions to this general rule. In particular, within the SSM, the ECB has the exclusive competence to grant and withdraw banking licences, and to object to the acquisition of a qualifying holding, in each case with regard to significant and less significant institutions. Matters such as consumer protection or money laundering do not fall within the competence of the SSM.

## BaFin and Bundesbank

BaFin supervises not only less significant credit institutions but also other financial institutions providing financially regulated services, such as banks conducting lending business but not taking deposits from the public, investment firms that are not significant credit institutions, factoring and leasing firms, payment services institutions, insurance companies, and asset management firms. Further, BaFin is the competent supervisory authority in the field of services related to crypto-assets, including in respect of institutions engaged in the issuance, offer to the public and admission to trading of crypto-assets as well as crypto-asset service providers. In addition, BaFin is responsible for combatting money laundering and terrorism financing, and overseeing digital operational resilience and collective consumer protection in the financial sector. Bundesbank closely cooperates with BaFin in performing the supervisory function, which is effectively a joint task.

## Key regulations

The core regulations applicable to banks and investment firms in Germany are laid down in the following laws and rules: the Banking Act (***KWG***); the Securities Institutions Act (***WpIG***) implementing Directive (EU) No. 2019/2034 on the prudential supervision of investment firms (***IFD***); CRR; Directive (EU) No. 2013/36/EU, as amended (***CRD***) and as implemented into German law; Regulation (EU) No. 2019/2033 on the prudential requirements of investment firms (***IFR***); the Securities Trading Act (***WpHG***); and Directive No. 2014/65/EU on markets in financial instruments, as implemented into German law, as well as various EU regulations implementing this Directive (together, ***MiFID II***). Further regulations that are also key for financial institutions but address rather specific topics can be found in so many German acts that only a few of them are highlighted in the following.

### *KWG and WpIG*

Authorisation requirements for banking business, investment services and other financial services in Germany are included in KWG and WpIG. As a general rule, anyone who intends to conduct banking business or provide investment or financial services in Germany, commercially or on a scale that requires commercially organised business operations, needs written authorisation from the supervisory authority. Thus, the definition of banking business and of investment and financial services is of the utmost importance to determine whether a certain activity is subject to a licence requirement under German law.

KWG defines various types of banking businesses and other financial services, whereas investment services are defined both in KWG and in WpIG. Banking business includes, for instance, credit, deposit, guarantee, principal broking, securities custody and underwriting business. Investment services comprise, in particular: investment broking; investment advice; trading in financial instruments as a service for others as well as by using high-frequency algorithmic trading techniques; the operation of a multilateral

trading facility; and portfolio management. Other financial services include leasing, factoring, qualified crypto custody business and crypto securities registration services. Trading in financial instruments on one's own account and behalf may also be subject to a licence requirement if it is performed in addition to banking and/or financial services, or – subject to certain exceptions that are particularly relevant for firms having their seat outside of Germany – if such proprietary trading is being conducted as a member or participant of an organised market or multilateral trading facility, or with direct electronic access to such trading venues. Further, proprietary trading in commodity derivatives and emission allowances might also be subject to a licence requirement, unless one of the available exceptions applies. As regards the relation between the provisions of KWG and WpIG, investment services, including the respective authorisation requirements for their conduct, are regulated by WpIG, unless the investment firm, on a solo or on a consolidated basis and subject to certain conditions, exceeds the monthly average of the total assets of €30 billion and engages in underwriting, dealing on own account or proprietary trading.

Generally speaking, all banks, financial institutions and investment firms operating on the German market may be subject to a licence requirement under KWG or WpIG. However, credit institutions, investment firms and other financial institutions from other EU/EEA Member States may provide cross-border services or establish branches in Germany without an additional licence from BaFin within the framework of the EU passporting regime. This applies to the extent that: an institution holds a valid licence in its home Member State; an institution is supervised by the competent supervisory authority in line with the EU requirements; the relevant business operations are covered by the licence obtained in the home Member State; and entering the German market was preceded with a notification procedure informing BaFin of the contemplated market access. The licensing requirement does not necessarily require that a service provider has a physical presence in Germany. It is sufficient that a service provider targets the German market in order to offer banking products or investment and/or financial services repeatedly and on a commercial basis to companies and/or persons having their registered office or ordinary residence in Germany. Consequently, a licence requirement is not triggered if a foreign financial institution provides a regulated service so long as the service was requested by a German client with no solicitation or targeting by the foreign bank (i.e. no directed marketing or setting up of a German language website) – the so-called reverse solicitation exemption or reverse enquiry regime. In certain exceptional cases, BaFin may exempt a foreign bank from the licensing requirement in Germany if such a bank is effectively supervised in its home country in line with appropriate international standards, and the competent supervisory authority effectively cooperates with BaFin. However, such an exemption from the licensing requirement will no longer be an option for third-country banks offering core banking services in Germany once the implementation of the EU legislative banking package – which has already been adopted by the German parliament – becomes applicable in Germany. To that end, BaFin will be required to revoke already granted exemptions to ensure compliance with the new rules.

A further exception to the general licence requirements has been introduced by MiFID II but has not yet become relevant in practice. Under Regulation (EU) No. 600/2014 (***MiFIR***), firms in a non-EEA Member State may offer investment services on a cross-border basis to certain categories of customers that do not appear to need a high level of protection (i.e. professional customers and eligible counterparties), provided that the firm has been registered in a special EU register maintained by ESMA. Such registration depends on an equivalence decision of the EU Commission determining that the firms authorised in that third country comply with legally binding prudential and business conduct requirements that have equivalent effect to the requirements under EU law and that the legal framework of that third country provides for an effective, equivalent system for the recognition of investment firms authorised under third-country legal regimes. IFR has further extended the scope of requirements applicable to this special exemption regime under MiFIR; among others, the requirements for the adoption by the EU Commission of the equivalence decision have been extended so that third-country firms shall comply with prudential, organisational and business conduct requirements, which have an equivalent effect to those set out in CRR, CRD, IFD and IFR.

At the same time, Member States may allow third-country firms to provide investment services for eligible counterparties and professional clients where no aforesaid equivalence decision by the EU Commission has been adopted or where such a decision has been adopted but is either no longer in effect or does not cover the services or activities concerned.

