

## [Germany]

- 최근 독일 사업 기회와 투자 동향
- 독일 투자 시 세무 고려사항
- 독일 투자 시 법률 및 규제 고려사항

13:30 ~ 14:30 (60분)

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# KPMG Korea Overseas Investment Seminar – Investing in Germany

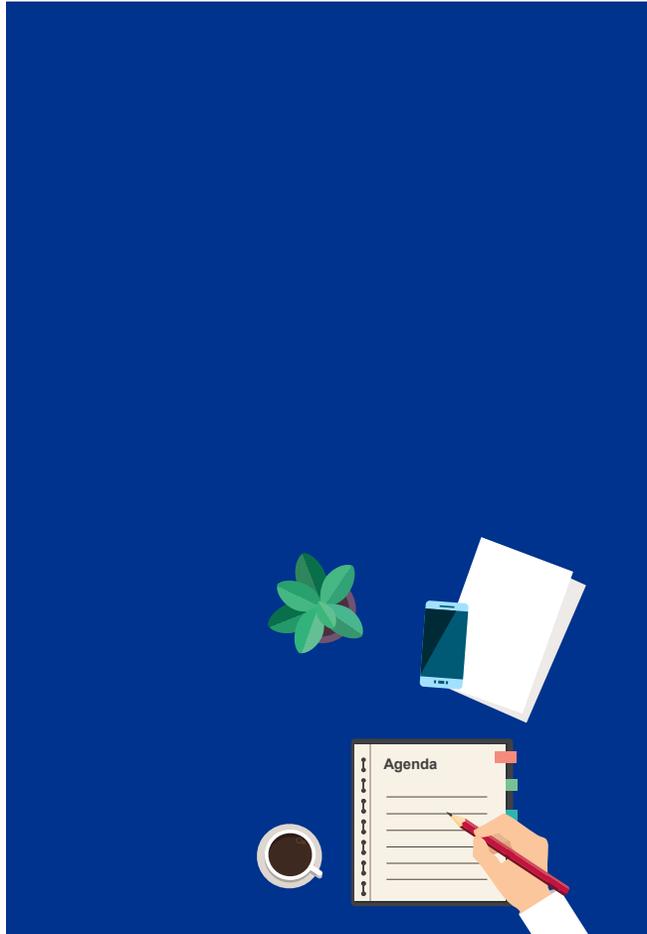
06 November 2023

—

KPMG Global Korean Practice

KPMG in Germany

# Agenda



## I. Investment Destination Germany in times of change and transformation

|  |    |
|--|----|
| 01. Megatrends triggering transformations in Germany | 04 |
| 02. Germany at a glance                              | 07 |
| 03. Key topics in transforming industries            | 09 |

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# I. Investment Destination Germany in times of change and transformation

- |           |   |           |
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| <b>01</b> | <b>Megatrends triggering transformations in Germany</b> | <b>04</b> |
| <b>02</b> | <b>Germany at a glance</b>                              | <b>07</b> |
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# Megatrends triggering transformations in Germany



**Climate Change**



**Digitization & AI**



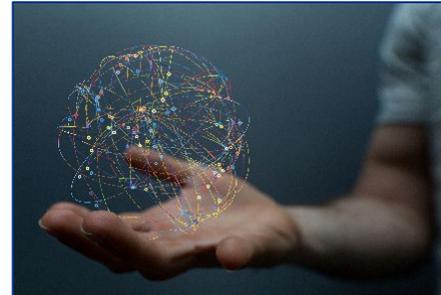
**Security Threats**



**Aging Society,  
Urbanisation and  
Migration**



**Dependencies on  
Supply**



**Geopolitic Tensions**

# Time of change is time of chance: International investors are entering Germany now to materialize the opportunities

## Reasons to invest now

- **Opportunities for profitable growth** deriving from manifold **transformations in Germany** which are all triggered by today's megatrends and impact many industries
- Availability of huge **public funds** in Germany/EU (state investment programs as well as subsidies and grants)
- Participation in **development of future technologies** in Germany, being one of the main R&D centers globally
- Availability of **distressed and underperforming assets at low prices** due to current market turbulences in Germany/Europe
- Chance to improve **resilience** by **diversifying operations** and **regionalizing value chains in Europe** as a reaction to the **geopolitical tensions (block-building, rising protectionism and decoupling)**

## Types of investment

- Greenfield investment
- Brownfield investment
- Merger & Acquisition
- Joint ventures
- Minority shareholdings

# Examples of huge recent greenfield investments of international investors in Germany



# Germany at a glance



84.3 m people



€ 3,870 bn GDP



Capital Berlin  
(3.85 m inhab.)



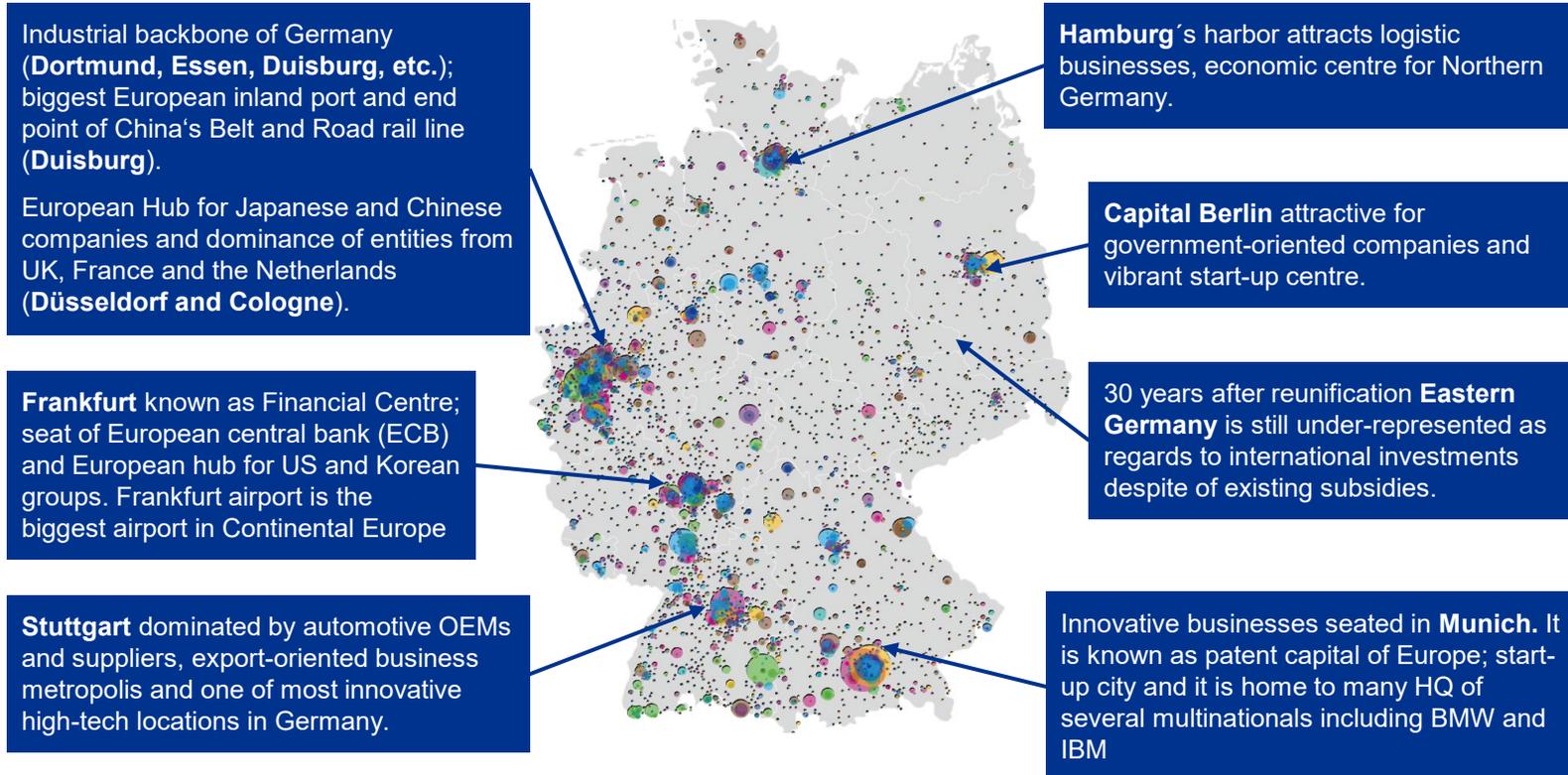
44.7 years old

- **4<sup>th</sup> largest economy in the world by GDP**
- **Largest domestic market in the EU**
- in the **center of Europe** reaching each place in Europe within 3 flight hours
- with **free flow of goods and people within the EU** consisting of 27 states and comprising 448 m inhabitants
- **Highly industrialized** and diversified – with equal focus placed on services and production
- **Innovation and research center**
- Leadership in **automotive, mechanical engineering, chemical and electrical industries**
- **“Made in Germany”** label stands for regular **innovation** and **excellent quality**
- **Excellent credit ratings:** AAA (S&P), AAA (Moody’s), AAA (Fitch)



# Core industries and activities per region in Germany

Regions that are particularly popular for international investors based on number of employees working there:



Country of origin: ● China ● Great Britain ● France ● Japan ● Netherlands ● Austria ● Switzerland ● USA

# Key topics in transforming industries in Germany



**Energy**



**Infrastructure**



**Health Industry**



**Defense**



**Tech industry**



**Circular economy**

# Transforming industries in Germany – deep dive



Energy

- Coping with climate change requires **transformation of energy mix** from fossil energy to renewables
- **Shutdown of nuclear powerplants** in Germany increases pressure on energy transition
- Intention to use **green hydrogen** as an alternative
- **Status of grids** not sufficient for new energy mix
- **Energy consumption in households and industries** to be adapted to new energy mix



Infrastructure



Health Industry



Defense



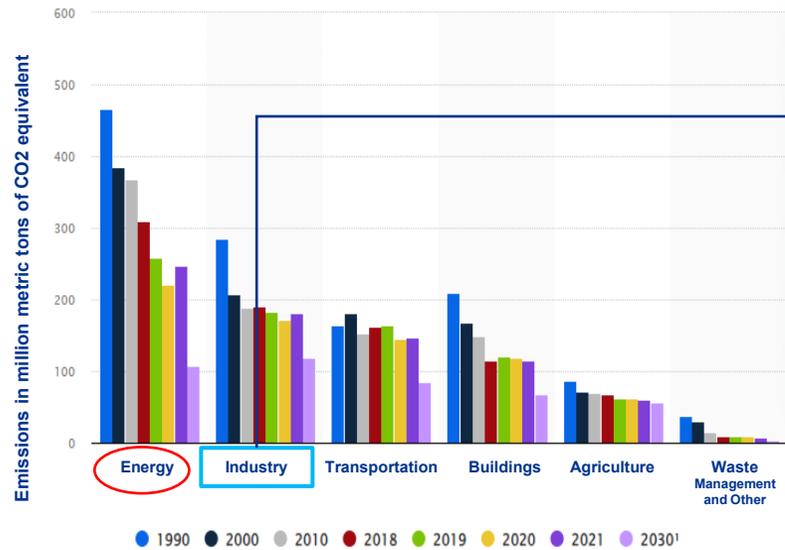
Tech industry



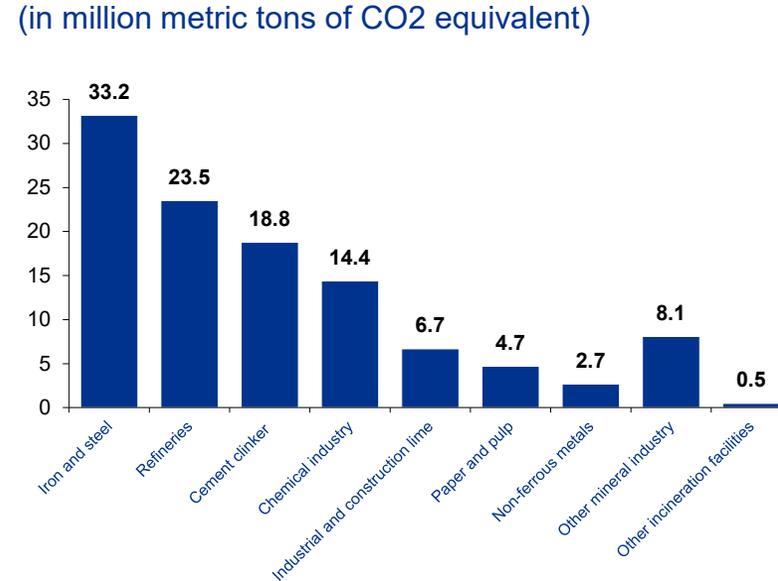
Circular economy

# Energy sector most relevant to counter climate change

**Greenhouse gas emissions in Germany by sector**  
(in million metric tons of CO2 equivalent)



**Greenhouse gas emissions of the industrial sector in Germany by industry in 2022**  
(in million metric tons of CO2 equivalent)

