

2022

Annual Report

Federal Financial
Supervisory Authority

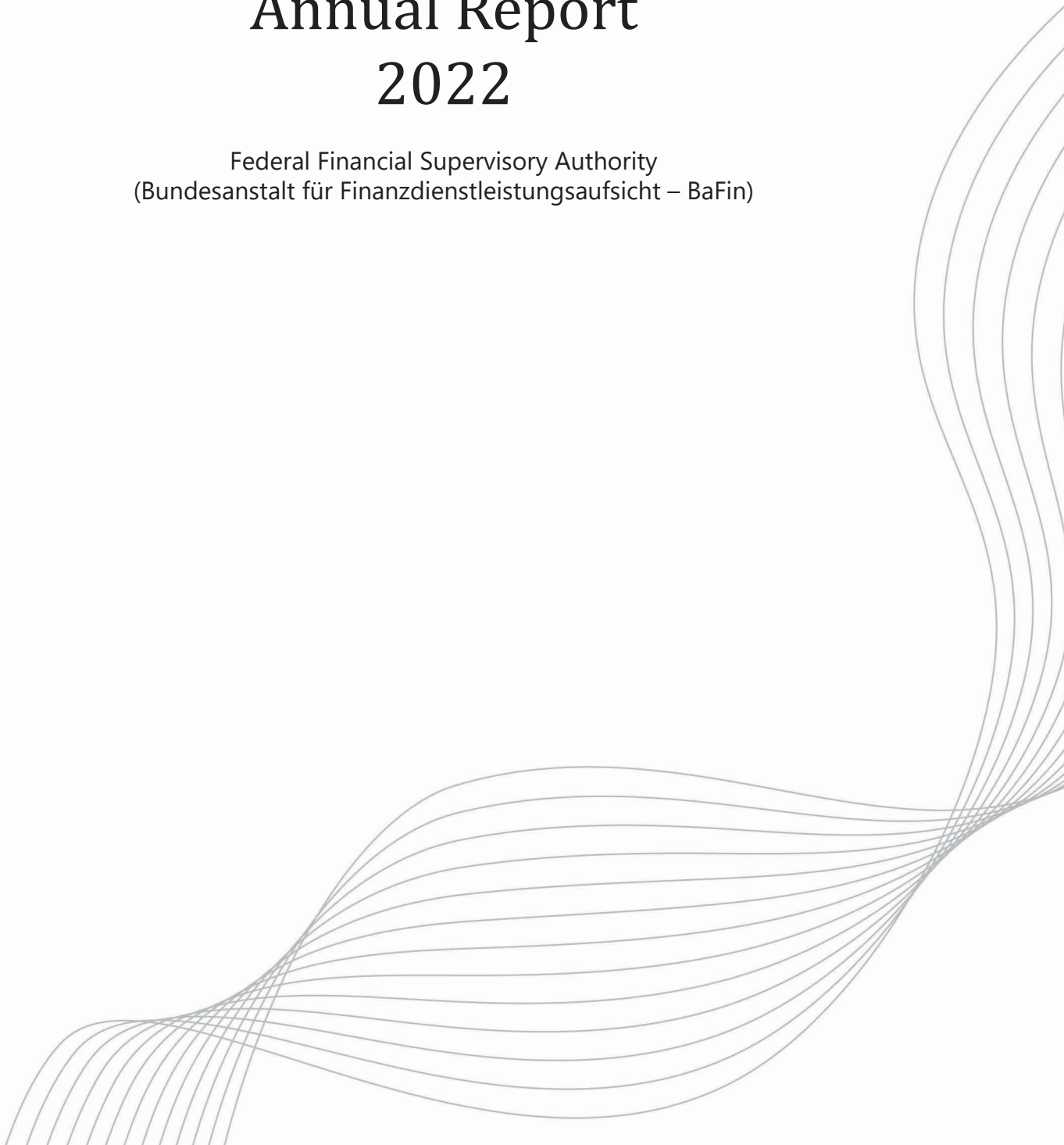


BaFin

Bundesanstalt für
Finanzdienstleistungsaufsicht

Annual Report 2022

Federal Financial Supervisory Authority
(Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin)



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Foreword



2022 was a challenging year for the financial industry: the war in Ukraine and the tremendous human suffering that it caused, supply chain and energy shortages, high inflation and the abrupt reversal of interest rates. These are just a few examples of the difficult and complex environment in which financial sector participants operated in 2022.

How did BaFin address the resulting risks? What were the priorities that it set in its work? And how did financial market companies respond to the situation? This annual report aims to give you an impression.

In addition, 2022 was another year of modernisation for BaFin. It has become bolder and swifter, and more digital. Workflows have been streamlined, and areas such as Anti-money Laundering Supervision and Market Supervision have been restructured. The new Financial Reporting Enforcement Directorate started work and the Strategy, Policy and Control Sector was established. The latter is headed by Rupert Schaefer, who joined BaFin's Executive Board in November 2022. Silke Deppmeyer, who was appointed Chief Executive Director of the Internal Administration Sector in February 2023, is another new Executive Board member.

This report looks back at what happened in 2022. We all know that 2023 will bring major challenges as well. BaFin's top priority is unchanged: to ensure a functioning, stable financial system and financial integrity even in difficult conditions, and to protect consumers as a whole.

Mark Branson

BaFin President, May 2023

Key figures at a glance

Key indicators at a glance

	2018	2019	2020	2021	2022
Credit institutions^{1, 2}					
Capital resources³					
Tier 1 capital (€ billion)	514.7	511.7	567.9	591.7	610.4
Own funds (€ billion)	580.5	573.0	629.6	660.2	683.5
Tier 1 capital (% ratio)	16.8%	16.6%	17.6%	17.2%	17.4%
Own funds (% ratio)	18.9%	18.6%	19.5%	19.2%	19.5%
Total assets					
Total assets (€ billion) ⁴	8,329.8	8,826.8	9,291.4	9,547.0	10,798.3
Total assets (€ billion) ⁵	8,303.3	8,755.1	9,244.9	9,521.7	10,764.0
Structure of loans and advances to banks and non-banks (%)⁶					
Domestic banks	19.8%	18.3%	19.8%	19.4%	28.9%
Foreign banks	9.2%	9.0%	11.2%	14.6%	12.8%
Non-banks – other financial institutions	2.7%	2.9%	2.9%	2.9%	2.7%
Non-financial companies	16.7%	17.3%	17.7%	17.4%	15.9%
Private households	30.2%	31.0%	32.0%	31.9%	27.5%
Private non-profit organisations	0.3%	0.3%	0.3%	0.3%	0.2%
Public sector	4.8%	4.5%	4.5%	4.1%	3.4%
Foreign non-banks	16.2%	16.5%	11.7%	9.5%	8.5%
Ratio of amounts due to non-banks to loans and advances to non-banks (%)⁷	103.0%	102.0%	105.1%	106.9%	106.3%
Proportion of foreign-currency loans to private households (%)⁸	0.2%	0.2%	0.2%	0.1%	0.1%
Ratio of loans in default plus loans on which specific allowances have been recognised before deducting specific allowances to loans and advances to banks and non-banks⁹	1.1%	1.2%	1.4%	1.5%	0.9%
Structure of equity and liabilities (proportion in %) ¹⁰					
Amounts due to domestic banks	12.3%	12.4%	13.3%	13.7%	11.4%
of which to the Deutsche Bundesbank			3.7%	4.5%	2.3%
Amounts due to foreign banks	6.8%	7.0%	7.3%	9.9%	9.2%
Deposits from domestic non-banks	42.2%	39.7%	41.9%	40.8%	38.5%
Deposits from foreign non-banks	6.0%	5.6%	3.8%	2.9%	3.3%
Securitised debt including subordinated capital	11.8%	15.2%	13.5%	13.8%	12.8%
Income statement structure (in % of average total assets)¹¹					
Net interest income	1.07%	0.97%	0.88%	0.87%	0.93%
Net commissions received	0.36%	0.37%	0.35%	0.40%	0.38%
General administrative expenses	1.09%	1.06%	0.94%	0.97%	0.96%
Net trading income	0.04%	0.03%	0.04%	0.05%	0.10%
Operating profit/loss before measurement gains/losses	0.40%	0.33%	0.36%	0.36%	0.50%
Measurement gains/losses	-0.08%	-0.08%	-0.14%	-0.04%	-0.16%
Operating profit/loss	0.32%	0.26%	0.22%	0.32%	0.34%
Net amount of other and extraordinary income and expenses	-0.08%	-0.19%	-0.06	-0.04	n/a

	2018	2019	2020	2021	2022
Profit for the period before tax	0.23 %	0.07 %	0.16	0.29	n/a
Profit for the period after tax	0.15 %	-0.02 %	0.06	0.18	n/a

- 1) See [chapter III.3.1](#) for the number of undertakings under supervision.
- 2) See [chapter III.3.1](#) for further information on credit institutions in Germany.
- 3) After CoRep including financial services institutions.
- 4) Assets based on balance sheet statistics (BISTA) and data provided under the FinaRisikoV (including financial services institutions).
- 5) Assets based on BISTA.
- 6) Structure in accordance with BISTA.
- 7) Based on BISTA.
- 8) Based on foreign status.
- 9) Based on the FinaRisikoV.
- 10) Based on BISTA.
- 11) The data for 2017 to 2021 was taken from publications by the Deutsche Bundesbank (monthly report on the performance of German credit institutions). The figures for 2022 have been based on the preliminary FinaRisikoV notifications and an approximate income statement structure has been given, since the 2022 annual financial statement data is not yet available in full.

Insurance undertakings and pension funds¹

		Life insurers					Private health insurers				
		2018	2019	2020	2021	2022 ²	2018	2019	2020	2021	2022 ²
Gross premiums written	(€ billion)	87.4	97.6	98.1	95.2	90.5	39.7	40.9	42.7	45.2	46.9
Investments	(€ billion) ³	949.2	985.4	1,024.2	1,049.8	1,053.6	287.7	302.3	316.1	332.3	345.9
Average SCR coverage	(%) ^{4, 5}	448.3	382.0	357.7	452.7	526.0	430.3	440.5	430.0	434.7	474.5
		Property/casualty insurers									
		2018	2019	2020	2021	2022 ²					
Gross premiums written	(€ billion)	78.2	83.3	86.5	88.7	94.5					
Investments	(€ billion) ³	175.8	182.3	190.2	197.9	210.5					
Average SCR coverage	(%) ^{4, 5}	283.1	283.5	276.5	274.7	280.3					
		Pensionskassen									
		2018	2019	2020	2021	2022 ²					
Gross premiums written	(€ billion)	7.2	6.8	6.9	6.6	6.6					
Investments	(€ billion) ³	168.5	176.9	184.5	192.9	200.3					
Average solvency	(%)	135.1	139.7	138.7	143.3	146.0					
		Pensionsfonds									
		2018	2019	2020	2021	2022 ²					
Gross premiums written	(€ billion)	10.2	2.6	7.4	5.6	3.5					
Investments	(€ billion) ^{3, 6}	42.7	48.7	55.0	57.7	54.6					
Beneficiaries		1,058,215	1,112,677	1,185,407	1,233,848	1,290,829					
Benefit recipients		373,134	370,857	386,904	394,516	396,682					

- 1) See [chapter IV](#) for the key figures for BaFin's Insurance and Pension Funds Supervision Sector.
- 2) The data provided is only preliminary, since it is based on interim reports and forecasts.
- 3) Carrying amounts in accordance with the German Commercial Code (*Handelsgesetzbuch*).
- 4) Figure for the fourth quarter.
- 5) Up to and including 2018, certain undertakings were exempt from interim reporting requirements on SCR coverage in accordance with section 45 of the German Insurance Supervision Act (*Versicherungsaufsichtsgesetz*).
- 6) Total investments.

	2018	2019	2020	2021	2022
Capital market companies ^{1, 3, 4}					
Supervised financial services institutions	722	706	710	745	738
Supervised branches	110	94	43	45	43
Total number of approvals ¹	1,174	1,097	904	828	711
Of which prospectuses	303	291	301	250	215
Of which registration documents	35	41	32	29	30
Of which supplements	836	765	571	549	466
Authorised asset management companies ²	146	143	143	139	144
Registered asset management companies ²	379	404	431	468	523
Number of investment funds ²	5,932	6,082	6,172	6,379	6,535
Assets under management by these funds (€ billion) ²	2,062	2,391	2,551	2,835	2,506

1) Data comparability between different periods is limited due to the change in the data collection method during the period under review.

2) The term “asset management company” (*Kapitalverwaltungsgesellschaft*) was only defined in 2013, when the German Investment Act (*Investmentgesetz*) expired and section 17 of the German Investment Code (*Kapitalanlagegesetzbuch*) came into force. This fundamental change in the system means that comparative figures are not available for the years up to 2013.

3) See [chapter V.5](#) for the number of undertakings under supervision.

4) See [chapter V.5](#) for the key figures for the Securities Supervision/Asset Management Sector.

Key:

n/a: Not available.

Tier 1: The highest category of own funds.

SCR: Solvency capital requirement.

FinaRisikoV: German Regulation on the Submission of Financial and Risk-Bearing Capacity Information under the Banking Act (*Verordnung zur Einreichung von Finanz- und Risikotragfähigkeitsinformationen nach dem Kreditwesengesetz*).

I

In the spotlight





1 Key areas of supervision

1.1 Low interest rates give way to trend reversal

At the beginning of 2022, it was unclear whether interest rates would remain at extremely low levels or whether an interest rate shock would lead to significant risks. A few months later the situation was clear. In its publication entitled “Risks in BaFin’s Focus 2022” (see info box on page 16), BaFin warned of the consequences of both the low-interest rate environment and an abrupt rise in interest rates.

Stress test for banks

In 2022, BaFin and the Deutsche Bundesbank jointly conducted a stress test on nearly 1,300 small and medium-sized banks and savings banks under their direct supervision, so as to assess the impact of interest rate risk on the banks. In this 2022 LSI¹ stress test, the supervisors investigated the institutions’ resilience in adverse economic conditions and assessed the impact on their capital resources. The banks and savings banks

simulated their financial performance and resilience for 2022 to 2024 using two scenarios specified by the supervisors – a baseline scenario and a stress scenario.

In parallel to the LSI stress test, BaFin and the Bundesbank required the credit institutions to perform earnings simulations under five interest rate scenarios prescribed by the supervisors for the period from 2022 to 2026. These mainly included scenarios involving higher interest rates. BaFin found in the course of this stress test exercise that an interest rate rise in and of itself could lead to a significant increase in profitability. “However, there are downside effects as well as upside ones”, is how Raimund Röseler, Chief Executive Director of Banking Supervision put it in a [speech](#) in Munich in November 2022.

The simulations showed that higher interest rates would initially lead to lower profits, due in particular to declining securities prices. In the medium to long term, however, profits would rebound on the back of widening

¹ LSI stands for “less significant institutions”.

At a glance

Risks in BaFin's Focus 2022

"Risks in BaFin's Focus" was published for the first time in 2022. In this document, BaFin outlines the risks that pose the greatest potential threats to the integrity and stability of the German financial system and that – in keeping with a risk-based approach to supervision – require particular attention. The publication also addresses key future risks and trends. In addition, BaFin explains what it is doing to contain these risks to the best of its ability, and how it is dealing with the trends mentioned.

This chapter of the Annual Report 2022 provides a brief overview of the measures that BaFin has taken to combat these risks.

- More detailed information on the various topics can be found in chapters II to VII of this report.
- "Risks in BaFin's Focus 2022" is available on BaFin's [website](#).

margins and would improve profitability. In addition to a positive interest rate shock, the interest rate scenarios specified by the supervisory authorities included a gradual rise in interest rates and a yield curve inversion.

"Not all institutions are well capitalised [post-stress]", underscored Raimund Röseler in his [presentation](#) of the results of the stress test at a joint press conference with the Bundesbank. "We shall be keeping a very close eye on the ones that are particularly weakly capitalised."

- Further information on banking supervision can be found starting on page 38 of this report.

Close monitoring of life insurers and *Pensionskassen*

For a number of years, BaFin has been monitoring life insurers and *Pensionskassen* that were hit particularly hard by the low interest rate period. The trend reversal in interest rates improved the position of these two groups in 2022. Thanks to the rate rise, all life insurers met the solvency capital requirement under Solvency II in Q2 and Q3 2022 without recourse to the transitional measures offered by the framework – the first time this had been the case since 2016.

In 2022, Insurance Supervision's projection exercises focused on current challenges such as the impact of policy lapses on life insurers. As interest rates rise, the risk faced by life insurers is that contracts will be cancelled more often, or that there will be a slump in new business, especially in the case of single-premium policies. What is more: high inflation increases the lapse risk even further.

Dr Frank Grund, BaFin's Chief Executive Director for Insurance and Pension Funds Supervision, addressed

the two-way effects that the trend reversal in interest rates was having on insurers in a [speech](#) on 1 September 2022. He also mentioned the close relationship between inflation and interest rates: on the one hand, companies were able to improve their profitability, while on the other hand, property insurers faced higher claims expenses. BaFin will keep a close eye on this trend.

- Further information on the supervision of life insurers and *Pensionskassen* can be found starting on page 50 of this report.

1.2 Risks caused by corrections on the real estate markets

BaFin also kept a close eye on risks arising from corrections on the real estate markets in 2022.² On 1 February 2022, BaFin raised the [countercyclical capital buffer](#) from zero to 0.75% of risk-weighted assets on domestic exposures. In addition, it ordered a [sectoral systemic risk buffer](#) of 2% of risk-weighted assets on domestic loans secured by residential property. The requirement was that the additional capital requirements should be met in full as of 1 February 2023.

These measures by BaFin – coupled with its warning to banks, insurance undertakings and other lenders to be careful and apply conservative standards when extending loans – have contributed to a more risk-oriented approach at the supervised entities and enhanced the robustness of banks' capital resources. This means these entities would be in an even stronger position to withstand credit defaults.

² See "Risks in BaFin's Focus 2022", page 6 ff.

“Retaining equity in the system”

“Our macro-prudential measures – the countercyclical capital buffer and the sectoral systemic risk buffer for real estate loans – are an important contribution to increasing the resilience of German banks. Thanks to these measures, capital has [...] been retained in the system”, said BaFin President Mark Branson in an [interview](#) that was published on 17 November 2022 in the [Supervision Newsletter](#) on the European Central Bank’s website.

1.3 Risks caused by significant corrections on the international financial markets

BaFin also focused on risks caused by significant corrections on the international financial markets³ in 2022. These include the risks that materialised on the international commodities markets in the course of the year. This was noted by Dr Thorsten Pötzsch in a speech he held in Frankfurt on 15 June 2022: “First and foremost, we are monitoring the situation on the derivatives markets for energy products at the moment”, said BaFin’s Chief Executive Director of Securities Supervision/Asset Management. In particular, power companies had to fear sometimes hefty price rises on the derivatives markets and substantial collateral calls. Consequently their liquidity could have come under significant pressure.

In addition, given the global rise in risk from the non-bank financial institution (NBFI) sector, BaFin kept an eye on the supervised credit institutions’ exposure to shadow banks. The insights gained in this area are being used as the basis for more intensive reviews of the institutions’ exposures.

1.4 Risks caused by corporate loan defaults

Risks caused by corporate loan defaults⁴ are a core issue for Germany’s financial stability and were therefore another focus for BaFin in 2022. As Raimund Röseler, Chief Executive Director of Banking Supervision at BaFin, noted in a [lecture](#) in Frankfurt on 1 June 2022, loan defaults need watching given the uncertain economic and geopolitical situation. His emphasis was less on loans in default that were already reflected in banks’ balance sheets, he said. Rather, it would be essential to

discuss the defaults that might still arise as a result of current and future developments.

Another particular focus in the course of the year was on the impact of the war in Ukraine on the German economy. BaFin looked at how individual institutions were handling credit risk and whether they had recognised sufficient loan loss allowances.

1.5 Cyber risks

The number of successful cyber attacks – particularly those with severe consequences – observed in the German financial sector in the period up to the end of 2022 was not significant. However, cyber risks⁵ can be expected to rise. To contain them, BaFin stepped up its IT inspections at credit institutions and other financial sector companies in 2022. The inspections focused primarily on the extent to which supervisory IT requirements ([BAIT](#), [VAIT](#) and [ZAIT](#)⁶) are being implemented at an operational level. One objective of the inspections was to identify material weaknesses at the individual entities. In addition, BaFin wanted to identify deficiencies that recurred across different institutions and sectors. In addition to banks, most of which were inspected by the Deutsche Bundesbank, the focus was on insurers, investment services providers and payment institutions.

“Are financial institutions still able to manage outsourced risks along an extremely fragmented value chain?” This is the question that Raimund Röseler asked in his [speech](#) at BaFinTech in Berlin on 18 May 2022. In BaFin’s opinion, even outsourcing to entities within one’s home country entails risk. And the more global the value chains became, the more significant such risks would be, Röseler said.

BaFin used the insights gained from the IT inspections to specify areas of emphasis for its practical work. The supervisors’ main goal is to ensure institutions’ operational resilience and raise the supervised institutions’ and entities’ awareness of BaFin’s requirements.

3 See “Risks in BaFin’s Focus 2022”, page 9 ff.

4 See “Risks in BaFin’s Focus 2022”, page 11 ff.

5 See “Risks in BaFin’s Focus 2022”, page 12 f.

6 The German abbreviations refer to the Supervisory Requirements for IT in Financial Institutions, Insurance Undertakings, and Payment Services and Electronic Money Institutions respectively.

1.6 Risks caused by inadequate money laundering prevention

Financial intermediaries run a particularly high risk of being misused for money laundering. BaFin restructured its Anti-money Laundering Supervision Sector and expanded its headcount, so as to curtail the risks resulting from inadequate money laundering prevention⁷ and to step up its wide range of on-site and off-site measures. It took a large number of supervisory measures in both the banking and the non-banking areas in 2022.

BaFin's money laundering prevention activities in 2022 focused on non-banks such as payment services providers. These entities have become more important in recent years – among other things because a growing proportion of payment transactions are being transferred to them. These institutions are subject to the same rules as apply to banks with traditional business models. The German Money Laundering Act (*Geldwäschegesetz*) does not make a distinction here. In particular, this means that they are covered by the know-your-customer principle, i.e. the duty to identify their clients.

⁷ See "[Risks in BaFin's Focus 2022](#)", page 13 f.

BaFin also strengthened its supervision of investment institutions and crypto asset transactions. BaFin directly supervises institutions that conduct crypto custody business and that perform crypto securities registration services. These, too, must comply with the extensive supervisory requirements.

Enhanced powers

BaFin's Anti-money Laundering Department, like its other supervisory sectors, was assisted in its outsourcing inspections in 2022 by the revisions to section 44 of the German Banking Act (*Kreditwesengesetz*) that were introduced in 2021 by the German Act to Strengthen the Integrity of the Financial Markets (*Finanzmarktintegritätsstärkungsgesetz*)⁸. Before this, inspections could only be performed at the outsourcing institutions. When the Act to Strengthen the Integrity of the Financial Markets entered into force, BaFin has gained direct access to the companies providing outsourced services. As a result, the identification and rectification of irregularities at such a company lead directly to improvements at a number of institutions.⁹

⁸ See page 16 of the [Annual Report 2021](#) for information on the Act to Strengthen the Integrity of the Financial Markets.

⁹ The topic of outsourcing is also discussed in the "Bases of supervisory practice" sections of the individual chapters on BaFin's supervisory activities.

At a glance

Basic payment accounts for refugees from the war in Ukraine

For humanitarian reasons, BaFin made it easier in [2022](#) for people who had sought refuge in Germany as a result of the war in Ukraine to open basic payment accounts. As BaFin President Mark Branson emphasised in his [speech](#) at BaFin's Annual Press Conference in May 2022, BaFin was also mindful of these people's fate. "It was important to us to provide fast and unbureaucratic help for these people."

The background to this is that banks are required by law to check the identity of people who apply to open accounts. To do this, they need proof of identity, among other things. The documents that can be used for this are set out in the Money Laundering Act and the German Payment Account Identity Verification Regulation ([Zahlungskonto-Identitätsprüfungsverordnung](#)).

In [March 2022](#), BaFin emphasised that credit institutions under its supervision would not face any supervisory consequences if they used a valid Ukrainian identity card to validate the data that they are required to collect in accordance with section 11 (4) no. 1 of the Money Laundering Act when opening a basic payment account for refugees from the war zone.

BaFin clarified in its [April 2022](#) supervisory statement that it would not object, in certain circumstances, if refugees opening basic payment accounts did not have a Ukrainian identity document complying with the requirements of section 12 of the Money Laundering Act or an arrival certificate pursuant to section 63a of the German Asylum Act (*Asylgesetz*).

BaFin's anti-money laundering activities were on the right track, wrote Birgit Rodolphe in a [comment piece](#) on the occasion of BaFin's December 2022 [conference](#) on combating money laundering and terrorist financing. However, BaFin was still a long way away from achieving its objective, emphasised the Chief Executive Director of Resolution and Prevention of Money Laundering. The prevention of money laundering has become a hot topic, she added, and the speed at which technologies are evolving has increased significantly, too. "The requirements governing the prevention of money laundering are increasing, resulting in further challenges for both the entities under BaFin's supervision and for BaFin itself", she explained (see info box entitled "FATF reviews money laundering prevention in Germany").

→ Facts and figures on the measures taken by Anti-money Laundering Supervision can be found starting on page 93 of this report.

1.7 Risk from ongoing digitalisation

BaFin looked closely at the future risk posed by digitalisation in 2022.¹⁰ It held eight workshops in 2022 addressing practical applications of machine

learning (ML) and artificial intelligence (AI) in the insurance sector. BaFin used these workshops to collect examples of applications from insurers, so as to obtain an overview of the status and speed of developments. The agenda covered the use of ML and AI not only in insurers' risk models but also along the entire value chain. The main focus was on issues relating to business organisation, consumer protection and IT infrastructure. Insurance Supervision is now using the insights from the workshops to develop an inspection policy.

1.8 Sustainability risks

In BaFin's opinion, companies in the financial sector and the BaFin itself need to look closely at the issue of sustainability and the risks resulting from it.¹¹

BaFin President Mark Branson spoke about the complexity of the issue in his [keynote speech](#) at BaFin's second [Sustainable Finance Conference](#) in Berlin on 13 September 2022, saying that sustainability has implications for both companies and consumers. This applied in particular/for example to the issue of greenwashing: "Trusting that a simple label alone can make the world a better place may seem like a good thing. But from a supervisory perspective, transparency,

¹⁰ See "[Risks in BaFin's Focus 2022](#)", page 15 f.

¹¹ See "[Risks in BaFin's Focus 2022](#)", page 16 f.

At a glance

FATF review of money laundering prevention in Germany

The Financial Action Task Force (FATF) published its [evaluation report on money laundering prevention in Germany](#) on 25 August 2022. The report takes a generally positive view of BaFin's work. For example, the assessors highlighted the following positive aspects: the strong understanding of risk in anti-money laundering and terrorist financing prevention; the differentiated, risk-based supervisory approach, and BaFin's combination of its own inspections and audits by financial statement auditors.

At the same time, the FATF made recommendations. In the assessors' opinion, BaFin can [further](#) improve AML supervision in the non-bank financial sector and the rectification of shortcomings at individual financial institutions, particularly at major banks.

Birgit Rodolphe, who as Chief Executive Director heads up BaFin's money laundering prevention activities, among other things, said she was pleased that the FATF had acknowledged BaFin's progress in preventing money laundering. "We agree with its recommendations and will implement them as part of our efforts to further enhance our anti-money laundering supervision", she announced.

clear standards regarding the minimum amount of sustainable assets in a specific product and a market-driven selection of different types of sustainable financial products are a better way to accommodate investor preferences.” Investors had to be allowed to decide for themselves what they defined as “green”.

The background to this is that, since August 2022, providers of investment products have been obliged to enquire about consumers’ sustainability preferences as part of the consultation process. However, investors can only make conscious and well-informed decisions about investment products if they know what the content and the purpose of these products are. This means that products have to be labelled appropriately.

BaFin’s administrative practice

Despite the regulatory uncertainty that remains, BaFin’s administrative practice helps ensure that German retail funds are not permitted to be labelled as “sustainable” if their fund rules do not fulfil certain minimum requirements. BaFin checks that this is the case. Between August 2021 and the end of 2022, BaFin approved the fund rules for more than 150 German retail funds, confirming that these funds fulfil the sustainable investment criteria defined in its administrative practice. The funds were required to prove to BaFin that they meet all the latter’s new transparency standards and rules on sustainable product content. This action by BaFin served to combat greenwashing and encouraged investor responsibility by ensuring transparency with respect to sustainability.

2 Key areas of supervisory practice

2.1 New financial reporting enforcement structures

Since the beginning of 2022, financial reporting enforcement has been BaFin’s sole responsibility. The previous two-tier procedure – with the German Financial Reporting Enforcement Panel (Deutsche Prüfstelle für Rechnungslegung) serving as tier 1 and BaFin as tier 2 – did not prove sufficiently effective. BaFin’s rights to examine the financial statements of companies listed in Germany were strengthened significantly by the Act to Strengthen the Integrity of the Financial Markets.

At a glance

Investigations of companies’ financial reporting in 2022

BaFin completed 40 investigations of companies’ financial reporting in 2022. Of this total, 14 were ad hoc inspections and 26 were random sampling examinations. BaFin identified and published errors in the case of 11 investigations. These also included the partial error findings published on [1 August 2022](#) and [17 November 2022](#). 2022 was the first time this instrument was used. BaFin also announced seven examination orders in 2022. This brought the total number of announcements on its investigations of companies’ financial reporting to 18 in 2022.

→ Additional information on BaFin’s activities in the areas of the investigation of companies’ financial reporting and securities supervision can be found starting on page 65 of this report.

“The risk of getting caught was never higher”, said Dr Thorsten Pötzsch in a [lecture](#) he gave at Vienna University of Economics and Business in September 2022. As Pötzsch, who also heads up the Financial Reporting Enforcement unit, underlined, “We have learned from the Wirecard scandal. We are in a much better position today. We have more powers – for example with respect to public relations – and we certainly use them.” Among other things, BaFin can publish examination orders, allowing the market to see when an examination is launched. What is more, BaFin can now also inform the public of key steps in procedures and of the results of its examinations (see info box entitled “Investigations of companies’ financial reporting in 2022”). All in all, its significantly enhanced options for public relations are among the key tools in financial reporting enforcement, according to Pötzsch.

2.2 BaFin presents consumer protection strategy

BaFin presented its [consumer protection strategy](#) at its Consumer Protection Forum on 22 November 2022. The goal of the strategy is to enable consumers to navigate in a transparent, fair environment. “The requirements placed on consumers are rising every day”, [said](#) Mark Branson. This is why a Supervisory Authority that adequately protects citizens is needed, he added. As the

BaFin President emphasised, “A lot is expected of us. We want our new consumer protection strategy to offer a fitting answer to current challenges.” Branson’s speech also made clear that, thanks to its solvency supervision activities, BaFin is an integrated authority and takes an end-to-end approach that goes beyond consumer protection in the narrower sense of the word: “We intend to make even more of this advantage going forward.”