The process of obtaining a licence in Germany requires an application and the submission of numerous documents, such as: a viable business plan; evidence of meeting capital adequacy requirements; detailed information on liquidity and risk management, organisational structure and internal control procedures; adequate staffing and technical resources; and an adequate contingency plan, in particular for IT systems. Further, the application for a licence must also include information and documents indicating that the members of the management board and the supervisory board (Germany follows the two-tier system for corporate governance purposes) are eligible for such positions, as well as information and documents on qualified holdings (i.e. at least 10% of capital and/or votes held directly or indirectly, or exerting significant influence by other means).

Aside from the licence requirement, a recent amendment to KWG following the implementation of a CRD amendment into German law introduced a requirement to obtain written approval by (EU) (mixed) parent financial companies to ensure compliance with prudential requirements on a consolidated and semi-consolidated basis.

In addition, KWG and WpIG include general requirements on business organisation and constitute the legal basis for various supervisory actions that BaFin and Bundesbank may take.

### *CRR/IFR*

CRR includes, in particular, capital and liquidity requirements for credit institutions, limitations on large exposures and rules on the leverage ratio, i.e. the limitation of indebtedness. Prudential requirements under CRR apply also to larger systemic investment firms. These include investment firms dealing on own account and/or engaged in underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis if its consolidated assets are equal to or exceed €15 billion or if the investment firm is part of a group in which the total value of the consolidated assets of all undertakings in the group that engage in the relevant activities is equal to or exceeds €15 billion. In addition, following the implementation of IFD, BaFin may decide to apply the CRR prudential regime to an investment firm, dealing on own account and/or engaged in underwriting of financial instruments, whose total value of the consolidated assets is equal to or exceeds €5 billion provided that certain further conditions are met, such as the investment firm carries out those activities on such a scale that the failure or distress of the investment firm could lead to systemic risk. IFR provides for various prudential requirements, including in relation to own funds, capital, concentration risk, liquidity and related reporting applicable to the investment firms, unless the CRR regime applies. In addition, small and non-interconnected investment firms that do not meet specific thresholds defined in IFR benefit from simplified requirements.

### *WpHG/MiFID II*

WpHG includes, in particular, rules of conduct and organisational requirements for the offering of investment services. Due to the implementation of MiFID II into German law, WpHG was completely revised and does not contain all these rules and requirements in detail, but refers partly to various delegated regulations promulgated under MiFID II at the EU level. WpHG/MiFID II include, for instance, rules on inducement in connection with the provision of investment services, cost transparency, requirements on the recording of correspondence with customers, product governance rules, etc. Further, WpHG contains a licence requirement for certain markets in financial instruments from outside the EEA that allow traders in Germany direct electronic access to the trading venue. Finally, WpHG contains various capital market rules, such as the voting rights notification regime, restrictions on short selling, and certain disclosure obligations.

*Other key regulations*

Other key regulations affecting the financial sector in Germany include:

- The Capital Investment Code (***KAGB***), which addresses, in particular, the licensing requirements applicable to investment fund managers (including passporting options), categorising various types of funds and setting out the requirements on their asset allocation and their investors as well as including restrictions for the distribution of fund units.
- The Payment Services Supervision Act (***ZAG***), which addresses, in particular, the licensing requirements in connection with providing payment services and issuing e-money, including organisational requirements and rules of conduct for payment institutions as well as for other institutions providing payment services (e.g. obligation to grant access to an account via an API, strong customer authentication, IT security requirements).
- The Money Laundering Act (***GwG***), which includes the obligations aimed at combatting money laundering and terrorism financing.
- The Recovery and Resolution Act (***SAG***), which implements the EU Banking Recovery and Resolution Directives (EU) No. 2014/59/EU (***BRRD***) and (EU) No. 2019/879 (***BRRD II***) and includes, for instance, the requirement to prepare recovery and resolution plans and the instruments of the regulators in case of a default of a systemically important credit institution.
- The Remuneration Regulation for Institutions (***InstitutsVergV***), which provides for transparent remuneration systems and adequate remuneration in banks and other financial institutions.
- Legislative acts applicable to specific areas of banking business, such as: the Safe Custody Act (***DepotG***), addressing the requirements for the safe custody of securities; the Stock Exchange Act (***BörsG***), including rules for stock exchanges and their market participants; and Regulation (EU) No. 648/2012 of 4 July 2012, as amended, on over-the-counter derivatives, central counterparties and trade repositories, which contains directly applicable rules, particularly for trades in derivatives like clearing or notification obligations, and specific requirements for central counterparties.
- The Secondary Credit Market Act (***KrZwMG***), which implements Directive (EU) No. 2021/2167 on credit servicers and credit purchasers and introduces requirements for the provision of credit servicing activities in respect of non-performing credit receivables and agreements, including authorisation requirements, as well as obligations of credit institutions as sellers of non-performing credit agreements, obligations of purchasers of such credit agreements and the supervision of credit services institutions.
- The Cryptomarkets Supervision Act (***KMAG***), which has been effective since December 2024 and accompanies Regulation (EU) No. 2023/1114 (***MiCAR***) (see below).
- Numerous BaFin circulars and guidance notices issued by BaFin or Bundesbank that specify the regulatory obligations, e.g. the Minimum Requirements on Risk Management (***MaRisk***).
- Numerous guidelines, recommendations, implementation and technical standards of EBA and ESMA.

## Recent regulatory themes and key regulatory developments in Germany

### Recent EU banking packages

Banking sector regulations have undergone significant changes in the past few years. Crucial amendments have been introduced in the field of prudential regulation to finalise the implementation of the international Basel III agreement and the reforms agreed at an international level by the Basel Committee on Banking Supervision (***BCBS***) and the Financial Stability Board as regards a regulatory framework for credit institutions. New rules have also been introduced beyond the scope of the Basel III agreement.