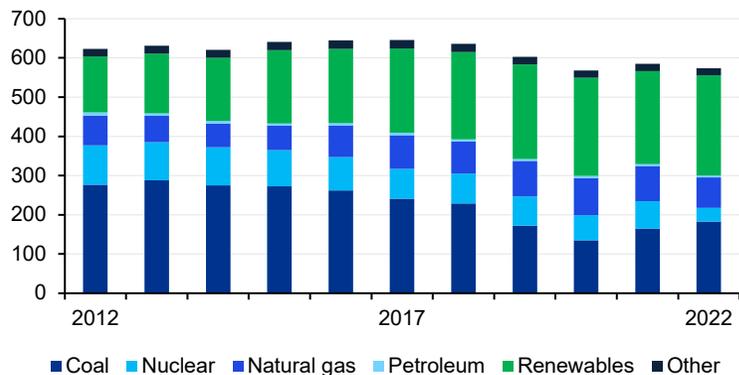


**Robert Habeck**  
Federal Minister for Economic Affairs  
and Climate Action

*“We want to be climate-neutral by 2045 and boost the share of renewable power to 80% by 2030.”*

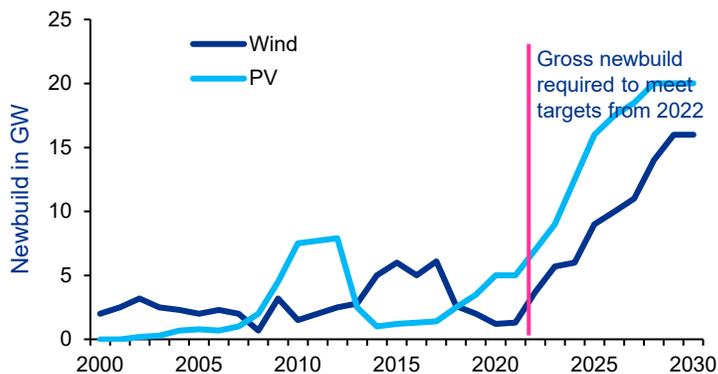
# Energy generation transitions to renewables

## Fossil and nuclear energy sources still make up majority of energy mix in Germany

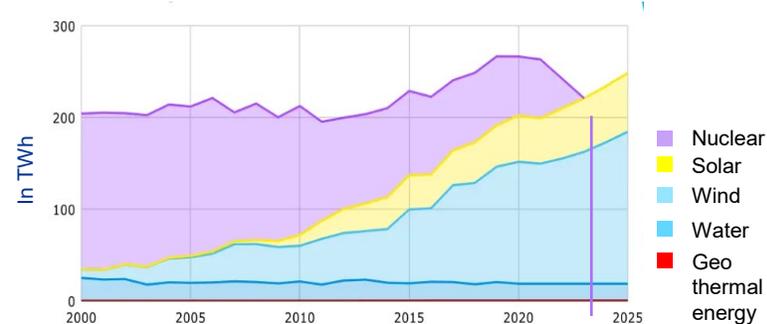


- **Coping with climate change** requires transformation of energy mix from fossil energy to renewables 
- **April 2023:** Voluntary **shutdown** of last 3 operative **nuclear power plants** → **increases pressure on energy transition**
- Currently **still 130 coal-fired power plants** in Germany → but **until 2030: coal phase-out**
- 56% of energy mix today still generated by fossil fuels
- 2030: Cover at least 80% of electricity consumption from renewable energies – especially wind and solar
- Share of renewable energies is expected to almost double in less than ten years → expansion speed must even triple

## Wind power and photovoltaic to substitute fossil and nuclear energy sources



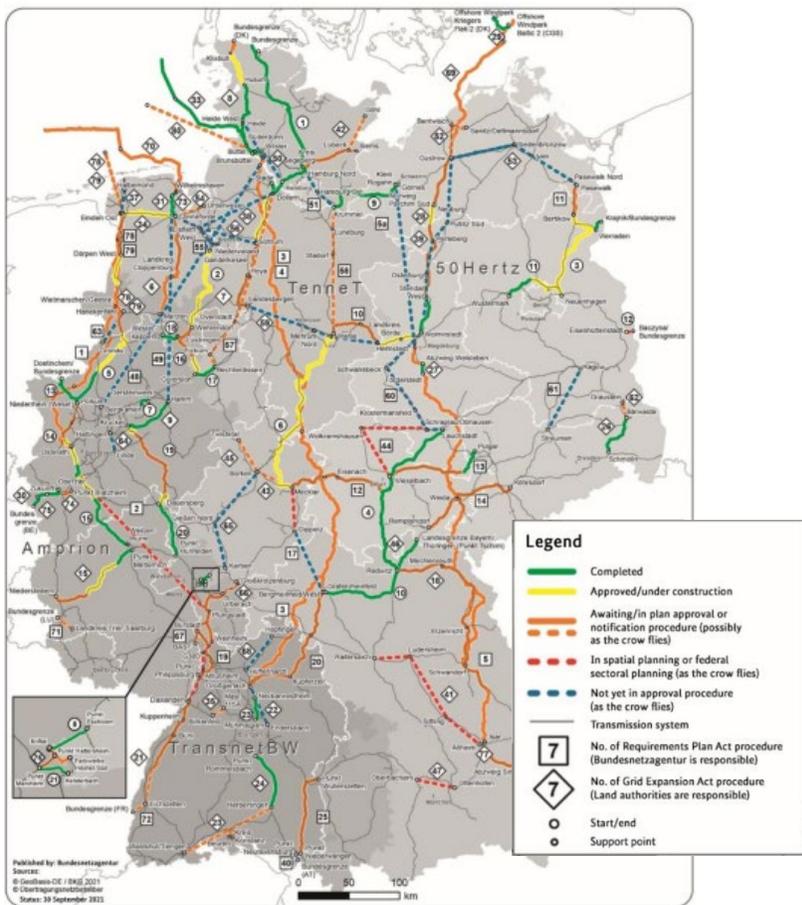
## Solar and wind energy must compensate lack of nuclear energy from 2023 onwards



Source: [Tech for Future](#)

# Energy grids and energy infrastructure in residential housing and industries

## Electricity grids missing from north to south ...

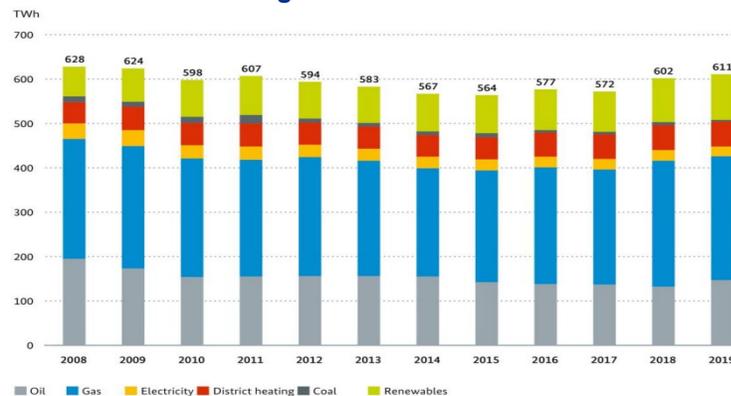


## ... as well as hydrogen grids



- Status of grids **not sufficient** for new energy mix as wind energy is mainly generated in the north sea but required in the south
- Intention to **use green hydrogen** as an alternative for fossils
- **Energy consumption in households and industries needs to be adapted** to new energy mix

## Fossil based heating infrastructure in residential housing



Sources: Federal Ministry for Economic Affairs and Climate Action, 2021; German Meteorological Service, 2020; German Energy Agency, 2021

# Investment opportunities in green energy

“Climate and Transformation Fund” invests € 178 billion in energy transition in Germany

## Solar Energy



- **Panel and module** supply
- Engineering, procurement, and construction (**EPC**)
- Energy store system (**ESS**) solution
- Renewable energy certificates (**REC**) transaction

## Wind Energy



- Technology Collaboration on **offshore wind power**
- Wind **plant construction**
- **Steel materials** supply and **jacket substructures** development

## Hydrogen Energy



- Technology collaboration on **H2 production**
- **H2 mobility**
- H2 fueling **station construction**

## Recent Investment Case

- ✓ **BP and Total** secure wind farm rights in Baltic and North Seas of Germany for € 12.6 billion
- ✓ **Samsung C&T and SungEel** plan to recycle batteries in Germany
- ✓ Austrian **solar start-up Neoom** increased series B financing of € 25 million in Germany

# Transforming industries in Germany – deep dive



Energy



Infrastructure

- Investments in **physical infrastructure (rails, roads and bridges)** have been postponed during last decade
- **Buildings and transportation infrastructure** to be adapted to become climate-neutral
- Trend of urbanization and immigration causes a **higher, not satisfied demand for housing**
- **Digital infrastructure** in Germany not ready for digital life and AI (see below re. Tech industry)



Health Industry



Defense



Tech industry



Circular economy

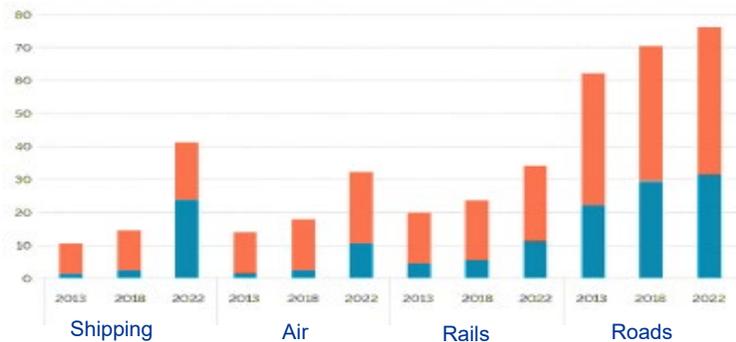
# Backlog in Germany's infrastructure...