The new consumer protection strategy has four main components:

1. BaFin is continuing to expand its market monitoring activities in the direction of data-based supervision so as to obtain an even better market overview and to be able to identify relevant issues at an even earlier stage.
2. BaFin is intensifying its proactive and bold approach to supervision and is taking action as soon as there are indications of any irregularities.
3. BaFin is contributing indirectly to improving financial education and is informing consumers, consumer protection organisations and multipliers. The objective is for consumers to be able to act independently on the financial markets and to take decisions for themselves.
4. BaFin is working together with German and international players in the area of financial consumer protection, extending existing partnerships and looking for new partners, so as to ensure the most comprehensive consumer protection possible for all financial questions.

→ Further information on BaFin’s consumer protection activities can be found starting on page 83 of this report and on BaFin’s [website](#).

2.3 Guidance Notice: Customer benefits in the case of life insurance

Life insurance savings products should provide customers with appropriate value for money, and conflicts of interest in the distribution of these products should be avoided. To ensure both of these objectives, BaFin launched a consultation process on a draft Guidance Notice at the end of October 2022. The title is “Guidance Notice on Aspects of Conduct of Business Supervision for Savings Products”.

“Life insurance savings products often only make economic sense for customers if the insurance policy is maintained for a certain period”, said Chief Executive Director Dr Frank Grund in a speech at the Zukunftsforum Assekuranz event on 19 September 2022. This was why it was even more important that insurers take consumer protection requirements extremely seriously during the product development process, he continued. “This applies in particular to a product’s value for money, or the benefit that it offers customers.”

Grund emphasised that inappropriately high costs reduced the value for money. He said it was true that there were no statutory regulations governing the size of the costs that could be charged. However, statutory rules of conduct required life insurers to pay attention

At a glance

BaFin specifies maximum duration for securities account transfers

One of the core elements of BaFin’s [consumer protection strategy](#) is that it boldly and systematically deploys its supervisory tools in areas where it considers that irregularities exist. In March 2022, it provided concrete assistance to a large number of consumers by issuing FAQs [specifying](#) a maximum duration for processing securities account transfers by institutions. The FAQs stipulate that securities account transfers should not generally take longer than three weeks. Prior to this, a large number of consumers had complained to BaFin about delays in such transfers.

A market survey performed in November 2022 at 20 banks and savings banks confirmed the positive effect of BaFin’s rule: institutions accelerated the speed with which they transferred securities accounts in Q2 and Q3 2022 in particular – immediately after the FAQs were published. The average customer wait in Q3 2022 declined by roughly two days compared to the prior-year quarter and by a good five days compared to Q3 2020. This resulted in an average wait in Q3 2022 of just under six days. At the same time, transfer requests with a processing time of more than three weeks accounted for less than 2% of the total following publication of the FAQs ([expert article](#)).

to an appropriate price-performance ratio when designing their products as part of the product approval process.

Another important point: "High distribution remuneration can also lead to inappropriate incentives at the point of sale. In other words, they can conflict with the provision of open-ended information and advice to policyholders", Grund explained.

Focus on the product approval process

The draft consultation paper concentrates mainly on the product oversight approval process. The objective is for insurers to ensure that their products provide the intended value for money and to establish the processes required by law for this purpose. Insurers have to make sure this is the case during product testing.

The distribution remuneration requirements set out in the draft consultation paper are designed to avoid inappropriate incentives.

Risk-based supervision

BaFin also explains its risk-based supervisory approach in the draft. In line with this approach, BaFin will examine in detail those insurers for which the reduction in yield for savings products is particularly high. In addition, BaFin will closely examine those insurers whose expenses for insurance intermediaries stand out as being unusually high. The main focus here will be on high levels of acquisition commission.

2.4 More efficient and more risk-oriented market surveillance

Market surveillance by BaFin is essential to ensuring a capital market that is based on integrity; this applies especially to the prevention of insider trading or market abuse. Starting at the beginning of 2022, BaFin successively restructured its Market Surveillance Directorate in order to organise these important tasks in an even more efficient and risk-based manner. "We have [...] completely changed the focus of the five investigative divisions", reported Chief Executive Director Dr Thorsten Pötzsch in his welcoming speech at BaFin's Forum on White-collar Crime and the Capital Market. The divisions are now focused on specific corporate sectors such as banking, insurance and real estate. To achieve this, BaFin defined a total of 19 sectors on the basis of commonly used market standards. In contrast to the practice to date, each investigative division now

covers the entire range of supervisory activities: ad hoc disclosure, managers' transactions, investigation of insider trading and market manipulation, short selling and voting rights, Pötzsch added.

→ Facts and figures on Market Supervision can be found starting on page 65 of this report.

2.5 Focused supervision and Task Force

BaFin's focus units supervised a total of 20 banks, insurers, securities firms and payment services providers as at the end of 2022. The job of these units is to supervise entities that are being specially monitored by BaFin, e.g. because they have a particularly complex or innovative business model ([expert article](#)). The goal of the focus units is to identify critical risks early on and take appropriate action.

The focus units have enabled BaFin to further strengthen its overall view of the supervised entities: if a focus unit decides to monitor a particular entity, it acts as the central coordination point for all BaFin's activities relating to it. In 2022, this led to significantly more in-depth supervision of the entities concerned. As a result, BaFin increased the number of both the individual measures and cross-sectoral packages of measures in 2022 to ensure that the institutions are organised in a due and proper manner. It also published these measures on its [website](#).

On site: BaFin's Task Force

BaFin's Task Force helps operational supervisors examine suspicious cases by enabling rapid deployment, including on site at the companies concerned. To do this, it calls on experts from all BaFin sectors ([expert article](#)). In 2022, this multidisciplinary unit was successfully deployed seven times. In addition, two deployments were launched in 2022 but had not been completed by the editorial deadline.

The deployments in 2022 varied widely: for example, the Task Force performed a forensic back-up so as to investigate accusations of manipulation made by a whistleblower. In addition, the Task Force assisted the public prosecutor's office in a search relating to an accusation of investment fraud. On another occasion, the Task Force helped investigate external tip-offs during an authorisation procedure and assisted the units responsible for operational supervision by contributing its expertise in forensic interview techniques.

The Task Force is deployed in the first instance to help shed light on critical issues. However, these deployments regularly lead to BaFin taking supervisory measures. In this way, the Task Force strengthens BaFin's supervisory activities in general and is helping BaFin to improve the speed and quality of its supervisory decisions.

The Coordination of Focused Supervision & Task Force Office – or “KFT” for short in German – coordinates and manages BaFin's focus units and the Task Force. Both units were launched in mid-August 2021.

3 Key areas of BaFin's modernisation activities

3.1 Transformation management

BaFin continued its modernisation process in 2022. The Transformation Management Office, which was established during the year, played a key role here. Its objective is to support BaFin in its ongoing modernisation process and to create the appropriate framework for this.

Transformation Management uses the modernisation agenda that was established in 2022 to bundle projects that are particularly relevant for change and for BaFin's development. The agenda creates transparency and serves as the basis for the central management of BaFin's modernisation projects by its Executive Board. Another internal management instrument is the investment management process, which assists the Executive Board in setting priorities for, and managing, the most important and costly projects.

Focus areas of modernisation

One of the focus areas of BaFin's modernisation efforts in 2022 are its continuous improvements to structures and processes. This includes optimising and digitalising processes to an even greater extent. For example, BaFin automated selected processes using robotic process automation (RPA) software in 2022 and has already enhanced its efficiency.

In its ongoing modernisation process, BaFin also focused on strengthening new ways of working and hence also promoting internal networking among employees. BaFin explicitly encourages interdisciplinary cooperation between different divisions, and made significant progress in this area in 2022. The goal is to leverage its potential as an integrated authority while also laying the foundations for further developments to its culture.

Modernisation is one of BaFin's medium-term objectives (see info box), although BaFin President Branson considers it to be a permanent task.

At a glance

A BaFin medium-term objective – modernisation and a bold supervisory culture

BaFin is continuously enhancing its working methods and supervisory culture, especially by digitalising its processes and using modern technologies in its supervisory activities, so as to increase the speed and quality of its supervisory decisions.

Efficiency gains achieved are reinvested, enabling BaFin to be more effective with the available resources.

3.2 New Strategy, Policy and Control Sector

The new Strategy, Policy and Control (SPS) Sector started work on 1 April 2022. SPS is responsible for BaFin's central, overarching management, policy and control functions. Rupert Schaefer, who was previously an Executive Board member at FINMA, the Swiss Financial Market Supervisory Authority, became Chief Executive Director of the new Sector in November 2022 (see info box on page 24).

→ Information about the SPS Sector's activities in 2022 can be found starting on page 27 of this report.

At a glance

New faces on BaFin's Executive Board

BaFin's Executive Board was expanded in 2022 and all positions on it have now been filled following the personnel changes.

Rupert Schaefer became Chief Executive Director of the new Strategy, Policy and Control Sector at the beginning of November 2022.

Before joining BaFin, Schaefer worked for the Swiss Financial Market Supervisory Authority (FINMA) from 2010 until 2022, and was a member of its Executive Board from 2015 onwards. Until 2020, he was responsible for the Strategic Services Division and following this was Head of the Recovery and Resolution Division.

"Modernisation also means ensuring a goals-driven organisation", said BaFin President Mark Branson when Schaefer moved to BaFin. "Rupert Schaefer's first-rate expertise will allow him to play a key role in enhancing our way of working and our supervisory culture", he announced.

As at 1 November 2022, Silke Deppmeyer took over the leadership of the Internal Administration Sector, initially on an interim basis. She was appointed as its Chief Executive Director on 6 February 2023.

A lawyer by training, Deppmeyer has held a number of management positions during her 20 years at BaFin. Most recently she was head of the Transformation Management Office. In addition, Deppmeyer became the interim head of the new Strategy, Policy and Control Sector in April 2022.

BaFin President Mark Branson emphasised Silke Deppmeyer's proven specialist and management expertise, saying that she was the right person to drive forward the modernisation process in areas of IT, human resources and budgetary affairs.

At a glance

BaFin's organisation chart

BaFin's current organisation chart can be found on its [website](#).

3.3 Rules for private financial transactions

Since 1 September 2022, private financial transactions by BaFin employees have been subject to some of the strictest rules in the world, according to BaFin President Mark Branson. This was the day on which new official instructions took effect, replacing the transitional rules dated 16 October 2020. BaFin had issued these as one of the lessons learned from the Wirecard AG events.

In combination with the German Act Establishing the Federal Financial Supervisory Authority (*Finanzdienstleistungsaufsichtsgesetz*), the new official instructions prohibit BaFin employees from trading in financial instruments issued by supervised companies and in financial instruments that are traded on a German organised market. Equally, BaFin employees may not engage in speculative financial transactions, e.g. in derivative financial instruments or equities.

All BaFin employees must report all financial transactions from the first euro onwards. They are forbidden as a matter of principle from trading in financial instruments relating to credit institutions, insurance undertakings and other financial institutions domiciled in the European Union. Additional restrictions apply to roughly 10% of employees: in particular, Market Supervision staff are not permitted to trade in financial instruments that have been admitted to trading on the regulated unofficial market (*Freiverkehr*). BaFin's Compliance team constantly checks whether these rules are being observed.

II

Strategy, Policy and Control

An abstract graphic consisting of numerous thin, white, overlapping curved lines that sweep across the page from the left side towards the right. The lines vary in length and curvature, creating a sense of movement and depth. The background is a solid, vibrant red color.



1 New Strategy, Policy and Control Sector at BaFin

By establishing the new Strategy, Policy and Control (SPS) Sector on 1 April 2022, BaFin continues its modernisation process. SPS is responsible for BaFin's central, overarching management, policy and control functions. At the end of 2022, this covered the following divisions: Strategy, Risk and Innovation; International Policy and Financial Stability; Communications; Central Legal Department and Compliance; Transformation Management; the Data Intelligence Unit; and the Coordination of Focused Supervision & Task Force Office.¹

Rupert Schaefer,² who was previously an Executive Board member at FINMA, the Swiss Financial Market Supervisory Authority, became Chief Executive Director of the new Sector at the beginning of November 2022.

¹ See for [chapter I](#) further details on the new Sector, Focused Supervision, the Task Force and Transformation Management.
² See [chapter I.3.2](#) for further information on Rupert Schaefer.

2 Digitalisation/Financial innovation

2.1 BaFinTech 2022

In a period of digital transformation, BaFin considers direct dialogue between the supervisory authority, the financial industry, policymakers, academia and consumers to be particularly important. BaFin uses BaFinTech and other such events to achieve this. BaFinTech was held for the fourth time in 2022. As in the past, there was keen interest in the conference, which was held in Berlin on 18 and 19 May 2022 and was attended by more than 600 experts. The event was hosted jointly by BaFin and the Deutsche Bundesbank for the first time.

Focuses at BaFinTech 2022 included machine learning, decentralised finance (DeFi), crypto assets and open finance. BaFin President Mark Branson underscored BaFin's openness to innovative topics and companies. However, he said that BaFin also had to ensure that existing rules are observed: "Any company that wants to be admitted to the regulated financial market must prove to us that it has what it takes."

2.2 Dialogue with fintechs

BaFin aims to support and advise innovations early on and in a competent manner (see info box). In line with this, it expanded and restructured the information available on its website in September 2022. The resulting [FinTech Innovation Hub](#) was received extremely positively.

At a glance

A BaFin medium-term objective: innovation

BaFin has a comprehensive understanding of how new technologies are being used on the market, the risks they involve and their impact on new and old business models. BaFin responds to these issues in its operational supervision and rule-setting, without favouring specific technologies or business models. Customers should be able to benefit from innovation without being unduly exposed to the risks associated with the technology. BaFin also focuses on the use of artificial intelligence in finance and the challenges this entails for effective supervision.

The hub offers information on innovations and business models in the area of financial technology. It uses FAQs, which are updated on an ongoing basis, to inform companies in a succinct manner. It also provides a digital contact form that enables swift contact with BaFin's experts. This is another way in which BaFin can identify new questions and trends early on. Where it makes sense from a supervisory perspective, BaFin initiates workshops with relevant market participants or takes other strategic measures. For example, in 2022 it held workshops on new identification procedures and decentralised finance (DeFi).

2.3 Support for legislative projects

In 2022, SPS provided expert support for the Federal Ministry of Finance (*Bundesministerium der Finanzen*) in a number of legislative procedures. One example is MiCAR, the EU's Regulation on Markets in Crypto-assets, which is expected to be applied in full in 2024. MiCAR will lead to BaFin being entrusted with new tasks, for which it prepared in 2022.

Another example is the cross-sector regulation of artificial intelligence (the [EU's Artificial Intelligence Act](#)). Yet another is the European Commission's planned framework for the open exchange of data between companies in the financial sector, known as "Open Finance". The Commission intends to publish proposed legislation on this subject in Q2 2023. BaFin discussed potential preconditions for paving the way for open finance in the European Union with market participants at [BaFinTech 2022](#) ([expert article](#)).

3 Sustainable finance

Centre for Sustainable Finance

Sustainability³ and sustainable finance are another of BaFin's 10 [medium-term objectives](#) (see info box on page 29). The topic is also addressed in more detail in the "[Risks in BaFin's Focus](#)".⁴ Sustainable finance is a cross-sector topic that is being discussed in depth both in Germany and internationally. It is important that BaFin, where relevant, actively involves itself in this discussion. This is why it established the Centre for Sustainable Finance (*Zentrum Sustainable Finance – ZSF*) at the end of 2021. The ZSF coordinates strategic questions at an overarching level within BaFin and works together with the individual sectors to develop BaFin's positions on sustainability in the financial sector.

Together with BaFin's Central Events Management unit, the ZSF organised a conference entitled "Sustainable Finance – New EU Standards, Risk Management and Supervisory Practice" in September 2022 ([expert article](#)). Roughly 1,000 participants used the occasion to obtain information on topics such as the EU's Sustainable Finance Disclosure Regulation and how companies are dealing with sustainability risks in their risk management systems. This was the second Sustainable Finance Conference to be held.

³ See [chapter II.4.2](#) for more information relating to sustainability.

⁴ See [chapter I.1](#) for the "Risks in BaFin's Focus".

At a glance

A BaFin medium-term objective: sustainability

BaFin integrates sustainability issues in its supervisory activities. Its focus here is on the analysis and mitigation of financial risks for the supervised undertakings and on compliance with disclosure requirements.

BaFin protects consumers by combating misleading marketing practices (“greenwashing”).

Participation in regulatory initiatives

The ZSF and representatives of other organisational units also contributed to the ongoing development of sustainable finance regulation at EU level. For example, since May 2022 BaFin has been a member of the working groups set up by the three European Supervisory Authorities (ESAs) to answer a [call for advice](#) from the European Commission on greenwashing – a topic that BaFin also takes very seriously in its supervisory practice.

BaFin is also involved, via the ESAs’ Joint Committee, in the interpretation of and updates to the [Regulatory Technical Standards](#) (RTSs) for the Sustainable Finance Disclosure Regulation (SFDR), which have had to be applied with effect from 1 January 2023 ([expert article](#)).⁵

The ZSF also represented BaFin as a permanent observer on the [Federal Government’s Sustainable Finance Advisory Committee](#) and as a member of the [Network of Central Banks and Supervisors for Greening the Financial System](#). It is active here as a member of the “Supervision” workstream. Rupert Schaefer, Chief Executive Director of BaFin’s Strategy, Policy and Control (SPS) Sector, is a member of the NGFS’s Steering Committee.

⁵ See [chapter II.4.2](#) for information on the European Supervisory Authorities’ work on sustainable finance.

4 BaFin’s international role

4.1 Bilateral and multilateral cooperation

BaFin works closely together with supervisory authorities in other countries. The formal basis for this cooperation generally consists of bilateral and multilateral memoranda of understanding (MoUs) between BaFin and its partner institutions (see the table in the Appendix on page 104).

Within the European Union (EU), cross-border cooperation largely takes place under the umbrella of the European supervisory organisations. However, BaFin is also represented on the global standard-setting bodies (see info box entitled “BaFin’s international role” on page 30). The list below shows selected work in which BaFin was involved.

Stability assessment by the International Monetary Fund

The German financial sector weathered the consequences of the COVID-19 pandemic relatively well. This is the conclusion of a [report](#) published by the International Monetary Fund (IMF) in July 2022 as part of its Financial Sector Assessment Programme (FSAP). According to this report, the war in Ukraine also has not yet had any major impact on Germany’s financial sector. The FSAP assesses the financial stability of, and selected supervisory issues in, individual countries. Where necessary, the IMF recommends actions that should be taken. FSAP assessments are normally performed every five years. Germany was assessed in 2021 and 2022.

The IMF made a number of recommendations to key players such as BaFin in its report. The recommendations related to a number of supervisory areas: for example, banks should expand their analytical capacity for assessing climate risks, monitoring lending standards and collecting data in the real estate area. As regards insurance, for example, liquidity management reporting requirements should be enhanced and the frequency of on-site inspections reviewed.

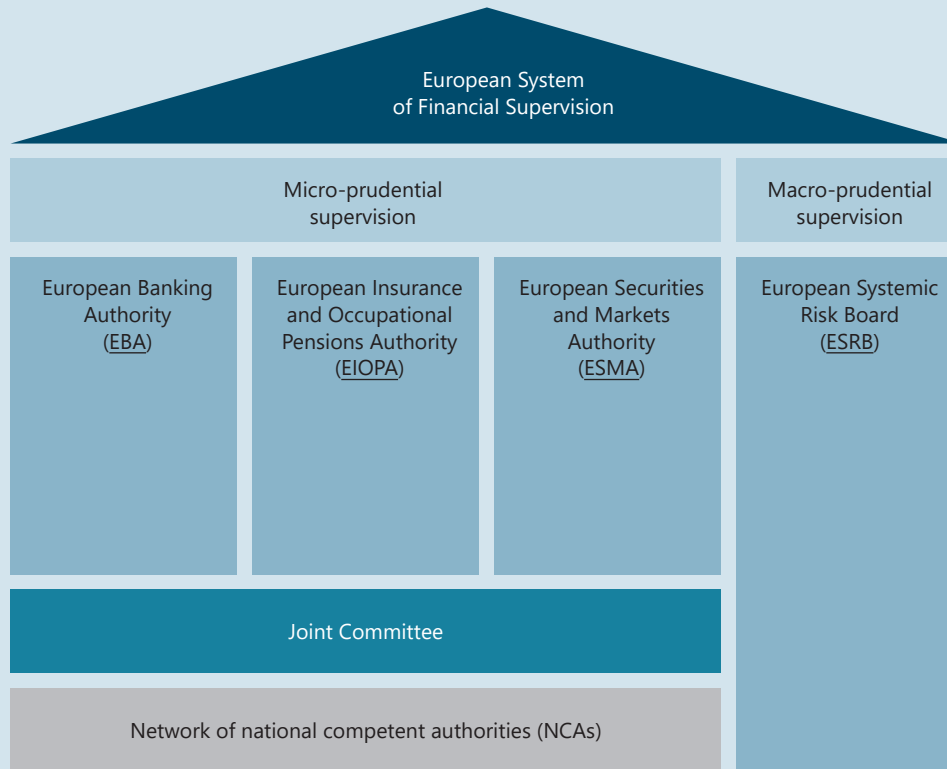
BaFin generally implements the IMF’s recommendations – depending on the areas of responsibility involved this is done either alone or in conjunction with the other players responsible.

BaFin's international role

BaFin's role in the European System of Financial Supervision

BaFin is an active participant in the European System of Financial Supervision (ESFS), which was established at the start of 2011.

Figure 1: European System of Financial Supervision



The three European Supervisory Authorities (ESAs) are responsible for preparing technical standards for the European Commission on the basis of EU Regulations and Directives (Level 2 of the European legislative process). The ESAs also publish their own guidelines and recommendations (Level 3).

Figure 2: The levels in the EU's legislative process and the role of the ESAs



Another core task performed by the ESAs is ensuring that the national competent authorities apply these provisions on a convergent basis. Despite their name, however, the ESAs – apart from a few closely defined exceptions – are not supervisory authorities. The Joint Committee works on topics which are significant across all sectors. The ESAs and the Joint Committee operate at a micro-prudential level.

The European Systemic Risk Board (ESRB), which is attached to the European Central Bank (ECB), is responsible for macro-prudential matters. It is tasked with identifying systemic risks for the European financial system and issuing warnings on them at an early stage. The micro- and macro-prudential levels are closely dovetailed to ensure that information flows between them in both directions.

BaFin's role in the European banking union

At the level of the European banking union, BaFin forms part of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM).

BaFin's role in global organisations

BaFin is also a member of a number of global bodies, such as

- the International Organization of Securities Commissions (IOSCO),
- the International Association of Insurance Supervisors (IAIS),
- and the Basel Committee on Banking Supervision (BCBS). BaFin is also represented on the BCBS's supervisory body – the Group of Governors and Heads of Supervision (GHOS).

Within these international associations, BaFin collaborates on the development of global regulatory standards. In addition, it is involved, for example, in the Financial Action Task Force (FATF) and the Islamic Financial Services Board (IFSB).

BaFin is also represented on the Financial Stability Board (FSB). The FSB's tasks include monitoring the international financial system. If it discovers any weak points in the process, it makes proposals on how to eliminate them.

4.2 The Work of the ESAs and the ESRB

EBA

One focus of the work by the European Banking Authority (EBA) in 2022 was on monitoring the long-term effects of the COVID-19 pandemic on the banking sector. The EBA drafted three Regulatory Technical Standards (RTS) for implementing the Risk Reduction Measures package: one on identifying groups of connected clients, one on internal modelling of interest rate risk in the banking book and credit spread risk in the banking book, and one on applying supervisory outlier tests. These last-mentioned RTS were supplemented by guidelines on own funds and eligible liabilities.

In 2022, the EBA prepared the 2023 EU-wide stress test for the banking sector, publishing the milestone dates, methodology, draft templates and template guidance for this in November. This stress test is performed every

two years. In May 2022, the EBA published a discussion paper on environmental risks. The objective is to better integrate such risks into Pillar 1 of the prudential framework. The EBA's final report was still under development at the time this report was published. The EBA provides detailed information on its activities on its website.

Raimund Röseler, Chief Executive Director of Banking Supervision, represents BaFin on the EBA's Board of Supervisors. In addition, Birgit Rodolphe, Chief Executive Director of Resolution and Prevention of Money Laundering, is a member of the EBA's Resolution Committee.

EIOPA

In 2022, the European Insurance and Occupational Pensions Authority (EIOPA) published supervisory statements on inflation, exclusions in insurance products, non-affirmative cyber exposures and the supervision of

run-off undertakings. It also revised its Guidelines on Contract Boundaries and its Guidelines on the Valuation of Technical Provisions. Furthermore, EIOPA collected information on greenwashing to answer a call for advice from the European Commission. In addition, it published a Discussion paper on the Prudential Treatment of Sustainability Risks, the comments period for which ended on 5 March 2023.

Since June 2022, EIOPA has been working on a call for advice from the European Commission on the planned review of IORP II (Directive on the activities and supervision of institutions for occupational retirement provision). EIOPA has until 1 October 2023 to answer.

In 2022, EIOPA headed the first climate stress test for institutions for occupational retirement provision (IORPs). One of the objectives was to improve the latter's handling of climate risks. EIOPA published the results on 13 December 2022. Additional information on EIOPA and its activities can be found on the EIOPA website.

Dr Frank Grund, Chief Executive Director for Insurance and Pension Funds Supervision, represents BaFin on EIOPA's Board of Supervisors and Management Board.

ESMA

The work of the European Securities and Markets Authority (ESMA) in 2022 was largely dominated by the impact of inflation, volatility and market uncertainty.

Sustainability also played a major role in ESMA's annual work programme for 2022, as in the past. In the autumn, ESMA launched a consultation on guidelines on fund names using sustainability-related terms.

ESMA also continued its work on supervisory convergence in 2022. After four peer reviews, it gave the national supervisors affected recommendations on how to improve the quality and convergence of their supervisory activities. Additional information on ESMA and its work can be found on its website.

BaFin Chief Executive Director Dr Thorsten Pötsch was elected to ESMA's Management Board on 25 January 2022. He has also been chair of ESMA's new Sustainability Standing Committee since 14 December.

ESRB

In February 2022, the European Systemic Risk Board (ESRB) published a recommendation on vulnerabilities in Germany's residential real estate sector. This drew attention to the clear overvaluation of residential real estate prices. It also recommended taking capital-based

measures to enhance the resilience of German credit institutions and capping the maximum loan-to-value ratio for properties being financed. BaFin took this warning, among other things, into account in its package of macro-prudential measures. This comprises a countercyclical capital buffer of 0.75% of risk-weighted assets on domestic exposures and a sectoral systemic risk buffer of 2.0% of risk-weighted assets on loans secured by residential property.⁶

In September 2022, the ESRB warned of vulnerabilities in the EU financial system due to geopolitical tensions, high inflation, interest rate rises and higher energy costs. Among other things, it called on supervisory authorities – in view of the resulting rise in credit risks – to increase banks' resilience, urging the authorities not to release any capital buffers at present.

Additional information on the ESRB's work can be found on its website. President Mark Branson represents BaFin on the ESRB.

4.3 Work by global standard-setters

BCBS

In December 2022, the Basel Committee on Banking Supervision (BCBS) published regulatory requirements for the prudential treatment of crypto asset exposures. Under the standard, banks are required to classify crypto assets into two groups for the purposes of capital requirements: those that meet a set of classification conditions and those that fail to meet these conditions (see Figure 3 on page 33). Among other things, the classification conditions specify that certain redemption rights must exist and that the issuers of the crypto assets are subject to prudential supervision. The new rules must be transposed into national law in the Member States by 1 January 2025.

The BCBS provides detailed information about its work on its website. Chief Executive Director Raimund Röseler is a member of the Basel Committee on Banking Supervision.

IAIS

In 2022, the International Association of Insurance Supervisors (IAIS) assessed how the IAIS Holistic Framework for Systemic Risk in the Insurance Sector had been implemented. BaFin was one of ten supervisory authorities that successfully passed the Baseline

⁶ See chapter I.1.2 for information on BaFin's package of macro-prudential measures.

Assessment and the Targeted Assessment. The IAIS recommended that the Financial Stability Board (FSB) endorse the framework as a systemic risk monitoring tool in the insurance sector.

The third round of the monitoring period for the Insurance Capital Standard (ICS) was held. In addition, climate change continued to be a major topic for the IAIS in 2022. For example, the Association assessed the risks associated with climate change and expanded its sustainability capacity.

The IAIS provides detailed information about its work on its website. Chief Executive Director Dr Frank Grund is a member of the IAIS’s Executive Committee.

IOSCO

Sustainability and crypto assets dominated the work of the International Organization of Securities Commissions (IOSCO) in 2022. Other topics on the agenda included financial stability, non-banking financial institutions and the effects of the COVID-19 pandemic.

IOSCO’s call for action in November 2022 appealed for good practices to be promoted to counter greenwashing risk in relation to asset managers and ESG rating and

data providers. “ESG” stands for “environmental, social and governance”.