## 2019 EU banking package

Significant revisions of key pieces of EU legislation applicable to credit institutions have recently been introduced by the 2019 EU banking package, largely applicable from June 2021 onwards, concerning CRR, CRD, BRRD and the Single Resolution Mechanism Regulation 806/2014 (***SRM***). Key amendments included the introduction of a binding leverage ratio requirement of 3% of Tier 1 capital (with an option to impose additional leverage ratio requirements at the discretion of the supervisory authorities), an additional leverage ratio requirement applicable to global systemically important institutions (***G-SIIs***) equal to 50% of the risk-based G-SIIs capital buffer ratio, a reporting requirement concerning the BCBS Fundamental Review of the Trading Book standards, including large exposures, exposures to central counterparties, collective investment undertakings, counterparty credit risk and interest rate risk as well as changes to the large exposures regime. A binding net stable funding ratio (***NSFR***) of at least 100% and a more risk-sensitive approach to trading in securities and derivatives have been introduced. Small and non-complex institutions benefit from the rules of increased proportionality and have less stringent reporting obligations, including a simplified, less granular version of the NSFR.

In Germany, the implementing provisions amended the supervisory review and evaluation process (***SREP***), whereby the additional own funds requirements imposed by BaFin do not have to be met exclusively with Common Equity Tier 1 (***CET1***) capital. Also, BaFin may provide additional Pillar 2 Guidance (***P2G***) aimed at strengthening an institution's resilience in covering its losses in stress periods. Further German implementing provisions provide for a requirement of written approval for (EU) (mixed) parent financial holding companies. BaFin (and other NCAs accordingly) are responsible for ongoing supervision of a group on a consolidated basis if it supervises the relevant parent institution. Further, large financial groups conducting significant activities in Germany (and other EU Member States accordingly) are obliged to set up an intermediate EU parent undertaking if they have two or more CRR credit institutions or investment firms established in the EU with the same ultimate parent undertaking in a third country unless the total value of assets in the EU of the third-country group is not more than €40 billion.

In the area of banking resolution, new standards on the total loss-absorbing capacity (***TLAC***) aligned with the minimum requirement for own funds and eligible liabilities (***MREL***) have been introduced. As such, G-SIIs shall have more loss-absorbing and recapitalisation capacity. The relevant parameters include the risk-based ratio based on risk-weighted assets and the non-risk-based ratio based on the leverage ratio exposure. In addition, a new category of "top-tier" banks has been introduced, generally comprising non-G-SIIs with total assets exceeding €100 billion. Top-tier banks will also be subject to TLAC/MREL requirements. In addition, since 2024, G-SIIs and top-tier banks have been subject to an additional requirement of 8% of total liabilities and own funds to facilitate the bail-in resolution.

## 2021 EU banking package

In 2021, a further EU banking package was adopted and entered into force. The new rules include amendments to CRR, which has been directly applicable in EU Member States largely since 1 January 2025 (subject to exceptions), and amendments to CRD, which entered into force in July 2024, but are subject to implementation into domestic laws of the EU Member States. EU Member States were required to apply the implementing provisions as from 11 January 2026 (subject to exceptions) and some as from 11 January 2027. In Germany, the 2021 EU banking package has been implemented by the Banking Directive Implementation and Bureaucracy Relief Act (***BRUBEG***).

The 2021 EU banking package provides for requirements for credit, credit valuation adjustment, operational and market risks and risks resulting from the use of banks' internal models, the latter by means of introducing the so-called output floor. The output floor prevents the total risk exposure amount of banks using internal models from falling below 72.5% of the total risk exposure amount calculated according to the standardised approach. This percentage will become applicable in 2030, with transitional provisions gradually phasing in lower thresholds.

Apart from the Basel III agreement, the EU banking package introduced ESG risks into CRR and CRD. Exposures to ESG risks are included in the scope of reporting on prudential requirements and financial information to the competent authorities and are also subject to disclosure requirements. In the context of the internal capital adequacy assessment process, CRR credit institutions shall explicitly take into account ESG risks in the short, medium and long term. The governance arrangements shall include effective processes to identify, manage, monitor and report the risks they are or might be exposed to, including such ESG risks. ESG is also included in the treatment of risks. German implementing provisions in BRUBEG (*cf.* above) explicitly include ESG risks in credit institutions' risk management and introduce a requirement to draw up ESG plans as part of the institution's risk strategy that must be reviewed on a regular basis. The German legislator allows for certain simplifications for small and non-complex institutions. Further, board members of institutions shall be required to have sufficient expertise in ESG risks and the institutions' remuneration systems shall take into account the institutions' risk appetite in respect of ESG risks. In addition, BaFin shall have explicit power to order changes to an institution's business strategy, risk management and ESG plan with the aim of reducing ESG risks. Provisions on crypto-asset exposures are also explicitly included in the 2021 EU banking package.

Further, the 2021 EU banking package provides for a new regulatory regime for third-country branches. Under the new regime, EU Member States shall require third-country undertakings to establish a branch in such EU Member State's territory and apply for authorisation to commence or continue core banking activities in the territory of that EU Member State. Core banking activities include lending, issuing guarantees and commitments – if the commencement or continuation of those activities would qualify that undertaking as a CRR institution or CRR investment firm if it were established within the EU – and deposit-taking business. The new rules distinguish between classes of third-country branches and provide for various additional regulatory requirements beyond the authorisation requirement, including capital, reporting, liquidity and booking requirements. Exemptions apply to reverse solicitation scenarios where the client approaches a third-country undertaking at its own exclusive initiative for the provision of any core banking activity, and to scenarios where the client is a credit institution or an undertaking of the same group as that of the undertaking established in a third country and in respect of investment services, including any accommodating ancillary services, such as related deposit-taking or the granting of credit or loans, the purpose of which is to provide services under MiFID II. The new regulatory regime for third-country branches is subject to implementation into domestic laws of the EU Member States (in Germany, via BRUBEG). Pursuant to the regulatory regime so far, BaFin has exempted various third-country banks from the licensing requirement in Germany – based on its statutory discretion powers – subject to the fulfilment of certain prerequisites, such as effective supervision in their home country in line with appropriate international standards. Nonetheless, an exemption from the licensing requirement will no longer be an option for third-country banks offering core banking services in Germany once the implementing provisions of BRUBEG enter into force and become applicable. As discussed above, BaFin will be required to revoke already granted exemptions to ensure compliance with the new rules. Authorisation under the new regime will allow for the provision of services exclusively in Germany and not in other EU Member States (subject to intra-group financing transactions and reverse solicitation scenarios). In addition, in certain cases such as systemically relevant third-country branches or where the total value of assets reaches or exceeds €40 billion, BaFin shall have the power to require the third-country branch to establish a subsidiary in Germany and apply for a banking licence. The transition provisions provide for the applicability of the third-country regime, save for exceptions, as from 11 January 2027.