## Rail, roads and bridges

Transport infrastructure requires modernization

Slight improvement needed

Significant improvement needed



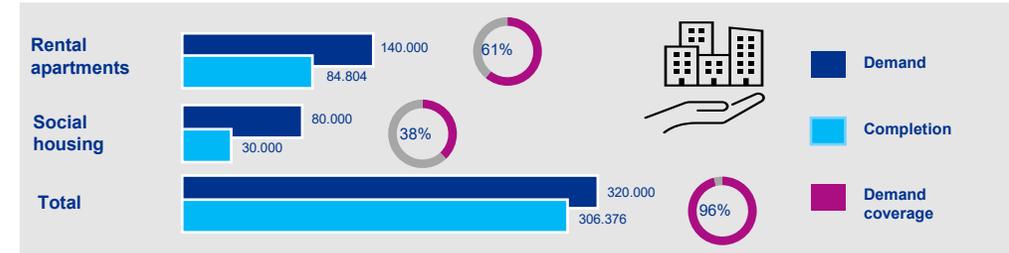
- Investments in physical infrastructure (rails, roads and bridges) have been postponed during the last decade
- 4,000 bridges require upgrading within the next years
- In an EU-comparison, Germany ranks only 12<sup>th</sup> in per capita rail investments
- Investment requirements in transport networks until 2030: € 372 billion
- Rail: Current planning portfolio comprises measures totaling around € 45 billion
- By 2030: 75% of the rail network in Germany to be electrified (today: 61%)



## Housing

Housing construction lags behind demand

Demand and completion of housing units in Germany in 2020 (in housing units)



- In 2022, 290,000 housing units were completed instead of 400,000 planned by the federal government
- Germany currently lacks 700,000 apartments; urbanization and immigration exacerbate the problem
- From 2022 to 2026, federal funding for social housing will total a record of € 14.5 billion
- From Jan. 2024, every newly installed heating system must be powered by at least 65% renewable energies
- In the long term, all fossil-based heating infrastructure will be replaced by renewable energies



# Investment opportunities in infrastructure

Available public funding of German Federal Ministries over next 5 years:

~ € 20 billion

~ € 25 billion

~ € 9 billion

~ € 12 billion

Sources: Federal Ministry for Digital and Infrastructure;  
Federal Ministry for Economic Affairs and Climate Action



## Climate-friendly mobility

- **Regional and long-distance transport:** electrification of rail networks/expansion of high-speed networks
- **Public transport:** conversion of bus fleets, expansion of networks
- **Automotive:** New alternative fuels and refueling and charging infrastructure
- **Cycling:** Expansion of cycling infrastructure
- **Freight transport:** Truck fleet modernization



## Energy & Natural Resources

- **Solar energy:** Expansion of photovoltaic plants
- **Wind energy:** Expansion of wind farms
- **Electricity grids:** Expansion of power grids
- **Electricity storage:** Battery technologies
- **Energy efficiency:** Buildings, industry, trade and services



## Hydrogen

- **Electrolysis:** Expansion of new electrolysis power plants
- **Storage and transport:** expansion of gas networks
- **Applications in mobility:** hydrogen in trains, buses, trucks, aircraft and cars
- **Applications in industry:** Use in iron and steel production and in the chemical industry
- **Power and heat supply**



## Telecommunication

- **Broadband:** Expansion of passive and active network infrastructure, measures to close white/grey spots
- **5G:** Expansion of 5G radio masts and dissemination of 5G-capable devices.
- **Industry 4.0:** Digitization of industrial production
- **Internet of Things:** Linking the physical world with the virtual world, e.g., in smart cities

## Large Multinationals are investing



# Transforming industries in Germany – deep dive



Energy



Infrastructure



Health Industry

- Aging society and decreasing overall population demands **new ways of care** (e.g. robotics and tele care)
- **Digitalization of health care system** lacking behind (e.g. electronic patient record)



Defense



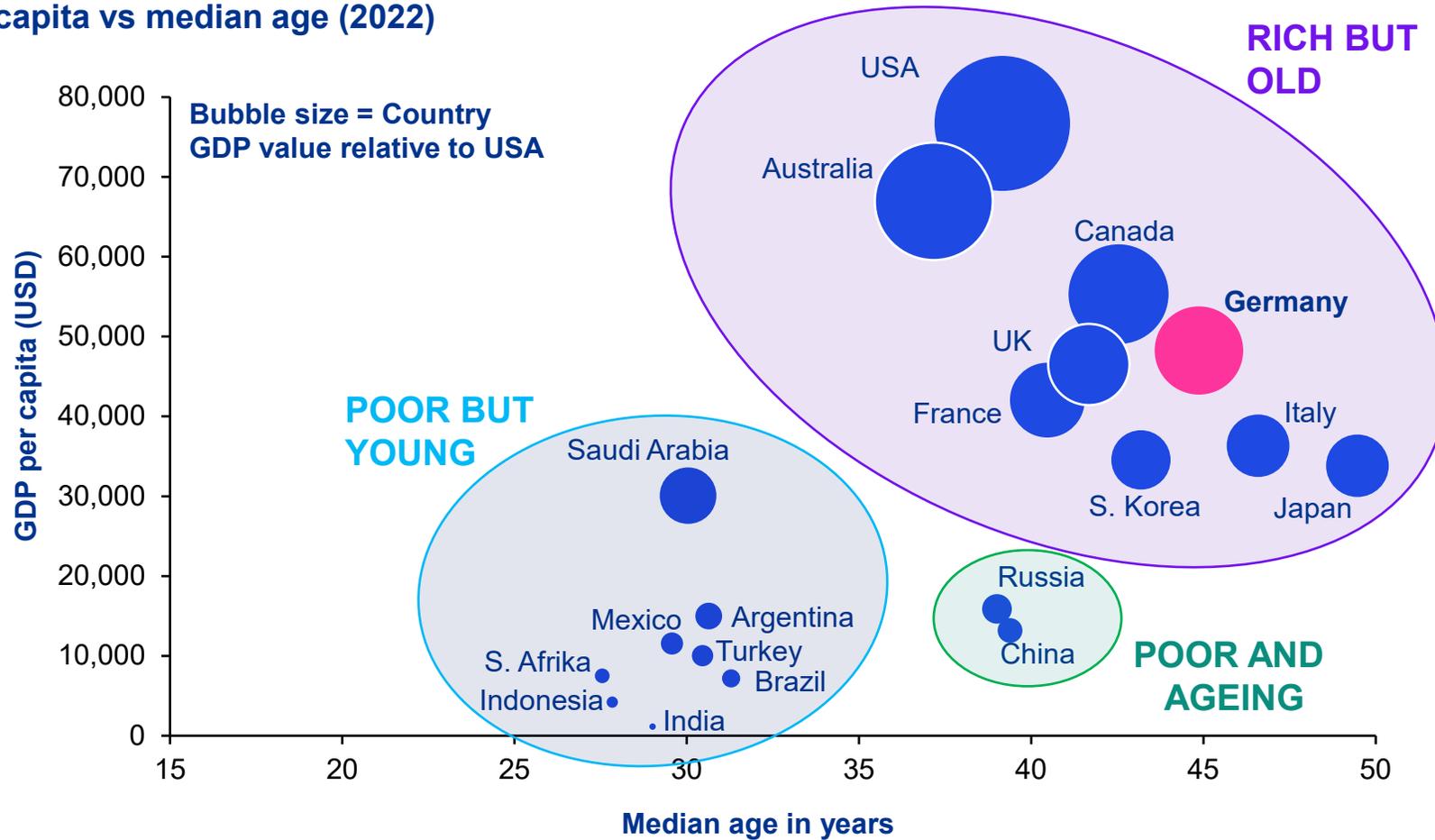
Tech industry



Circular economy

# Changing demographics are offering new chances

G20: GDP per capita vs median age (2022)



# Opportunities for international investors in the German healthcare industry



Aging society



New materials



Care dependency



New production methods/Industry 4.0



Chronic diseases



Digitalization & Interconnectivity

...leading to a growing demand for healthcare solutions

## Biotechnology



- Revenue: € 14.6 billion (2020)
- Germany is leading country within Europe with 710 biotech companies
- Growth drivers: IVS & molecular diagnostics

## Medical Technology



- Revenue: € 38.4 billion (2022)
- 67% export quota
- Demographic change and growing number of people in need of care stimulate demand for medical aids

## Digital Health



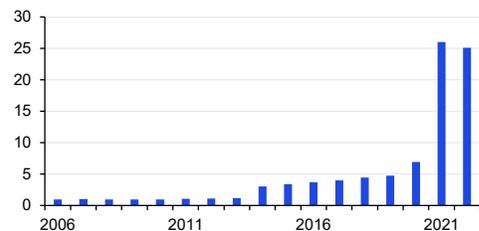
- Revenue: € 4.8 billion (2023)
- Digital health services (telemedicine)
- Digital proactive solutions (wearables, health apps)

## Pharmaceutical Industry



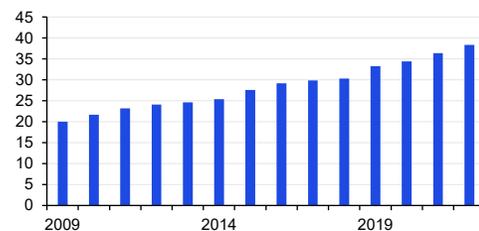
- Revenue: € 56.5 billion (2022)
- 550 pharmaceutical companies in Germany
- Opportunities: OTC, biopharmaceuticals, R&D, production

Sales in biotech industry (in € bn)



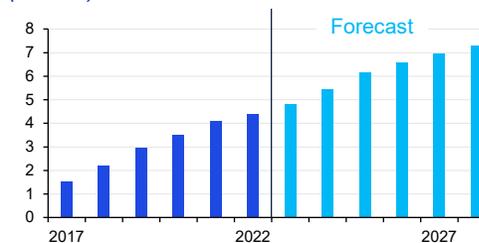
Source: [EY; Bio Deutschland](#)

Sales in MedTech industry (in € bn)



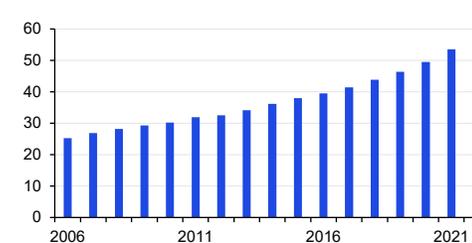
Source: [BVMed](#)

Sales in digital health market (in € bn)