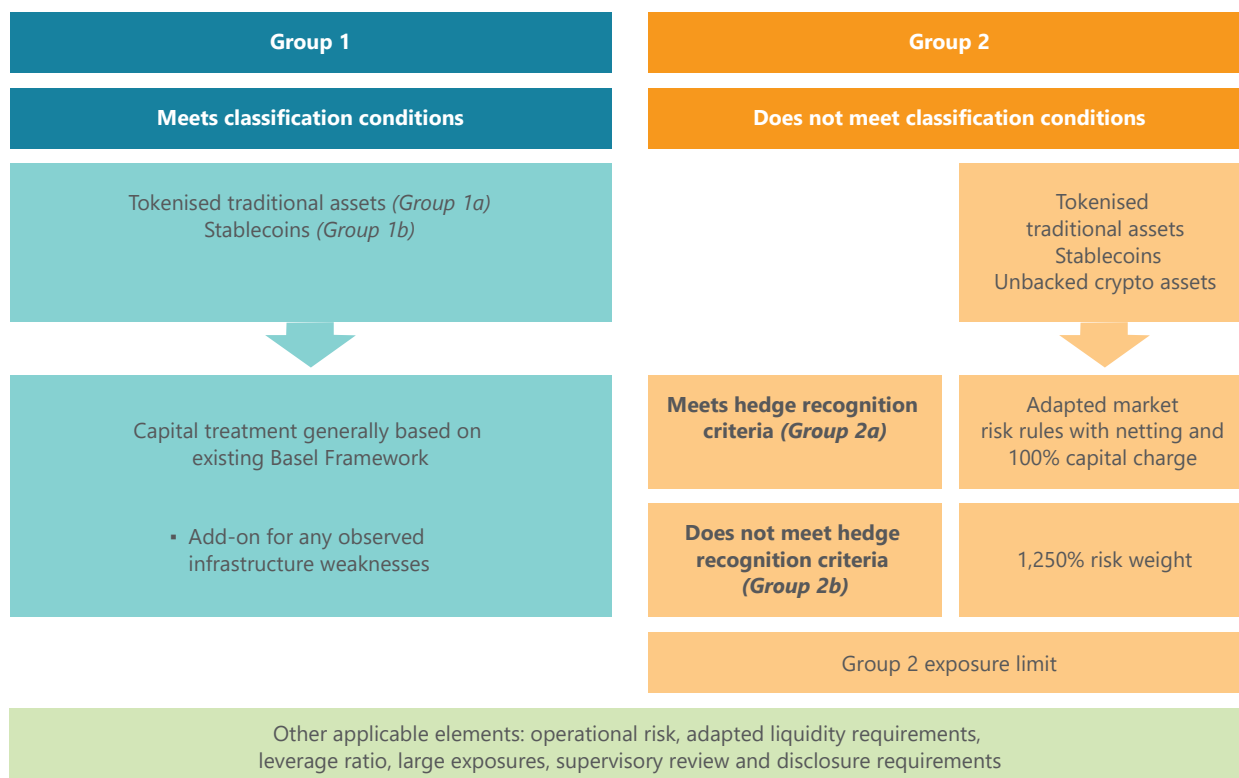
IOSCO’s Crypto Asset Roadmap for 2022–2023 laid the foundations in 2022 for global regulation of the market for crypto assets. IOSCO provides detailed information about its work on its website. Chief Executive Director Thorsten Pötzsch is a member of the IOSCO Board.

FSB

In 2022, the Financial Stability Board (FSB) focused among other things on the regulation of non-bank financial intermediaries (NBFIs), on digital innovations, on financial risks arising from climate change, and on improving the resilience and resolvability of central counterparties (CCPs). The FSB followed BaFin’s suggestion and resolved to set up a new working group in 2022. Its main task will be to review the efficiency of the individual reforms implemented in past years in its member jurisdictions at the FSB’s recommendation.

Detailed information on the FSB’s work can be found on the FSB website. BaFin President Mark Branson is a member of the FSB Plenary and of the FSB Steering Committee group on Non-bank Financial Intermediation (SCN).

Figure 3: Capital requirements for crypto asset exposures



Source: Basel Committee on Banking Supervision, Prudential treatment of crypto asset exposures, December 2022.

5 Contact point for whistleblowers and Market Contact Group

BaFin's [contact point for whistleblowers](#) gives the latter a way of reporting potential failures to comply with supervisory law. BaFin defines whistleblowers as individuals who, as a result of their personal or professional circumstances, have information about potential failures to comply with supervisory law that is not publicly known or accessible. The information they submit can be very helpful and valuable for financial supervisors, especially if it provides evidence of any misconduct. BaFin investigates such reports conscientiously and protects whistleblowers to the best of its abilities.

The [Market Contact Group](#) (MCG) attached to the contact point for whistleblowers serves as the contact point for market participants such as short sellers and analysts, as well as for academics and the media. These and other experts often have valuable information about market activities (see [expert article](#) on the BaFin website). In isolated cases, the Market Contact Group has also deliberately contacted market experts on its own initiative and has obtained important information as a result.

Change in the number of whistleblower reports

In 2022, BaFin's contact point for whistleblowers received 1,666 submissions (previous year: 2,281). A further 129 submissions were received via the Market Contact Group (previous year: 50; the MCG was only established in August 2021). The decrease in the number of submissions received by the contact point for whistleblowers is due among other things to the fact that BaFin now addresses whistleblowers, market participants and consumers even more precisely on the contact point's website and therefore channels the flow of submissions from these better. In addition – in contrast to the previous year – there was no particular single event leading in 2022 to mass submissions.

The contact point for whistleblowers examines and assesses all submissions and then forwards them to the divisions responsible for further handling. A total

of 403 reports received related to Banking Supervision, 710 to Securities Supervision (including Financial Reporting Enforcement and Consumer Protection) and 77 to Insurance Supervision. BaFin's Resolution Sector received 164 submissions relating to money laundering prevention and 664 relating to the integrity of the financial market. Reports that did not fall within BaFin's area of responsibility were forwarded to the relevant external bodies.

In 2022, the contact point for whistleblowers again received a large number of reports about potentially unauthorised business operations (567) and possible cases of fraud (397). A large number of submissions were also about consumer protection issues (148), market manipulation (137) and potential infringements of prospectus (118), anti-money laundering (108) or organisational (73) requirements. Other common topics for reports were crypto transactions (63) and potential breaches of compliance rules (60).

6 Sanctions

In 2022, BaFin initiated a total of 200 administrative fine proceedings (see info box on page 35). These proceedings under the German Act on Breaches of Administrative Regulations (*Ordnungswidrigkeitengesetz*) were brought against issuers, credit institutions, insurance undertakings, payment institutions, institutions engaged in finance leasing and/or factoring,⁷ and other legal persons covered by the specialist supervisory legislation. BaFin also instituted proceedings against the persons responsible for these entities, where necessary, and other natural persons. The proceedings were triggered by violations of provisions of the following German acts, among others, that are punishable by administrative fines:

- German Money Laundering Act (*Geldwäschegesetz*)
- German Investment Code (*Kapitalanlagegesetzbuch*)
- German Banking Act (*Kreditwesengesetz*)
- Benchmarks Regulation (Regulation (EU) 2016/1011)
- Market Abuse Regulation (Regulation (EU) No 596/2014)
- German Insurance Supervision Act (*Versicherungsaufsichtsgesetz*)
- German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*)

⁷ Section 1 (1a) sentence 2 nos. 9 and 10 of the German Banking Act (*Kreditwesengesetz*).

Definition

Measures or sanctions?

BaFin can take a large number of different measures to protect the integrity of the financial market and collective consumer interests; these are defined in various specialised pieces of legislation. This catalogue of measures enables BaFin to take action against both legal entities, i.e. undertakings, and natural persons. In addition to using classic supervisory law measures, BaFin can also pursue breaches of the law by imposing administrative fines. It does this by instituting proceedings under the Act on Breaches of Administrative Regulations.

The two options for taking action differ in terms of their objectives. Supervisory measures are intended to avoid risks materialising. In other words, they should be seen as preventive administrative actions that do not necessarily have to be prompted by a legal violation. Administrative fines, by contrast, are sanctions (i.e. repressive administrative acts). The word “repressive” is used because the law on breaches of administrative regulations aims to sanction breaches that have been established by imposing fines. Another goal of sanctions is to persuade the persons committing the breach to comply with the legal provisions in future.

- German Securities Trading Act (*Wertpapierhandelsgesetz*)
- German Payment Services Act (*Zahlungsdienstenaufsichtsgesetz*)
- German Payment Accounts Act (*Zahlungskontengesetz*)

Total volume of administrative fines

BaFin imposed administrative fines totalling **€33,375,350** across all of its sectors in 2022.

At a glance

Administrative fines imposed by BaFin

In 2022, BaFin imposed administrative fines totalling **€33,375,350**.

- Total administrative fines of **€9,111,000⁸** were attributable to Banking Supervision, Resolution, Prevention of Money Laundering and Insurance Supervision.
- Securities Supervision/Asset Management imposed a total of **€24,264,350** in administrative fines.

⁸ Including compensation of €4,500,000 seized under a confiscation order.

At a glance

New administrative fine proceedings initiated by BaFin

BaFin initiated 200 new administrative fine proceedings in 2022.

- Of this figure, 105 were attributable to Banking Supervision, Prevention of Money Laundering and Insurance Supervision.
- A total of 95⁹ were attributable to Securities Supervision/Asset Management.

Administrative fine proceedings initiated by Securities Supervision

BaFin's Securities Supervision/Asset Management Sector imposed administrative fines totalling roughly €24,264,350 in the reporting period for violations of capital markets law.¹⁰ A total of 95 were initiated, while 316 proceedings were still pending from the previous year. All in all, the Sector completed 175 proceedings, 68 of them by imposing administrative fines.

⁹ These figures also include the figures given in [chapter V.7](#).

¹⁰ This includes violations of the Securities Trading Act, the Securities Acquisition and Takeover Act, the Capital Investment Act (*Vermögensanlagengesetz*), the Securities Prospectus Act (*Wertpapierprospektgesetz*), Regulation (EU) No 1286/2014 (the PRIIPs Regulation), Regulation (EU) No 236/2012 (the Short Selling Regulation), Regulation (EU) No 600/2014 (MiFIR), Regulation (EU) No 2016/1011 (the Benchmark Regulation) and Regulation (EU) No 596/2014 (MAR).

Administrative fine proceedings relating to the supervision of undertakings

BaFin imposed a total of 283 individual administrative fines in 2022 with respect to its supervision of undertakings, or to be more precise its Banking Supervision,¹¹ Insurance Supervision and Money Laundering Prevention operations. These fines related to breaches of the provisions of the Money Laundering Act, the Investment Code, the Banking Act and the Insurance Supervision Act. The individual fines amounted in the aggregate to €4,611,000. They were imposed on credit institutions, payment institutions, institutions engaged in finance leasing and/or factoring, and auditing firms, among other entities, and – depending on the specific facts of the case – also on the persons responsible for these entities or on third parties commissioned to perform certain tasks.

In one major case, BaFin imposed final administrative fines totalling €3,751,000 on a credit institution due to numerous delayed suspicious transaction and order reports in the area of money laundering.

In addition, BaFin issued one confiscation order against an e-money institution. As an incidental consequence of the administrative offence, BaFin ordered the confiscation of the proceeds of the offence relating to the economic benefit generated from the offence in the total amount of €4,500,000.

All in all, 97 administrative offence proceedings relating to the supervision of undertakings were completed.

7 Communications

Press enquiries

As in the past, BaFin received a large number of enquiries from journalists in 2022. The most important press topics were as follows:

- the consequences of the war in Ukraine for BaFin's supervisory practice and the economic position of the supervised companies,
- the stress test for less significant institutions and the survey on the potential impact of increased interest rates on banks' financial performance,
- events relating to VTB Bank (Europe), a bank with a Russian parent,

- supervisory measures taken in relation to supervised institutions and the deployment of special commissioners,
- BaFin's package of macro-prudential measures, i.e. the introduction of a countercyclical capital buffer and a sectoral systemic risk buffer for loans secured by residential property,
- the practices adopted by the banks in relation to the opening of accounts for refugees from Ukraine,
- the crypto custody business and the crypto custody licences issued by BaFin,
- the establishment and effectiveness of the new, single-tier financial reporting enforcement process in Germany,
- the accusations of greenwashing levied against individual asset management companies,
- consumer protection issues: premium-aided savings plans, changes to general terms and conditions of business, and securities account transfers,
- the discussion about banning payment for order flow,
- the assessment by the Financial Action Task Force (FATF) of Germany's anti-money laundering regulations and their practical implementation, and the impact of the assessment on BaFin¹²,
- the observance of know-your-customer rules by obliged entities under anti-money-laundering law,
- warnings issued by BaFin to companies conducting unauthorised business,
- the situation of life insurers and *Pensionskassen* in the low interest rate environment and the impact on insurance undertakings of the trend reversal in interest rates,
- the impact of inflation on insurance undertakings, and in particular on property insurers,
- the BaFin Guidance Notice on business conduct supervision aspects of endowment insurance policies
- and considerations regarding BaFin's sustainable finance rules.

Social media

BaFin expanded its social media presence in 2022. Since the official launch of its LinkedIn profile in February 2022 and its Twitter profile in May 2022, BaFin has been using these channels to provide regular information on current topics ranging from finance through to consumer protection, and to maintain a dialogue with the community.

BaFin acquired a total of approximately 14,900 new LinkedIn followers in 2022, and roughly 2,700 new followers overall on Twitter since it launched its account

¹¹ See [chapter III.3.1.3](#) for the Banking Supervision measures.

¹² See [chapter VII.2.5](#) for information on the FATF.

there in May. It also prepared to set up other social media channels such as Mastodon in 2022.

Events

BaFin offered a wide range of events in 2022, as in previous years. These included established series of events such as the [Annual Insurance Supervision Conference](#) and the Forum on White-collar Crime, which were held in person again. The second [Sustainable Finance Conference](#) was also held, this time as a hybrid event. [BaFinTech](#) took place for the fifth time – and was co-hosted by the Deutsche Bundesbank for the first time. One new digital offering in 2022 was the [IT Supervision of Insurers](#) event. The [Consumer Protection Forum](#) in November 2022 also used a digital format. The [Combating Money Laundering and Terrorist Financing Symposium](#) was the last event to take place in 2022.

Publications

BaFin published more than 550 notifications about unauthorised business activities, measures and consumer protection topics on its [website](#) in 2022. [BaFinJournal](#) – one of BaFin’s core publications – has appeared in HTML format rather than as a monthly PDF since May 2022. This reflects the wish expressed by many readers to be informed of current topics in a timely manner. Other benefits of the new format are that BaFinJournal is now largely barrier-free and can be accessed more easily across different devices. BaFin circulates a monthly overview of links to the topics addressed in BaFinJournal.

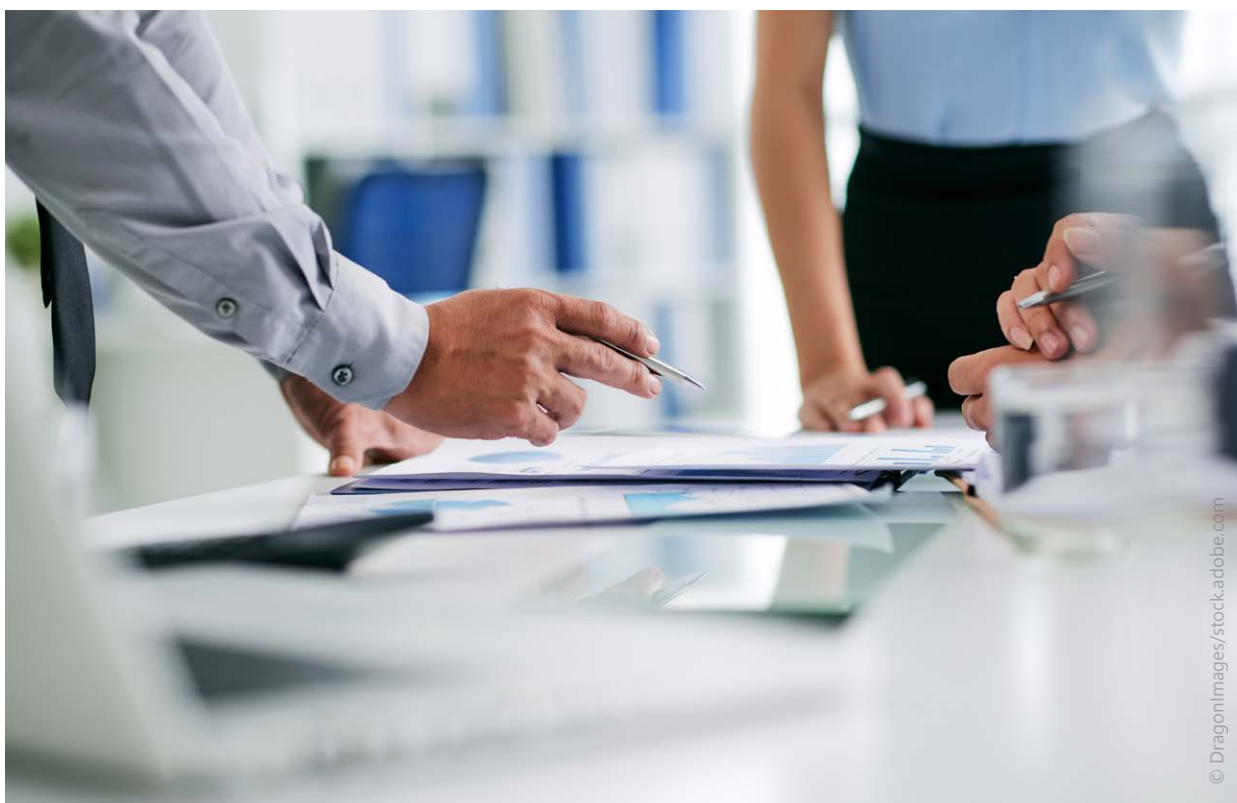
“[Risks in BaFin’s Focus 2022](#)” is a new report that was published on BaFin’s website for the first time in 2022, replacing the previous “[Supervisory Priorities](#)”. “Risks in BaFin’s Focus” addresses the risks that pose the greatest threats to the stability and the integrity of the financial markets in Germany. It also details the measures taken to contain these risks.¹³

BaFin’s [Annual Report 2021](#), which was published in 2022, provided information on its activities during the reporting period. 2022 also saw the publication of the [activity report](#) for BaFin’s Arbitration Board.

¹³ See [chapter I](#) for information on the [Risks in BaFin’s Focus](#).

III

Supervision of banks, financial services providers and payment institutions



1 Bases of supervisory practice

Amending Regulation for Pfandbrief Legislation

On 7 October 2022, BaFin announced its Amending Regulation for *Pfandbrief* Legislation (*Pfandbriefrechtliche Änderungsverordnung*). This involved the issuance of a *Pfandbrief* Reporting Regulation (*Pfandbrief-Meldeverordnung*) plus amendments to the other *Pfandbrief* regulations. The new rules serve among other things to implement the Covered Bonds Directive and to amend the legislation in line with the changes to Article 129 of the Capital Requirements Regulation (CRR).

Amendment to the Reports Regulation under the German Banking Act

Following the entry into force of the Reports Regulation under the German Banking Act (*Anzeigenverordnung nach dem Kreditwesengesetz*) on 29 November 2022, it is now mandatory to submit outsourcing reports electronically via the reporting and publishing platform (MVP). This offers a new specialised procedure for this, "Reporting outsourcing".

New Holder Control Regulation

A revised version of the German Holder Control Regulation (*Verordnung über die Anzeigen nach § 2c des Kreditwesengesetzes und § 17 des Versicherungsaufsichtsgesetzes*) entered into force on 28 December 2022. The changes to the Holder Control Regulation reflect amendments to the Banking Act and the German Insurance Supervision Act (*Versicherungsaufsichtsgesetz*) triggered by the German Risk Reduction Act (*Risikoreduzierungsgesetz*), plus guidelines from the European Supervisory Authorities.

General administrative act on the countercyclical capital buffer

As of 1 February 2022, BaFin used a general administrative act to raise the countercyclical capital buffer from zero to 0.75% of risk-weighted assets.¹ The buffer must be applied with effect from 1 February 2023. The objective was to strengthen the resilience of the German banking sector as a precautionary measure.

Circular on the Capital Requirements Regulation (net stable funding ratio)

On 1 August 2022, BaFin published a Circular explaining how institutions should apply selected articles of the

¹ See chapter I.1.2 for information on BaFin's countercyclical capital buffer.

Capital Requirements Regulation. The Circular addresses the treatment of off-balance sheet products when calculating the net stable funding ratio (NSFR) and the simplified net stable funding ratio (sNSFR).

Circular on Reporting Serious Payment Security Incidents

[Circular 03/2022 \(BA\)](#) on reporting serious payment security incidents entered into force on 1 October 2022. It replaces the previous circular that dated from 2018. In it, BaFin has amended the criteria for reportable operating or security incidents. The objective is to ensure that more incidents that are relevant for the Supervisory Authority are reported, and that fewer irrelevant ones are.

Guidance Notice on account access interfaces (PSD2/ZAG)

On 18 February 2022, BaFin published a [Guidance Notice](#) on account access interfaces entitled "Granting of an exemption from the requirement to provide an emergency mechanism pursuant to Article 33(6) of Delegated Regulation (EU) 2018/389". The background to this is that account-holding payment service providers under the Payment Services Directive 2 (PSD2) or the German Payment Services Act (*Zahlungsdiensteaufsichtsgesetz*) are obliged to provide an interface for payment initiation and account information service providers. The guidance notice does not contain any new regulatory requirements. Rather, BaFin is simply ensuring that its administrative practice is transparent.

Guidance Notice on payment transactions in bricks-and-mortar travel agency Sales (PSD2/ZAG)

On 28 July 2022, BaFin published a [Guidance Notice](#) on the supervisory treatment of certain payment transactions in bricks-and-mortar travel agency sales. The notice does not contain any new regulatory requirements. Rather, in it BaFin classifies certain business transactions occurring in bricks-and-mortar travel agency sales from a supervisory perspective.

2 German institutions directly supervised by the ECB

In 2022, 22 German groups of institutions (including their subsidiaries) had been classified as significant institutions (SIs). As a result, these were directly

supervised by the European Central Bank (ECB) within the Single Supervisory Mechanism (SSM – see info box). BaFin was involved in the supervision of these institutions through the SSM's Joint Supervisory Teams (JSTs).

At a glance

Supervision in the Single Supervisory Mechanism

When the Single Supervisory Mechanism (SSM) was launched in November 2014, the European Central Bank (ECB) took over the direct supervision of those banking groups that had been classified as significant. A Joint Supervisory Team (JST) is responsible for each of these significant institutions (SIs). In addition to ECB employees, the teams include staff from BaFin and the Deutsche Bundesbank. The number of members on each JST and the latter's composition vary depending on the size and complexity of the banking group concerned. The JSTs are headed by JST coordinators from the ECB. The core JST for each of the supervisory teams for German SIs consists of the JST coordinator plus one local coordinator each from BaFin and the Deutsche Bundesbank.

3 Institutions directly supervised by BaFin

3.1 Credit institutions directly supervised by BaFin

At the end of 2022, BaFin supervised a total of 2,621 institutions (see Table 1 on page 41). Of these, 50 were directly supervised by the ECB, although BaFin was involved in their supervision via the Joint Supervisory Teams. A total of 1,217 of the institutions directly supervised by BaFin were less significant institutions (LSIs).

3.1.1 Risk classification

BaFin and the Deutsche Bundesbank prepare an annual risk profile for all less significant institutions under their direct supervision (see Table 2 on page 42). This is based

Table 1: Institutions under German supervision in 2022

As at 31 December 2022

Credit Institutions		1,384
Of which	CRR credit institutions*+	1,269
	Of which SIs+++	50
	Of which LSIs**+	1,217
	Other credit institutions***	41
	Of which development banks+	15
	Housing enterprises with savings schemes+	47
	Third-country branches+	27
Payment institutions and e-money institutions+		81
Investment firms****+ +		738
Financial services institutions*****		418
Of which	Finance leasing and factoring institutions+	399
Institutions supervised by BaFin		2,621

* Two of these CRR credit institutions were neither SIs nor LSIs. "CRR" stands for the "Capital Requirements Regulation".

** Two of these credit institutions provide financial market infrastructures and are therefore supervised by BaFin's Securities Supervision Sector.

*** Including KfW. One of these credit institutions is supervised by BaFin's Securities Supervision Sector.

**** Two of these investment firms are supervised by BaFin's Banking Supervision Sector.

***** This comprises institutions in financial services institutions Groups IV and V (finance leasing and factoring institutions) and crypto custodians.

+ Supervised by BaFin's Banking Supervision Sector.

+ + Supervised by BaFin's Securities Supervision/Asset Management Sector.

+ + + Supervised by the ECB. These are German SIs and the subsidiaries of foreign SIs that are active in Germany.

Source: BaFin

on European Banking Authority (EBA) [guidelines](#) for the supervisory review and evaluation process (SREP). The ECB builds on these guidelines to publish the SSM LSI SREP methodology, thus ensuring a uniform procedure for LSIs in the SSM. The methodology is continuously enhanced.

As in the past, BaFin uses two dimensions to classify institutions: the quality of the institution, which ranges from 1 (very good) to 4 (poor), depending on the SREP score, and the potential impact on the stability of the financial sector of a solvency or liquidity crisis at the institution concerned. The impact dimension, which was revised in 2022, is also ranked on a scale from I to IV (low to high impact). For example, the SNCI ("small and non-complex institution") criterion is included in the classification process for impact dimensions I and II. This takes the issue of proportionality into account to a greater extent, and the number of institutions in the individual categories clearly shifted away from impact level II (medium-low) and towards impact level I (low) as at the end of 2022.

BaFin bases the intensity of the supervisory programme on its overall assessment of the quality and impact dimensions: elements covered include the periods between inspections, the frequency of supervisory discussions, the SREP capital determination cycle and the level of granularity to be adopted in the annual risk analysis.

3.1.2 Special inspections

In 2022, BaFin was unable to conduct a normal inspection cycle because of the COVID-19 pandemic. Special inspections were largely performed off-site at the beginning of the year, with more on-site inspections being held as the year progressed. BaFin is now successively conducting the special inspections that were postponed during the COVID-19 pandemic. This represents a challenge given the continuing large number of inspections required. As a result, the Supervisory Authority will also be using other tools, such as audit focuses pursuant to section 30 of the Banking Act and supervisory visits, to gain insights.

Table 2: Risk classification results for LSIs in 2022*

As at 31 December 2022

Institutions in %		Quality				
Risk matrix	1	2	3	4	Total	
Impact	High	0.0	0.7	0.7	0.0	1.4
	Medium	1.2	8.4	3.1	0.7	13.4
	Medium-low	2.3	17.3	5.0	0.2	24.8
	Low	3.3	44.8	12.2	0.1	60.4
Total	6.8	71.2	21.0	1.0	100.0	

* This table shows the LSIs supervised by the Banking Supervision Sector.
Source: BaFin

Special inspections comprise both routine and ad hoc inspections. The topics covered are selected using a risk-driven approach on the basis of the joint BaFin–Deutsche Bundesbank supervisory strategy.

In 2022, most inspections were performed in the cooperative sector, even though the inspection ratio for other groups of institutions was higher due to large number of cooperative banks (see Table 4 on page 43).

Table 3: Breakdown of special inspections of LSIs in 2022 by areas of emphasis*

As at 31 December 2022

	2022	2021
Impairment-related special audits	21	2
Section 25a(1) of the Banking Act (MaRisk)	82	94
Cover	4	2
Market risk models		
IRBA (credit risk measurement)	7	8
AMA (operational risk measurement)		
Liquidity risk measurement	1	
Total	115	106

* This table relates to less significant institutions (LSIs) under the supervision of the Banking Supervision Sector. “IRBA” stands for “Internal Ratings-Based Approach” and “AMA” stands for “Advanced Measurement Approach”.
Source: BaFin

Where BaFin orders a special inspection, it takes the institution’s risk classification into account. Comparatively more inspections take place at lower-quality institutions and institutions with a higher impact. Table 5 on page 43 shows the breakdown by risk class of the special inspections of LSIs initiated by BaFin in 2022.

3.1.3 Objections and measures

The Banking Supervision Sector imposed a total of 988 objections and measures in 2022 (see Table 6 on page 44).² The number in the year before was 214 (2020: 534; 2019: 665), since BaFin used the flexibility offered by the regulatory framework to temporarily adapt its supervisory requirements in response to the pandemic. As a result, either fewer infringements were seen in the areas of own funds, liquidity levels and compliance with the rules for large exposures in 2021 or BaFin did not object to them in the exceptional circumstances caused by the pandemic. The Supervisory Authority abolished the temporary relief measures again in 2022. The number of measures taken increased even as against 2019, when a total of 665 were recorded. This particularly reflects the SREP capital determination processes, which were postponed in 2020 due to the pandemic but which have been performed successively for all LSIs since 2021.

3.1.4 Situation of the groups of credit institutions

The economic position at all groups of credit institutions in 2022 was largely dominated by the rise in interest rates and the war in Ukraine. Other challenges for the

² See chapter II.6 for information on sanctions.

Table 4: Breakdown of special inspections of LSIs in 2022 by groups of institutions

As at 31 December 2022

	Commercial banks	Savings bank sector	Cooperative sector	Other institutions
Impairment-related special audits	6	5	10	
Section 25a(1) of the Banking Act (MaRisk)	19	26	36	1
Cover		4		
Market risk models				
IRBA (credit risk measurement)	4			3
AMA (operational risk measurement)				
Liquidity risk measurement		1		
Total	29	36	46	4
Inspection ratio in %*	27.1	10.0	6.3	20.0

* The ratio of the number of inspections to the number of institutions in each group of institutions. The institutions concerned are the LSIs supervised by BaFin's Banking Supervision Sector.

Source: BaFin

Table 5: Breakdown by risk class of the special inspections of LSIs initiated by BaFin in 2022

As at 31 December 2022

Special inspections initiated by BaFin	Quality of the institution				Total	Institutions* in %	
	1	2	3	4			
Impact	High	4	1		5	29.4	
	Medium		12	12	2	26	16
	Medium-low	2	13	9	1	25	8.3
	Low	1	30	16		47	6.4
Total	3	59	38	3	103	8.5	
Institutions in %*	3.6	6.8	15.0	27.3	8.5		

* Percentage of the total number of institutions in the respective quality/impact category accounted for by the inspections.

Source: BaFin

institutions were the consequences of the COVID-19 pandemic, global supply chain problems, muted private consumption, high inflation rates and a sharp rise in energy prices. BaFin activated the countercyclical capital buffer and sectoral systemic risk buffer³ in order to increase the resilience of the institutions in this difficult market environment.⁴

Banks increased their lending standards in line with the general environment. Nevertheless, credit growth continued overall in 2022. Credit defaults remained within manageable limits. However, the relevant risk indicators rose towards the end of 2022: institutions with borrowers directly impacted by the war in Ukraine experienced defaults in isolated cases. What is more, real estate lending ebbed due to rising interest rates and the jump in construction costs (see Figure 4 on page 44). An aggravating factor was that personal incomes ultimately failed to keep pace with inflation.