The new provisions introduce requirements on suitability of key function holders, including suitability assessment and notification requirements. Key function holders include persons who have significant influence over the direction of an institution but are not members of the management or supervisory board.

In the context of strategic decisions and investments, the new regime introduces certain notification requirements and regulatory clearance, including for institutions and consolidating (mixed) financial holding companies that intend to acquire, directly or indirectly, a material holding. A holding shall be

deemed material where it is equal to or more than 15% of the eligible capital of the proposed acquirer (in the case of a (mixed) financial holding company, on a consolidated basis). If a material holding is acquired despite a ban or in the absence of a mandatory notification, the supervisory authority may impose a ban on the exercise of voting rights and issue an order that the shares may be transferred only subject to its approval. A similar requirement shall apply in respect of intended mergers and divisions. Further, the new regime introduces notification requirements for credit institutions and (mixed) financial holding companies in the case of planned material transfers of assets or liabilities. Transfers are considered material if they account for 10% of the entity's total assets or liabilities (or 15% in intra-group transfer scenarios).

The new provisions extend the scope of supervisory powers and possible sanctions that may be imposed by the supervisory authority. Employees of BaFin and Bundesbank will have the right to search persons and confiscate items, while BaFin will have the power to impose periodic penalty payments on companies, members of management and supervisory boards, holders of key functions, risk takers and other individuals. Further, the new provisions require BaFin to publish information on violations along with information on the nature of the infringement and the applied measures or sanctions.

In addition to the implementation of the EU banking package, BRUBEG introduces a number of amendments that aim to reduce bureaucracy.

### Investment firms and investment services

The regulatory regime applicable to investment firms was significantly changed by IFD and IFR, implemented into German law by WpIG in 2021. The revised regime differentiates the prudential regime according to the size, nature and complexity of investment firms. Larger, systemic investment firms are now subject to the same prudential regime as CRR credit institutions. Generally speaking, any investment firm that is dealing on own account or engaged in underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis has to comply with the CRR rules if its consolidated assets are equal to or exceed €15 billion or if the investment firm is part of a group in which the total value of the consolidated assets of all undertakings in the group that engage in the relevant activities is equal to or exceeds €15 billion. Non-systemic investment firms are split into two groups. The capital requirements for small and non-interconnected and thus least risky investment firms are set in a new tailored regime, with simpler requirements. For larger firms, a new modus of measuring their risks has been introduced that is based on their business models. Further changes to the prudential regulatory framework for investment firms under IFD and IFR may be expected given that EBA and ESMA recommended targeted revisions in October 2025 that aim to contribute to the proportionality of the prudential framework and to a level playing field between investment firms and other financial institutions.

Also, the regulatory framework applicable to investment services under MiFID II and MiFIR is subject to changes. Recent amendments to MiFID II and MiFIR aim to, among other things, enhance data transparency, remove obstacles to the emergence of consolidated tapes, and optimise trading obligations. MiFIR defines consolidated tape providers (***CTPs***) as persons authorised under the relevant provisions of MiFIR to provide the service of collecting data from trading venues and approved publication arrangements, and of consolidating those data into a continuous electronic live data stream providing core market and regulatory data. ESMA selected the first CTP in the EU for bonds in July 2025 and for shares and exchange-traded funds (***ETFs***) in December 2025. The consolidated tapes of the selected providers will go live subject to completion of the authorisation process. Further, the amended MiFIR provisions introduce a ban on receiving payment for order flow, i.e. fees, commissions or non-monetary benefits received by investment firms from third parties for executing orders from clients on a particular execution venue or for forwarding orders of clients to a third party for execution on a particular execution venue. Nonetheless, as far as the latter is concerned, Germany exercised the option granted to EU Member States and exempted investment firms with their seat in Germany from the abovementioned ban until 30 June 2026.

On a domestic level, the German regulator, BaFin, has recently issued a general administrative order restricting marketing, distribution and sale of turbo certificates (also known as knock-out certificates) to retail investors domiciled in Germany, which will come into force in June 2026. Restrictions include a requirement of a standardised risk warning, a ban on monetary and non-monetary incentives and a requirement to assess the retail investor's knowledge on turbo certificates. This general administrative order has been issued within the product intervention powers granted to NCAs under MiFIR. In the past, BaFin has already issued general administrative orders, pursuant to which financial contracts for difference (***CFDs***) may not expose retail clients to the risk of the obligation to make additional payments; a restriction on the marketing, distribution and sale of futures to retail investors domiciled in Germany and a ban in respect of the marketing, distribution and sale of binary options to retail investors domiciled in Germany.

## Digitalisation

The financial sector and its regulatory framework are changing dynamically as a result of digitalisation of banking and financial services and the new risks involved. Recent years have brought a multitude of regulatory changes.

## Digital operational resilience

On 17 January 2025, Regulation (EU) No. 2022/2554 (Digital Operational Resilience Act, ***DORA***) became applicable. DORA is an EU-wide regulation that applies to financial entities (e.g. credit institutions, investment firms, payment institutions, etc.) as well as to ICT third-party service providers. Under DORA, ICT services are wide ranging, and include digital and data services provided through ICT systems on an ongoing basis (including hardware as a service and hardware services, which includes the provision of technical support via software or firmware updates by the hardware provider, excluding traditional analogue telephone services). DORA has introduced a number of requirements for financial entities to prevent and mitigate cyber threats and enhance digital operational resilience, including requirements on ICT risk management, incident reporting, digital operational resilience testing, information and intelligence sharing and measures for the sound management of ICT third-party risk. Further, DORA contains minimum content requirements for agreements between financial entities and ICT service providers that include, *i.a.*, the obligation of the ICT third-party service provider to fully cooperate with competent authorities and, in the case of ICT services supporting critical or important functions, to participate in and fully cooperate with the financial entity's threat-led penetration testing, and to fully cooperate during the onsite inspections and audits performed by the competent authorities, a lead overseer, a financial entity or an appointed third party as well as unrestricted rights of access, inspection and audit. In addition, if an ICT third-party service provider is designated by EU authorities as critical (based on their systemic impact, character, reliance of financial entities or the degree of their substitutability), a special oversight framework will apply. Financial entities may engage services of critical ICT third-party providers established in a third country if the latter has established a subsidiary in the EU within the 12 months following the designation. In November 2025, the ESAs published a list of ICT third-party providers designated as critical at the EU level, which is subject to annual updates. Further, the implementation of DORA includes various Level 2 and Level 3 measures specifying the DORA requirements.