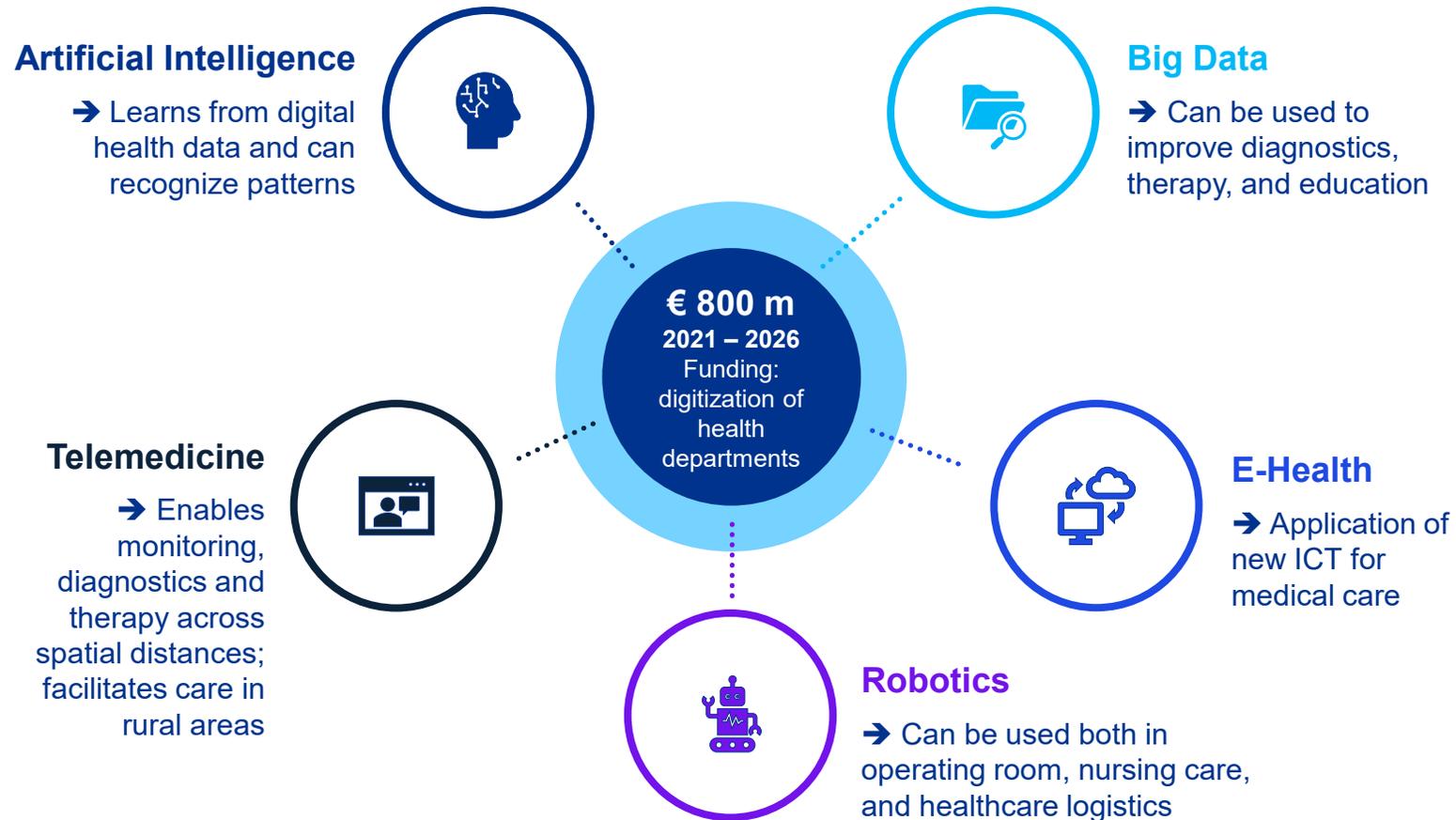
Source: [Statista Market Insights](#)

Sales in pharmaceutical market (in € bn)



Source: [IQVIA](#)

# Selected fields of application of digitization in the German healthcare industry



# Transforming industries in Germany – deep dive



Energy



Infrastructure



Health Industry



Defense



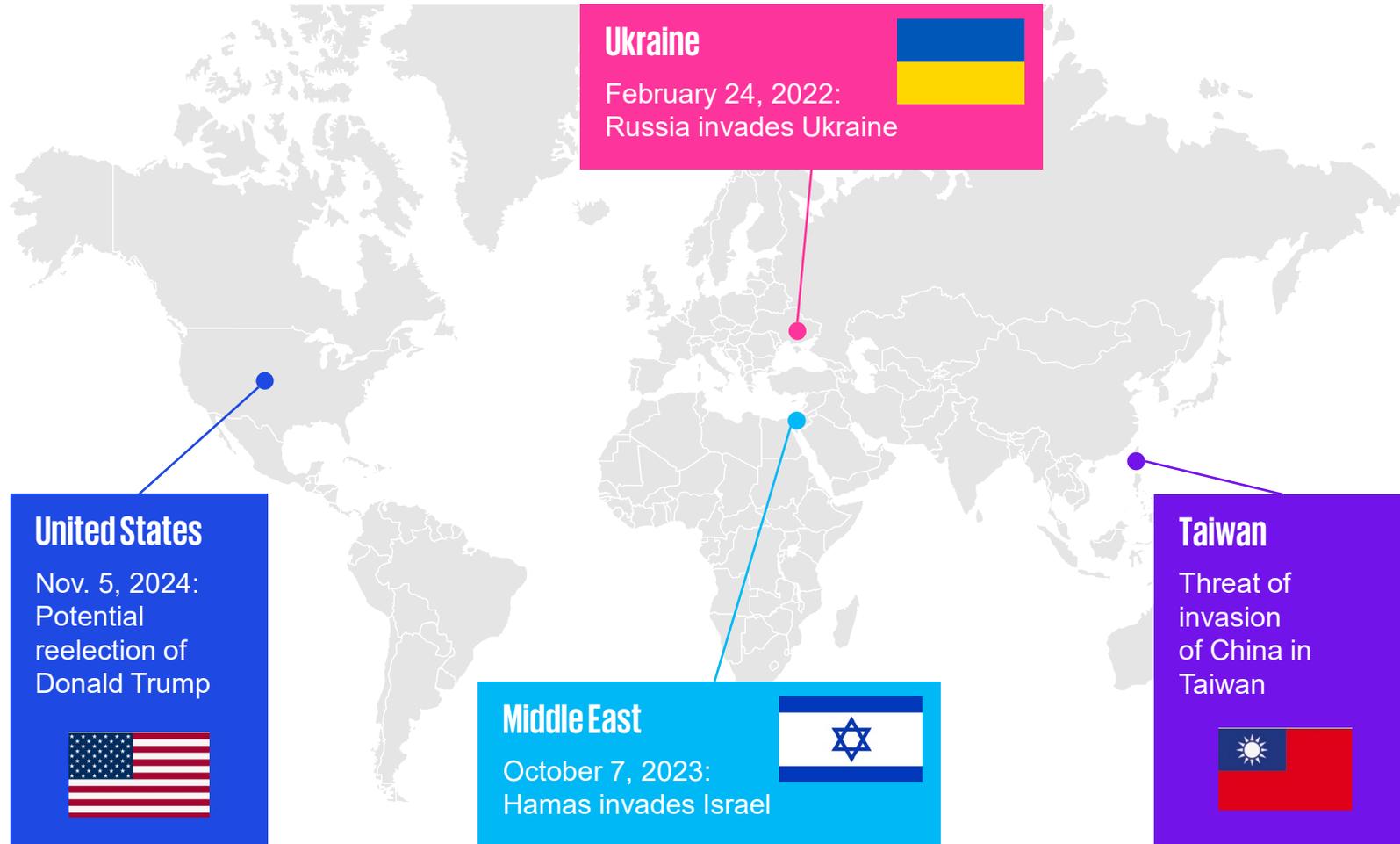
Tech industry



Circular economy

- **War in Ukraine** caused **re-assessment of threat situation** in Europe
- Current war in Middle East, risks of aggressions of China and potential re-election of Trump as US-president (which could potentially weaken the NATO) emphasize **need to increase own defense capabilities** and **build up defense industry** in Germany
- Three decades of very **limited defense expenditures**
- Preparation for **recovery of Ukraine**: Using **Germany as a base for investments in Ukraine in various industries**

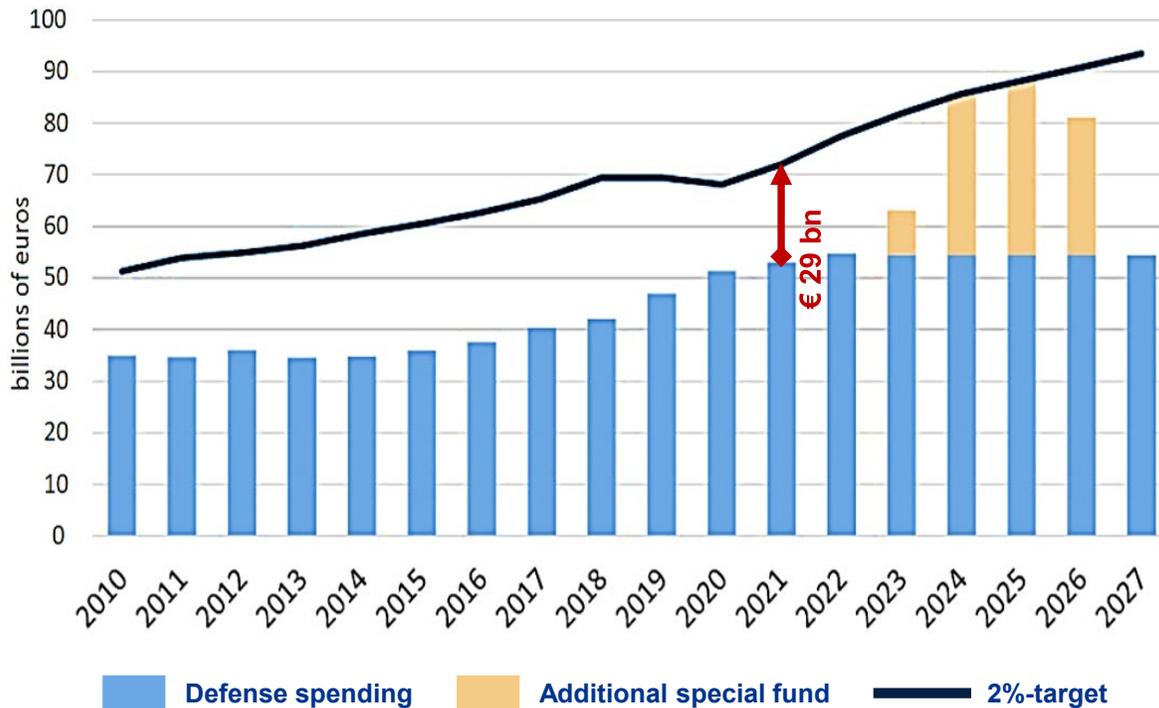
# Global uncertainties and tensions increase the need for rearmament



# Massive investments in German defense infrastructure planned

## German defense spending and special assets

Expenditure in € billion and hypothetical expenditure for the NATO-target of 2% of GDP



- Public defense expenditures increase; but are still below the NATO-target (2% of GDP) 
- The spending gap in 2021 was € 29 bn
- **Special fund:** € 100 bn for a powerful Federal Armed Forces
- € 700 bn to be invested by 2030

# € 100 bn intended investments of German Federal Armed Forces in 2024

|   |  |                 |
|---|--|-----------------|
|  | <p><b>Air Force</b><br/>F-35/CH-47F Chinook/Tiger/ECR Eurofighter/Heron-Drohne Development of Future Combat Air System (FCAS)</p>  | <p>€40.9 bn</p> |
|  | <p><b>Navy</b><br/>Type 130 corvettes, F126 frigates, 212 CD submarine</p>   | <p>€19.3 bn</p> |
|  | <p><b>Land Forces/Army</b><br/>Development of several successor tank models</p>  | <p>€16.6 bn</p> |
|  | <p><b>Leadership capability of the German Federal Armed Forces (Bundeswehr)</b><br/>Digitalization of the Bundeswehr (radio &amp; satellite communication, data center network, management information system)</p> | <p>€20.7 bn</p> |



***"Germany will soon have the largest conventional NATO army in Europe."***

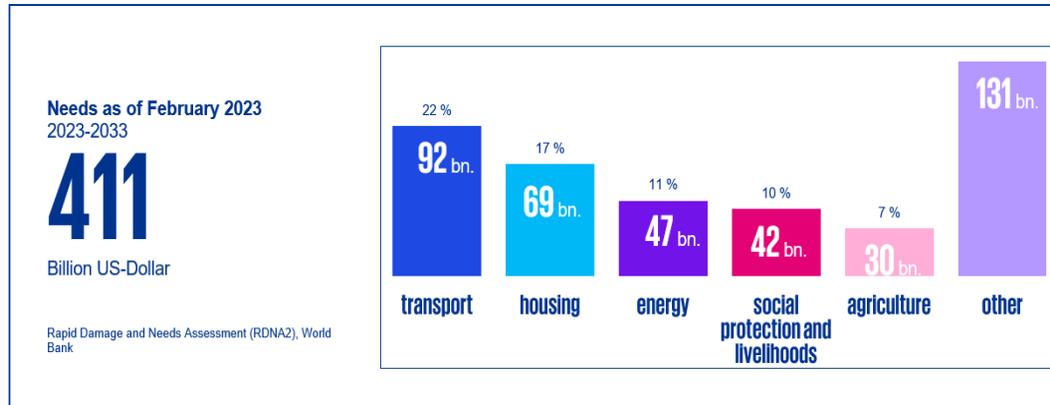
*German Chancellor Olaf Scholz, May 2022*



***„We require more defense industry in Germany.“***

*German Minister of Defense Boris Pistorius, Jan. 2023*

# Ukraine Recovery: Needs and Public Commitments



| Donors  | Committed  | Disbursed  |
|---|--|--|
| <b>European Union</b>                                   | € 25.2 bn (€ 75.2 bn with the proposed Ukraine Facility)           | € 16.2 bn  |
| <b>European Investment Bank</b>                         | € 2.4 bn   | € 1.7 bn   |
| <b>International Monetary Fund</b>                      | € 16.6 bn (€ 20.8 bn including Administered Account <sup>1</sup> ) | € 5.7 bn (€ 9.9 bn including Administered Account) |
| <b>The World Bank Group</b>                             | € 34.8 bn  | € 21 bn  |
| <b>European Bank for Reconstruction and Development</b> | € 3 bn   | € 1.7 bn   |

Source: European Parliament, Economic Governance and EMU Scrutiny Unit (EGOV), July 2023

<sup>1</sup> In April 2022, the IMF opened a special multi-donor "Administered Account" for Ukraine, allowing individual donor countries to channel financial support.