3 See chapter I.1.2 for information on BaFin's package of macro-prudential measures.

4 For information purposes: The additional capital requirements took effect in full as of 1 February 2023.

Table 6: Supervisory law objections and measures under the Banking Act in 2022

As at 31 December 2022

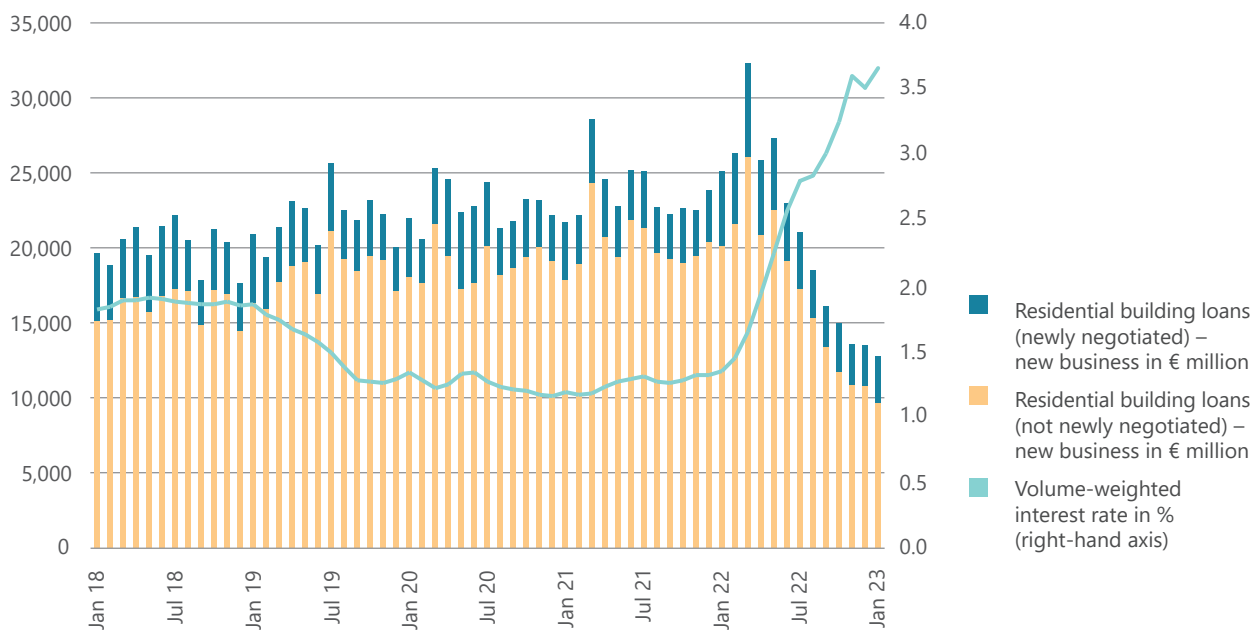
Type of measure	Commercial banks	Savings bank sector	Cooperative sector	Other institutions	Non-CRR credit institutions*	Total
Substantial objections/letters	34	15	21	2	4	76
Measures against managers	Dismissal requests					0
	Cautions					8
Measures against members of supervisory/administrative boards	Dismissal requests					0
	Cautions					1
Measures relating to own funds/liquidity, exceeding the large exposure limit (sections 6c and 10(3) of the Banking Act, Art. 396(1) of the CRR)	66	242	521	10	34	873
Measures in accordance with section 25a of the Banking Act	11	0	0	0	1	12
Sanctions in accordance with sections 45, 45b and 46 of the Banking Act**	16	2	0	0	0	18
Total	136	259	542	12	39	988

* Including KfW.

** Measures to improve own funds and liquidity (section 45 of the Banking Act), in the case of organisational deficiencies (section 45b of the Banking Act) and in the case of specific danger (section 46 of the Banking Act).

Source: BaFin

Figure 4: Residential building loans (new business)



Source: Deutsche Bundesbank MFI interest rate statistics

In addition, the higher interest rates in 2022 led in some cases to substantial measurement losses in institutions' securities portfolios. These losses are often temporary and accounting-driven, since the impairment was caused by the interest rate rise and not by increased credit risks. If the securities are held to maturity, the current measurement losses will be matched by corresponding measurement gains.

According to preliminary figures, the average Common Equity Tier 1 capital ratio for credit institutions in 2022 was 17.4% (previous year: 17.2%)⁵. Consequently, the institutions exceeded the regulatory requirements overall.

Private, regional and specialist banks

Since private, regional and specialist banks generally have a national focus, the war in Ukraine only impacted them directly in isolated cases. However, there is a danger of second-round effects: in particular, the consequences of inflation could lead to loan defaults. Rising energy costs impacted these banks' customers – who are extremely heterogeneous – to different degrees. The institutions attempted to assess the extent to which they were affected in dialogue with their clients. This process was still ongoing at the end of 2022.

⁵ See Table 1: Key figures at a glance on page 11.

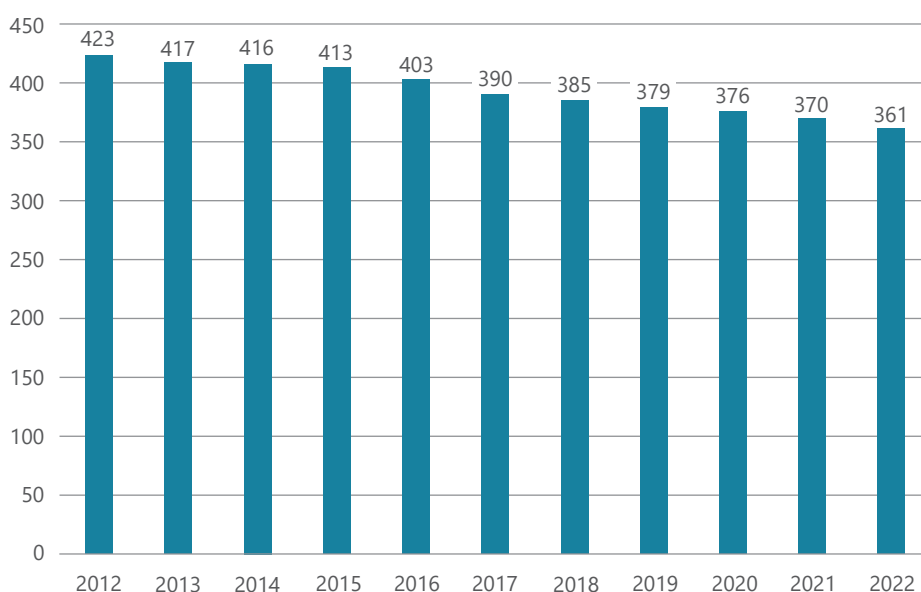
Furthermore, institutions with especially innovative business models are attempting to establish themselves on the market while at the same time also turning a profit. However, the increasingly complex economic and supervisory requirements cannot always be mastered with lean structures.

Savings banks and cooperative banks

The rise in key interest rates in 2022 offered savings banks and cooperative banks opportunities for higher margins on lending and higher interest rates on their proprietary investments. At the same time, however, they were faced with rising funding costs. Banks' balance sheets are only likely to benefit from the interest rate rises in the medium term. Impairment losses on holdings in institutions' proprietary securities portfolios – which were considerable in some cases – generally had a larger effect in 2022. The need to recognise substantial impairment losses on the institutions' proprietary fixed-interest financial instruments was largely due to the sharp rise in market interest rates. However, a deterioration in the credit quality of Russian issuers in particular also played a role in a few isolated cases.

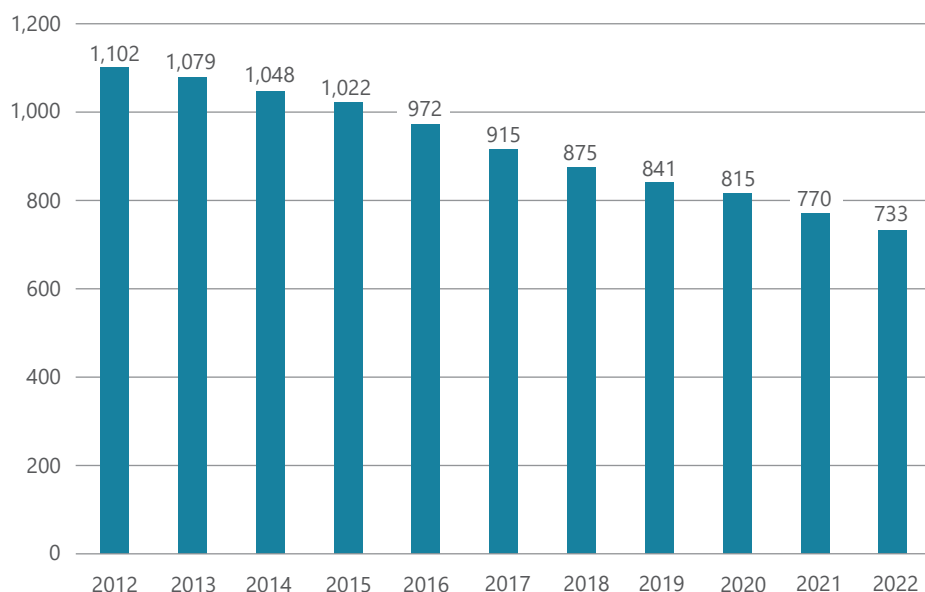
The interest rate environment, the enormous competitive pressure in the banking sector and the changing competitive conditions caused by digital transformation remained a challenge for savings banks and cooperative banks in 2022. In addition, smaller institutions in particular are suffering increasingly from the shortage of specialist staff.

Figure 5: Number of savings banks in 2022*



* This statistic does not include six Landesbanks or DekaBank.
Source: BaFin

Figure 6: Number of cooperative banks in 2022



Source: BaFin

Institutions expect the market environment to become even more difficult in the short term and therefore continued their attempts to cut costs – e.g. by closing branches – and further enhance their efficiency. Mergers led to the number of savings banks falling from 370 to 361 in 2022 (see Figure 5 on page 45), while the number of cooperative banks fell from 770 to 733 (see Figure 6).

Savings banks and cooperative banks lifted their operating profits despite the difficult environment. However, operating results after valuation were down clearly year-on-year due to high impairment losses, as has been anticipated. Nevertheless, institutions were able to maintain their profits for the period after tax at a constant level.

Bausparkassen

Rising interest rates had a positive impact on the position of Bausparkassen in 2022. New business expanded significantly throughout the sector in 2022, since customers are securing the relatively low interest rate levels on loans that are locked in to the current *Bauspar* plans. *Bauspar* customers also drew down substantially more *Bauspar* loans than in previous years, since the higher market interest rates made these attractive again in their opinion. Overall, the low level of interest on deposits for the *Bauspar* plans currently on offer and higher sales of *Bauspar* loans had a positive effect on the institutions' financial performance.

Landesbausparkassen in the west, south and north-east of the country continued their merger plans, which are expected to lead to a drop in the number of *Bausparkassen* from 18 to 15 in 2023.

Pfandbrief business

Once again, *Pfandbriefe* proved to be sound financial products in a crisis-afflicted 2022. The number of *Pfandbrief* banks remained more or less stable, at 83 as at the year-end. New challenges for the institutions resulted from the changed interest rate environment as well as higher material costs and supply bottlenecks in the property market.

All in all, *Pfandbriefe* with a total volume of €85.2 billion were sold in 2022 (see Table 7 on page 47).

At €389.6 billion, the total volume of outstanding *Pfandbriefe* was again higher in 2022 than in the previous year (see Table 8 on page 47).

Amendments to the German *Pfandbrief* Act (*Pfandbriefgesetz*) came into force on 8 July 2022, while the Amending Regulation for *Pfandbrief* Legislation took effect on 7 October 2022, as mentioned above. The amendments are unlikely to have any significant effects on future issuing activities by *Pfandbrief* banks.

Table 7: Gross Pfandbrief sales in 2022 (in € billion)

Year	Mortgage Pfandbriefe*	Public-sector Pfandbriefe	Total sales
2018	43.2	7.2	50.4
2019	43.7	11.2	54.9
2020	40.6	17.8	58.4
2021	44.2	18.0	62.2
2022	71.5	13.7	85.2

* Including ship and aircraft Pfandbriefe, although these represent niche products.

Source: BaFin

Table 8: Outstanding Pfandbriefe in 2022 (in € billion)

Year	Mortgage Pfandbriefe*	Public-sector Pfandbriefe	Total volume outstanding
2018	230.5	134.1	364.6
2019	237.2	122.6	359.8
2020	242.4	120.9	363.3
2021	257.6	123.5	381.1
2022	280.2	109.4	389.6

* Including ship and aircraft Pfandbriefe, although these represent niche products.

Source: BaFin

Foreign banks

In 2022, the supervision of foreign banks, credit institutions and branches with parent banks domiciled abroad focused on their links with their home groups, which in some cases were too close. In such cases the independence of the institutions concerned suffers, which can negatively affect their business organisation. In 2022, the main topics addressed were internal transfer pricing, booking model design and the associated risk management processes.

The performance of certain institutions was impacted by political developments in their home countries – and by the resulting threat, or actual implementation, of sanctions. The economic situation in their home countries also negatively affected a number of institutions. Examples of this in 2022 included banks in Russia and Iran.

Developments in Russia hit VTB Bank (Europe) SE particularly hard. BaFin took a number of measures to shield VTB Bank (Europe) SE from its owner, VTB Bank, Saint Petersburg, which is subject to sanctions within the EU. Among other things, BaFin prohibited the latter

from exercising its voting rights, which were transferred by court order to a voting trustee. As a flanking measure, BaFin forbade VTB Bank (Europe) SE to make payments or other asset transfers for the benefit of VTB Group companies. As a result, VTB Bank (Europe) SE was able to wind down its business in an orderly fashion.⁶

3.2 Payment institutions and e-money institutions

BaFin granted five authorisations under the German Payment Services Supervision Act (*Zahlungsdiensteaufsichtsgesetz*) in 2022. Consequently, a total of 81 institutions had been authorised or registered as providers of payment services or e-money business operators in Germany at the end of 2022.

BaFin's ongoing supervisory activities focused primarily on ensuring the due and proper business organisation of payment institutions and e-money institutions. BaFin performed a total of four audits at the institutions it supervises. One focus of the audits was on compliance with the Supervisory Requirements for IT in Payment Services and Electronic Money Institutions (*Zahlungsdiensteaufsichtliche Anforderungen an die IT – ZAIT*) dated 16 August 2021. These set out the supervisory requirements for the proper conduct of business in relation to the use of information technology, and to cyber security. Other audit focus areas were the general requirements for proper business organisation and the requirements relating to the outsourcing of IT activities and IT processes.

As a follow-up to a special inspection that it had ordered in 2021, BaFin fined one institution €350,000⁷ and ordered additional supervisory measures.

On the one hand, BaFin is observing an ongoing stream of new companies entering the market. At the same time, as in the previous year, it is seeing a trend towards consolidation in the form of cross-border takeovers and mergers. A total of 11 new applications for authorisation and registration were received in 2022, compared to 21 in the previous year.

⁶ For information purposes: The Extraordinary General Meeting at the end of March 2023 passed a company law resolution to liquidate the bank.

⁷ See [chapter II.6](#) for information on sanctions.

3.3 Financial services institutions: finance leasing and factoring institutions

The particular challenges of 2022 – disrupted supply chains, the war in Ukraine, the hike in inflation and the subsequent rapid rise in interest rates – depressed German businesses' investment appetite and hence also the leasing sector. New leasing business declined by 4% year-on-year in the first half of the year.

By contrast, the factoring market – which is not directly dependent on capital expenditure by companies – accelerated its growth. Factoring revenue jumped more than 24% year-on-year in H1 2022.

Audits of annual financial statements pursuant to section 30 of the Banking Act revealed a variety of deficiencies at the audited institutions in 2021. As a result, one focus of BaFin's work in 2022 aimed to establish whether the institutions had remedied these shortcomings. The background to the hearing on the termination of an authorisation set out in Table 9 was the unreliability of the management and its failure to meet fit and proper requirements, along with the unreliability of the institution's owner.

3.4 Crypto custody business

The market environment for crypto assets was challenging for both providers and investors alike in 2022. Developments were dominated by large drops in the price of crypto assets and considerable uncertainty.

In 2022, BaFin granted two authorisations to conduct crypto custody business under section 32 (1) of the Banking Act. This brings the total number of crypto custodians with such an authorisation to five. Seven new applications for authorisation were submitted in 2022 despite the significantly more challenging market. However, a number of providers also withdrew their applications for authorisation. BaFin refused to issue an authorisation in two cases.

A total of 12 institutions are still using the transitional provision set out in section 64y of the Banking Act and hence have provisional authorisation to conduct crypto custodian business. This means that they are permitted to continue their business while the authorisation procedure is ongoing but must supply what are in some cases substantial amounts of additional information, or make improvements in certain areas. BaFin attaches

Table 9: Supervision of finance leasing and factoring institutions in 2022

Facts	2022	2021
Number of institutions under supervision		
Finance leasing	225	242
Factoring	146	147
Both types of authorisation	27	28
Routine cases processed		
New authorisations	3	7
Terminated authorisations	23	22
Management changes	163	184
Supervisory board changes	66	90
Qualifying holding procedures	180	101
Measures and sanctions (hearing where appropriate)		
Substantial letters	27	20
Referrals to the division responsible for investigating administrative offences	1	1
Authorisations suspended	1	1

Source: BaFin

particular importance to the measures taken to ensure that customers' private keys – which permit access to the crypto assets held in custody – are stored securely, and to proper business organisation.

To ensure that its strict supervisory standards are met in practice, BaFin took a supervisory measure at a crypto custodian for the first time and publicised the fact that deficiencies had been found in this provider's business organisation.

With effect from 10 June 2021, the Banking Act provides for a second crypto service in addition to crypto custody: crypto securities registration pursuant to section 16 of the German Electronic Securities Act (*Gesetz zur Einführung elektronischer Wertpapiere*). A low double-digit number of institutions applied for a corresponding authorisation in 2022. These institutions are currently using the transitional provision set out in section 65 of the Banking Act.



IV

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Supervision of insurance undertakings and pension funds



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1 Bases of supervisory practice

German Insurance Outsourcing Notification Regulation

The German Insurance Outsourcing Notification Regulation (Versicherungs-Ausgliederungsanzeigeverordnung) entered into force on 29 November 2022. It sets out in more detail insurance companies' notification requirements in accordance with section 47 nos. 8 and 9 of the German Insurance Supervision Act (*Versicherungsaufsichtsgesetz*) when outsourcing functions and insurance activities. BaFin can use the Insurance Outsourcing Notification Regulation and comparable regulations under the German Banking Act (*Kreditwesengesetz*), the German Payment Services Act (*Zahlungsdiensteaufsichtsgesetz*), the German Investment Code (*Kapitalanlagegesetzbuch*) and the German Investment Firm Act (*Wertpapierinstitutsgesetz*) to obtain an overview of potential concentration risks at service providers throughout the financial sector.

New Holder Control Regulation

The new German Holder Control Regulation (Verordnung über die Anzeigen nach § 2c des Kreditwesengesetzes und § 17 des Versicherungsaufsichtsgesetzes) entered into force on 28 December 2022. Among other things, it reflects amendments to the Banking Act and the Insurance Supervision Act resulting from the German Risk Reduction Act (*Risikoreduzierungsgesetz*).

New version of VAIT

In addition, the new version of the VAIT – the Circular on Supervisory Requirements for IT in Insurance Undertakings (*Rundschreiben über die Versicherungsaufsichtlichen Anforderungen an die IT*) – took effect on 3 March 2022. In the Circular BaFin sets out in more detail the business organisation requirements of the Insurance Supervision Act, to the extent that these relate to the technical and organisational resources of insurance undertakings. In the revised version, BaFin focused in particular on specifying the requirements for IT contingency management, which aims to ensure business resilience and continuity in emergencies. One of the triggers for the revised version of the VAIT was the Guidelines on information and communication technology security and governance issued by the European Insurance and Occupational Pensions Authority (EIOPA) in October 2020.

Table 10: Risk classification results for 2022*

Undertakings in %		Quality				Total
		A	B	C	D	
Market impact	Very high	0.0	2.1	2.1	0.0	4.2
	High	1.5	7.7	3.7	0.0	12.9
	Medium	2.9	17.8	6.8	0.2	27.7
	Low	5.4	37.3	11.4	1.1	55.2
Total		9.8	64.9	24.0	1.3	100.0

* The table shows the assessment based on the data as at 31 December 2022.

Source: BaFin

2 Risk classification

BaFin allocates the insurance undertakings it supervises to risk classes and uses these to define how closely the insurers are supervised (see info box entitled “Risk classification”). Table 10 shows the risk classification results for 2022.

Classification of insurance groups

Group classifications use both the classification results for the individual undertakings and qualitative and quantitative group-specific inputs. The classified insurance groups received quality ratings of “A” (1.9%) “B” (79.6%) or “C” (18.5%) during the year under review.

At a glance

Risk classification

Insurers are allocated to classes using a two-dimensional matrix that reflects the company’s/ the group’s market impact and quality. Market impact is measured on a four-tier scale using the categories of “very high”, “high”, “medium” and “low”. The quality of the insurers is assessed on a four-tier scale ranging from “A” to “D” on the basis of the following factors: “financial position and cash flows”, “financial performance”, “system of governance”, “future viability”, and “holders of significant holdings”. When assessing groups, BaFin uses “group-specific factors” instead of “holders of significant holdings”.

3 Inspections

Regular inspections are performed either remotely or on site at the undertakings’ premises; the relative proportions can vary. BaFin uses a risk-based approach when planning them. One of the factors that it takes into account above and beyond the risk classification results is the date when a supervised entity was most recently inspected. Ad hoc and topic-related inspections are also conducted.

In 2022, BaFin’s Insurance Supervision Sector conducted a total of 75 inspections (previous year: 65 inspections). The risk matrix in Table 11 on page 53 shows the breakdown of inspections by risk class.

4 Authorised insurance undertakings and pension funds

In 2022, BaFin’s supervised a total of 527 insurance undertakings and 34 pension funds. Table 12 on page 53 provides an overview of the insurance classes.

Table 11: Breakdown of inspections by risk class in 2022

Inspections performed		Quality of the undertaking				Total	Undertakings in %
		A	B	C	D		
Market impact	Very high	0	5	1	0	6	8.2
	High	3	6	4	0	13	17.8
	Medium	0	13	9	0	22	30.1
	Low	3	23	6	0	32	43.9
	Total	6	47	20	0	73*	100.0
Undertakings in %		8.2	64.4	27.4	0.0	100.0	

* In addition, two inspections were conducted at unclassified undertakings, bringing the total to 75.
Source: BaFin

Table 12: Number of supervised insurance undertakings and pension funds

As at 31 December 2022

Insurance undertakings	with business activities	without business activities
Life insurers	80	5
<i>Pensionskassen</i>	126	9
Funeral expenses funds	27	1
Private health insurers	46	0
Property and casualty insurers	198	5
Reinsurers	29	1
Total	506	21
<i>Pensionsfonds</i>	34	0

Source: BaFin

5 Developments in the individual insurance classes

Inflation and the rise in interest rates impacted business developments in the individual insurance classes to different extents in 2022. On the one hand, higher interest rates had a positive effect on insurers' solvency. On the other hand, the hidden reserves that had been established in recent years declined. Claims expenses rose due to inflation. The following

sections provide details of how the individual insurance classes performed.

The figures for 2022 are only preliminary. They are based on the interim reporting as at 31 December 2022. It should also be noted that, in accordance with section 45 of the Insurance Supervision Act, BaFin has exempted certain undertakings falling within the scope of the Solvency II Directive from some elements of interim reporting requirements.

5.1 Life insurers

Business trends

BaFin's long-held assessment of the position of life insurers as robust – despite the low interest rate environment – has remained unchanged. The increase in interest rates in 2022 further improved their financial ratios, enhanced earnings opportunities for both new investments and reinvestments, and strengthened their risk-bearing capacity under Solvency II. Whereas in the past BaFin focused primarily on insurers' ability to meet their obligations and on their risk-bearing capacity, it is now concentrating on the risks associated with rising interest rates. Hidden liabilities in investments, customer lapse behaviour and companies' liquidity management are particularly important issues here. BaFin monitored these trends in 2022 and will be increasing its activities in this regard in 2023.¹ Business trends in life insurance are shown in Table 13 on page 54.

¹ See Risks in BaFin's Focus 2023, page 4 ff., for the risks resulting from increases in interest rates.

Table 13: Business trends in life insurance

	2022	2021
Number of new direct life insurance contracts	4.5 million	5.1 million
Of which: Term life insurance policies	33.3%	32.7%
Pension and other insurance policies	59.5%	60.0%
Endowment life insurance policies	7.2%	7.3%
Total sum insured under new business (€)	279.5 billion	301.2 billion
Number of early terminated policies	2.0 million	2.1 million
Total sum insured under policies terminated early (€)	111.6 billion	105.1 billion
Total number of direct life insurance contracts	81.2 million	81.6 million
Total sum insured (€)	3,547 billion	3,456 billion
Gross premiums written (€)	90.5 billion	95.2 billion

Source: BaFin

Investments

The trend in investments by life insurers in 2022 is shown in Table 14.

Table 14: Investments by life insurers

As at 31 December 2022

	2022	2021
Aggregate investment portfolios (€)	1,053.6 billion	1,049.8 billion
Net hidden reserves/net hidden liabilities (€)	-106.3 billion	155.5 billion
Average net return on investment	2.2%	3.5%

Source: BaFin

On the one hand, the interest rate rise in 2022 led to the reference rate used to calculate the *Zinszusatzreserve* (additional interest rate provisions) stagnating at 1.57%, so that life insurers did not have to make any further additions to it. On the other hand, developments on the capital markets in 2022 led to the need to recognise higher impairment losses, which can be offset by extraordinary investment income. As a result, the net return on investment sank clearly year-on-year to 2.2%, a level that is in line with the current return on investments.

Projection exercise

As in previous years, BaFin conducted a projection exercise in 2022 for the life insurers it supervises. It focussed on the short-term impact of an increase

in spreads and lapses, and the medium- to long-term effects of the rise in interest rates, as at the 30 September reference date. To do this, BaFin collected data on forecast financial developments in accordance with the German Commercial Code (*Handelsgesetzbuch*) for the 2022 financial year and the following 14 financial years. A conservative investment portfolio was used. Building on this, life insurers simulated new investments and reinvestments in line with their individual corporate planning. In addition, BaFin again surveyed forecast changes in the Solvency II figures for three selected financial years.

BaFin's projection exercises showed the positive impact of the rise in interest rates on the undertakings' economic position and solvency. However, investment activities and in particular fixed-income investments reveal substantial hidden liabilities throughout the sector due to the rise in interest rates. These do not have to be realised in most cases, since the investments are generally held to maturity. However, this becomes more difficult if investments have to be sold, e.g. if higher policy lapse rates lead to increased liquidity requirements. Therefore, BaFin will monitor liquidity management at the undertakings particularly carefully in the coming years.

Solvency II

Table 15 on page 55 provides an overview of how the solvency capital requirement (SCR) is calculated and of the transitional measures provided for in the rules that are being used by the undertakings. Measured in terms of the SCR amount, almost half of the sector's SCR related to users of a (partial) internal model.

Table 15: Overview of life insurers subject to Solvency II

Number of life insurers subject to Solvency II	79
SCR* calculated using	
Standard formula	69
(Partial) internal model	10
Use of	
Undertaking-specific parameters	–
Volatility adjustment (section 82 of the VAG**) and transitional measure for technical provisions (section 352 of the VAG)	51
Transitional measure for technical provisions	3
Volatility adjustment	14
Volatility adjustment and transitional measure on the risk-free interest rates (section 351 of VAG)	1
Submission of a remediation plan (section 353 (2) of the VAG)	24

* Solvency capital requirement.

** Versicherungsaufsichtsgesetz (Insurance Supervision Act)

Source: BaFin

SCR coverage

All life insurers in Germany reported adequate SCR coverage as at 31 December 2022. Figure 7 shows how SCR coverage ratios for life insurers subject to

interim reporting obligations have developed over time, taking the Solvency II transitional measures into account.

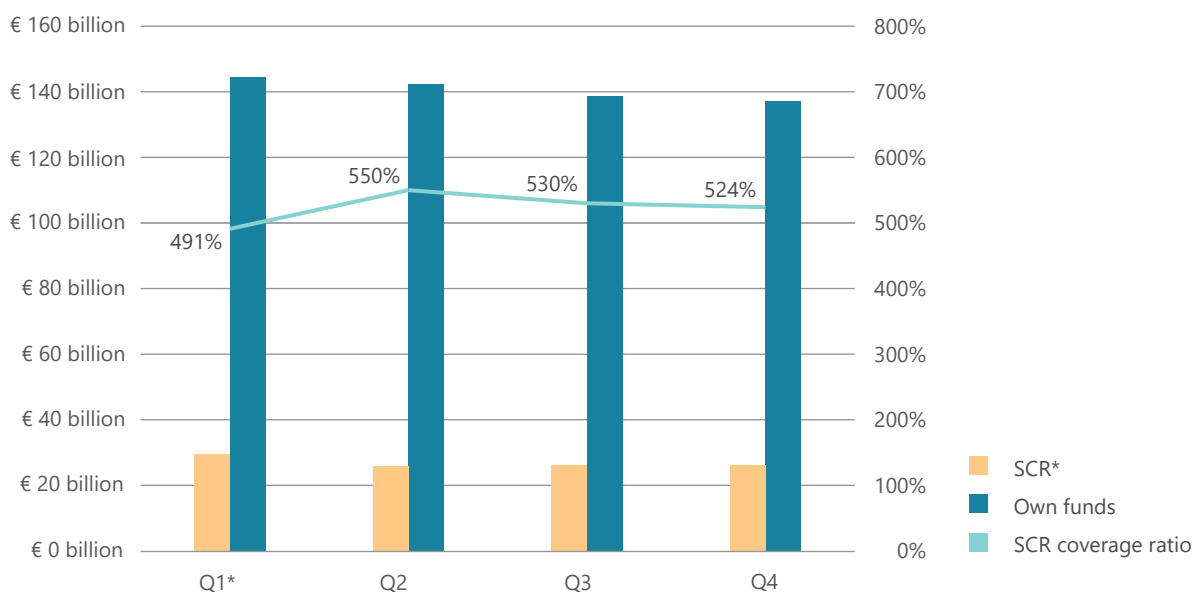
Trend in discretionary bonuses

The rise in interest rates led to the first life insurers implementing moderate increases in their discretionary bonuses for 2023, after years in which these sank. The current total return, i.e. the sum of the guaranteed technical interest rate and the interest surplus, for the endowment insurance policy tariffs available in the market amounted to an average of 1.9% for the sector as a whole in 2022 (previous year: 2.0%) and is expected to rise to 2.1% in 2023.

Trend in the Zinszusatzreserve

The rise in interest rates also led to the reference rate used to calculate the *Zinszusatzreserve* (additional interest rate provisions) remaining stable year-on-year at the end of 2022, at 1.57%. Consequently, further additions to these provisions were not required at sector level. Rather, changes to, and the ageing of, the insurance portfolio resulted in roughly €3.9 billion being released from the *Zinszusatzreserve* in 2022. The cumulative *Zinszusatzreserve* therefore amounted to €92.1 billion at the end of 2022. Releases from the *Zinszusatzreserve* increase the gross profit and hence benefit policyholders in full. What should undertakings bear in mind when considering whether to release their *Zinszusatzreserve*? BaFin published an expert article on this on its [website](#) in 2022.

Figure 7: SCR, own funds and SCR coverage ratios for life insurers over the course of the year



* Solvency capital requirement; "Q" stands for "quarter".

Source: BaFin

5.2 Private health insurers

Business trends

Table 16 provides an overview of private health insurers' business performance and investments.

Solvency

Only six health insurers, which qualify as small insurance undertakings within the meaning of section 211 of the Insurance Supervision Act, are still governed by Solvency I. According to the preliminary information available as at the editorial deadline, all six of these met the solvency requirements applicable to them.