In Germany, DORA has been accompanied and, to a certain extent, implemented by the Financial Market Digitalisation Act (***FinmadiG***), in force since 30 December 2024, which also introduced amendments to financial supervisory laws. BaFin, in its capacity as the competent authority in the field of digital operational resilience, has been equipped with additional powers and may, within the scope of DORA, issue orders that are appropriate and necessary to ensure compliance with DORA, as well as conduct investigations and interrogations. Further, due to the FinmadiG, financial institutions that are not within the scope of DORA must also comply with the DORA requirements after a transitional period.

### Markets in crypto-assets

In June 2023, MiCAR, a directly applicable EU-wide regulation on markets in crypto-assets, entered into force and became applicable as from December 2024 (and in part from June 2024). MiCAR provides for a full harmonisation of crypto-asset services, including a unified regime on transparency, authorisation and disclosure requirements. It provides, in particular, for various transparency and disclosure requirements for the issuance, offer to the public and admission of crypto-assets to trading on a trading platform for crypto-assets. Further, it included requirements on the authorisation and supervision of crypto-asset service providers, issuers of asset-referenced tokens and issuers of e-money tokens as well as for their operation, organisation and governance. CRR credit institutions are subject to privileges, although other requirements under MiCAR apply. The new requirements also concern the protection of crypto-asset holders, clients of crypto-asset service providers and measures to prevent insider dealing. MiCAR defines crypto-assets as a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology (***DLT***) or similar technology. Among the categories of crypto-assets, there are e-money tokens (a type of crypto-asset that purports to maintain a stable value by referencing the value of one official currency) and utility tokens (a type of crypto-asset that is only intended to provide access to a good or service supplied by its issuer). MiCAR does not apply to crypto-assets that are unique and not fungible with other crypto-assets. Furthermore, it does not apply to certain other products or financial instruments. As far as the latter are concerned, in March 2025, ESMA issued guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments. The regulatory framework under MiCAR is specified by various Level 2 and Level 3 measures.

In Germany, the MiCAR framework has been accompanied by KMAG, effective since December 2024. BaFin is the designated authority competent for supervising institutions and other entities within the scope of MiCAR as well as markets in crypto-assets. Under KMAG, BaFin is granted supervisory power to fulfil its tasks under MiCAR. KMAG has been promulgated as part of the FinmadiG (*cf.* above).

### Other digitalisation developments

Other EU-wide legislative developments in the context of digitalisation include:

- Regulation (EU) No. 2022/858 on a pilot regime for market infrastructures based on DLT (***DLT Regulation***), which has applied since March 2023 (and partly before). The DLT Regulation lays down requirements in relation to DLT market infrastructures and their operators concerning granting and withdrawing specific permissions to operate DLT market infrastructures along with exemptions and conditions attached to such exemptions, the operation and supervision of DLT market infrastructures as well as cooperation between operators of DLT market infrastructures, competent authorities and ESMA.
- Regulation (EU) No. 2020/1503 on European crowdfunding service providers for business (***ECSPR***), which has been in force since November 2021 with a transitional period that elapsed in November 2023. ECSPR provides a unified EU standard for lending- and equity-based crowdfunding. It defines "crowdfunding service" as matching of business funding interests of investors and project owners through the use of a crowdfunding platform and which consists of the facilitation of granting loans or placing without a firm commitment basis, as referred to MiFID II, of transferable securities and admitted instruments for crowdfunding purposes issued by project owners or a special purpose vehicle, and the reception and transmission of client orders in relation to those transferable securities and admitted instruments for crowdfunding purposes. Crowdfunding service providers need to obtain an authorisation from the national supervisory authority (in Germany: BaFin) and shall be registered by ESMA in an EU register of all operating crowdfunding platforms.
- The financial data access and payments package, which includes a draft directive on payment services and electronic money services (***Draft PSD3***) (repealing Directive No. 2015/2366/EU (***PSD2***)), a draft

regulation on payment services (***Draft PSR***) and a draft regulation on a framework for Financial Data Access (***Draft FIDA***). The authorisation requirements shall, as before, remain regulated in a directive to be implemented by EU Member States, whereas a directly applicable EU-wide regulation shall provide uniform requirements on the provision of payment services and electronic money services. The Draft FIDA shall, in particular, extend the rules on the access, sharing and use of certain categories of customer data in financial services ("open finance"). The legislative procedure is pending and the proposals are at the stage of the first reading.

- Regulation (EU) No. 2024/886, the Instant Payments Regulation, which has been largely applicable since 1 December 2025 and requires payment service providers offering the service of sending and receiving credit transfers to also offer the service of sending and receiving instant credit transfers, i.e. transfers executed immediately, 24 hours a day on any calendar day. The new provisions also require a payer's payment service providers to offer a service that ensures verification of the payee to whom the payer intends to send a credit transfer (so-called service ensuring verification).
- The Single Currency Package, which includes a legislative proposal of EU regulations on the establishment of the digital euro and on the legal tender of euro banknotes and coins. The legislative procedure, which aims to introduce a digital euro as a complement to euro banknotes and coins, is pending. The proposals are at the stage of the first reading and could be finalised in the course of 2026, with the digital euro possibly ready for first issuance in 2029.
- Regulation (EU) No. 2024/1689, which lays down harmonised rules on artificial intelligence (***AI Act***), has been in force since 1 August 2025 and will be applicable from 2 August 2026 (subject to partial application from February 2025, August 2025 and August 2027). The AI Act shall apply, among others, to providers and deployers of AI systems, including third-country providers where the output produced by the AI system is used in the EU. Among other requirements, deployers of certain high-risk AI systems shall carry out a fundamental rights impact assessment prior to putting them into use. Such high-risk AI systems are outlined in Annex III to the AI Act and include, *i.a.*, AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score (with the exception of AI systems used for the purpose of detecting financial fraud), which makes them relevant to credit institutions.
- Regulation (EU) No. 2024/1183 as regards establishing the European Digital Identity Framework, amending the eIDAS Regulation and providing for European digital identity wallets across the EU (***eIDAS Regulation 2***), which entered into force in May 2024. These digital identity wallets may be expected around the end of 2026/beginning of 2027 and will need to be accepted by public sector bodies and, in certain cases, by private sector entities, i.e. credit institutions upon a voluntary request of the user/customer.