## Ukraine Recovery Conference, London, June 2023

- **USA** pledged another €1.1 billion.
- **EU** will mobilize up to €50 billion 2024-2027 (grants and loans).
- **GB** pledged €280 million in aid + €3.5 billion in World Bank loan guarantees.
- **Germany** promised an additional €381 million in humanitarian aid this year.

**The World Bank** has mobilized over \$38 billion in critically needed financing (as of 10.10.2023).

The European Bank of Reconstruction and Development (**EBRD**) expects to continue to invest roughly €1.5 billion euros per year in the coming two years.

The Council of Europe Development Bank (**CEB**), the European Bank for Reconstruction and Development (**EBRD**), the European Investment Bank (**EIB**) and the **World Bank** have agreed to harmonize procurement practices for public sector investment financed by the multilateral development banks (MDBs) in Ukraine.

**The next conference on the Ukraine recovery will be held in 2024.**

# Transforming industries in Germany – deep dive



Energy



Infrastructure



Health Industry



Defense



Tech industry

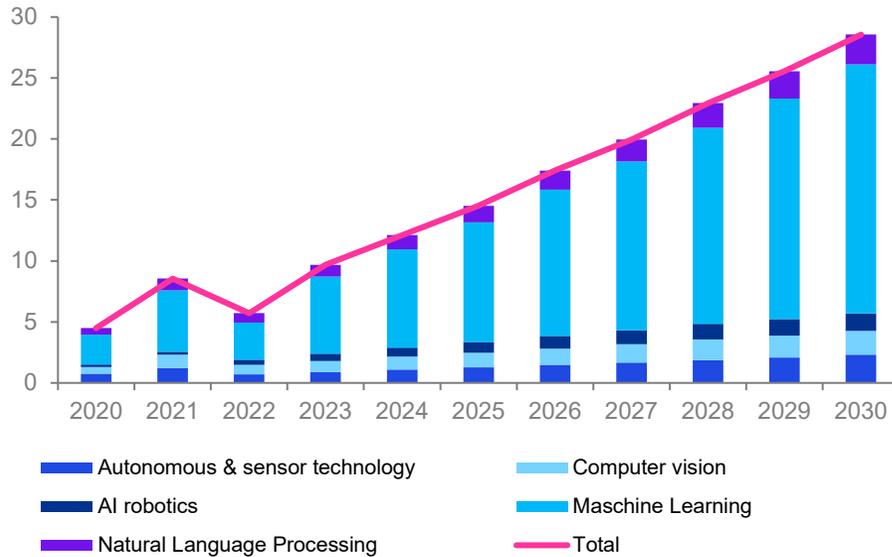


Circular economy

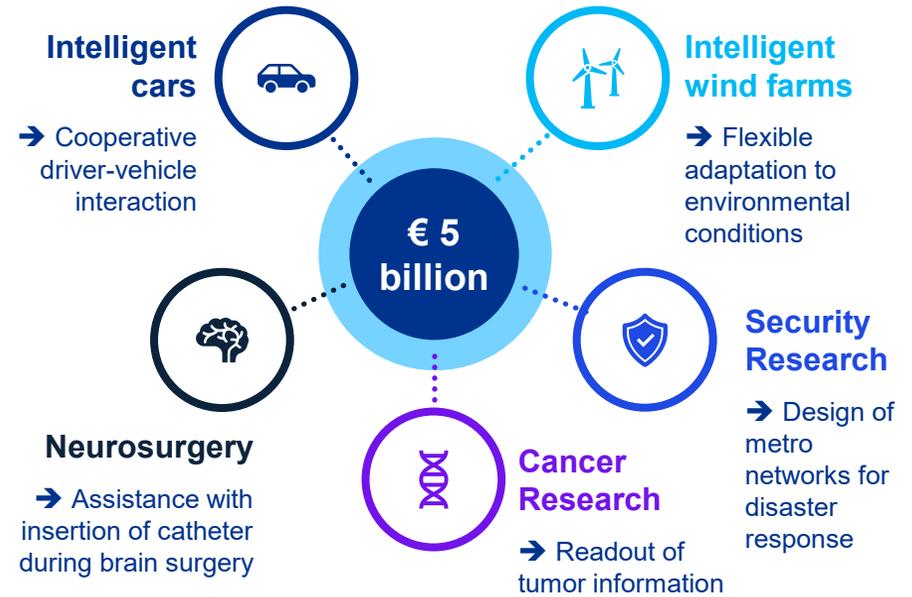
- **AI** has the potential to completely **change the way of working** and **disrupt all traditional industries**
- Germany is **leading in the research of AI innovations** and invests huge public funds - but so far is relatively **poor in its application in businesses**
- Germany lacks behind as regards the **digitization of public administration and health industry**

# AI market will grow significantly - Public funds available

Market size AI – Germany (in € billion)

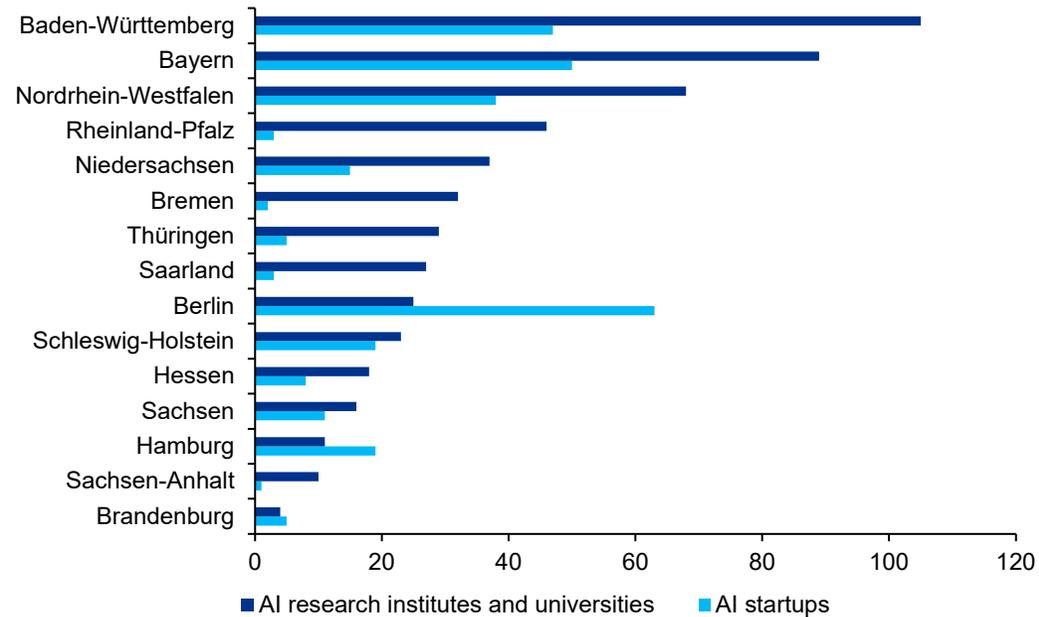


€ 5 billion Fund for implementation of AI Strategy

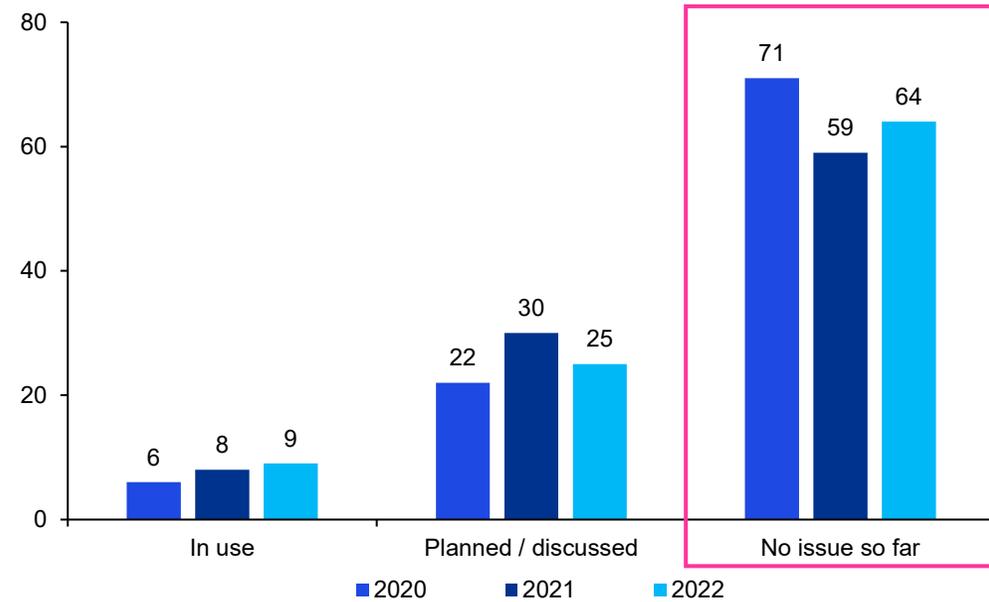


# Germany leading in AI research, but so far relatively poor in business applications

Number of AI research institutes and startups by federal state



Status of companies on the topic of AI (in %)



Germany is leading in the research of AI innovations...