The remaining 40 health insurers were subject to the Solvency II reporting obligations as at the end of 2022. Table 17 provides an overview of how the solvency capital requirement is calculated, and of the use of transitional measures. The four health insurers that use a (partial) internal model have a relevant market share of just under half of the SCR for the sector.

Figure 8 on page 57 shows the trend in SCR coverage ratios for health insurers subject to interim reporting obligations over the course of the year.

Projection exercise

BaFin also conducted a projection exercise for health insurers in 2022. This focused on their economic performance under the provisions of the German Commercial Code (*Handelsgesetzbuch*). No Solvency II figures were requested. The projection exercise simulated the impact of different capital market scenarios on undertakings' performance and financial stability, especially over the medium term.

Table 17: Overview of private health insurers subject to Solvency II

Number of private health insurers subject to Solvency II	40
SCR calculated using	
Standard formula	36
(Partial) internal model	4
Use of	
Undertaking-specific parameters	–
Volatility adjustment (section 82 of the VAG) and transitional measure for technical provisions (section 352 of the VAG)	2
Transitional measure for technical provisions	1
Volatility adjustment	6
Transitional measure on the risk-free interest rates (section 351 of the VAG)	–

Source: BaFin

A total of 39 insurers took part in the projection exercise. Seven undertakings were exempted from having to take part by BaFin. These undertakings offer non-SLT ("similar to life techniques") health insurance and do not have to establish a provision for increasing age or generate a specific technical interest rate.

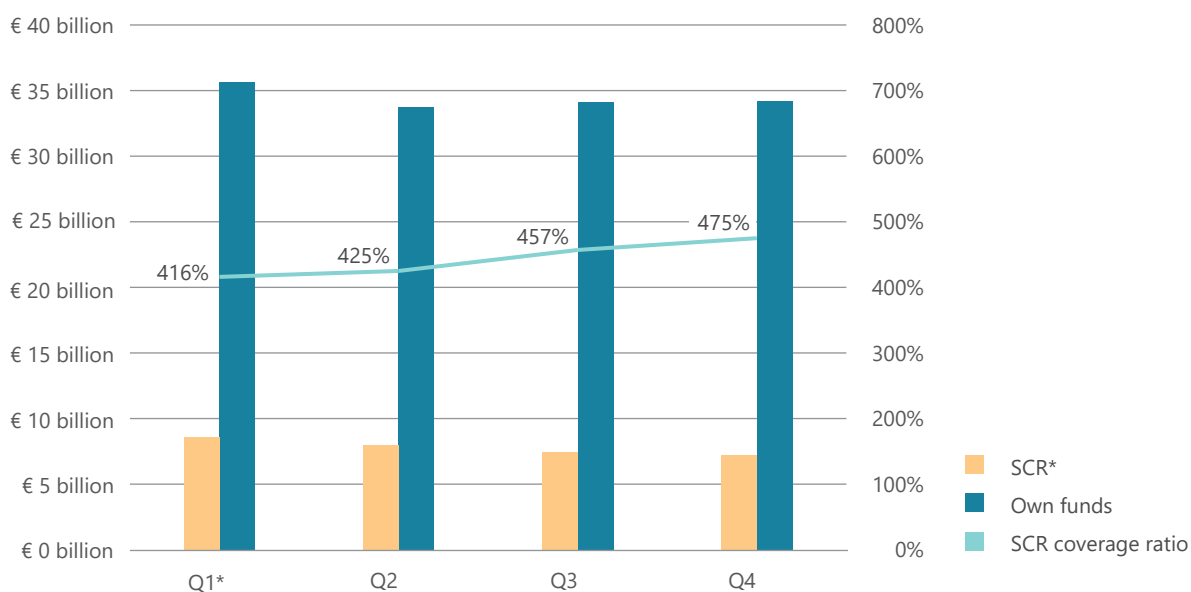
Overall, BaFin found that the environment, which is dominated in particular by higher interest rates, is tolerable for health insurers from an economic point of view. On average, no material impacts on the return on investment and the technical interest rate are expected immediately due to the long-term nature of the investments. However, positive effects are possible here in future.

Table 16: Private health insurers' business performance and investments

	2022	2021
Gross premiums written (€)	46.9 billion	45.2 billion
Of which: Comprehensive health insurance	30.7 billion	30.1 billion
Persons insured	45.4 million	44.7 million
Of which: Comprehensive health insurance	8.7 million	8.7 million
Aggregate investment portfolios (€)	345.9 billion	323.3 billion
Net hidden reserves/net hidden liabilities (€)	-19.4 billion	51.6 billion
Average net return on investment	2.3%	3.0%

Source: BaFin

Figure 8: SCR, own funds and SCR coverage ratios for private health insurers over the course of the year



* Solvency capital requirement; "Q" stands for "quarter".
Source: BaFin

Impact of higher interest rates and inflation

The valuation reserves for fixed-income investments fell in 2022 due to the rise in interest rates. The technical interest rates relevant for calculating the contributions had not been increased by the editorial deadline. They may only be changed when premiums are adjusted, and in this case must be based on the actuarial corporate interest rate. An increase in the technical interest rates is only to be expected after a delay – once the higher market interest rates are also reflected in higher investment income for health insurers. Similarly, the rise in inflation has generally not had a significant effect to date on the levels of insurance benefits and costs. BaFin will closely monitor the ongoing trend in medical inflation and its impact on the premiums paid by holders of substitutive private health insurance policies.

Premium adjustments in private comprehensive health insurance for 2023 affect roughly 41% of policyholders with respect to at least one policy module (and 32% with respect to a core plan). Average premium adjustments amount to 5.2%, with premium reductions also being seen in some cases. Health insurers are using a total of roughly €1.2 billion of the provisions for premium refunds to limit the increases in premiums.

5.3 Property and casualty insurers

Business trends

The dominant factor in financial year 2022 for property and casualty insurers was the historically high inflation rate. Motor vehicle insurance, fire, residential buildings and contents insurance were particularly hard hit. These also account for a large proportion of total premium volumes in property and casualty insurance. In addition, above-average price rises were seen in individual areas that are particularly important for claims settlement. For example, prices for goods and services connected with residential property construction rose substantially faster than general price levels did. Prices for the parts needed for motor vehicle repairs had already arisen by disproportionately large amounts in the past. Property and casualty insurers offering motor vehicle insurance continued to be impacted by this trend in 2022.

BaFin reacted early on to this development and made its expectations known in [expert articles](#) on a number of occasions. It requested that property and casualty insurers affected take the effects of high inflation rates into account in their annual financial statements for 2022 and when setting their tariffs. BaFin is maintaining its focus on this area.²

² See "Risks in BaFin's Focus 2023", page 9.

Table 18: Business trends in property and casualty insurance (€ billion)

	2022	2021
Gross premiums written	94.5	88.7
Gross payments for claims relating to the financial year	27.4	28.2
Gross payments for claims relating to previous years	26.3	20.3
Provisions for individual claims relating to the financial year	26.3	28.2
Provisions for individual claims relating to previous years	80.0	73.6

Source: BaFin

According to the data available to date, the undertakings reacted to the environment of rapidly rising prices. For example, they increased their provisions for motor vehicle insurance claims relating to the financial year and previous years. Gross premiums written for the overall direct insurance business increased at a faster rate than the policy portfolio did in 2022, an indication that prices have risen in both the existing portfolio and new business. This development could be seen particularly clearly in residential buildings and contents insurance, where the number of policies remained almost unchanged but total gross premiums written increased significantly.

Since the property and casualty insurance business is largely conducted on the basis of annual policies, a large proportion of inflation-related price increases are only to be expected when policies are renewed, and hence in some cases after the turn of the year. Table 18 provides an overview of business trends in the property and casualty insurance area.

Solvency

A total of 23 German property and casualty insurers were still covered by the provisions of Solvency I. These are mainly small insurance undertakings as defined by section 211 of the Insurance Supervision Act. The average coverage ratio for these 23 property and casualty insurers was 541% at the end of 2021.³

As at 31 December 2022, 181 property and casualty insurers were subject to supervision in accordance with the Solvency II regime (see Table 19). The 17 property and casualty insurers using a (partial) internal model had a market share of 22.5%.⁴

³ The information relates to the most recent financial year for which data for property and casualty insurers subject to Solvency I is available.

⁴ The market share was calculated as the ratio of the aggregate SCR for the insurers using (partial) internal models to the aggregate SCR for all Solvency II property and casualty insurers for Q4 2022.

Table 19: Overview of property and casualty insurers subject to Solvency II

Number of property and casualty insurers subject to Solvency II*	181
SCR** calculated using	
Standard formula	164
(Partial) internal model	17
Use of undertaking-specific parameters	13

* The total of 181 Solvency II undertakings and 23 Solvency I undertakings (as at 31 December 2022: 21 Solvency I undertakings) exceeds the number of 198 property and casualty insurers given in Table 12, since it includes four property and casualty insurers that are supervised at state level.

** Solvency capital requirement.

Source: BaFin

All property and casualty insurers reported adequate SCR coverage as at 31 December 2022. Figure 9 on page 59 shows the SCR coverage ratios for the property and casualty insurers subject to interim reporting obligations over the course of the year.

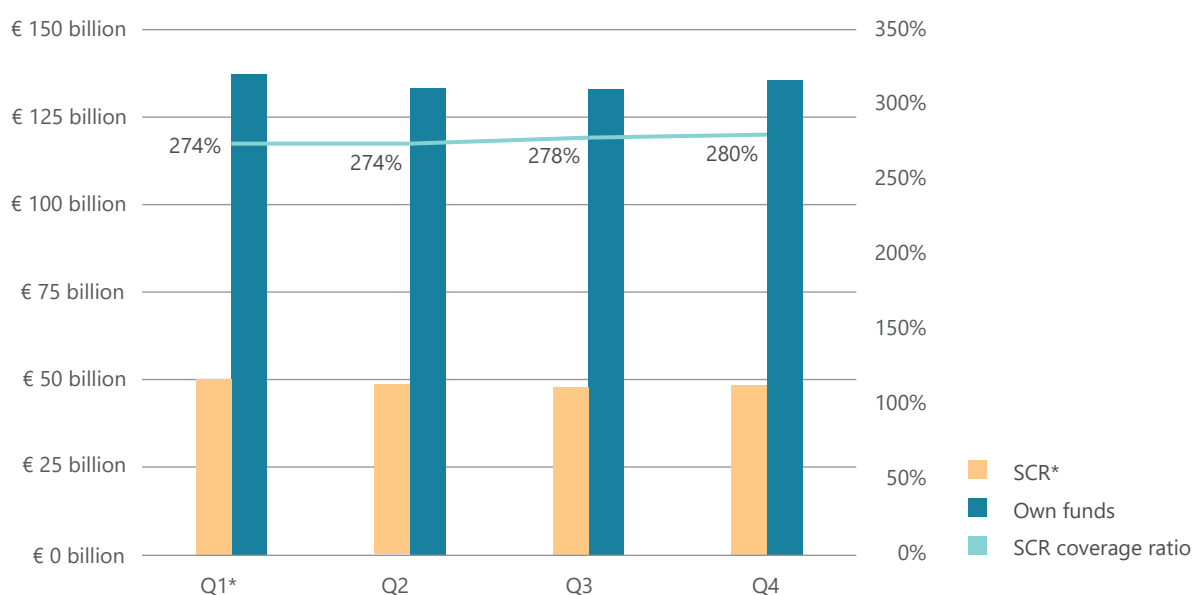
The coverage ratio is relatively constant (in comparison with the life insurance sector, for example). This mainly reflects the fact that property and casualty insurers do not issue long-term guarantees and that the average term of their investments is shorter. These undertakings are therefore considerably less sensitive, and react with much less volatility, to capital market movements.

5.4 Reinsurers

Business trends

Table 20 on page 59 shows the business trends in reinsurance.

Figure 9: SCR, own funds and SCR coverage ratios for property and casualty insurers over the course of the year



* Solvency capital requirement; "Q" stands for "quarter".

Source: BaFin

Table 20: Business trends in reinsurance

Gross premiums written (€m)	2022	2021
Non-life reinsurance	72,375.9	60,388.5
Of which proportional	58,260.0	48,667.6
Of which non-proportional	14,115.9	11,720.9
Life reinsurance	12,866.3	12,560.1
Health reinsurance	6,768.2	6,721.9
Total	92,010.4	79,670.5

Quelle: BaFin

It is estimated that 2022 was the fifth-costliest year ever for insurers in terms of natural disasters. Total worldwide economic losses are thought to have totalled US\$313 billion, with US\$132 billion of this figure being insured. BaFin primarily analysed the effects of Hurricane "Ian", whose losses of roughly US\$50–65 billion significantly impacted reinsurers in particular. While total losses from natural disasters are on a par with the average for the last five years, the insured losses are clearly higher (2017–2021: US\$97 billion).⁵

The trend towards significant price increases that was already visible in the 2021/2022 round of renewals, especially in the insurance classes and regions impacted by losses, continued in the round of renewals towards the end of 2022. BaFin discussed this with the reinsurers in 2022. The immense losses incurred allowed insurers to impose price rises in excess of inflation. Global prices for natural disaster reinsurance rose by 10.8% in 2022, and a further rise of 27.5% is expected in the round of renewals for 2022/2023.⁶ Equally, on the German market reinsurance prices for portfolios not affected by natural disasters rose by as much as 25–60% in some cases.⁷

Once again, the market for catastrophe bonds saw above-average volumes in 2022: US\$10.5 billion worth were issued in the period up to the end of the year. Issuance in 2022 was almost US\$1 billion above the average for the past ten years. However, the volume of catastrophe bonds issued declined in Q3 and Q4, so that the record result of US\$14 billion seen in 2021 was not exceeded.⁸

On the one hand, the growing impact of natural disasters has led to increased demand for reinsurance. On the other, reinsurers have adjusted their offerings in

5 See Münchener Rückversicherungs-Gesellschaft AG: media information dated 10 January 2023.

6 See Guy Carpenter: Global Property Catastrophe Rate-on-Line Index.

7 See Gallagher Re: 1st View: Market Turns January 2023.

8 See Artemis: [Summary page](#) for all catastrophe bond & ILS market reports and Q4 2022 Catastrophe Bond & ILS Market Report.

some cases – e.g. by raising prices, increasing retentions or restricting benefits. In light of this, BaFin began to research the impact on both the demand and the supply side of reinsurance in 2022 using the example of the heavy rainfall caused by low-pressure system “Bernd”.

Solvency II

Of the 30 German reinsurance undertakings subject to supervision by BaFin in 2022, 29 were required to comply with the Solvency II reporting obligations. The seven reinsurers using a (partial) internal model or undertaking-specific parameters to calculate their solvency capital requirement (SCR) have a market share of nearly 80% of the sector’s SCR.

Table 21: Overview of reinsurers subject to Solvency II

Number of reinsurers subject to Solvency II	29
SCR* calculated using	
Standard formula	22
(Partial) internal model	3
Use of undertaking-specific parameters	4

* Solvency capital requirement.
Quelle: BaFin

Figure 10 shows the SCR, own funds and SCR coverage ratios for the reinsurance undertakings subject to interim reporting obligations over the course of the year.

The SCR coverage ratios reported by reinsurers as at the end of the fourth quarter ranged from 119% to 520%. This spread is due to the sector’s heterogeneous nature. It covers both reinsurers with regional and international operations and a number of undertakings that also perform the function of a holding company for an insurance group or a financial conglomerate.

5.5 Pensionskassen

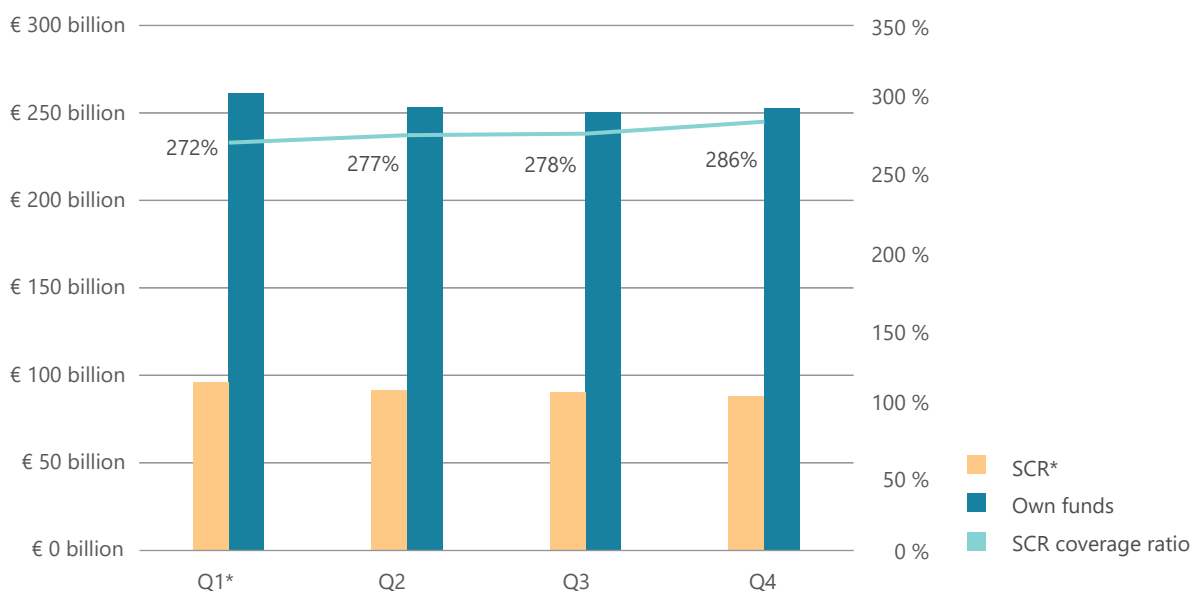
Business trends

Table 22 on page 61 provides an overview of business and investment trends at *Pensionskassen*.

Projection exercises

In its projection exercise as at the 30 September 2022 reference date, BaFin requested the *Pensionskassen* to estimate their results for the financial year under four equities and interest rate scenarios. As in previous years, the projection exercise also included the following four financial years; in the case of certain *Pensionskassen*, BaFin expanded the projection exercise even further to cover the next 14 financial years. The *Pensionskassen* affected were those with premium rates to which the German Premium Reserve Regulation (*Deckungsrückstellungsverordnung*) applies and which are required to establish a *Zinszusatzreserve*, those *Pensionskassen* subject to intensified supervision and *Pensionskassen* with an average technical interest rate of more than 2.5% as at 31 December 2021.

Figure 10: SCR, own funds and SCR coverage ratios for reinsurers over the course of the year



* Solvency capital requirement; “Q” stands for “quarter”.
Source: BaFin

Table 22: Business and investment trends at Pensionskassen

	2022*	2021**
Gross premiums written (€)		
Total:	6.6 billion	6.6 billion
By legal form:		
Stock corporations	2.1 billion	2.1 billion
Insurance associations	4.5 billion	4.5 billion
Aggregate investment portfolios (€)	200.3 billion	192.9 billion
Net hidden reserves/ net hidden liabilities (€)	-4.9 billion	29.2 billion
Net return on investment	2.3%	4.1%

* The information for 2022 represents forecast data and preliminary information taken from interim reporting in the course of the year.

** The information for 2021 represents the final figures. This means that there may be discrepancies to the prior-year report.

Quelle: BaFin

The projection exercises show that the SCR coverage ratio for financial year 2022 was roughly three percentage points higher than in the previous year. As a general rule, the undertakings were therefore able to meet the solvency requirements based on the specific provisions of the IORP II Directive. The sector's short-term risk-bearing capacity was therefore still assured as at the editorial deadline.

Impact of higher interest rates and inflation

The interest rate rise in 2022 was a positive development for the *Pensionskassen*, which had been particularly affected by the low interest rate environment, since earnings opportunities for new investments and reinvestments increased. However, in historical terms interest rates were still at a relatively low level. In addition, the interest rate rise led to a decrease in the *Pensionskassen's* hidden reserves, or to hidden liabilities arising. As a result, the forecasts point to an improved but still difficult situation at the *Pensionskassen*.

Generally speaking, the very high level of inflation does not have any direct impact on the benefits provided by the *Pensionskassen*, since these are not normally linked to inflation trends. Nevertheless, inflation-related cost increases could affect the cost results at *Pensionskassen*.

Solvency

The projection exercise revealed that the coverage ratio set out in the German Capital Resources Regulation (*Kapitalausstattungs-Verordnung*) applicable to the

Pensionskassen was an average of 146% as at the 2022 reporting date. The figure as at the 2021 reporting date was 143%. According to the projections, three *Pensionskassen* were unable to meet the solvency requirements as at 31 December 2022.

5.6 Pensionsfonds

Business trends

Table 23 shows the business and investment trends at *Pensionsfonds*.

Table 23: Business and investments at Pensionsfonds

	2022	2021
Gross premiums written (€)	3.5 billion	5.6 billion
Number of beneficiaries	1,290,829	1,233,848
Of whom: Vested employees who are members of defined contribution pension plans	782,202	734,656
Vested employees who are members of defined benefit pension plans	109,171	106,961
Benefit expenses paid (€)	2.9 billion	2.7 billion
Beneficiaries	396,682	394,516
Investments for <i>Pensionsfonds'</i> account and risk (€)	4.1 billion	3.8 billion
Net hidden reserves/ net hidden liabilities (€)	-339.6 million	260.1 million
Investments for employees' and employers' account and risk (€)	50.5 billion	54.0 billion

Source: BaFin

Projection exercises

In its projection exercise as at the 30 September 2022 reference date, BaFin requested the *Pensionsfonds* to state their expected results and valuation reserves for the current financial year. It also required the undertakings to forecast their expected solvency levels for the current financial year 2022 and the following four financial years. In addition, the *Pensionsfonds* had to estimate the change in the *Zinszusatzreserve* for the current and the following four financial years as part of the projection exercise.

The projection exercise showed that the 33 *Pensionsfonds* included are able to withstand the four defined scenarios financially.

Solvency

According to the preliminary information available for the current projection exercise, all *Pensionsfonds* have adequate own funds available for the current financial year 2022 and the following four financial years. For around two-thirds of the *Pensionsfonds*, the level of own funds required by supervisory law corresponds to the minimum capital requirement of €3 million for stock corporations and €2.25 million for mutual *Pensionsfonds*. The individual solvency capital requirement for these *Pensionsfonds* was below the minimum capital requirement at the end of 2022. This was due either to the relatively low volume of business or to the type of business conducted.

Social partner model

In 2022, two social partner models started operating. BaFin was engaged in discussions with other potential providers at the end of 2022. An increase in the number of social partner models can therefore be expected. As a basic principle, social partner models can be run by *Pensionsfonds*, *Pensionskassen* and life insurers.

A decorative graphic consisting of numerous thin, white, wavy lines that originate from the top left and flow towards the bottom right, creating a sense of movement and depth against the solid red background.

V

Supervision of securities
trading and the investment
business



1 Monitoring of market transparency and integrity

1.1 Bases of supervisory practice

Change in reporting threshold of net short positions

The initial net short position reporting threshold was reduced by law with effect from 31 January 2022. Since then, position holders must report net short positions that reach or exceed 0.1% of the issued share capital, plus every additional 0.1 percentage point increase thereafter. This is set out in the EU Short Selling Regulation. Prior to this, the threshold was 0.2%.

Central securities depositories: Delegated Regulation

Since Delegated Regulation (EU) 2018/1229 (settlement discipline) took effect in February 2022, central securities depositories have been required to take measures to monitor settlement fails. If a settlement fails, the banks responsible must now pay penalties to the

central securities depository concerned. In addition, German central securities depository Clearstream Banking AG must report settlement fails to BaFin on a monthly basis.

1.2 Market abuse: analyses and investigations

Monitoring prohibitions on insider trading and market manipulation is essential for ensuring capital market integrity. BaFin restructured its Directorate responsible for this in mid-2022 in order to improve its efficiency even further. Its market surveillance activities now take a more risk-based approach and are aligned with specific industry sectors.

BaFin performed a total of 1,902 market abuse analyses in 2022. It examined 1,111 cases of potential market manipulation and 791 of prohibited insider trading. BaFin found indications of market abuse in a total of 40 of these analyses, as shown in Table 24 on page 66 (market manipulation: 22 cases, insider trading: 18 cases).

Table 24: Market abuse analyses

Year	Suspicious transaction and order reports	Tip-offs	Total number of analyses	Analyses with evidence of market abuse
2022	2,872	379	1,902	40
2021	2,851	607	1,965	37
2020	2,625	598	1,857	21

Source: BaFin

1.2.1 Market manipulation

A total of 22 analyses conducted by BaFin in 2022 found sufficient evidence of market manipulation. BaFin follows a risk-based approach and focuses on the most significant breaches of the rules both in its market manipulation analyses and in the resulting

investigations. These are generally highly complex processes. This is one reason why the number of completed market manipulation proceedings has declined. Table 25 and Table 26 provide overviews of the market abuse investigations performed and the market manipulation proceedings completed at the public prosecutor's offices and the courts.

Table 25: Market manipulation investigations

Period	Completed market manipulation analyses	Market manipulation analyses yielding sufficient evidence	Investigations discontinued	Investigation results				
				Investigations referred to public prosecutor's offices or BaFin's Administrative Fines Division				
				Public prosecutor's offices		Administrative Fines Division		Total (cases)
				Cases	Individuals	Cases	Individuals	
2022	1,111	22	19	12	29	2	4	14
2021	1,150	17	110	25	57	1	1	26
2020	1,143	21	49	21	32	0	0	21

Source: BaFin

Table 26: Completed market manipulation proceedings

Period	Total	Investigations discontinued	Investigations discontinued as part of out-of-court settlements	Final court judgements				Completed administrative fine proceedings
				Court rulings	Convictions following summary proceedings	Convictions following full trial	Acquittals	
2022	80	66	7	0	0	2	0	5
2021	157	124	13	6	3	6	4	1
2020	206	154	17	17	2	10	0	5

Source: BaFin

International administrative assistance for market manipulation proceedings

In 2022, BaFin primarily exchanged information with authorities from other EU Member States. Outside the European Union, BaFin supported supervisory authorities in Canada and the United Kingdom in particular. In addition, BaFin submitted five requests for administrative assistance to foreign supervisory authorities in the area of market manipulation in 2022. An overview is provided in Table 27.

Table 27: Requests for international administrative assistance in market manipulation investigations

Period	Requests made	Requests received	Total
2022	5	21	26
2021	13	30	43
2020	34	30	64

Source: BaFin

1.2.2 Insider trading

In its pursuit of insider trading, BaFin in 2022 focused on investigating multiple offenders acting with considerable criminal energy. However, such cases involve a substantial degree of effort, which is why BaFin filed fewer criminal complaints to the prosecuting authorities overall. The highest penalty for insider trading to date was imposed in 2022.¹ The principal perpetrator was sentenced to three years and eight months in prison in a ruling that has not yet become final and absolute; in addition, a confiscation order was issued for seven million euros.

International administrative assistance for insider trading proceedings

In line with its risk-based approach, BaFin requested support with its investigations from foreign supervisory authorities in 5 cases in 2022 (previous year: 12 cases); see Table 30 on page 68. Conversely, BaFin was asked to provide administrative assistance in 23 cases.

¹ See [chapter II.6](#) for information on sanctions.

Table 28: Insider trading investigations

Period	Completed insider trading analyses	Insider trading analyses yielding sufficient evidence	Investigations discontinued	Investigation results				
				Investigations referred to public prosecutor's offices or BaFin's Administrative Fines Division				
				Public prosecutor's offices		Administrative Fines Division		Total (cases)
				Cases	Individuals	Cases	Individuals	
2022	791	18	6	6	16	0	0	6
2021	815	20	22	17	21	0	0	17
2020	714	13	13	15	36	1	1	16

Source: BaFin

Table 29: Completed insider trading proceedings

Period	Total	Investigations discontinued	Investigations discontinued as part of out-of-court settlements	Final court judgements				Completed administrative fine proceedings
				Court rulings	Convictions following summary proceedings	Convictions following full trial	Acquittals	
2022	18	7	7	1	2	1	0	1
2021	39	23	10	1	4	1	0	0
2020	19	13	3	0	0	0	0	3

Source: BaFin

Table 30: Requests for international administrative assistance in insider trading investigations

Period	Requests made	Requests received	Total
2022	5	23	28
2021	12	21	33
2020	13	11	24

Source: BaFin

1.2.3 Ad hoc disclosures and managers' transactions

Ad hoc disclosures

A large number of ad hoc disclosures in 2022 still dealt primarily with the effects of the COVID-19 pandemic on issuers' financial position and financial performance. For example, supply chain shortages and delivery delays had what were in some cases substantial effects on issuers' business performance. However, the total number of disclosures fell clearly compared to the prior two years, as can be seen from Figure 11.

In addition, 145 ad hoc disclosures were published in the period between the start of the war in Ukraine and the year-end, detailing the consequences of the war for the issuers concerned. A large number of issuers amended or suspended their existing forecasts, or made

clear that they depended on additional unforeseeable developments, as a result of sanctions affecting them, supply chain shortages, and higher prices for energy and logistics services.

Managers' transactions

As can be seen from Figure 12 on page 69, the number of managers' transactions notifications fell year-on-year in 2022.

1.3 Monitoring of short selling

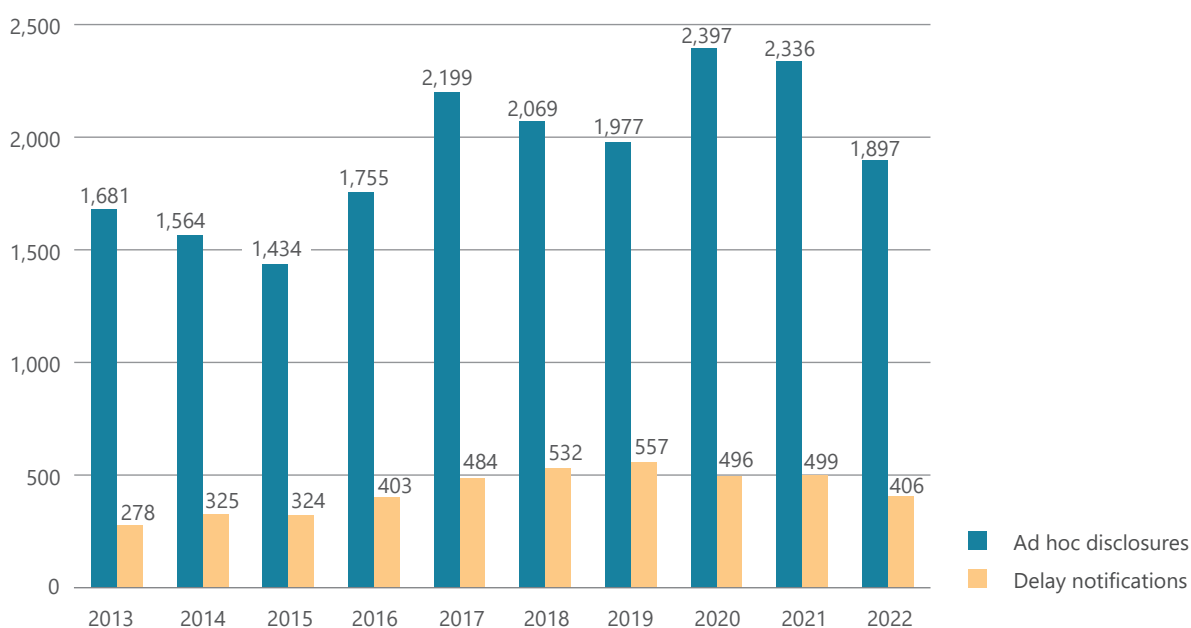
1.3.1 Prohibitions

BaFin launched 76 investigations of prohibited uncovered short selling transactions in 2022. The main triggers were suspicious transaction and order reports submitted by investment services enterprises and credit institutions. Most of the investigations were discontinued because the infringements were largely minor and were caused by human error such as misunderstandings when the customer placed the order.