### German Act on Electronic Securities

German securities law was fundamentally modernised by the Act on Electronic Securities (***eWpG***) in 2021, which introduced optional dematerialisation of instruments such as bearer bonds, certain shares in special assets funds and also, after an amendment in 2023, company registered shares and bearer shares. Pursuant to eWpG, electronic securities are property objects subject of a right *in rem* under property laws. Under eWpG, the issuers may choose whether to issue securities in the form of a certificate or electronically. Under certain conditions, traditional securities in the form of a physical certificate can be subsequently digitised and *vice versa*. eWpG provides for two types of electronic securities registers, i.e. central securities registers and decentralised crypto securities registers, the latter being typically based on DLT. Company bearer shares, if dematerialised, have to be registered in the central securities registers (registration of dematerialised company bearer shares in crypto securities registers is not permitted). Central securities registers can be maintained by a central securities depository within the meaning of Regulation (EU) No. 909/2014 (in Germany: Clearstream Banking AG) or, if authorised by the issuer, by

a custodian bank. Crypto securities registries can be maintained by the issuers themselves or by other entities, which requires obtaining a licence from BaFin and is subject to regulatory supervision. In June 2022, the Regulation on Crypto Funds Units (***KryptoFAV***) came into force, allowing units in investment funds or in individual fund classes to be issued in whole or in part as crypto fund units. Crypto fund units are defined as electronic unit certificates that are entered in a crypto securities register. The latter may be kept either by the depositary or by another entity appointed by the depositary and holding the BaFin licence for the maintenance of a crypto securities register. Further specific requirements were outlined in the Regulation on the Requirements as regards the Electronic Securities Registers (***eWpRV***) in force since October 2022.

## Sustainable finance

ESG and sustainable finance are key trends in the current EU regulatory and supervisory framework. This follows the EU sustainable finance strategy that aims to support the financing of the transition to a sustainable economy. In July 2020, Regulation (EU) No. 2020/852 on the establishment of a framework to facilitate sustainable investment (***Taxonomy***) entered into force, providing for environmental objectives as well as conditions allowing for economic activity to qualify as environmentally sustainable. In 2021, Regulation (EU) No. 2019/2088 (Sustainable Finance Disclosure Regulation, ***SFDR***) introduced a definition for "sustainable investment" including investments in economic activities that contribute to an environmental objective (e.g. key resource efficiency indicators on the use of energy, renewable energy, raw materials, water and land, on the production of waste, and greenhouse gas emissions), a social objective (e.g. tackling inequality, fostering social cohesion, integration, and labour relations) or an investment in human capital or economically or socially disadvantaged communities, provided that such investments do not significantly harm any of those objectives and that the investee companies follow good governance practices (i.e. sound management structures, employee relations, remuneration of staff and tax compliance, etc.). SFDR introduced the principle of "do no significant harm" and imposed related transparency requirements on financial market participants on their websites, in pre-contractual disclosures and marketing communications. January 2023 marked the start of applicability of the last provisions of the Taxonomy and SFDR in respect of the environmental objectives, the start of the applicability of the regulatory and technical standards of SFDR as well as the entry into force of Directive (EU) No. 2022/2464 (Corporate Sustainability Reporting Directive, ***CSRD***), the latter amended in 2025 by Directive (EU) No. 2025/794. In Germany, implementation of CSRD is currently in the legislative procedure despite the lapse of the implementation period.

Since the entry into force of the Taxonomy and SFDR, a number of Level 2 and Level 3 measures have been published and entered into force. On 25 July 2024, Directive (EU) No. 2024/1760, the Corporate Sustainability Due Diligence Directive, entered into force and shall be implemented by EU Member States by 26 July 2026 (while the application of the new provisions shall be phased in gradually starting from 26 July 2027). Other recent sustainability-related developments include the entry into force and application of Regulation (EU) No. 2023/2631 on European Green Bonds and optional disclosures for bonds marketed as environmentally sustainable and for sustainability-linked bonds (***EU Green Bond Regulation***). The EU Green Bond Regulation, in particular, provides for a uniform set of specific requirements for bonds that may be optionally issued by financial and non-financial undertakings and sovereigns that intend to use the designation "European Green Bond" or "EuGB" for such bonds.

At the same time, further developments on ESG topics are pending and more developments can be expected. Apart from the abovementioned 2021 EU banking package that introduced ESG risks into prudential requirements for banks, in November 2025, the EU Commission published a proposal for a regulation amending SFDR and certain other regulations to simplify reporting requirements and amend the categorisation of financial products with ESG features with the objective of serving investor protection.

## AML/CFT

The AML/CFT regime has undergone significant changes in recent years and further crucial changes are coming soon. In the past few years, Directive (EU) No. 2015/849 (***AMLD***) and subsequent amendments, particularly by Directive (EU) No. 2018/843, have been transposed into German law, which resulted in a complete revision of the GwG. First, the AMLD strengthened a holistic, risk-based approach in line with the international recommendations of the Financial Action Task Force (***FATF***) and brought about a number of changes concerning the customer due diligence process and internal safeguard measures. The revised GwG also introduced an electronic transparency register as a central database on ultimate beneficial owners (***UBOs***) of companies, trusts and similar entities. Further changes were required to implement amendments of the AMLD, including the revision of the transparency register, which has become publicly accessible and shall be fully comprehensive, i.e. directly include all the required information even if such information is retrievable from other publicly accessible, e.g. commercial, registers. Also, entities engaged in the crypto custody business have effectively become AML obliged entities.