...but so far poor in its application in businesses

# Investment opportunity in AI and digital transformation

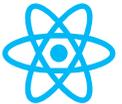
**“German AI Boom is a great opportunity for R&D collaboration and investment.”**

## Smart Factory



- Smart Factory
- Smart Sensor
- Industrial Robot

## AI, Cloud, Quantum Computing



- AI driven solutions
- Cloud based technologies
- R&D collaboration on Quantum computing

## Digital Healthcare



- AI based pharmaceutical development
- Antibody therapeutic manufacturing

## R&D within Germany

- **Six leading AI research institutions** at eleven locations are funded by the government and the federal states

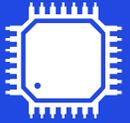


Source & data collection: Researched and presented by Plattform Lernende Systeme

## Recent Investment Cases

- ✓ **BFrench fintech Silvr** plans to enter the German market
- ✓ **Turkish robotics** company chooses Bremen for EU HQ
- ✓ **Ikea** invests in Berlin AI start-up
- ✓ **Munich start-up** gets € 5 million funding for **supply chain solution**
- ✓ World-leading Australian **biotech company CSL** has opened a new **R&D center in Marburg**

# Investment opportunities in semiconductor industry



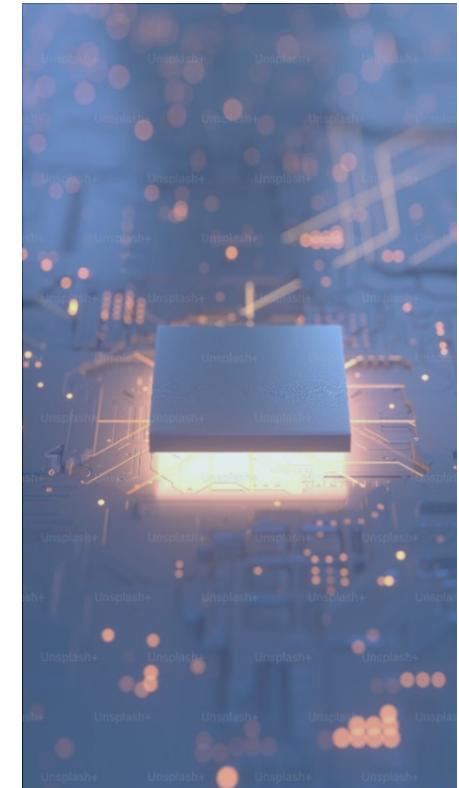
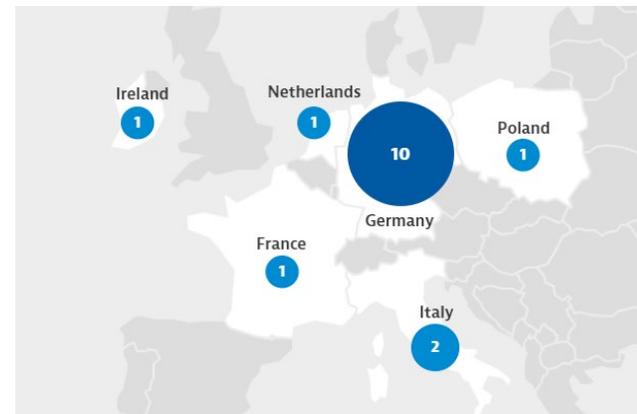
“Under the **EU Chips Act**, Germany is committed to doubling its global chip production share to **20% by 2030**, bolstered by **state financial incentives including energy price subsidies**”

## Semiconductor : Materials-Parts-Equipment in fabrication facilities (fabs)

- Supply of **materials-parts-equipment** for semiconductor fabs
- Supply of **parts** for semiconductor **photolithography equipment**
- Collaboration with semiconductor **design houses**
- Collaboration on **R&D** for **automotive semiconductors**

## Recent Investment Case

- **Intel** builds € 38 billion fabs in Magdeburg
- **TSMC** builds € 11 billion fabs
- **Infineon** expands € 5 billion fabs in Dresden
- **Bosch, Vishay** and **X-Fab** expands their fabs
- **Wolfspeed** builds € 2.5 billion fabs in Ensdorf

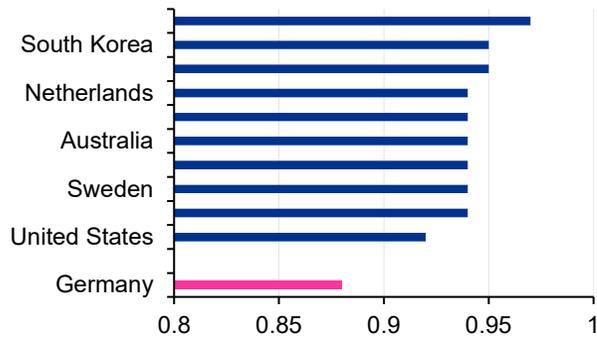


# Germany's digital transformation must progress

## Germany lacks behind in terms of digitization

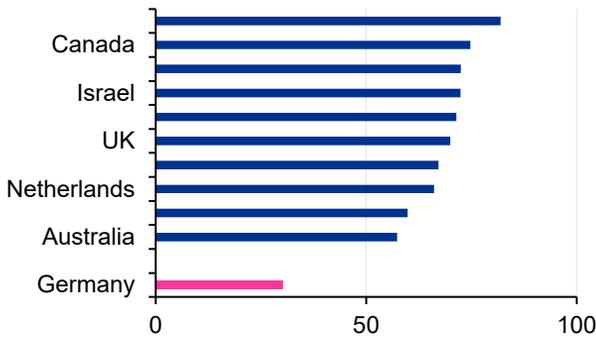
### Public services

E-Government Development Index 2022



### Healthcare

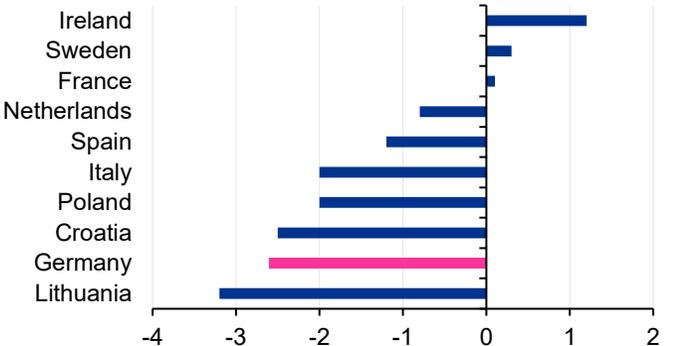
Digital Health Index 2018



### Aging society & education

Net change in labor force aged 15-64

Selected EU countries, 2022, % points



## Opportunities around Germany's digital transformation

- **Public administration** in Germany today **very-paper-based**
- **Various projects to digitalize public application processes in all federal regions and all ministries**
- Aim is that 80% of statutory health insurance holders have **electronic patient records** by 2025 (now: zero)
- By end of 2025: 80% of e-patient file users on medication to have **digital medication overview** (now: zero)
- **Digitization of public health administration:** To strengthen digitization, the German government provide budgets of € 800m by 2026
- By 2035, Germany will lose 7 million workers due to demographic change, creating **potential for automation solutions and robotics**

# Transforming industries in Germany – deep dive



Energy



Infrastructure



Health Industry



Defense



Tech industry



Circular economy

- Intention to **reduce dependency on raw material supplies from China** by introducing a **circular economy** – which is climate-friendly too
- National Circular Economy Strategy
- €84 bn in revenues around circular economy in 2017

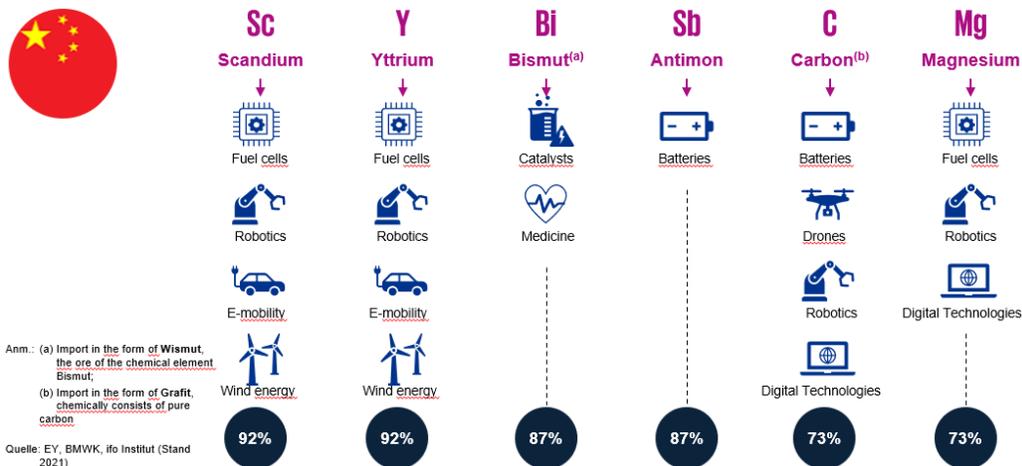
# Investments in building up a circular economy

One trigger for circular economy: Decreasing the existing dependence on China

## Dependency on raw materials from China



### Facts and Figures



## The response: The National Circular Economy Strategy

- Adoption planned for 2024
- Goals:
  - Environmental and climate protection
  - Secure raw material supply; reduction of import dependency
  - Strengthening the competitiveness of German companies
  - Support of industry and SMEs: R&D funding for innovation, advisory programs on resource-efficient production and development of norms and standards

# Circular economy growth potential by sector

Currently secondary materials only account for around 13% of overall raw material consumption in Germany



## Examples of solutions by sector



Innovations that **eliminate the need for packaging** (e.g. dissolvable/edible packaging, solid shampoo, farm-to-fork)



**Renewably sourced materials** (e.g. plastic made from agricultural by-products)



**Remanufacturing of spare parts** and recycling of materials



Circular business models including **car-sharing, ride-sharing, logistics and freight load-pooling, mobility**



**Clothing resale business models** (e.g. consignment or peer-to-peer)



**Materials Innovation** (e.g. fibres from regenerative sources)



Technologies to **turn organic waste streams**, including human waste, into **commercially viable agriculture inputs**



Digital customer-facing tools to **create transparency on food products and supply chains**



**Electronics resale platforms and refurbished electronics marketplaces**

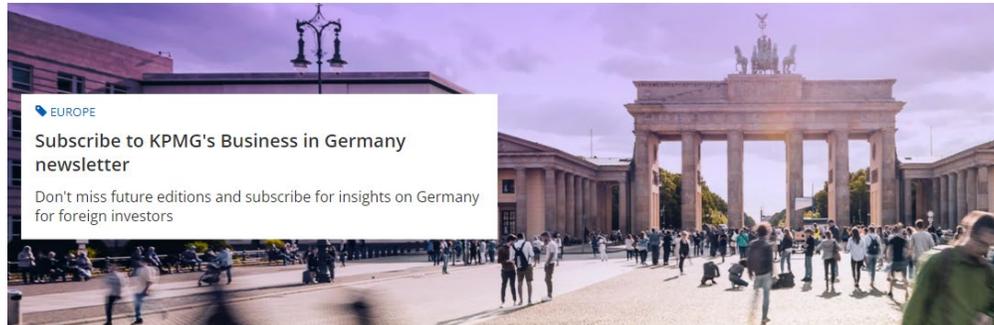


Start-ups developing **new recycling methods for lithium-ion batteries** to achieve high recycling rates and create sustainable material supply chains.

# Regular updates on the business location Germany

You are interested in the German marketplace and would like to know more about Germany as a business location?

What are the challenges when doing business in Europe's largest economy and which opportunities does Germany provide going forward?



**Business in Germany** is a quarterly English-language publication that provides relevant insights on the economic development of Germany and discusses how this translates into operational change of multinational organizations. As necessary, we provide updates on recent regulatory developments, taxation, as well as finance.