1.3.2 Transparency requirements and notifications by market makers

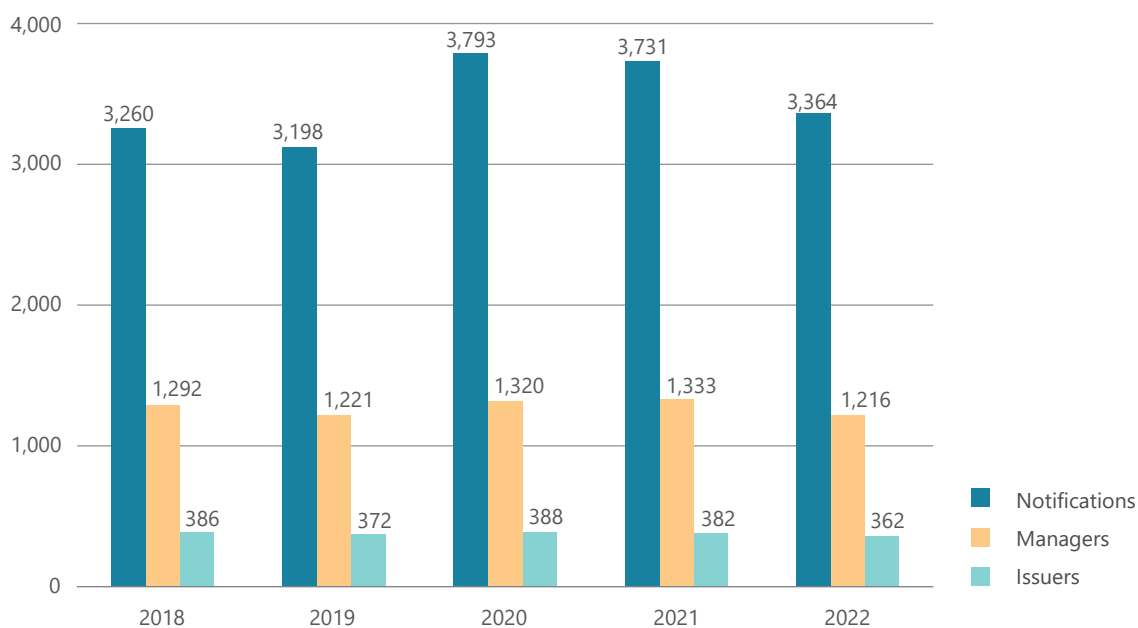
The number of notifications of net short positions almost doubled in 2022, as can be seen from Table 31 on page 69. This is due to the fact that the initial net short position reporting threshold had been reduced to

Figure 11: Number of ad hoc disclosures and delay notifications in the past ten years



Source: BaFin

Figure 12: Managers' transactions notifications



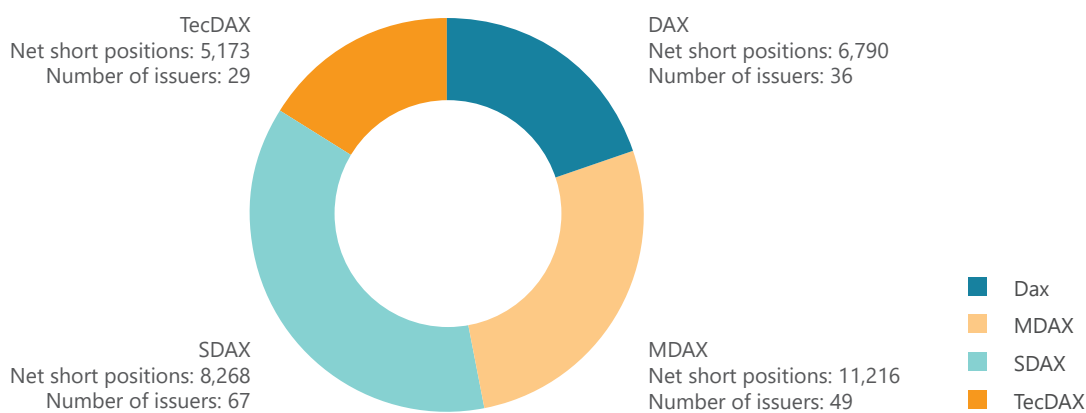
Source: BaFin

Table 31: Notifications and disclosures of net short positions

Period	Notifications regarding shares	Disclosure required in the Federal Gazette	Number of shares affected	Notifications regarding debt securities	
				issued by the federal government	issued by the federal states
2022	34,131	4,996	707	81	3
2021	17,958	3,091	864	57	0
2020	24,981	4,604	558	70	0

Source: BaFin

Figure 13: Notifications broken down by indices in 2022



Source: BaFin

0.1% of the issued share capital. As can be seen from Figure 13, the majority of net short positions related to MDAX companies.

Table 32 provides a summary of market makers and primary dealers that made use of the exemptions from the prohibitions on short selling and from the transparency requirements in 2022.

Table 32: Notifications by market makers and primary dealers in 2022

	Market makers	Primary dealers
Total number of companies	48	36
Of which based in Germany	39	10
Of which based abroad	9*	26**

* Non-EU third country.

** Domiciled outside Germany.

Source: BaFin

1.4 Supervision of financial market infrastructures: central counterparties and central securities depositories

Central counterparties

In 2022, supervision of central counterparties (CCPs) was dominated by the war in Ukraine. European Commodity Clearing AG (ECC), the German central counterparty, is a key financial market infrastructure for electricity and gas (derivatives). The collateral it required banks and energy companies to post rose substantially as a direct reaction to what were at times record prices and high levels of volatility on the energy markets. This created liquidity problems for a number of energy companies. As a result, several European countries including Germany started relief programmes such as the “margining financing instrument”. This ensured additional liquidity, enabling margin calls to be met even in the case of price rises and high volatility. The funds were provided using credit lines from the *Kreditanstalt für Wiederaufbau* that were backed by a federal guarantee. No clearing members defaulted. German CCPs proved robust in 2022.

1.5 Supervision of OTC derivative transactions and commodities derivatives

The European Market Infrastructure Regulation (EMIR) requires counterparties with volumes of OTC derivatives in excess of certain thresholds to clear standardised OTC

derivatives through a CCP and to provide collateral. OTC stands for “over the counter” and refers to trades that are not settled on the stock exchange or other trading venues.

If non-financial counterparties (put simply: real economy companies²) have entered into volumes of derivatives that exceed certain thresholds, they must demonstrate that they comply with the material EMIR requirements. They must have suitable systems in place to ensure compliance with the requirements. If BaFin finds any shortcomings in these systems, it pursues them. This was necessary in eight cases in 2022.

1.6 Voting rights and duties to provide information to securities holders

Figure 14 on page 71 provides an overview of the number of voting rights notifications (sections 33 et seq. of the German Securities Trading Act (*Wertpapierhandelsgesetz*)), of publications of the total number of voting rights (section 41 of the Securities Trading Act) and of issuers admitted to an organised market for 2022 and for previous years.

1.7 Supervision of market structure and transparency requirements

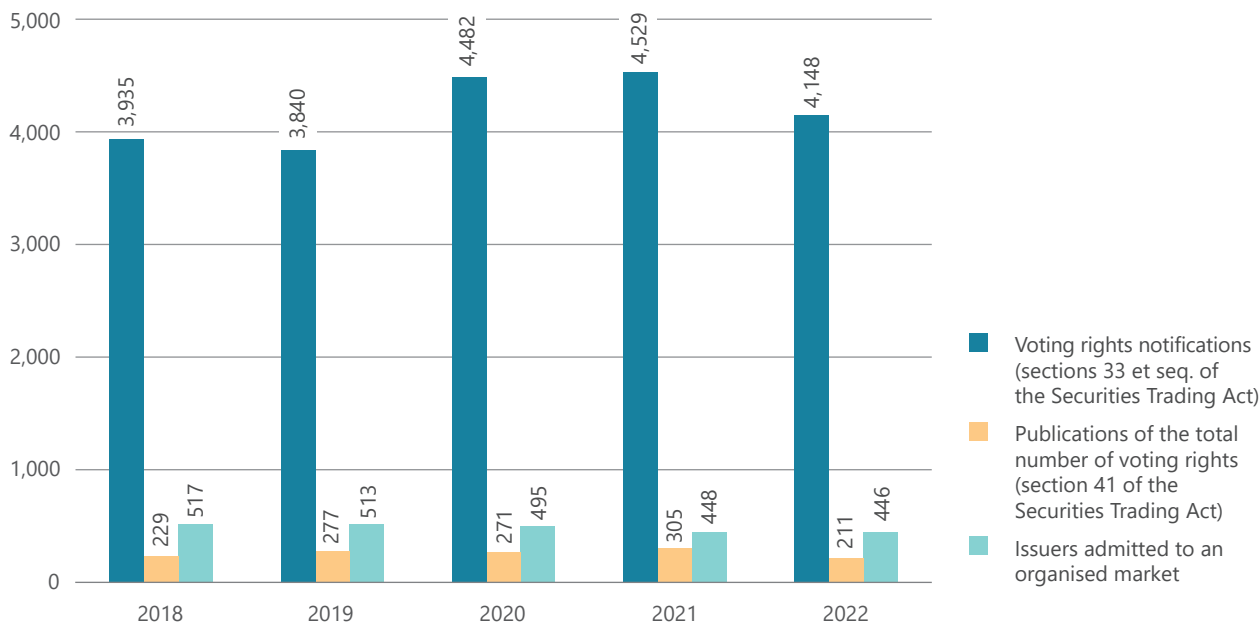
In its supervision of market structure and transparency requirements in 2022, BaFin again made use of its power to permit delayed publication of certain transactions in financial instruments on a number of occasions. It extended its rules on this until 2 July 2023. Many other countries in the EU introduced similar rules and also grant market participants the opportunity to take full advantage of the framework offered by the Markets in Financial Instruments Regulation (MiFIR) and to publish transactions after a delay.

1.8 Supervision of administrators, contributors and users of benchmarks

BaFin supervised 14 German administrators, i.e. benchmark providers, in 2022. These include, for example, both credit and investment institutions and specialist benchmark providers. A review of the implementation of the rules for climate and other sustainability-related benchmarks set out in the supplementary requirements of the Benchmark

² See Article 2 no. 9 of the European Market Infrastructure Regulation (EU) no. 648/2012 (EMIR).

Figure 14: Number of voting rights notifications (sections 33 et seq. of the Securities Trading Act), of publications of the total number of voting rights (section 41 of the Securities Trading Act) and of issuers admitted to an organised market



Source: BaFin

Regulation revealed that only two administrators offered climate transition benchmarks (CTBs) and Paris-aligned benchmarks (PABs).

During its supervision of contributors – i.e. undertakings that provide input data for critical benchmarks under the Benchmark Regulation – in 2022, BaFin also evaluated the annual financial statements submitted in accordance with the German Banking Act (Kreditwesengesetz). Where the reports contained objections or revealed shortcomings, BaFin asked the contributors to remedy them. BaFin focused in particular on the establishment of control structures that comply with the rules.

Regarding the announcements that key benchmarks would be discontinued at the beginning of 2022 and in mid-2023, BaFin entered into a dialogue with users so as to identify potential problems associated with the discontinuation early on.

2 Market access

2.1 Bases of supervisory practice

Guidance Notice on the ban on blind pools in the Capital Investment Act

On 30 June 2022, BaFin published an expanded version of its Guidance Notice on the ban on blind pools in the capital investment segment (Merkblatt zum Verbot von Blindpools im Segment der Vermögensanlagen).

Blind pools within the meaning of the German Capital Investment Act (Vermögensanlagenengesetz) are investments of capital in which the target investment has not been identified in detail at the time the prospectus or, in the case of crowdfunding, the capital investment information sheet, is prepared. With effect from 17 August 2021, these may no longer be offered to the public.

2.2 Securities prospectuses

The number of share prospectuses for the regulated market remained at a consistently high level in 2022. One initial public offering (IPO) took place during the reporting period (Porsche AG); this was the second-largest IPO in the world in 2022 in terms of the issue volume.

Security token offering procedures

As in the previous year, the number of security token offering procedures using tokens as securitisation for the global certificate remained constant. In addition, BaFin approved more prospectuses with crypto assets as their underlyings in 2022.

Table 33: Securities prospectus procedures

Product	2022	2021
Prospectuses	215	250
of which IPOs*	1	10
Registration documents	30	29
of which URDs**	1	1
Securities information sheets	147	164
STO*** prospectuses	1	0
STO securities information sheets	88	73
Withdrawn	55	78
of which IPOs	7	3
of which securities information sheets	33	33
Approval refused	7	5
of which securities information sheets	5	4

* Initial public offering.

** Universal registration document.

*** Security token offering.

Source: BaFin

2.3 Non-securities investment prospectuses

As can be seen in Table 34, BaFin again received considerably fewer non-securities investment prospectuses for approval year-on-year in 2022.

Table 34: Overview of prospectuses

Prospectuses Received	Approved	Withdrawn	Rejected	
Total in 2022	25	11	4	1
Total in 2021	38	32	9	0

Source: BaFin

As can be seen from Figure 15, most prospectuses related to interests in limited partnerships.

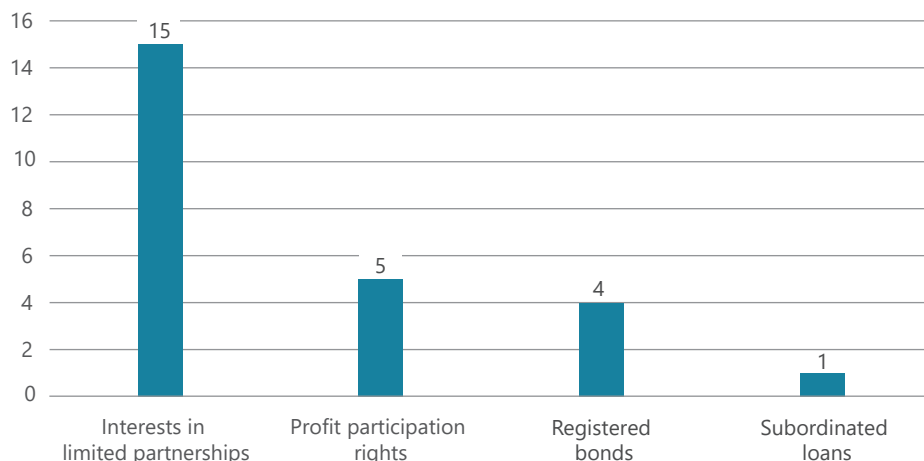
Figure 16 on page 73 shows that wind power is the most common type of target investment in the prospectuses.

In 2022, BaFin received a total of five applications for the approval of supplements, and approved six supplements under the Capital Investment Act (previous year: 13 applications received and nine approved).

As can be seen from Table 35 on page 73, BaFin received a smaller number of capital investment information sheets without a prospectus for crowdfunding than in previous years.

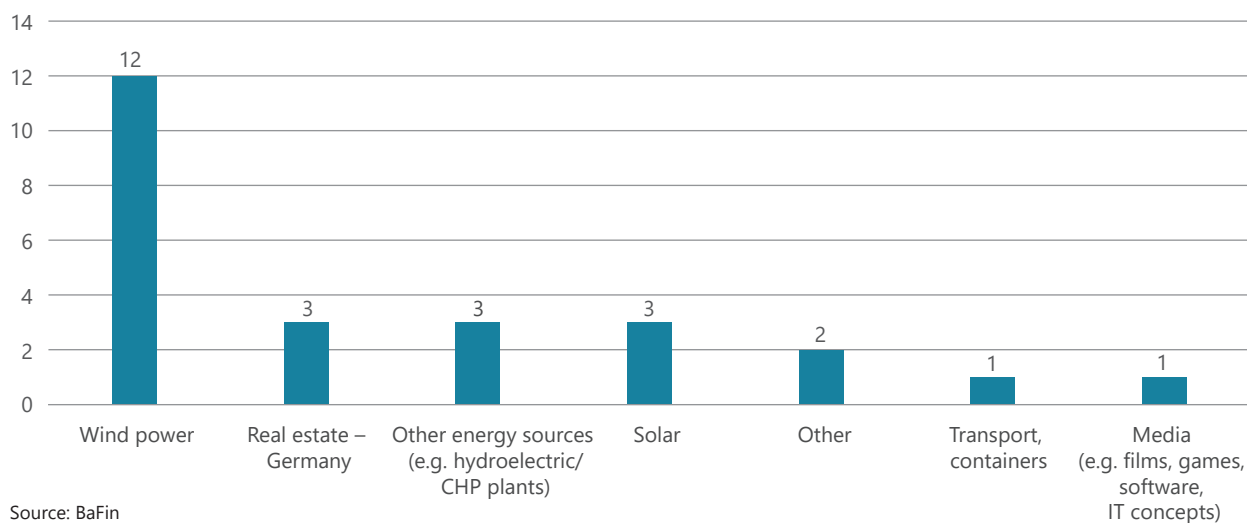
The breakdown of capital investment information sheets without a prospectus by target investment is shown in Figure 17 on page 73.

Figure 15: Prospectuses received by type of participation



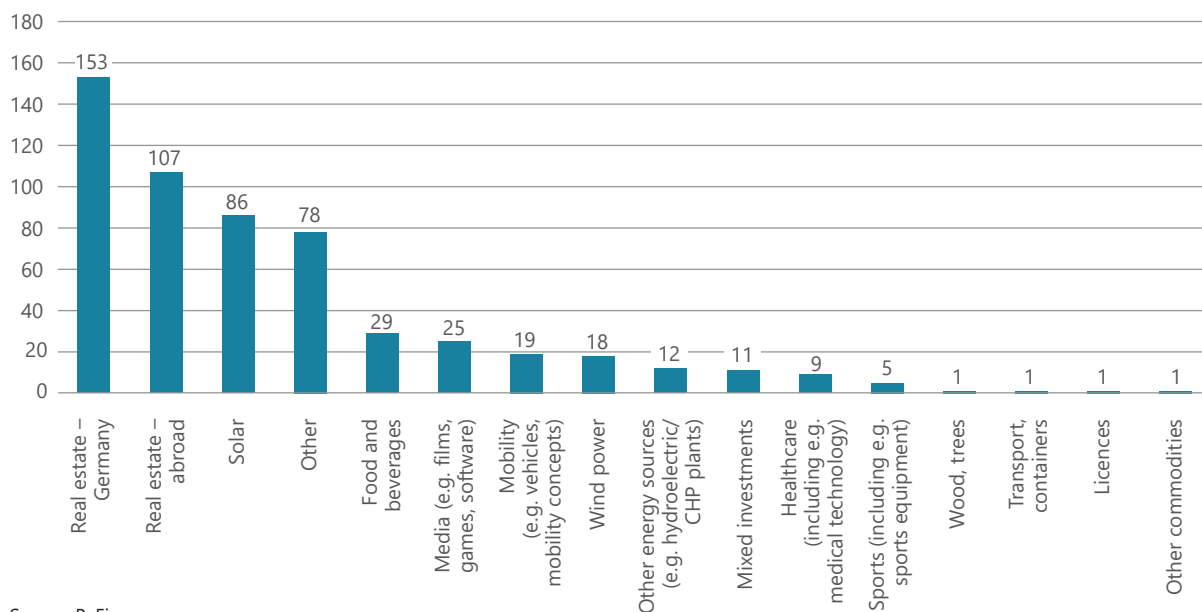
Source: BaFin

Figure 16: Prospectuses received by target investment



Source: BaFin

Figure 17: Capital investment information sheets without a prospectus for crowdfunding: numbers received by target investment



Source: BaFin

Table 35: Capital investment information sheets without a prospectus for crowdfunding

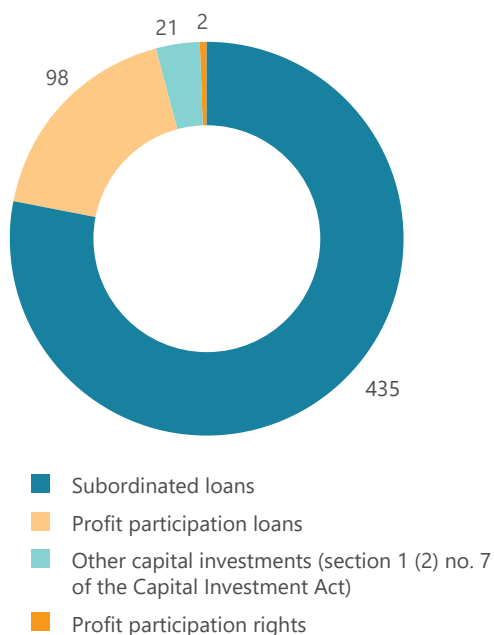
Capital investment information sheets without a prospectus	Received	Approved	Withdrawn	Rejected
Total in 2022	556	498	34	2
Total in 2021	719	499	62	0

Source: BaFin

As Figure 17 shows, real estate in Germany was the most common target investment for which capital investment information sheets without a prospectus were submitted to BaFin.

Figure 18 on page 74 shows that subordinated loans were the most common type of participation for capital investment information sheets without a prospectus submitted.

Figure 18: Capital investment information sheets without a prospectus for crowdfunding: numbers received by type of participation



Source: BaFin

2.4 Market supervision of offers to the public

Fraudulent offers to the public

A large proportion of the market supervision cases shown in Table 36 related to constellations in which alleged fraudsters cold-called private individuals in Germany (i.e. made unsolicited calls to them) and offered them the opportunity to subscribe to or buy shares and bonds.

In a particularly common trick, callers contacted investors in the run-up to the IPOs of well-known companies and falsely asserted that it was possible to acquire the securities at a discount prior to the listing. In the process, they pretended to be investment services providers and in some cases even used the names of existing investment services providers (identity theft). The objective was to induce the investors to transfer money, even though the promised opportunity to buy the securities did not actually exist. BaFin prohibited such offers as quickly as possible, warned publicly against them and forwarded the evidence of fraud crimes that it had obtained to the competent public prosecutor's offices.

The JuicyFields platform attracted a lot of attention in 2022. It offered investments that, according to the

Table 36: Market Supervision statistics on unauthorised offers to the public

	2022	2021
New proceedings initiated ¹	180	184
Prohibitions		
under the Capital Investment Act	7	4
under the Securities Prospectus Act	15	9
Suspicious transaction and order reports submitted to the FIU	12	2
Queries submitted to the FIU	2	0
Referred to the police/public prosecutors' offices ²	18	2
Information published on BaFin's website	53	50

¹ A single set of proceedings is opened for each set of facts relating to a financial instrument or an investment, regardless of the number of providers or submissions.

² This relates to both formal criminal complaints and information letters submitted on BaFin's initiative. In the case of the police, they can be addressed to the Federal Criminal Police Office (*Bundeskriminalamt*), the German state criminal police offices (*Landeskriminalämter*) and local police authorities. Answers to queries submitted by the above-mentioned authorities are not included.

Source: BaFin

provider, aimed to enable investors to participate in “e-growing” – i.e. they could invest in the legal cultivation and subsequent marketing of cannabis. Investments of €50 or higher would allegedly generate high double-digit returns within a very short space of time.

BaFin reacted early on to these offerings with warnings and publications from the beginning of 2022 onwards, and ultimately prohibited them on 3 June 2022. In mid-July 2022, the provider stopped making payments and blocked access to customer accounts. This led to a large number of aggrieved parties contacting BaFin.

In addition to prohibiting the offerings, BaFin provided considerable support for the investigation of the suspected Ponzi scheme from an early stage onwards; the investigation was headed by Berlin’s state criminal investigation office and the Berlin public prosecutor’s office. The chief public prosecutor’s office in Berlin published a press release on the initial searches performed.

International warnings

BaFin also posts its warnings to IOSCO’s Investor Alerts Portal, so as to increase their reach.

Table 36 on page 74 provides an overview of the development of the cases occurring and measures taken in the last two years.

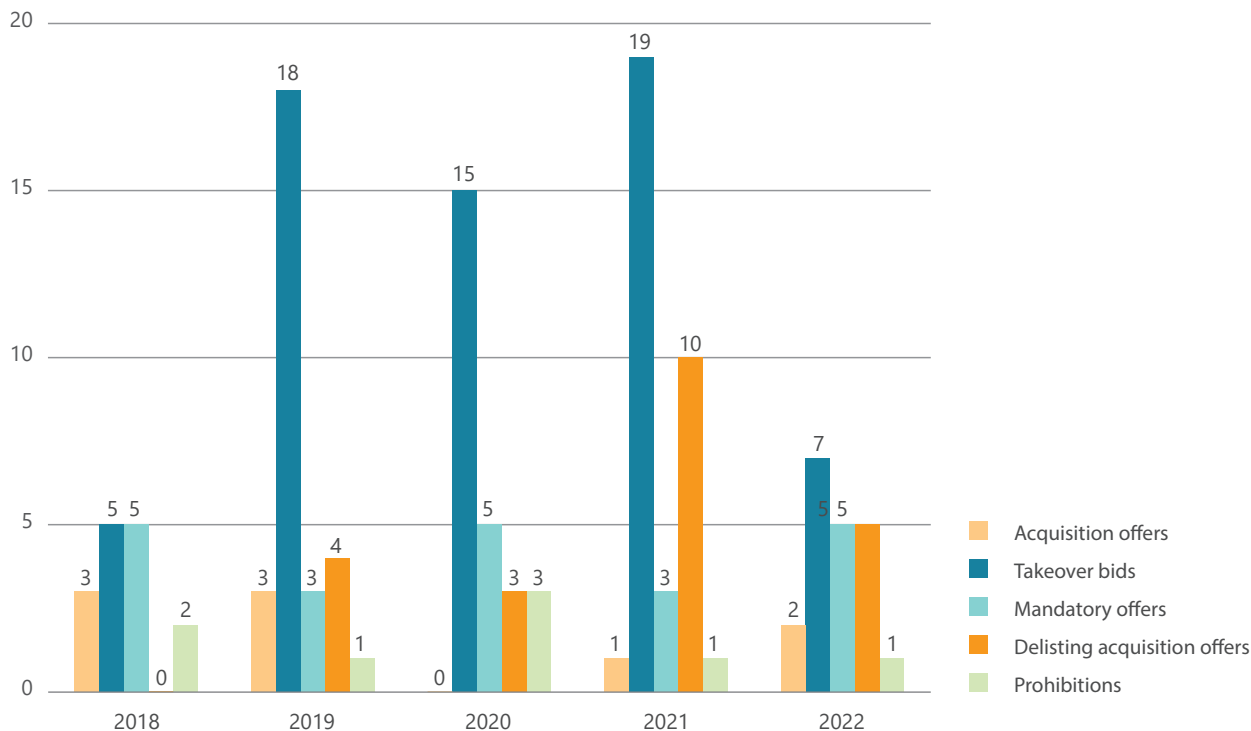
3 Takeovers

BaFin’s Securities Supervision Sector monitors offers to the public of securities admitted to trading on a regulated market. Figure 19 provides an overview of the number of offer documents for the different offer types that were published in the period from 2018 to 2022, plus the prohibitions made. It shows that there were substantially fewer takeover offers in 2022 than in 2019 to 2021.

Exemption procedures

A total of 29 applications for the non-consideration of voting rights were made in 2022. This was nine fewer than in 2021. The number of exemption applications under section 37 of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*) stood at 43 in 2022 (previous year: 27).

Figure 19: Offer types and prohibitions in the last five years



Source: BaFin

4 Financial reporting enforcement³

4.1 Bases of supervisory practice

German Act to Strengthen Financial Market Integrity

Since the beginning of 2022, BaFin has been solely responsible for checking the financial information published by publicly traded companies. The previous two-stage process was modified to produce a single-stage, purely sovereign process. In addition to random sampling, BaFin conducts ad hoc examinations in cases in which there are concrete indications of breaches of the accounting requirements. It has now also been equipped with forensic powers in this area, such as the right to conduct interviews, and search and seizure rights.

In addition, BaFin can now present its financial reporting enforcement activities transparently. It published this supervisory practice on 7 March 2022 in a supervisory statement entitled "Announcement of financial reporting enforcement procedures" (*Bekanntmachung von Bilanzkontrollverfahren*). In line with this, it regularly announces its examination order at the start of an ad hoc examination. Equally, BaFin publishes any errors found in the course of its examinations. What is more, BaFin can inform the capital market at an early stage by announcing partial error findings, key procedural steps and/or insights obtained in the course of procedures.

4.2 Monitoring of financial reporting and publication of financial reports

Monitoring of financial reporting

As at 1 July 2022, BaFin was responsible for financial reporting enforcement for 512 companies from 12 countries. Table 37 shows the financial reporting enforcement procedures completed in 2022.

Publications

In 2022, BaFin announced 7 examination orders and 11 (partial) error findings. In the case of one

Table 37: Completed financial reporting enforcement procedures

	Examina- tions	Errors found	No errors found	Dis- continued ⁴
Ad hoc examinations	14	6	2	6
Random sampling	26	5	18	3
Total	40	11	20	9

Source: BaFin

examination, BaFin used the partial error findings mechanism for the first time and published individual partial error findings on 1 August 2022 and 17 November 2022.

As announced in the Annual Report 2021, BaFin implemented the European common enforcement priorities for annual financial reports set out by the European Securities and Markets Authority (ESMA) and the national areas of emphasis in its random sampling when examining the annual and consolidated financial statements for publicly traded companies in 2022. It also identified individual examination areas such as consolidation issues and the design of risk reporting. On 5 December 2022, BaFin published its areas of emphasis for financial reporting enforcement in 2023 for financial statements for financial year 2022.

Publication of financial reports

In 2022, BaFin performed a total of 851 examinations to establish whether issuers had published their financial reports⁵ (annual and half-yearly financial reports) on time. As can be seen in Table 38 on page 77, it found indications of violations in 10 cases and pursued these in administrative fine proceedings.

In addition, BaFin verified whether the published financial reports contained all the statutory minimum components. BaFin launched two administrative procedures in 2022 to enforce the financial reporting requirements.