Further, a full AML/CFT package consisting of four legislative proposals entered into force. These include:

- Regulation (EU) No. 2024/1620 establishing an authority for anti-money laundering and countering the financing of terrorism (***AMLA Regulation***).
- Regulation (EU) No. 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (***AML Regulation***), which will become applicable on 10 July 2027.
- Regulation (EU) No. 2023/1113 on information accompanying transfers of funds and certain crypto-assets (***Funds Transfer Regulation***).
- Directive (EU) No. 2024/1640 on the mechanisms to be put in place by the EU Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

The AML Regulation includes customer due diligence – a matter that has so far been addressed in the GwG based on an EU directive. As a result, matters such as identification and verification of the identity of customers and beneficial owners will be governed by a directly applicable EU regulation and no longer by domestic provisions. Under the AML Regulation, changes to the required AML compliance measures will have to be reflected in the systems of the obligated financial entities. Further, as discussed above, based on the AMLA Regulation, AMLA has been established and will constitute an integrated AML/CFT supervisory system at EU level together with the national supervisory authorities.

On a domestic level, a draft bill amending the GwG has been adopted that will facilitate customer due diligence in respect of minors. The bill allows know-your-customer (***KYC***) verification of minors on the basis of a copy of the minor's birth certificate if certain additional prerequisites are fulfilled (such as obtaining the customer's tax identification number and verification of the statutory representative). So far, an original copy of the minor's birth certificate has typically been required.

Further changes to the German AML/CFT regime were introduced to the GwG with the entry into force of the recent sanctions regime. In addition, BaFin regularly publishes materials and guidelines on AML/CFT matters, such as the amended AML interpretative and implementing guidelines in March 2025.

### Sanctions regime

The Russian invasion of Ukraine in February 2022 brought about changes in the sanctions regime both at the international level and the domestic level in Germany. Aside from several sets of international sanctions adopted against Russia, Germany adopted two Sanctions Enforcement Acts (***SDG I*** and ***SDG II***) in May and December 2022 that aim to improve the effective enforcement of sanctions and prevention of money laundering. The measures include the formation of a central federal agency for sanctions enforcement, direct applicability of UN sanctions lists in Germany, the introduction of various

administrative measures in respect of investigating and registering the assets of sanctioned persons and partnerships, enhancement of information exchange between authorities involved and data retrieval as well as creation of a whistleblowing agency. Measures concerning holdings in real properties located in Germany include linking detailed information on real properties with the German AML transparency register, the ban on payment in cash, cryptocurrencies, gold, platinum or precious stones in transactions over real properties located in Germany, the obligation for foreign entities to report their holdings in real properties located in Germany to the transparency register as well as, from 1 January 2026, the obligation for AML obliged entities and notaries to report discrepancies in respect of the allocation of real properties.

At the EU level, Directive (EU) No. 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures entered into force in May 2025, subject to implementation by the EU Member States by 20 May 2025. The German legislator implemented the new provisions in the act on the adjustment of criminal offences and penalties for violations of restrictive measures imposed by the EU, which was published on 5 February 2026 and became applicable the day after its publication. The new act supplements and expands the criminal provisions in the German Foreign Trade Act (***AWG***) and amends relevant provisions in the German Foreign Trade Regulation (***AWV***). It tightens the rules under the applicable framework by, *i.a.*, increasing possible fines for administrative offences to up to €40 million.

### Secondary credit market

On 30 December 2023, the KrZwMG, implementing Directive (EU) No. 2021/2167 on credit servicers and credit purchasers, was promulgated in Germany. In general, the KrZwMG sets out the obligations of credit institutions as sellers of non-performing credit agreements, obligations of purchasers of such credit agreements, and requirements for the provision of credit servicing activities for such purchasers and the supervision of credit services institutions. Non-performing credit agreements in scope of the KrZwMG are those classified as a non-performing exposure in accordance with Art. 47a CRR. However, the KrZwMG does not apply in respect of credit agreements issued by lenders established in third countries, nor in respect of credit purchases that originally occurred before 30 December 2023. The KrZwMG introduces the obligation to obtain a licence from BaFin for anyone who intends to conduct credit servicing activities, unless an exemption applies. Credit servicing activities include, in respect of non-performing credit agreements, enforcement of due payment claims and other claims of the lender, certain renegotiations with the borrower, processing of complaints and certain information activities towards the borrower. The KrZwMG subjects entities that conduct credit servicing activities to a qualitative financial supervisory regime. Further, the KrZwMG introduces obligations for credit purchasers, including the obligation to engage a credit servicer in respect of a purchased non-performing credit agreement if the latter has been entered into with a natural person or a micro, small or medium-sized enterprise and the obligation to notify BaFin and Bundesbank of the credit servicer engaged. The KrZwMG provided for a transitionary period of six months, which lapsed on 29 June 2024.

### Accessibility requirements

In June 2025, the German Accessibility Strengthening Act (***BFSG***), implementing Directive (EU) No. 2019/882 on the accessibility requirements for products and services, became applicable. BFSG applies to products and services placed on the market/offered to consumers after 28 June 2025, including consumer banking services such as, *i.a.*, consumer loans, MiFID II investment services and payment services.

### Other recent developments

EU law and German law are both subject to ongoing developments that are relevant to the financial sector. Aside from the changes that have already been discussed above, under a new act that aims to promote economic development (***Stofög***), the domestic million-euro credit reporting requirement applicable to credit institutions and certain financial institutions under KWG will no longer apply. Germany is also

in the process of implementing various EU provisions, e.g. Directive (EU) No. 2023/2225, the Consumer Credit Directive. The implementation will give rise to changes concerning consumer loans, credit checks and other financings as well as regulatory changes relevant for the brokerage of loan agreements, including changes regarding the licence requirement.

## Bank governance and internal controls

As a general rule, institutions must appoint at least two management board members. Management board members and supervisory board members are subject to a fit and proper assessment. Board members are required to be adequately qualified, trustworthy and in a position to dedicate sufficient time to performing their functions properly. To ensure the latter, KWG limits the number of mandates that can be held simultaneously by board members. If no exception (e.g. group privilege) applies, BaFin may consent to one additional mandate to be held in excess of the statutory limits.

Institutions must ensure proper business organisation, in particular, appropriate and effective risk management, including:

- strategies, particularly business strategy aimed at an institution's sustainable development, and a consistent risk strategy along with processes for planning, implementing, assessing and revising such strategies;
- processes for determining and safeguarding capital adequacy and risk-bearing capacity;
- an internal control system and an internal audit function with rules on the organisational and operational structure, including a clear determination and division of tasks and competences;
- processes for identification, assessment, management and monitoring of risks, a risk-control function and a compliance function;
- an internal audit function;
- adequate staffing and technical and organisational resources;
- an adequate contingency plan, especially for IT systems; and
- suitable and transparent remuneration systems for board members and employees.