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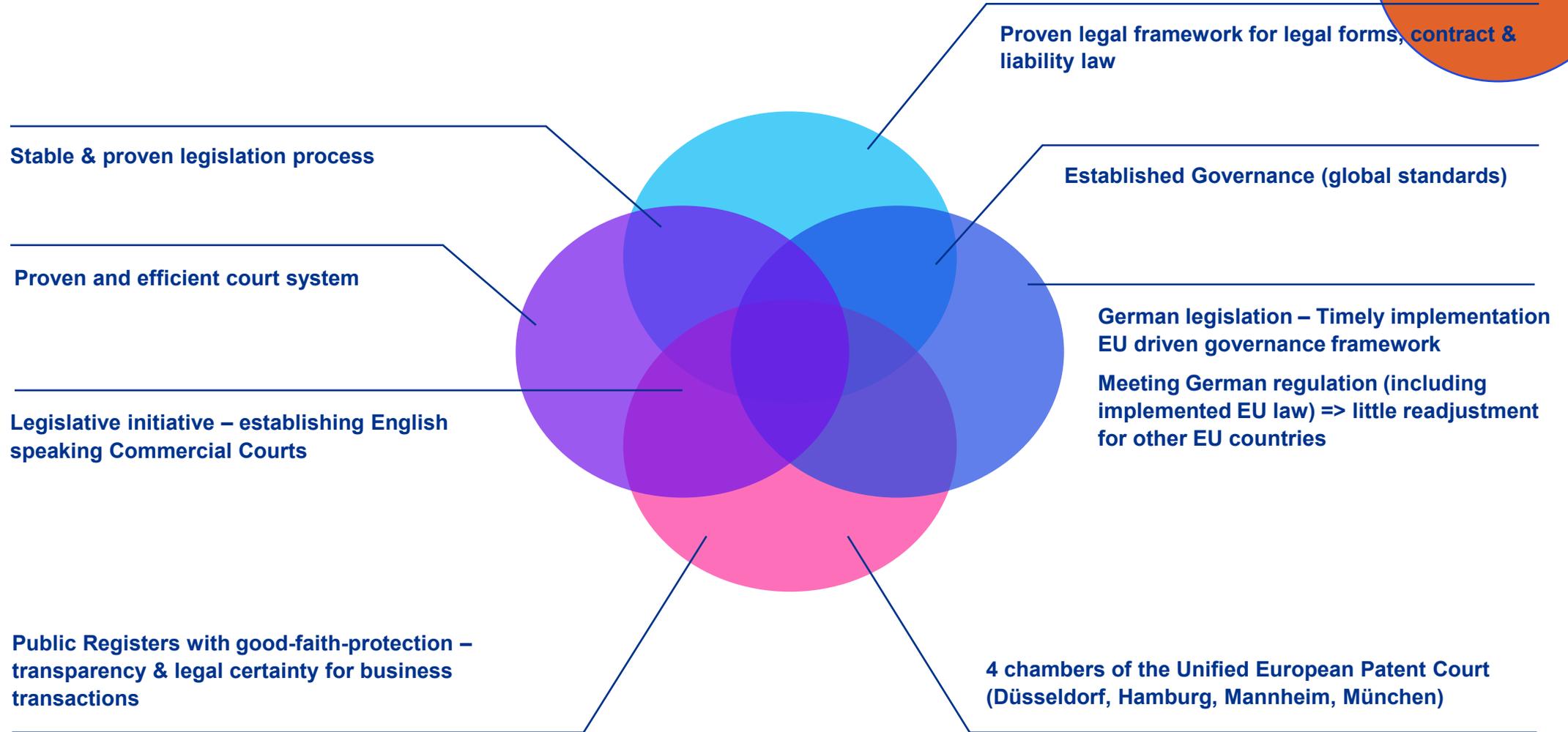
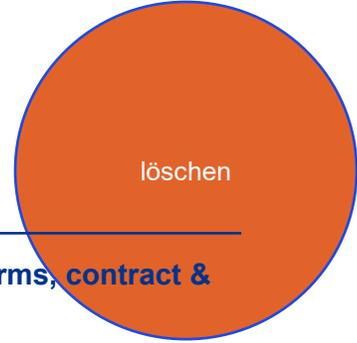
Document Classification: KPMG Confidential

A nighttime cityscape featuring a prominent bridge over a body of water. The bridge is illuminated with warm lights, and a white boat is visible on the water. In the background, several modern skyscrapers are lit up, with one particularly tall building having a distinctive illuminated top section. The sky is a mix of deep blue and orange, suggesting dusk or dawn. On the right side, a portion of a traditional European-style building with a clock tower is visible.

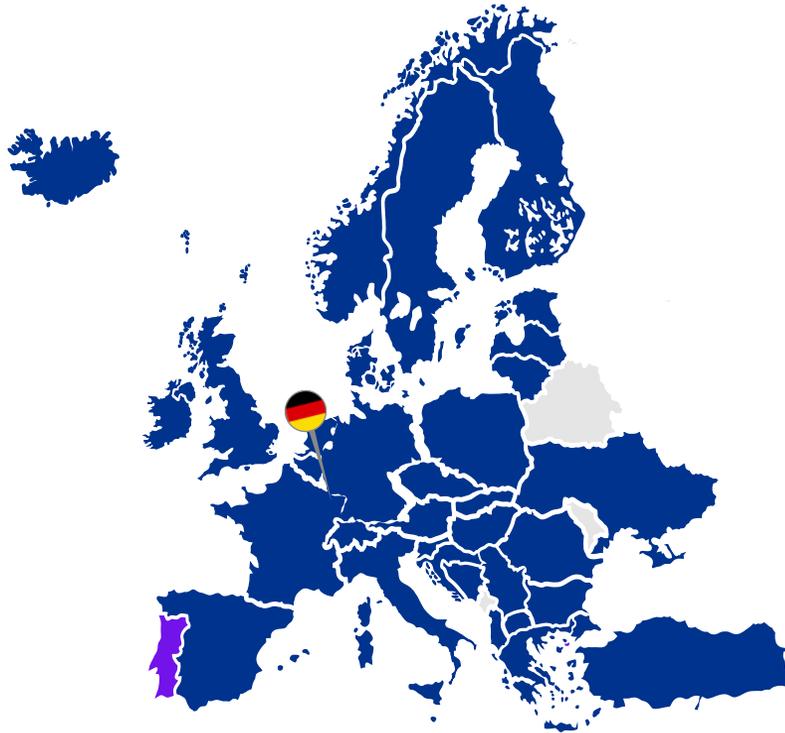
## II. Legal consideration

- 01** Germany as entry point to Europe 39
- 02** Legal forms in Germany 41
- 03** Starting a business as GmbH 42

# Legal view - Germany as entry point to Europe



# KPMG Law - Legal Services Network in Europe



 KPMG Law  
Legal Services Network  
(GLS)

 Best Friends Law Firms

 No coverage



KPMG Law Germany: > 340 Lawyers



Working closely with KPMG Audit,  
Tax and Advisory



Top 20 Law Firm in Germany



Reward:  
1<sup>st</sup> among the TOP 100 recommended law firms



# Legal forms in Germany – Overview

## Branch

- No legal personality (part of headquarter)
- **Foreign (parent) company fully liable** for legal action of branch
- Appointment of local permanent representative possible
- Corporate body: BoD of parent company; delegation full/limited commercial powers to (local) staff possible

## GmbH (Limited)

- Share capital: EUR 25,000
- **Limitation of liability**
- Corporate Body: Board of Directors (“BoD”), Shareholders Meeting, Advisory Board (optional)
- **Popular forms of business**
- **Suitable** for **any type** of company



## Aktiengesellschaft (AG) – Stock corporation

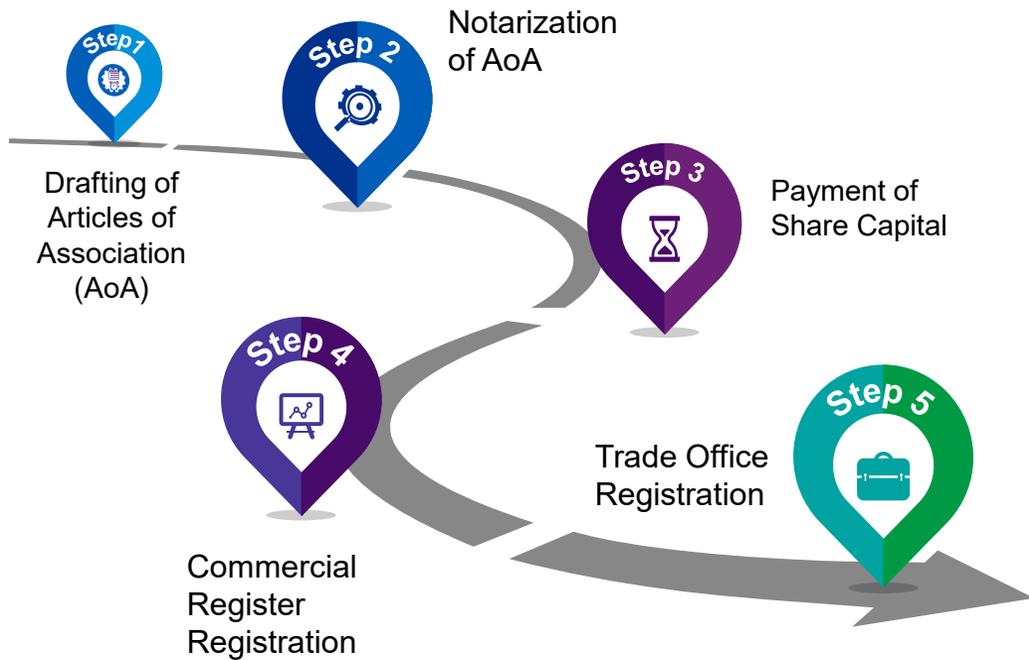
- Share capital: EUR 50,000
- **Limitation of liability**
- Corporate body: Executive Board, Supervisory Board, Annual General Meeting
- More suitable for **large start-up projects with high capital requirements**

## Societas Europaea (SE) – European Stock corporation

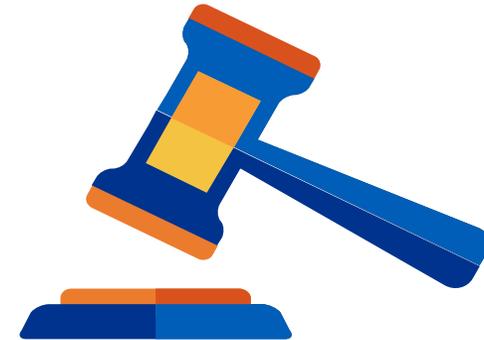
- Share capital: EUR 120,000
- Similar principles as AG
- **Flexible** cross-border seat changes within EU
- **More flexibility** on **governance structure** & on employee co-determination in the supervisory board

# Starting a business as GmbH

## Founding a new corporation



## Acquisition: off-shelf corporation



- Notarial share purchase and transfer agreement
- Revision of Article of Association

A city skyline at dusk, featuring several illuminated skyscrapers and a bridge over a body of water. The sky is a mix of blue and orange, and the lights from the buildings and bridge are reflected in the water. A white boat is visible on the water in the foreground.