³ See [chapter I](#) and [chapter II.6](#) for further information on financial reporting enforcement structures.

⁴ Examinations can be discontinued if a public interest in clarifying any potential breaches of the accounting requirements no longer exists.

⁵ The German Federal Office of Justice (*Bundesamt für Justiz*) monitors publication of the accounting documents for a financial year by issuers domiciled in Germany. BaFin examines whether the associated notifications have been published by these issuers (i.e. information on when and where the accounting documents for the financial year in question were made available online).

Table 38: Examination of the publication of financial reports

		2022
I	Examinations	
	Examinations as to whether issuers published their financial reports and notifications online by the required deadline	851
II	Administrative proceedings	
	Administrative proceedings launched	2
	Administrative proceedings completed	3
	Total proceedings pending	3
	Threats of coercive fines	2
	Imposition of coercive fines	0
III	Publication of measures in accordance with section 124 of the German Securities Trading Act (<i>Wertpapierhandelsgesetz</i>) (including notes)	
	Number of companies affected	2
IV	Administrative offence proceedings*	
	No financial report published online	10
	No notification on publication published (generally the case where the financial report is also missing)	20
	Financial report does not contain the minimum components required by law	5

* The number of referrals to BaFin's Security Supervision Sector's central Administrative Fines Division and the number of administrative fine proceedings⁶ initiated by BaFin differ because the recording dates for the statistics are different.

Source: BaFin

5 Supervision of investment institutions

5.1 Bases of supervisory practice

Delegated Regulations on own funds requirements, on reporting and on remuneration, and guidelines on internal governance and remuneration

Since 26 June 2021, investment firms must apply the Investment Firm Regulation (Regulation (EU) 2019/2033, IFR) and the German Investment Firm Act (*Wertpapierinstitutsgesetz*), which implements the Investment Firm Directive (Directive (EU) 2019/2034, IFD).

To further specify details of the IFR and the IFD, the European Commission issued a Delegated Regulation on the own funds requirements based on fixed overheads and the Commission Implementing Regulation with regard to the annual publication of the information to be disclosed by competent authorities (supervisory

disclosure) in 2022. In 2022, the European Banking Authority (EBA) published its [Guidelines on the criteria for the exemption of investment firms from liquidity requirements in accordance with Article 43\(4\) of Regulation \(EU\) 2019/2033 \(IFR\)](#), which was implemented by BaFin as at 28 February 2023 by way of a [circular](#). The EBA had already published guidelines on [internal governance](#) and on [remuneration](#) at the end of 2021.

Additional Delegated Regulations and Implementing Regulations still had to be issued as at the editorial deadline. These relate among other things to more concrete specifications on consolidation or on calculating the thresholds as of which an investment firm becomes a credit institution pursuant to the [Capital Requirements Regulation \(CRR\)](#). In addition, German lawmakers had not finished issuing national regulations providing further details in relation to the Investment Firm Act as at the editorial deadline. The editorial changes to the [German Remuneration Regulation for Institutions \(*Institutsvergütungsverordnung*\)](#) and the German KWG Tied Agents Regulation ([Verordnung über die vertraglich gebundenen Vermittler und das öffentliche Register](#)) have now entered into force.

⁶ See [chapter II.6](#) for information on administrative fine proceedings.

5.2 Investment firms

BaFin's supervision of investment firms in 2022 focused on four areas of emphasis under the Investment Firm Act and two under the German Securities Trading Act (*Wertpapierhandelsgesetz*). In terms of content, the Investment Firm Act examinations primarily addressed the correct calculation of own funds, outsourcing and the activities of group companies. The Securities Trading Act examinations focused on advertising, inducements and compliance. In the case of two institutions, the areas of emphasis related to both the Investment Firm Act and the Securities Trading Act. In addition, BaFin conducted special inspections at two institutions. One special inspection related to the appropriateness of the risk management. The other special inspection primarily concerned requirements for information technology, information security and information risk management. The number of supervised institutions declined slightly in 2022. An overview of the changes in the number of investment firms is given in Table 39.

6 Supervision of the investment business

6.1 Bases of supervisory practice

In 2022, lawmakers published or revised a number of regulations relating to fund supervision: among others, these included the German Regulation on Crypto Fund Units (*Verordnung über Krypto-Fondsanteile*), the German Regulation on the Rules of Conduct and Organisational Rules Pursuant to the Investment Code (*Kapitalanlage-Verhaltens- und Organisationsverordnung*) and the German Outsourcing Notification Regulation under the Investment Code (*Kapitalanlagegesetzbuch-Auslagerungsanzeigenverordnung*). The Outsourcing Notification Regulation Pursuant to the Investment Code sets out a uniform notification obligation for outsourcing. The objective is to enable BaFin to identify outsourcing risks posed by specific companies and

Table 39: Investment firms

Investment firms	2022	2021
Number of firms under supervision		
Investment firms under supervision	738	745
Of which: Large investment firms	1	1
Medium-sized investment firms	101	94
Small investment firms	636	650
Branches of foreign investment firms	43	45
German investment firms that have issued notifications of cross-border activity within the EU	374	383
Tied agents	19,285	20,074
Liable undertakings	162	160
Changes in the number of firms under supervision		
Authorisations issued	23	23
Expanded authorisations issued	9	16
Authorisations returned	30	33
Ongoing supervision		
Investment Firm Act examinations	738	745
Securities Trading Act examinations	583	602
Special inspections	2	4
Areas of emphasis for inspections	6	7
Shadowed inspections of institutions	2	0
Supervisory interviews	25	46

Source: BaFin

concentration risks from cross-sector outsourcing, and to react adequately to them.

6.2 Asset management companies

In 2022, a further six (previous year: six) German asset management companies (*Kapitalverwaltungs-gesellschaften*) were authorised to manage investment funds. In a further five cases, BaFin extended existing authorisations. One company surrendered its authorisation. This brought to 144 the number of companies domiciled in Germany that were authorised in accordance with the German Investment Code (*Kapitalanlagegesetzbuch*) at the end of 2022 (previous year: 139). In addition, 85 asset management companies registered in accordance with section 44 of the Investment Code (previous year: 70). A total of 38 asset management companies surrendered their registrations. Consequently, the total number of asset management companies registered at the end of 2022 was 523 (previous year: 476).

In eight cases, asset management companies established a branch in another EU Member State or offered cross-border services (previous year: 19 cases). Conversely, 14 companies from other EU countries notified BaFin that they had established a branch or started providing cross-border services in Germany (previous year: 39 companies).

Risk-based supervision

BaFin performed a total of 134 supervisory visits and annual interviews in 2022, compared to 142 in 2021. In addition, it accompanied 15 financial statement audits and special audits at asset management companies, depositaries and trustees (previous year: 11 audits).

In 2022, as in the year before, the supervisory and annual interviews focused primarily on sustainable investments and digital transformation. Other core topics were capital market trends and their effects on the investment funds, in particular with respect to the geopolitical situation, inflation, higher interest rates and updates to, and the focus of, companies' business strategies.

Table 40: Open-ended investment funds

	2022		2021	
	Number	Assets (€ billion)	Number	Assets (€ billion)
Total	7,715	2,506.0	7,572	2,835.2
Retail funds	3,228	608.8	3,106	681.5
Special AIFs*	4,487	1,897.2	4,466	2,153.7

* Alternative investment funds.
Source: BaFin

Table 41: Cash flows (€ billion)

	2022	2021
Aggregate net cash inflows	81.7	131.9
Aggregate gross cash inflows	426.1	407.0
Gross cash inflows into retail investment funds	115.8	131.1
Gross cash inflows into special AIFs	310.3	275.9
Aggregate cash outflows	344.5	275.1

Source: BaFin

6.3 Investment funds

As Table 40 on page 79 shows, the German investment market continued to grow in 2022, measured in terms of the number of investment funds under management. Both special and retail funds recorded cash inflows (see Table 41 on page 79).

All in all, BaFin approved 93 new retail investment funds in accordance with the Investment Code in the year under review, including 83 undertakings for collective investment in transferable securities (UCITS),⁷ 1 open-ended retail AIF and 9 closed-ended retail AIFs. In 2021, BaFin had authorised 130 retail investment funds in accordance with the Investment Code, including 104 UCITS, 4 open-ended retail AIFs and 22 closed-ended retail AIFs.

6.3.1 Open-ended real estate funds and hedge funds

At the end of 2022, 67 asset management companies were authorised to manage open-ended real estate funds (previous year: 66). All in all, 19 asset management companies managed open-ended real estate funds for retail investors as at the end of the year. A total of 43 companies limited their activities to the management of open-ended real estate special funds.

Three open-ended real estate funds for retail investors were liquidated in the course of 2022. This reduced the total number of such funds to 56 (previous year: 59). The aggregate fund volume for this market segment was €131.89 billion as at the end of the year (previous year: €126.14 billion).

Gross cash inflows into open-ended real estate funds for retail investors amounted to €8 billion in 2022 (previous year: €10.3 billion). Gross cash inflows into open-ended real estate special funds amounted to €20.0 billion (previous year: €19.3 billion). Fund assets held by open-ended real estate special funds amounted to €174.0 billion at the end of 2022, compared to €156.5 billion in the previous year.

The number of funds in liquidation fell to 17, after 3 funds were wound up in the course of 2022. Their

⁷ UCITS are funds that meet the requirements of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

aggregate fund volume amounted to €913 million (previous year: €1.22 billion). The management rights for all of these funds have already been transferred to the depositaries. These have assumed responsibility for fund management during the liquidation process.

There were 12 hedge funds in Germany at the end of 2022 (previous year: 12). Their total volume under management was €4.74 billion (previous year: €5.84 billion). As in 2021, there were no domestic funds of hedge funds on the German market.

6.3.2 Foreign investment funds

In 2022, 10,901 EU UCITS were authorised for marketing in Germany (previous year: 10,638 funds). BaFin received a total of 776 new notifications from companies wanting to market EU UCITS in Germany, compared with 845 new notifications in 2021.

In addition, 4,572 EU AIFs and 709 third-country AIFs were authorised to market units or shares in Germany (previous year: 3,594 EU AIFs and 580 third-country AIFs). A total of 1,343 AIFs (previous year: 964) started marketing operations in Germany in 2022, while 236 EU AIFs and foreign AIFs ceased marketing.

7 Administrative fine proceedings⁸

In 2022, BaFin's Securities Supervision/Asset Management Sector imposed administrative fines totalling €24.264 million. As Table 42 on page 81 shows, BaFin initiated 95 new administrative fine proceedings due to infringements of capital markets law;⁹ 316 proceedings were pending as at the start of the year. BaFin concluded 175 proceedings, 68 of them by imposing administrative fines. This translates into a prosecution ratio of approximately 39%. BaFin discontinued 107 proceedings, 94 for discretionary reasons.

⁸ See chapter II.6 for information on administrative fine proceedings.

⁹ This includes violations of the German Securities Trading Act (*Wertpapierhandelsgesetz*), the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*), the Capital Investment Act, the German Securities Prospectus Act (*Wertpapierprospektgesetz*), Regulation (EU) No 1286/2014 (PRIIPs Regulation), Regulation (EU) No 236/2012 (EU Short Selling Regulation), Regulation (EU) No 600/2014 (MiFIR), Regulation (EU) No 2016/1011 (Benchmark Regulation) and Regulation (EU) No 596/2014 (MAR).

Table 42: Overview of administrative fine proceedings

	Proceedings pending at the beginning of 2022	New proceedings initiated in 2022	Proceedings completed by imposing an administrative fine	Highest individual administrative fine imposed (€) ¹⁰	Proceedings discontinued	Proceedings pending at the end of 2022
Reporting requirements	0	1	0	–	0	1
Ad hoc disclosures	60	9	7	150,000	24	38
Managers' transactions	8	1	2	28,300	3	4
Market manipulation	3	2	1	2,500	1	3
Notification and publication requirements, and duties to provide information to securities holders	110	37	21	5,100,000	33	93
Short selling	1	0	1	19,200		0
Financial reporting requirements	78	26	28	8,990,000	31	45
Prospectuses	10	2	0	–	0	12
Company takeovers	25	9	4	12,000	9	21
Conduct of business rules and organisational and transparency requirements	9	7	2	75,000	1	13
Other	12	1	2	7,000	5	6
Total	316	95	68	14,384,000	107	236

Source: BaFin

¹⁰ The figures relate to proceedings that were completed and became final in 2022 by way of an administrative fine being imposed.

The background is a solid red color. Overlaid on this are several thin, white, wavy lines that originate from the top left and flow towards the bottom right, creating a sense of movement and depth. The lines are closely spaced and curve gently, resembling a stylized wave or a series of overlapping paths.

VI

Consumer protection



1 Bases of supervisory practice

Assessment of sustainability preferences

Since 2 August 2022, investment services enterprises have been required to ascertain their customers' sustainability preferences with regard to investment advice and financial portfolio management, and are only permitted to recommend financial instruments that correspond to these. Information on this can be found on BaFin's [website](#).

Judgement of the Federal Court of Justice on annual fees for *Bauspar* contracts

In a decision of 15 November 2022 (case ref.: [XI ZR 551/21](#)), the Federal Court of Justice (*Bundesgerichtshof*) declared a clause in the General Terms and Conditions of a *Bausparkasse* to be invalid. The clause obliges *Bauspar* customers to pay an annual fee during the savings phase of their *Bauspar* contracts. BaFin is monitoring the implementation of the decision and is examining whether supervisory measures are necessary.

Time taken to transfer securities accounts

On 18 March 2022, BaFin [specified](#) that, as a matter of principle, securities account transfers should take

three weeks at the most ([expert article](#)). The institution instructed by the customer to perform the transfer must inform them promptly of any delays. The background to this was that a large number of consumers had complained to BaFin about what were in some cases extremely long processing times.¹

Dark patterns

On 21 November 2022, BaFin [clarified](#) that investment services enterprises are not permitted to use dark patterns in trading apps and portals. These are buttons with a significantly lower contrast than others, that have been greyed out or that are transparent. Equally, investment services providers may not omit important buttons – such as those used to abort transactions. Dark patterns can lead to consumers not fully perceiving or considering alternative courses of action.

BaFin's consumer protection strategy

BaFin presented its [consumer protection strategy](#) at its Consumer Protection Forum on 22 November 2022.² This has been developed in reaction to the current

-
- 1 See [chapter I.2.2](#) for information on the time taken to transfer securities accounts.
 - 2 See [chapter I.2.2](#) for further information on BaFin's consumer protection strategy.

challenges facing consumers. These include digital transformation, demographic change, inflation and sustainability. The consumer protection strategy has four main components: expanding market monitoring, boosting the proactive and bold approach to supervision, strengthening consumers' financial literacy, and extending cooperation on consumer protection. It also sets out BaFin's goals and responsibilities in the collective consumer protection area.

2 Product interventions

BaFin can restrict or prohibit the marketing, distribution or sale of financial instruments if this raises significant investor protection concerns. BaFin published a product intervention measure (general administrative act) on futures trading on 30 September 2022. Since 1 January 2023, retail investors domiciled in Germany have been protected from suffering unlimited losses when trading in these products.

All in all, BaFin investigated 58 new offerings due to significant investor protection concerns in 2022. A total of 11 providers discontinued their offerings in 2022 after BaFin stepped in.

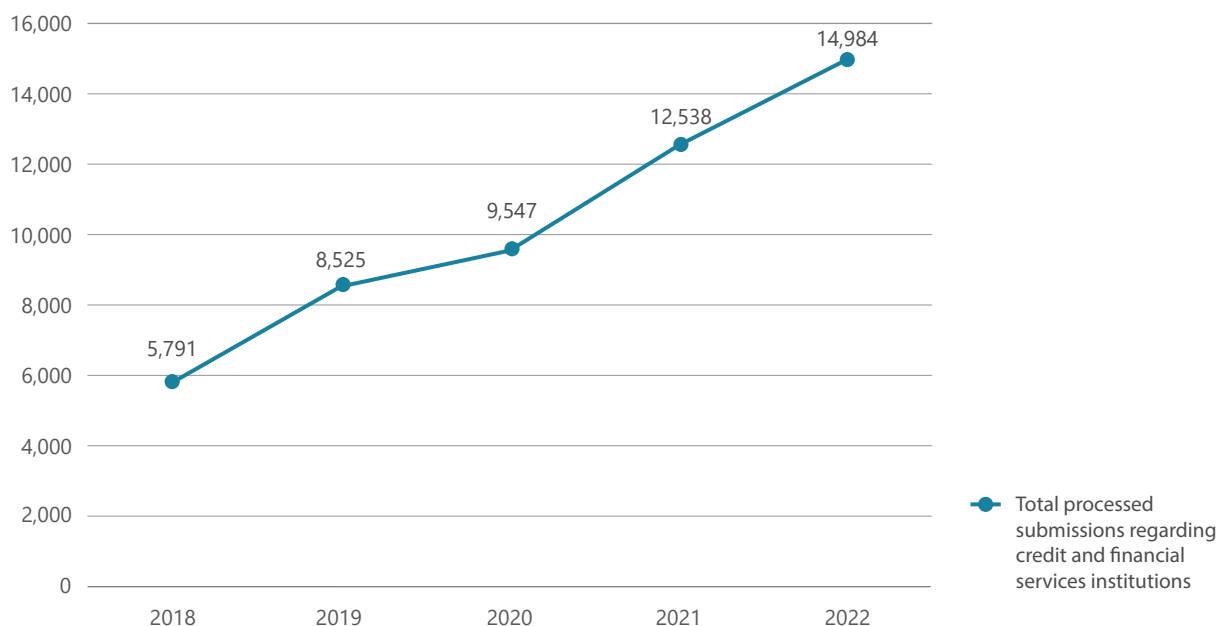
3 Consumer complaints and enquiries

Customers of supervised institutions and undertakings can complain about these to BaFin. It is not BaFin's job to uphold individual consumers' interests; this is the role of the ombudspersons' offices and the courts. However, the complaints provide BaFin with important information about which issues and problems are of concern to consumers. In addition, complaints about the business practices of a supervised company can reveal errors in the company' organisational arrangements that affect consumers' collective interests. Complaints therefore serve as a key catalyst for identifying and rectifying irregularities.

Credit institutions and financial services providers

The number of consumer submissions that BaFin processes which relate to credit and financial services institutions has risen steadily in recent years. The trend also continued in 2022 (see Figure 20). A total of 14,984 submissions were received in the reporting period; of these, 14,760 were complaints (see Table 43 on page 85) and 224 were general enquiries.

Figure 20: Submissions relating to credit and financial services institutions



Source: BaFin

Table 43: Complaints since 2020, broken down by group of institutions

Year	Private banks	Savings banks	Public sector banks	Cooperative banks	Mortgage banks	Bauspar-kassen	Financial services providers*	Foreign banks	Total complaints
2022	7,935	2,220	260	1,807	1	283	1,063	1,191	14,760
2021	6,702	2,370	175	1,710	3	248	226	949	12,383
2020	5,617	997	618	944	7	265	224	737	9,409

* e.g. leasing and factoring undertakings.
Source: BaFin

In 2022, BaFin received a large number of complaints about institutions that maintain accounts used by criminals to process fraudulent payments. These often related to bait and switch offers on the Internet that subsequently turned out to be scams. In many cases, payment orders that had already been executed could not be reversed.

In addition, many complaints related to how institutions handled the decision by the Federal Court of Justice (*Bundesgerichtshof*) dated 27 April 2021 (case ref.: XI ZR 26/20). In it, the Court had ruled that the amendment mechanism in banks' and savings banks' general terms and conditions of business was invalid. Most customer complaints to BaFin related to the way in which new terms and conditions were agreed.

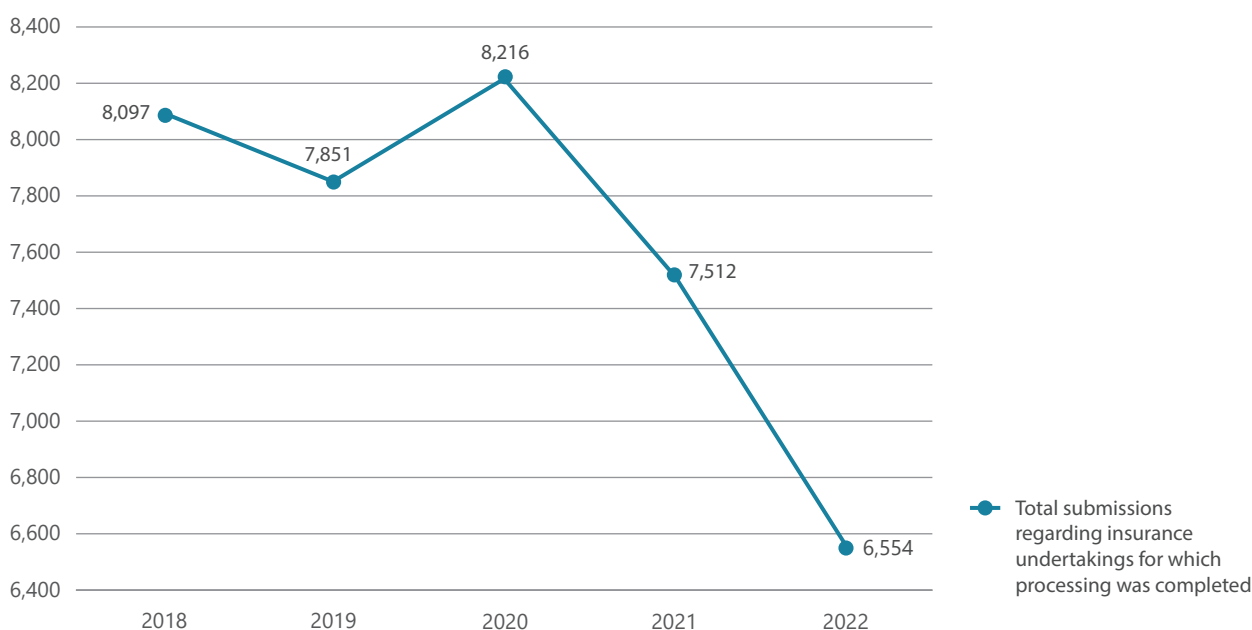
Insurance undertakings

In 2022, BaFin handled 6,554 submissions relating to insurance undertakings (see Figure 21).

A total of 6,384 submissions were attributable to the insurance classes mentioned in Table 44 on page 86. This included 6,166 complaints, 184 general enquiries and 34 petitions that reached BaFin via the German Bundestag or the Federal Ministry of Finance (*Bundesfinanzministerium*).

Once again, many of the complaints received in 2022 related to the size of the insurance benefits granted and the claims adjustment process (expert article). In particular, customers wanted to have their maturity benefits checked. In addition, BaFin again received

Figure 21: Submissions relating to insurance undertakings



Source: BaFin

Table 44: Submissions received since 2020, broken down by insurance class

Year	Life	Motor	Health	Accident	Liability	Legal expenses	Building/ contents	Other classes	Miscellaneous	Total
2022	1,518	1,585	1,114	144	323	422	690	588	170	6,554
2021	1,602	1,790	1,725	173	348	444	601	591	238	7,512
2020	1,723	2,021	1,607	209	389	567	617	836	247	8,216

Source: BaFin

a large number of submissions regarding premium adjustments for private health insurance.

The most frequent reasons for complaints in 2022 were the nature of and delays in claims handling (1,845 complaints), the size of insurance benefits (829 complaints) and issues relating to coverage (656 complaints).

Securities business

2,404 complaints (previous year: 6,059) and 367 written enquiries (previous year: 391) relating to securities transactions were submitted to BaFin in 2022. The main reason for the decrease in complaints is that 2021 saw an exceptionally large number of complaints regarding trading disruptions at online brokers. In 2022, complaints about securities account transfers were the largest category. Many cases also referred to the delayed delivery of new shares in connection with the corporate actions at [Gamestop](#) and [AMC](#). A large number of investors also complained about transactions in which American Depositary Receipts (ADRs) and Global Depositary Receipts (GDRs) were not converted or transferred into the underlying Russian shares.

Investment and asset management companies

In 2022, BaFin received a total of 132 complaints and queries about investment and asset management companies (previous year: 186). Among other things, these related to publications by asset management companies and the unsatisfactory performance of investment funds. The submissions relating to open-ended real estate funds primarily concerned the liquidation of such funds.

Consumer helpline

BaFin received 22,395 calls to its [consumer helpline](#) in 2022 (previous year: 20,886). A total of 18.07% of the reports related to insurance supervision issues, such as the time taken to process claims submitted. 62.45% of the calls were attributable to the banking sector, with topics including basic payment accounts, garnishment protection accounts and blocked access to current

accounts. Another 7.75% of the calls related to securities supervision, including the time taken to transfer securities accounts³.

4 Supervision of compliance with rules of conduct

BaFin's tasks include ensuring that investment services providers, credit institutions and insurance undertakings comply with the statutory rules of conduct towards consumers when providing financial services.

Investment services

For example, BaFin monitors whether companies comply with the statutory rules of conduct and organisational requirements when providing investment services. Among other things, these include investment advice and portfolio management. To do this, BaFin makes use of supervisory interviews and on-site inspections, the annual audits performed by auditors under the German Securities Trading Act (*Wertpapierhandelsgesetz*) and special audits, among other things. Two other methods are the customer complaints mentioned above and submissions made to BaFin's [Contact Point for Whistleblowers](#).

BaFin focused primarily on the following topics in the 2022 audits under the WpHG: the use of private means of communication for business transactions, and whether investment services providers were complying with the organisational requirements in force for algorithmic trading. An analysis of the findings was not yet available as at the editorial deadline.

³ See [chapter I.2.2](#) and the [expert article on BaFin's website](#) for information on the time taken to transfer securities accounts.

Credit institutions

In 2022, BaFin continued to monitor how the banks have implemented the Federal Court of Justice's judgement on banks' general terms and conditions dated 27 April 2021 mentioned on page 85 (case ref.: XI ZR 26/20). Among other things, BaFin took vigorous action to counter the argument by a number of credit institutions that they were not affected by the ruling because they had not been parties to the dispute. BaFin is continuing to monitor developments, and in particular the legal questions that have not yet been clarified.

Implementation of the European sanctions imposed as a result of the war in Ukraine impacted both incoming and outgoing transfers. BaFin held discussions on this with credit institutions. It supported consumers by providing [information](#) on its website.

Insurers

2022 saw an increased number of cases in which insurers only paid out money that they owed to customers after a delay ([expert article](#)). This practice was particularly noticeable in relation to life insurers, though health insurers and travel insurers were other examples. BaFin does not tolerate such delays in payment. It therefore called on the companies concerned to specify the measures they were taking to clear the processing backlog, and closely monitored rectification of the deficiencies.

5 Mystery shopping

Mystery shopping – making undercover test purchases – enables BaFin to gain key insights directly at the point of interaction between customers and institutions or undertakings. After a pilot run in 2021 ([expert article](#)), BaFin conducted two additional, more far-reaching mystery shopping exercises in 2022: on investment advice/MiFID II⁴ and on the sale of residual debt insurance. The findings were not available as at the editorial deadline.

4 Markets in Financial Instruments Directive II.

6 Market surveys

Market surveys on sustainability

In 2022, BaFin examined whether insurers were complying with the EU's sustainability-related disclosure requirements.⁵ The findings revealed that, in principle, the sector is observing the legal requirements. However, BaFin discovered a need for improvement with respect to individual details and addressed these with the entities concerned. For example, in some cases the pre-contractual information was not comprehensible enough. In addition, BaFin used a number of small-scale market surveys to investigate the extent to and the way in which investment services enterprises establish their customers' sustainability preferences when providing investment advice and in financial portfolio management. Among other things, BaFin discovered that all ten institutions surveyed have incorporated the accommodation of sustainability preferences into their systems.

Survey on the time taken to transfer securities accounts

In November 2022, BaFin used a market survey of 20 banks and savings banks to examine how the requirements of its FAQs on securities account transfers are being implemented in the market. The focus was on two questions: Firstly, what is the average time taken to process securities account transfers? And secondly, are the above-mentioned FAQs from BaFin having a positive effect on processing times? All in all, the market survey revealed that processing times for securities account transfers decreased following publication of the FAQs.⁶ The high level of digitalisation of the processes was a key positive factor.

Study on payments for order flow

Payments for order flow (PFOF) – i.e. compensation that direct traders or market makers pay to brokers for routing customer orders to them – are a target of criticism both in Europe and around the world. The accusation is that the quality of securities transactions execution suffers as a result of such compensation payments. BaFin investigated the execution quality of orders relating to German equities for which PFOF were made. The measure used was the total fees, comprising the price and the cost. One finding was that, in the case of relatively small volumes per order, PFOF were

5 See [chapter II.3](#) for information on sustainability.

6 See [chapter I.2.2](#) and the [expert article](#) on BaFin's website for information on the time taken to transfer securities accounts.

largely beneficial since they allow customers to avoid the fees normally payable on reference markets. By contrast, placements on the reference markets are more advantageous for customers in the case of larger volumes. This is because the advantage offered by the execution prices outweighs the disadvantages resulting from the execution costs. More detailed information on this topic can be found in the BaFin [study](#).

Surfday focuses on trading apps

In 2022, BaFin used a Surfday to investigate trading apps from major German providers. On such Surfdays, supervisors review websites and apps to gain an overview of certain supervisory issues. In the case at hand, the question was whether the providers comply with supervisory standards and whether they employ gamification techniques – i.e. typical gaming design elements such as audio or visual rewards (cash register bells, fireworks, etc.), progress bars or leaderboards. It emerged that the providers investigated do not use gamification techniques. However, they do use other designs that can be attributed at a general level to behavioural finance, such as colour effects, blinking elements and trend displays. BaFin liaises at an international level with other supervisory authorities, and in particular with the European Securities and Markets Authority (ESMA), when deciding whether such designs are permissible. The objective is to create uniform rules for consumers and entities alike within the Capital Markets Union. Liaison activities were still ongoing as at the editorial deadline. As described on page 83, BaFin has already [made clear](#) that it will no longer accept dark patterns. Generally speaking, BaFin takes action and prohibits typical gaming elements if these induce customers to do things to their disadvantage.

Market survey on online insurance sales

BaFin investigated online sales by insurance undertakings in 2022. In a first step, it gained an overview of the market and surveyed 308 entities domiciled in Germany. One major finding was that roughly two-thirds of those insurers offer online sales in addition to other sales channels. In the in-depth survey that followed, BaFin investigated whether 30 selected insurers comply with their obligations to provide advice and information. Among other things, the survey revealed that individual insurers only offer the ability to purchase products online if customers decline advice even where they have a need for it. BaFin objected to these and other irregularities.

Surfday on key information documents from insurers

BaFin investigated key information documents from 20 insurers in a random sampling exercise. The Surfday focused on whether the requirements of the PRIIPs⁷ Regulation are being observed and whether the key information documents can easily be found on the insurers' websites ([expert article](#)). BaFin found a number of shortcomings in this area. However, these primarily concerned formal aspects and were therefore not serious deficiencies. The insurers have remedied all the shortcomings that BaFin identified.