Regulatory requirements in connection with governance and internal controls are further specified in various BaFin circulars and guidance notices, in particular the MaRisk.

Further regulatory requirements as regards business organisation may arise if a financial institution intends to offer investment services (e.g. investment broking or investment advice). In such a case, the additional organisational requirements and rules of conduct set forth, in particular, in WpHG, the delegated regulations promulgated under MiFID II, and BaFin Circular No. 05/2018 on minimum requirements for the compliance function and further conduct, organisation and transparency obligations (***MaComp***), may apply.

## Bank capital requirements

Capital requirements for credit institutions under German law are based on CRR and KWG and, as such, are in line with the final measures of the BCBS – Basel III framework. To that extent, credit institutions operating in Germany have to comply with requirements on capital adequacy, liquidity and leverage ratio.

### Capital adequacy

The own funds of an institution may not fall below the amount of initial capital required at the time of its authorisation. Own funds consist of the sum of its Tier 1 and Tier 2 capital. As a rule, CRR requires institutions to maintain adequate amounts of own funds consisting of CET1 capital ratio (4.5%), a Tier 1 capital ratio (6%) and a total capital ratio (8%). CRR specifies the requirements for own funds to qualify

as eligible capital. CET1 capital includes, in particular, share/stock capital, capital surplus/agio, retained profits, other accumulated income, and reserves.

Requirements for the Additional Tier 1 capital are less stringent than in the case of CET1 capital, but more stringent than for Tier 2 capital. Further details on own funds are set forth in CRR and Commission Delegated Regulation (EU) No. 241/2014, supplementing CRR with regard to regulatory technical standards for own funds requirements for institutions. As part of the SREP of the institution's individual capital adequacy, supervisory authorities (BaFin) may ask the institution to hold additional own funds in excess of the default rules under CRR. The SREP decision is issued annually and is based on factors such as the institution's business model, governance, risk, capital, and liquidity.

Institutions calculate their capital ratios by expressing the relevant eligible capital as a percentage of the total risk exposure amount. As discussed above, in future, the latter shall (subject to transitional periods) be calculated taking into consideration the so-called output floor introduced with the 2021 EU banking package.

KWG requires credit institutions to maintain a capital conservation buffer (***CCB***) of CET1 capital equal to 2.5% of the total risk exposure amount and an institution-specific countercyclical capital buffer (***CCyB***). The latter is calculated with the use of domestic CCyB of between 0% and 2.5%. In Germany, the domestic CCyB was determined by BaFin in 2022 at 0.75% and, on 30 January 2026, that percentage was confirmed by BaFin as appropriate for the first quarter of 2026 based on the current risk situation.

### Liquidity

CRR provides for a liquidity coverage requirement (***LCR***), according to which institutions shall hold adequate liquidity buffers to face any possible imbalance in liquidity flows over a period of 30 days. All institutions must invest their funds in such a way as to ensure that adequate funds for payment outflows (liquidity) are available at all times. In addition, amendments to CRR introduced a binding NSFR of at least 100% (with a possibility of a simplified NSFR with the prior permission of the competent authority in the case of small and non-complex institutions) along with related reporting requirements. Detailed liquidity adequacy requirements are set forth in Commission Delegated Regulation (EU) No. 2015/61 with regard to LCRs for credit institutions.

### Leverage ratio

Institutions are required to monitor the level and changes in the leverage ratio as well as leverage risk as part of the internal capital adequacy assessment process. As mentioned, amendments to CRR introduced a binding leverage ratio requirement of 3% of Tier 1 capital. For G-SIIs, an additional leverage ratio requirement, equal to 50% of the risk-based G-SIIs capital buffer ratio, applies. The leverage ratio is subject to reporting to the supervisory authorities and taken into account during the SREP. Details on calculating the leverage ratio are included in CRR and Commission Implementing Regulation (EU) No. 2021/451, laying down implementing technical standards for the application of CRR with regard to supervisory reporting of institutions.

## Rules governing banks' relationships with their customers and other third parties

### Deposit protection schemes

German law provides for a statutory deposit protection scheme under the Deposit Protection Act (***EinSiG***) that secures deposits of up to €100,000 per institution and customer, and in certain cases up to €500,000. A compensation event is determined by BaFin if an institution, due to its financial situation, is not in a position to repay due deposits and there is no prospect that it will be able to do so.

In addition to mandatory participation in the statutory deposit protection scheme, many private banks are members of the voluntary deposit protection fund of private banks kept by the Association of German Banks (*Bundesverband deutscher Banken*), which provides for a higher level of protection than the statutory deposit protection scheme.

### Regulatory obligations

Regulatory obligations of credit institutions, financial services institutions and investment institutions are set forth in a number of EU and German laws (KWG, WpIG, WpHG, etc.) and are specified in technical standards, recommendations, circulars and guidance notices of supervisory authorities (e.g. BaFin and the ESAs). Institutions are subject to extensive reporting obligations *vis-à-vis* supervisory authorities and information obligations towards their customers. Compliance with regulations must be duly documented and evidenced (e.g. that the recommended securities transaction was suitable for a given customer or, in case of payment service providers, that the payment transaction was authenticated).

Institutions are subject to various regulations in connection with customers' complaints and must maintain and document internal processes for handling such complaints. At the same time, customers are required to comply with various information obligations towards the institutions so that the latter may fulfil the regulatory requirements imposed on them. Institutions must conduct KYC checks and comply with AML/CFT provisions under the GwG, which require them to conduct customer due diligence, identify the UBO and provide information such as name, date of birth, place of residence, nature and scope of ownership interests (including details on shareholding and control) to the transparency register, as well as to monitor the business relationship.

### Contractual relationships

Depending on the product or service offered, the rights and obligations of a bank's customers are regulated in the relevant contract (e.g. loan agreement) and are subject to various provisions of the German Civil Code (***BGB***) and the Introductory Act to the Civil Code (***EGBGB***). In addition, banks use various general terms and conditions to define the contractual relationship with their customers. To that extent, the general terms and conditions template provided by the Association of German Banks serves as a point of reference for German banks.

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