7 Strengthening consumer's financial literacy

As in the past, BaFin provided a wide variety of material on its website in [2022](#) that is aimed at informing consumers and enhancing their financial knowledge. These included the following:

- [FAQs](#) for refugees and consumers regarding the war in Ukraine and the global financial sanctions,
- information on the risks associated with [investments in crypto assets](#) and on [investment tips on social media](#),
- three [explanatory videos](#) on property finance,
- [information](#) on follow-up financing, and
- a [podcast](#) that mainly focused on financial education and social media.

BaFin also took part in four [Digital-Kompass](#) events. In these, it used videos to educate older consumers in particular about financial issues.

⁷ PRIIPs stands for "packaged retail and insurance-based investment products".

VII

Resolution, prevention of money laundering and integrity of the financial system



1 Resolution

1.1 Fundamental aspects

Minimum requirements on resolvability during resolution planning

On 17 August 2022, BaFin published its Circular entitled “Minimum requirements on resolvability in the context of resolution planning” (*Rundschreiben zu den Mindestanforderungen an die Abwicklungsfähigkeit im Rahmen der Abwicklungsplanung*). The Circular is aimed at institutions for which BaFin would take resolution measures if they were failing or likely to fail. It sets out the requirements that these institutions must meet to be considered resolvable. The Circular is based on the “Expectations for Banks” published by the Single Resolution Board (SRB) in April 2020, which defines its expectations of the resolvability of the banks for which it is responsible (see info box entitled “Who is responsible?” on page 92). BaFin had already taken into account national circulars on resolvability such as the “Minimum requirements for implementing a bail-in” (*Mindestanforderungen zur Umsetzbarkeit eines Bail-in – MaBail-in*) so as to also accommodate specific German issues. At the same time, BaFin implemented in its administrative practice the Guidelines for improving resolvability published by the European Banking Authority (EBA) in January 2022.

Guidance Notice on the external implementation of a bail-in

In addition, BaFin published the third version of its Guidance Notice on the external implementation of a bail-in (*Merkblatt zur externen Bail-in-Implementierung*) in 2022. The amended version incorporates cross-border aspects of the safekeeping and administration of international bearer bonds by Clearstream Banking Luxembourg and Euroclear Bank, the international central securities depositories. The new version now also includes Eurex Germany, Eurex Repo and Tradegate Exchange and hence covers the discontinuation or suspension of trading on all relevant exchanges in Germany.

1.2 2022 resolution planning cycle

Participation in SRM’s Internal Resolution Teams

During the 2022 planning cycle, BaFin participated in a total of 36 Internal Resolution Teams (IRTs) established by the Single Resolution Board (SRB). Of these IRTs, 17 were responsible for groups of institutions domiciled in Germany and 19 for foreign ones. As a result, BaFin was closely involved in resolution planning for the groups of institutions for which the SRB is responsible (see info box entitled “Who is responsible?” on page 92).

Both sides – the banks and the supervisory authorities – made considerable progress in operationalising the

At a glance

Who is responsible?

1 Resolution in the banking union

Two bodies are responsible for resolution under the Single Resolution Mechanism (SRM):

BaFin – the national resolution authority

In its capacity as a national resolution authority (NRA), BaFin is responsible for those German institutions that have been classified by the European Central Bank (ECB) as less significant institutions (LSIs). These also include financial market infrastructures (FMIs) with a banking licence. BaFin is also responsible as a resolution authority for central counterparties (CCPs) with and without banking licences.

The Single Resolution Board (SRB)

In contrast to BaFin, the SRB is only responsible for the resolution of CRR¹ credit institutions within the SRM. This covers the following:

- those institutions that the ECB has classified as significant institutions (SIs),
- cross-border LSIs, and
- LSIs for which responsibility has been transferred to the SRB.

The SRB has established Internal Resolution Teams (IRTs) for each institution or group of institutions for which it is responsible. The SRB and the relevant competent NRAs work together within these. BaFin took part in 36 IRTs in 2022.

The core task of BaFin as a national resolution authority and of the IRTs is to enhance institutions' resolvability. The resolution plans are prepared and updated annually as part of the resolution planning cycle. In addition, the impediments to a potential resolution and appropriate measures to overcome these are assessed.

2 Resolution in the European Union and cooperation with third-country authorities

The SRB and/or the national resolution authorities establish resolution colleges to coordinate collaboration between different resolution authorities in the banking union, in the Europe Union and in third countries. BaFin took part in 13 resolution colleges in 2022.

Crisis Management Groups (CMGs) are set up for all institutions classified by the **Financial Stability Board (FSB)** as global systemically important banks (G-SIBs). Of the 30 institutions worldwide that were classified as G-SIBs in 2022, 19 have operations in Germany. All in all, BaFin collaborated in a total of 20 CMGs in 2022, eight of which related to CCPs.

resolution strategies. Among other things, the credit institutions prepared a large number of playbooks on resolution tools; in addition, the supervisory authorities and the banks held dry runs in which they simulated selected individual aspects of the resolution process. These measures help meet the SRB's "Expectations for Banks" mentioned earlier.

BaFin also continued to be involved, via a number of SRB bodies, in developing and enhancing the methods and processes for the Single Resolution Mechanism (SRM) in 2022.

Areas in which BaFin is primarily responsible

In the 2022 planning cycle, BaFin was primarily responsible for the planning and implementation of resolution measures for 1,300 of the institutions and groups of institutions domiciled in Germany. BaFin drove forward resolution planning for these institutions and groups of institutions in 2022 – including ensuring resolvability in accordance with the Circular entitled "Minimum requirements on resolvability in the context of resolution planning". The main spotlights here were on information systems and information provision, and on loss-absorbing and recapitalisation capacity. In addition, BaFin implemented resolution colleges for a less significant institution (LSI) and two financial market infrastructures (FMIs). BaFin also hosted the meeting of the Crisis Management Group (see info box entitled

1 "CRR" stands for "Capital Requirements Regulation".

“Who is responsible?” on page 92) that it chairs for a further FMI. Together with the SRB, it stepped up resolution planning for institutions whose importance in Germany has grown considerably as a result of Brexit-related shifts in business.

Crisis processes tested

BaFin also successfully tested cross-border resolution with the involvement of a resolution college, using a crisis simulation process that lasted several weeks; this was the first time that such a test had been performed. In addition to BaFin, as the national supervisory and resolution authority, this crisis simulation in the second half of 2022 involved the supervisory and resolution authority for a second state in the Banking Union, an institution and the Federal Ministry of Finance (*Bundesfinanzministerium*).

The crisis simulation practised key decision-making processes by all participants. Technical operational aspects such as the population of a virtual data room for due diligence² were also successfully tested. The institution concerned and a data room provider participated in this. In addition, the participants practised communicating during a crisis. Such crisis simulations help BaFin to prepare in greater detail for a concrete resolution.

Contribution collection process for bank levy digitalised

BaFin distributed the voluminous bank levy assessment notices electronically for the first time as part of the 2022 contribution collection cycle. Previously, these notices were sent as hard copies by post. BaFin has thus redesigned the bank levy process to be more environmentally friendly and efficient. The transition was also made possible by the introduction of the electronic notification of the bank levy assessment notices as a result of the German ERP *Business Plan Act 2022* (*Gesetz über die Feststellung des Wirtschaftsplans des ERP-Sondervermögens für das Jahr 2022, zur elektronischen Erhebung der Bankenabgabe und zur Änderung der Strafprozessordnung*), which was promulgated in the Federal Law Gazette (*Bundesgesetzblatt*) on 1 April 2022.

1.3 Minimum requirement for own funds and eligible liabilities

The Minimum requirement for own funds and eligible liabilities (MREL) is a key resolution planning tool. Institutions for which the resolution objectives are at risk

² Due diligence: The in-depth examination of an entity by potential buyers before its sale.

in the event of them failing or being likely to fail need to maintain adequate MREL to enable them to absorb losses and to permit recapitalisation. In 2022, the SRB adapted the MREL policy for the banks for which it is responsible. BaFin also uses this rule for the institutions and groups of institutions for which it is responsible.

2 Money laundering prevention

2.1 Bases of supervision

The European Funds Transfer Regulation

At the end of 2022, European lawmakers passed an amended version of the Funds Transfer Regulation. This is part of an ambitious package of four legislative proposals unveiled by the European Commission on 20 July 2021 (see info box entitled “New EU Anti-Money-Laundering Authority”). The Commission is aiming to use these to unify and strengthen efforts to counter money laundering and terrorist financing throughout Europe. The scope of application of the Funds Transfer Regulation was extended to cover crypto asset transfers. In future, providers of crypto services will be required to forward personal identity data, among other things, when transferring crypto assets. The amended Funds Transfer Regulation is expected to come into force in the second half of 2024.

At a glance

New EU Anti-Money-Laundering Authority

One key component of the European Commission’s anti-money laundering package is the establishment of a central EU Anti-Money-Laundering Authority (AMLA) to counter money laundering and terrorist financing. The aim is for the AMLA to directly supervise cross-border, high-risk financial institutions. It should coordinate and oversee the activities of the national competent authorities. BaFin welcomes the European Union’s initiative. It continued its work assisting with the regulatory preparations for the AMLA in 2022 as a member of international bodies. In addition, BaFin made further internal preparations for the establishment of the new authority.

Supervisory statements on basic payment accounts for war refugees

BaFin issued two supervisory statements in 2022 that were designed to help refugees from the Ukrainian conflict zone to open basic payment accounts for humanitarian reasons.³

In March 2022, BaFin emphasised that credit institutions supervised by it would not have to suffer any supervisory consequences if they used a valid Ukrainian identity card to check the data collected in accordance with section 11 (4) no. 1 of the German Money Laundering Act (*Geldwäschegesetz*) when opening a basic payment account for refugees from the conflict zone.

In its April 2022 supervisory statement, BaFin clarified that it would not object in certain circumstances if refugees did not have a Ukrainian identity document complying with the requirements of section 12 of the Money Laundering Act (i.e., a passport or model 2015 identity card) or an arrival certificate pursuant to section 63a of the German Asylum Act (*Asylgesetz*).

2.2 Inspections and inspection priority areas

The two directorates responsible for the prevention of money laundering (see info box entitled “New structure” and the “In the spotlight” chapter on page 14) expanded their inspections in 2022. Table 45 gives an overview of the number of money laundering inspections.

Table 45: Money laundering inspections in 2022

Type	Banking sector	Non-banking financial sector
Own inspections by BaFin	36	12
Shadowing of audits of annual financial statements	35	14
Special audits by auditors/special commissioners	22	3

Source: BaFin

Among other things, the audits focused on the topics of outsourcing, transaction monitoring and crypto asset transactions.

At a glance

New structure

In the spring of 2022, BaFin expanded its anti-money laundering capacity and extensively restructured the area: There are now two directorates instead of one and a total of 12 divisions. Both directorates have been assigned a mix of policy and supervisory tasks. This structure makes it possible for experience and insights from operational supervision, and in particular from intensified and focused supervision, to be incorporated into work on topics such as Europeanisation and regulation. Additionally, the supervisory divisions are now structured by financial sector.

2.3 Supervisory measures

Anti-money Laundering Supervision took a large number of supervisory measures relating to obliged parties from both the banking and the non-banking financial sector in 2022. It used the means at its disposal on a case-by-case, risk-oriented basis in line with the principle of proportionality. In addition to a large number of both regular and ad hoc supervisory interviews, BaFin sent nearly 500 notifications of shortcomings and requests for information.

BaFin publishes information on the formal measures that it takes in the case of particularly serious shortcomings in the area of money laundering prevention on its website. In 2022, BaFin published eight orders to remedy identified shortcomings and/or to ensure a proper business organisation. In one case it threatened to impose a fine if the order was not complied with. In four cases,⁴ BaFin also ordered the appointment of a special commissioner. Some of the entities affected were under cross-sectoral focused supervision by BaFin.⁵ In these cases, BaFin took additional measures above and beyond anti-money laundering ones. Among other things, it banned them from conducting new business and ordered a restriction on new partnerships.

³ See chapter I.1.6 for information on basic payment accounts for Ukrainian refugees.

⁴ Case 1, Case 2, Case 3 und Case 4.

⁵ See chapter I.2.5 for further information on focused supervision.

In addition, BaFin imposed a number of fines for deficiencies in money laundering prevention at the entities it supervises.⁶

2.4 National cooperation

BaFin established a new division for national cooperation in 2022 (see info box entitled “New structure” on page 94), so as to intensify cooperation with other institutions and public authorities in the area of money laundering prevention. This division is responsible for cooperation with the Financial Intelligence Unit (FIU), the Federal Ministry of Finance (*Bundesministerium der Finanzen*), the AML supervisory authorities in the federal states, the prosecuting authorities and the intelligence agencies.

BaFin continued to intensify its cooperation with the FIU in 2022. In addition, it worked even more closely together with the Anti Financial Crime Alliance (AFCA), of which it is a founder member. The AFCA “Risks and trends in the financial sector” working group, which is co-headed by BaFin, published a number of advisory documents for obliged entities in 2022.

2.5 Financial Action Task Force country review

The Financial Action Task Force (FATF) published its Country report on money laundering prevention in Germany on 25 August 2022. The report takes a generally positive view of BaFin’s work. At the same time, the FATF recommended improvements.

6 See [chapter II.6](#) for information on administrative fine proceedings.

The assessment focused on the ministries and authorities involved in combating money laundering and terrorist financing in Germany. These include the Federal Ministry of Finance (*Bundesministerium der Finanzen*), the Federal Ministry of Justice (*Bundesministerium der Justiz*), the Federal Criminal Police Office, the Financial Intelligence Unit, various supervisory bodies at federal state level – and BaFin.

At BaFin, the assessors highlighted the following positive aspects, for example: the strong understanding of risk in anti-money laundering and terrorist financing prevention, BaFin’s differentiated, risk-based supervisory approach, and its combination of its own audits and audits by financial statement auditors. The assessors’ view is that the frequency, intensity and scope of BaFin’s supervisory actions are adequate and commensurate to the individual risk ratings of each financial institution. The assessors also commended the range of measures and sanctions that BaFin uses and the outreach activities it employs to increase awareness of money laundering and terrorist financing in the private sector. These include the range of interpretation and application guidance⁷ provided by BaFin and its contributions to the AFCA and the annual money laundering symposium.

In the assessors’ opinion, things that BaFin can further improve include AML supervision for the non-bank financial sector and the time taken to rectify

7 Examples are the general section of its Interpretation and Application Guidance for the Money Laundering Act, the special section of its Interpretation and Application Guidance for the Money Laundering Act aimed at credit institutions and the special section of its Interpretation and Application Guidance for the Money Laundering Act aimed at insurance undertakings.

Table 46: Account information access procedures

Recipient	2022		2021	
	absolute	in %	absolute	in %
BaFin	693	0.18	509	0.14
Tax authorities	17,100	4.37	16,896	4.80
Police authorities	316,580	80.85	279,106	79.26
Public prosecutors	43,633	11.14	42,181	11.98
Customs authorities	12,784	3.26	12,712	3.61
Other	775	0.20	734	0.21
Total	391,565		352,138	

Source: BaFin

shortcomings at individual financial institutions (and particularly at major banks).

The publication of the country report means that the country assessment for Germany is officially completed. Germany will issue its first progress report under the FATF follow-up process in 2023.

2.6 Statistics on account information access procedures

Under [section 24c \(1\) of the German Banking Act \(Kreditwesengesetz\)](#), credit institutions, asset management companies and payment institutions are required to maintain a data file in which they store certain account master data, such as the account number, name and date of birth of the account holders and persons authorised to draw on the account. This information must be made available daily. On request, BaFin provides information contained in this account information access file to prosecuting authorities, courts and other authorities. As can be seen from Table 46 on page 95, it did so on 391,565 occasions in 2022. BaFin has been using an automated process since summer 2022 that allows it to better handle the constantly growing number of account information access procedures.

3 Integrity of the financial system

3.1 Authorisation requirement

Anyone wishing to conduct banking, investment, insurance or e-money business, or to provide financial services or payment services, in Germany may do so only with written authorisation from BaFin. Once a licence has been granted, the entity concerned is then subject to BaFin's ongoing supervision.

BaFin received 1,006 requests for authorisation in 2022, as can be seen in Table 47. This represents a slight decrease compared to previous years. Most of the requests related to the provision of and trading in crypto assets, crypto custody business and payment services. BaFin cannot influence the number of authorisation requests that it receives.

Table 47: New authorisation requests

	2022	2021	2020
New authorisation requests	1,006	1,280	1,113

Source: BaFin

Exemption from the authorisation requirement and ongoing supervision

BaFin can exempt an undertaking from the obligation to obtain authorisation in the case of business that is limited in scope ([section 2 \(4\) of the Banking Act](#)). By doing so, it also exempts the entity concerned from having to comply with a catalogue of provisions that it would have to meet as part of ongoing supervision. Any exemption is subject to strict conditions. It is only possible for as long as BaFin is of the opinion that the institution does not require supervision due to the nature of its business. Exemptions are only granted on application.

Exemptions for entities from third countries are defined in [section 2 \(5\) of the Banking Act](#). Where these are subject to equivalent supervision in their respective home countries that makes dual supervision by German authorities unnecessary, BaFin can issue an exemption in relation to the provision of cross-border services to Germany. Such exemptions have been granted for institutions from the USA, Canada, Australia, Switzerland and Singapore. The number of exempted institutions fell because BaFin revised its administrative practices following the entry into force of the German Investment Firm Act ([Wertpapierinstitutsgesetz](#)) and because the transitional provision under [section 64x \(8\) sentence 1 of the Banking Act](#) expired (see Table 48).

Table 48: Exemptions granted to institutions

	2022	2021	2020
Exempted institutions	289	357	358
Newly exempted institutions	2	1	3

Source: BaFin

3.2 Investigation of unauthorised business activities

Anyone who conducts business requiring authorisation without having obtained such authorisation endangers the integrity of the financial system and commits a criminal offence. BaFin must be able to identify, and permanently stop, infringements against the

authorisation requirement as soon as possible (see info box entitled “Averting danger”). To enable it to do this, lawmakers have equipped it with a number of different investigative powers.

BaFin can instruct its own employees or Deutsche Bundesbank to perform on-site investigations of suspicious entities. It can also search the following: apartments on the basis of a court order, while business premises, outbuildings and individuals can also be searched on its own authority if there is a danger that delay may frustrate the investigation.

At a glance

Averting danger

BaFin is not a prosecuting authority. Its job is to avert danger, and it acts independently of the prosecuting authorities when doing so. Its investigations start long before criminal law investigations do. Where necessary, BaFin coordinates its activities with the prosecutors. It also makes its findings available to the prosecuting authorities and supports them by providing its expertise. In addition, the supervisory legislation requires BaFin to be informed and involved as soon as possible in cases in which criminal investigations are launched.

A close working relationship between the Supervisory Authority and prosecuting authorities is highly important when combating unauthorised business. Consequently, BaFin encourages and supports cooperation on both sides by holding regular specialist events and making relevant information available digitally.

However, BaFin’s powers are limited from both a legal and a practical perspective in those cases in which perpetrators operate from other countries. This is another reason why BaFin is continuing to expand its collaboration with foreign authorities.

BaFin can publish the measures it takes and the warnings that it issues on its [website](#) so as to inform the public. This is in the interests of consumer protection.⁸

⁸ See [chapter II.7](#) for information on the publication of measures and warnings.

Fraudulent online trading platforms

Combating unlicensed, fraudulent online trading platforms was another focus of BaFin’s investigations of unauthorised business activities in 2022. More and more frequently, the perpetrators and the people behind them use the identity of a licensed financial services provider or another innocent entity.

As in previous years, fraudulent share offers in the run-up to IPOs and fraudulent term deposit agreements were common in 2022. In such cases, BaFin focused to a greater extent on prevention. It warns potential investors at an early stage so as to dissuade them from investing in such offerings and hence contain such transactions. The Supervisory Authority can also hold domestic networks of intermediaries, Internet providers and banks to account; to avert danger, it can take action against both the entities involved in unauthorised business and the operators themselves. Freezing perpetrators’ accounts remains an effective way of curtailing unlawful transactions in Germany.

Suspected violations again hit record levels in 2022

The number of suspected violations discovered during the investigation of unauthorised business activities was again high in 2022, as can be seen from Table 49.

A total of 354 formal measures were taken in 2022 – a new record high. This is also due to the fact that, since the end of 2020, the Banking Act has permitted BaFin to inform the public of suspicions or findings, and to disclose the name of the entity involved (section 37 (4) of the Banking Act).

Table 49: Investigations of unauthorised business activities*

	2022	2021	2020
New suspected violations	1,123	1,332	1,436
Searches	8	3	6
Formal measures	354	315	179

* The statistics cover formal intervention measures, i.e. orders to cease business operations and wind up business, the appointment of liquidators, warnings and measures taken against entities involved in unauthorised business, such as Internet providers and banks. They do not include investigative measures with the exception of searches, or administrative enforcement measures.

Source: BaFin

The background is a solid red color. Overlaid on this are several thin, white, wavy lines that originate from the top left and flow towards the right, creating a sense of movement and depth. These lines are arranged in a series of parallel, slightly curved paths that converge and then diverge again as they move across the page.

VIII

Inside BaFin



1 Human resources

A total of 2,870 employees worked for BaFin as at 31 December 2022 (previous year: 2,786) (see Table 50). BaFin recruited 211 new employees in 2022. The largest group (79) comprised economics graduates; see Table 51 on page 100.

A total of 27 BaFin employees were on long-term assignment to international institutions and supervisory authorities as at 31 December 2022, of whom 14 had been seconded temporarily to the European Central Bank (ECB).

Table 50: Employees in 2022

As at 31 December 2022

Career level	Employees			Of whom civil servants	Of whom public service employees
	Total	Female	Male		
Higher civil service	1,494	640	854	1,309	185
Higher intermediate civil service	843	382	461	686	157
Intermediate/basic civil service	533	363	170	208	325
Total	2,870	1,385	1,485	2,203	667
Of whom in Bonn	1,977	949	1,028	1,538	439
Of whom in Frankfurt	881	431	450	665	216
Of whom in Berlin	12	5	7		12
Of whom candidates for the higher intermediate civil service/vocational trainees	35	17	18	14	21

Source: BaFin

Table 51: Recruitment in 2022

As at 31 December 2022

Career level	Qualifications						
	Total	Female	Male	Economics	Fully qualified lawyers	Mathematics/statistics/IT	Other
Higher civil service	152	65	87	79	36	17	20
				Business lawyers	Economics	Career training	Other
Higher intermediate civil service	34	18	16	2	21	2	9
Intermediate/basic civil service	16	13	3				
Candidates for the higher intermediate civil service/vocational trainees	9	5	4				
Total	211	101	110				

Source: BaFin

2 Budget

BaFin's budget for 2022 provided for income and expenditure of €541.2 million. Total planned expenditures were thus around €40 million higher than in the previous year (€501.8 million). This rise of approximately 8% was largely due to higher personnel expenses, increased IT expenditure and the transfer in full of responsibility for financial reporting enforcement¹ to BaFin.

Planned expenditure in the 2022 budget was broken down as follows: personnel expenses of €357.3 million (66.0%; previous year: 66.5%) and non-staff administrative expenses of €145.9 million (27.0%; previous year: 26.7%). Capital expenditure totalled 4.5% of the 2022 budget (previous year: 4.7%). Cost reimbursements and grants accounted for 2.4% (previous year: 2.1%).

Financing through cost allocations and fees

BaFin is independent of the federal budget and finances itself in full from its own income. At a projected €520.5 million (previous year: €476.4 million), this income was largely composed of cost allocations levied

on supervised undertakings. The other income of €20.7 million (previous year: €25.4 million) comprised administrative income such as fees.

Final cost allocation for 2021 in the following year

The final cost allocation is always made in the following year. Banks and other financial services providers accounted for 46.3% of total income from cost allocations in 2021. The insurance sector contributed 25.9% and the securities trading sector 21.7%. The share attributable to BaFin's activities as the national resolution authority amounted to 6.1%. The cost allocation for Financial Reporting Enforcement was performed separately from the BaFin budget for the last time in 2021. In 2022, Financial Reporting Enforcement was included in BaFin's budget planning for the first time.

Actual expenditure and income

BaFin's actual expenditure in 2022 was approximately €479 million (previous year: €427.8 million). Consequently, BaFin spent €62.6 million less than planned. This was due among other things to a change in methodology for pension reserves, to the fact that certain positions at BaFin were vacant due to a lack of specialised staff, and to business trips being cancelled as a result of the pandemic.

By contrast, income amounted to roughly €550 million (previous year: €485.6 million). In total, this was

¹ See [chapter I.2.1](#) and [chapter V.4](#) for further information on financial reporting enforcement.

€8.8 million more than budgeted, since part of prior-year surplus funds will only be reimbursed to the entities subject to cost allocation in 2023.²

Budget for 2023

BaFin's budget for 2023, which was prepared and approved in 2022, provides for income and expenditure of €517.2 million. The planned expenditure is therefore €24 million lower than in 2022 (€541.2 million). This 4.4% reduction was largely achieved as a result of savings relating to pension reserves, expenditure for external experts, IT and business trips.

² As planned, BaFin's Administrative Council had not resolved to adopt the 2022 annual financial statements by the editorial deadline.

Appendix



1 Complaints statistics for individual undertakings

For many years, BaFin published complaints statistics, broken down by insurance undertaking and class, in its annual reports. The Higher Administrative Court in Berlin (*Oberverwaltungsgericht*) issued a ruling on 25 July 1995 (case ref.: OVG 8 B 16/94) ordering the Federal Insurance Supervisory Office (*Bundesaufsichtsamt für das Versicherungswesen*), one of BaFin's predecessors, to include this information. Since 2019, the complaints statistics have no longer been published in BaFin's annual report. They are [available](#) on BaFin's website.

The complaints statistics list how many complaints BaFin processed in full in 2022 for its Insurance Supervision Sector.

The statistics do not take into account whether the complaints processed are justified, and hence are not indicative of the quality of the insurance business.

An indicator of the volume of insurance business is provided by comparing the number of complaints that BaFin processed in full in 2022 with the number of policies in the respective insurance class as at 31 December 2021. The individual undertakings report their existing business data. The provision of information on existing business puts those insurers that recorded strong growth in the reporting period, often newly established undertakings, at a disadvantage because the new business written in the course of the year giving rise to the complaints is not adequately accounted for in the complaints statistics.

In the life insurance class, the existing business figure specified for group insurance relates to the number of insurance contracts. The data for the existing health insurance business shows the number of natural persons with health insurance contracts, rather than the number of insured persons under the various premium scales, which is usually higher. As in the past, this figure is not yet entirely reliable.

The information on property and casualty insurance relates to the insured risks. Where undertakings agree group policies with large numbers of insured persons, this leads to a higher figure for existing business. Due to the limited disclosure requirements (section 51 (4) no. 1 sentence 4 of the Regulation on German Insurance Accounting (*Verordnung über die Rechnungslegung von Versicherungsunternehmen*)), only the figures for existing business at insurers with gross premiums earned in 2021 of more than €10 million in the insurance classes or types concerned can be included. The tables do not provide any information on existing business for undertakings falling below this limit in the individual insurance classes ("n.a.").

Insurance undertakings that do business in a listed class but for which no complaints were received in the year under review are not included in the relevant statistics.

Undertakings domiciled in other countries in the European Economic Area (EEA) were not required to submit reports to BaFin and therefore no data is given for their existing business. However, the number of complaints is included in order to present a more complete picture.

2 Memoranda of Understanding (MoUs) in 2022

Banking Supervision		Banking Supervision		Securities Supervision	
Albania	2012	Luxembourg	1993	China	2019
Argentina	2001	Macedonia	2011	Croatia	2008
Armenia	2011	Malta	2004	Cyprus	2003
Australia	2005	Mexico	2010	Czech Republic	1998
Austria	2000	Moldova	2014	Dubai	2006
Belgium	1993	Netherlands	1993	Estonia	2002
Bosnia and Herzegovina	2016	Nicaragua	2011	France	1996
Brazil	2006	Norway	1995	Guernsey	2011
Canada	2004	Philippines	2007	Hong Kong	2018
China	2004	Poland	2004	Hungary	1998
Croatia	2008	Portugal	1996	Iran	2016
Czech Republic	2003	Qatar	2008	Israel	2017
Denmark	1993	Romania	2003	Italy	1997
Dubai	2006	Russia	2006	Japan	2019
El Salvador	2011	Serbia	2011	Jersey	2012
Estonia	2002	Singapore	2009	Korea	2010
Finland	1995	Slovakia	2002	Lebanon	2016
France	1992	Slovenia	2001	Monaco	2009
Georgia	2011	South Africa	2004	Ontario (Canada)	2018
Great Britain (BoE/FSA)	1995	Spain	1993	Poland	1999
Great Britain (BSC)	1995	Sweden	1995	Portugal	1998
Great Britain (PRA/FCA)	2019	Turkey	2011	Qatar	2008
Great Britain (SIB/SROs)	1995	United Kingdom	2019	Russia	2001
Greece	1993	USA (FDIC)	2006	Russia	2009
Guernsey	2011	USA (Fed Board/OCC)	2003	Singapore	2000
Hong Kong	2004	USA (NYSBD)	2002	Slovakia	2004
Hungary	2000	USA (OCC)	2000	South Africa	2001
India	2013	USA (OTS)	2005	Spain	1997
Ireland	1993	USA (SEC)	2007	Switzerland	1998
Italy (BI)	1993	Vatican	2014	Taiwan	1997
Japan	2019	Vietnam	2010	Turkey	2000
Jersey	2012			United Arab Emirates	2008
Korea	2006	Securities Supervision		USA (CFTC)	1997
Kosovo	2011	Argentina	1998	USA (SEC)	1997
Latvia	2000	Australia	1998	USA (SEC)	2007
Lebanon	2016	Brazil	1999	USA (SEC)	2020
Lithuania	2001	Canada	2003	Vatican	2014

Insurance Supervision

Australia	2005
California (USA)	2007
Canada	2004
China	2001
Connecticut (USA)	2011
Croatia	2008
Czech Republic	2002
Dubai	2006
Egypt	2010
Estonia	2002
Florida (USA)	2009
Georgia (USA)	2012
Guernsey	2011
Hong Kong	2008
Hungary	2002
Japan	2019
Jersey	2012
Korea	2006
Latvia	2001
Lebanon	2016
Lithuania	2003
Malta	2004
Maryland (USA)	2009
Minnesota (USA)	2009
Nebraska (USA)	2007
New Jersey (USA)	2009
New York (USA)	2008
Qatar	2008
Romania	2004
Singapore	2009
Slovakia	2001
Thailand	2010
USA (OTS)	2005
Vatican	2014

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