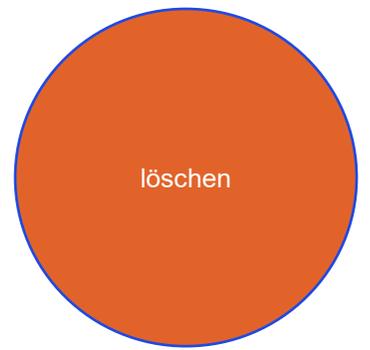
## III. Tax considerations

|           |   |           |
|-----------|---|-----------|
| <b>01</b> | <b>Tax Incentives</b>                                 | <b>45</b> |
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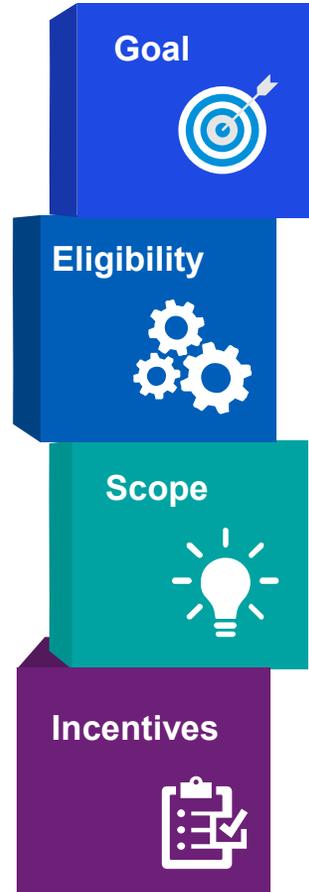
# Tax considerations for investments



# Tax Incentives



## Research Allowance Act



### Background / Goal?

- Improving attractiveness of Germany as investment location
- Enhancing existing direct R&D subsidies & grants by tax incentives

### Who is eligible?

- Taxpayer in Germany (Size and profitability **irrelevant**), **including international companies**

### What is covered?

- Basic R&D, experimental R&D as well as project R&D **after** the law was enacted

### How much?

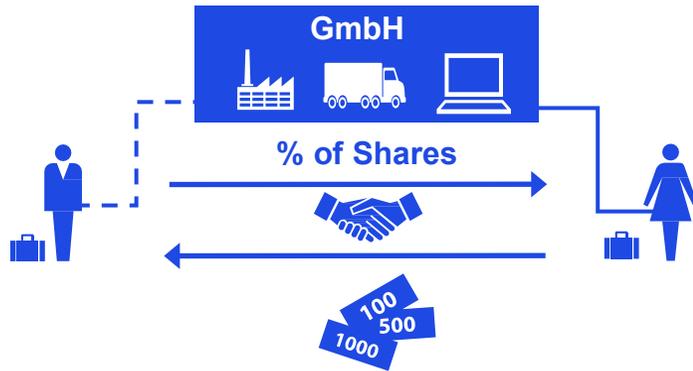
- Tax deductible **wage expenses (max. calculation basis EUR 4 mil)**
- **Cash grant: 25% of the assessment basis, max. EUR 1 mil/FY** (credited towards corporate income tax)
- Precondition: application needed

# Best vehicle for investment – corporation vs. permanent establishment (“PE”)



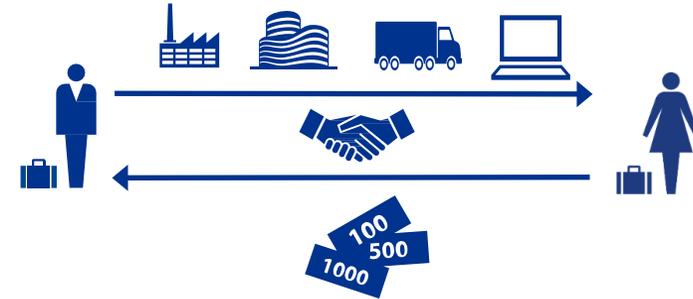
|  | Branch / PE  |  | A corporation (e.g. GmbH)  |  |
|--|--|---|--|---|
| <b>Tax liability</b>                   | <ul style="list-style-type: none"> <li>Limited tax liability on income earned in GER</li> </ul>  |   | <ul style="list-style-type: none"> <li>Unlimited liability on worldwide income</li> </ul>  |   |
| <b>Tax rate</b>                        | <b>Corporate Income Tax (“CIT”): 15%</b><br><b>Solidarity surcharge (“SS”): 0.825%</b><br><b>Trade Tax (“TT”): 7% - 18%</b>  |   |  |   |
| <b>Tax computation</b>                 | <ul style="list-style-type: none"> <li>Branch income based on German TP regulations under <b>separate entity approach</b>.</li> <li><b><u>More complex for transfer pricing (“TP”) purposes</u></b></li> </ul> |   | <ul style="list-style-type: none"> <li>Income based on the German GAAP accounts</li> <li><b><u>Simpler and more straightforward</u></b></li> </ul> |   |
| <b>Tax on dividend earnings</b>        | Dividends received: 95% tax-exempt   |   |  |   |
| <b>CIT/ TT returns</b>                 | Annual returns must be filed   |   |  |   |
| <b>VAT preliminary/ yearly returns</b> | Monthly/quarterly/annual depending activity volume   |   |  |   |
| <b>Payroll / Wage tax</b>              | Monthly/quarterly depending on wage tax amount   |   |  |   |

# Share Deal vs. Asset Deal



## Share Deal

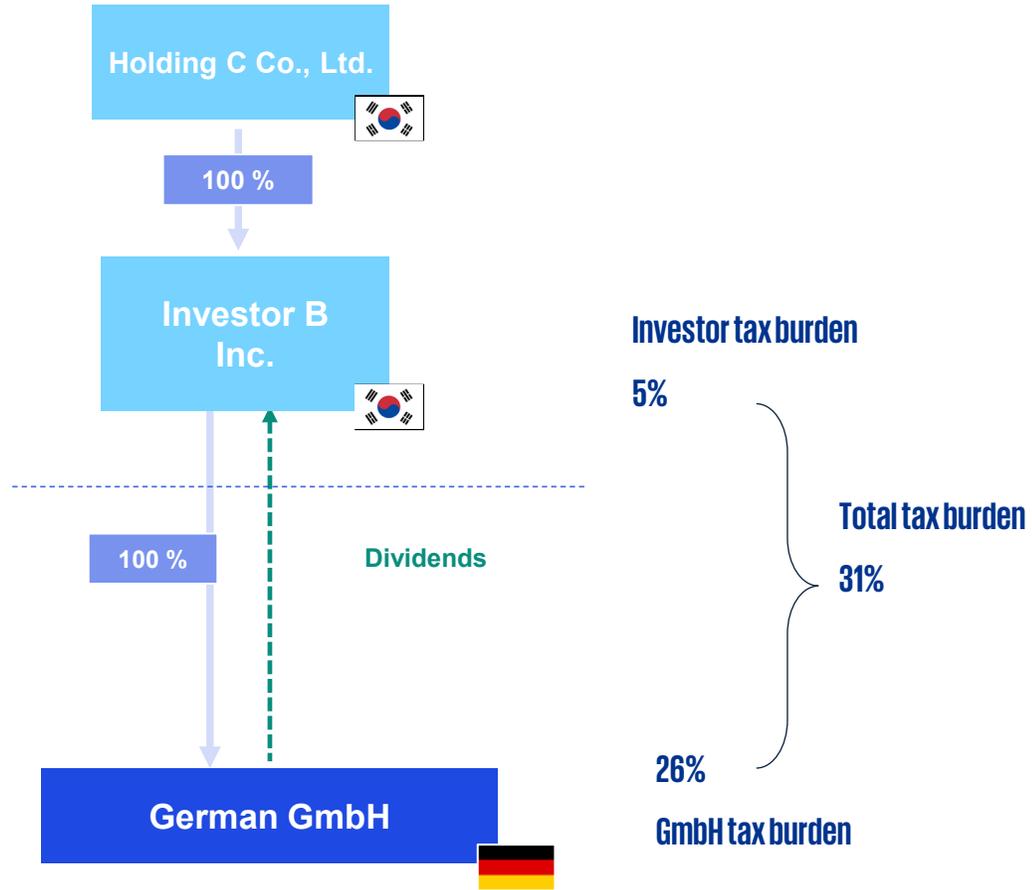
- **More Beneficial for seller**  
(95% CIT/TT exempt)
- Shares recorded at **acquisition cost**
- Tax attributes transferred to purchaser
- **VAT** exempt
- **Real Estate Transfer Tax** ("RETT"): 3.5% - 6.5% for 90% - 100% shareholding



## Asset Deal

- **More Beneficial for buyer**  
(Acquired assets increased depreciation potential)
- Asset sold/received at **fair market value**
- Tax attributes of the seller should not be transferred to the purchaser (**less risky for buyer**)
- **VAT** exempt (if transfer of going concern)
- **RETT**: 3.5% - 6.5% if real estate is transferred

# Total tax burden (company/shareholder level)



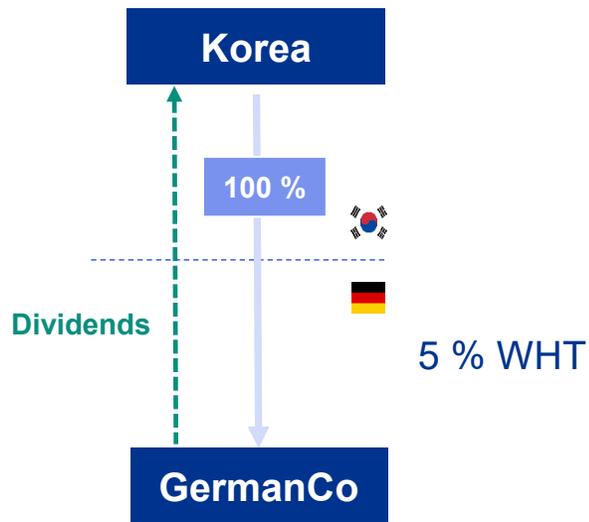
|   | in kEUR               |
|---|-----------------------|
|  |                       |
| <b>Profit before tax</b>  | 100                   |
| - CIT (≈ 16%)   | 16                    |
| - TT (e.g. 10%)   | 10                    |
| <b>= Profit after tax</b>   | <b>74</b>             |
| <b>Dividends (100% payout ratio)</b>  | 74                    |
| - 5 % Withholding Tax (“WHT”)*  | 3.7                   |
| <b>Payout amount</b>  | <b><u>70.3</u></b>    |
| <b>Korean Tax</b>   | <b>Taxed in Korea</b> |

\*With tax certificate under DTT KOR/ GER

# Direct investment vs. indirect investment

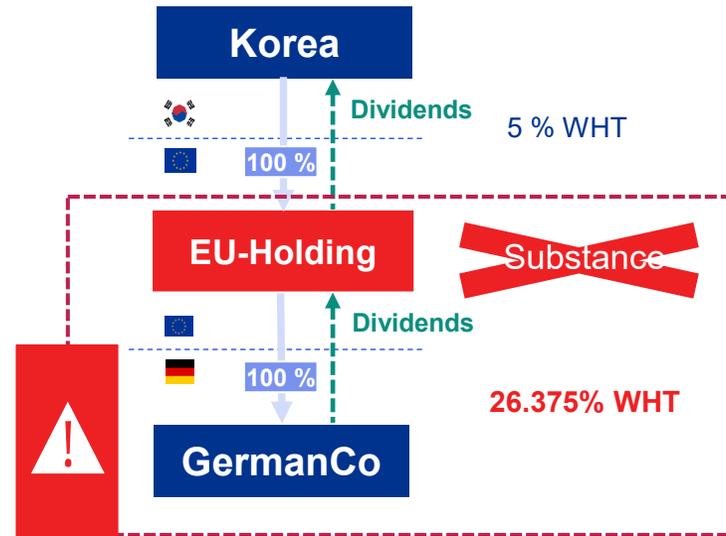
Attention: German Anti-Treaty-Shopping Rule!

## Direct investment



5% WHT with exemption certificate (under DTT)

## Indirect investment



26.375% WHT (not reduced to 5% WHT)

## Direct investment preferable!

# Safe heaven/barrier on interest deduction



## Purpose

Prevent relocation of capital abroad  
Create incentive to shift interest income to Germany



## Safe Heaven

Interest expense < interest income  
Excess interest expense  $\leq$  EUR 3 million



Fully deductible

Fully deductible



## Limited deductible

Excess interest expense > EUR 3 million  
Interest expenses may only be deducted up to 30% of tax EBITDA



Fully deductible



## Exceptions to interest barrier

**Stand alone clause:** if entity is not fully consolidated in consolidated financial statements

**Escape clause:** If entity belongs to a group but group equity ratio – entity equity ratio  $\leq$  2%



Fully deductible

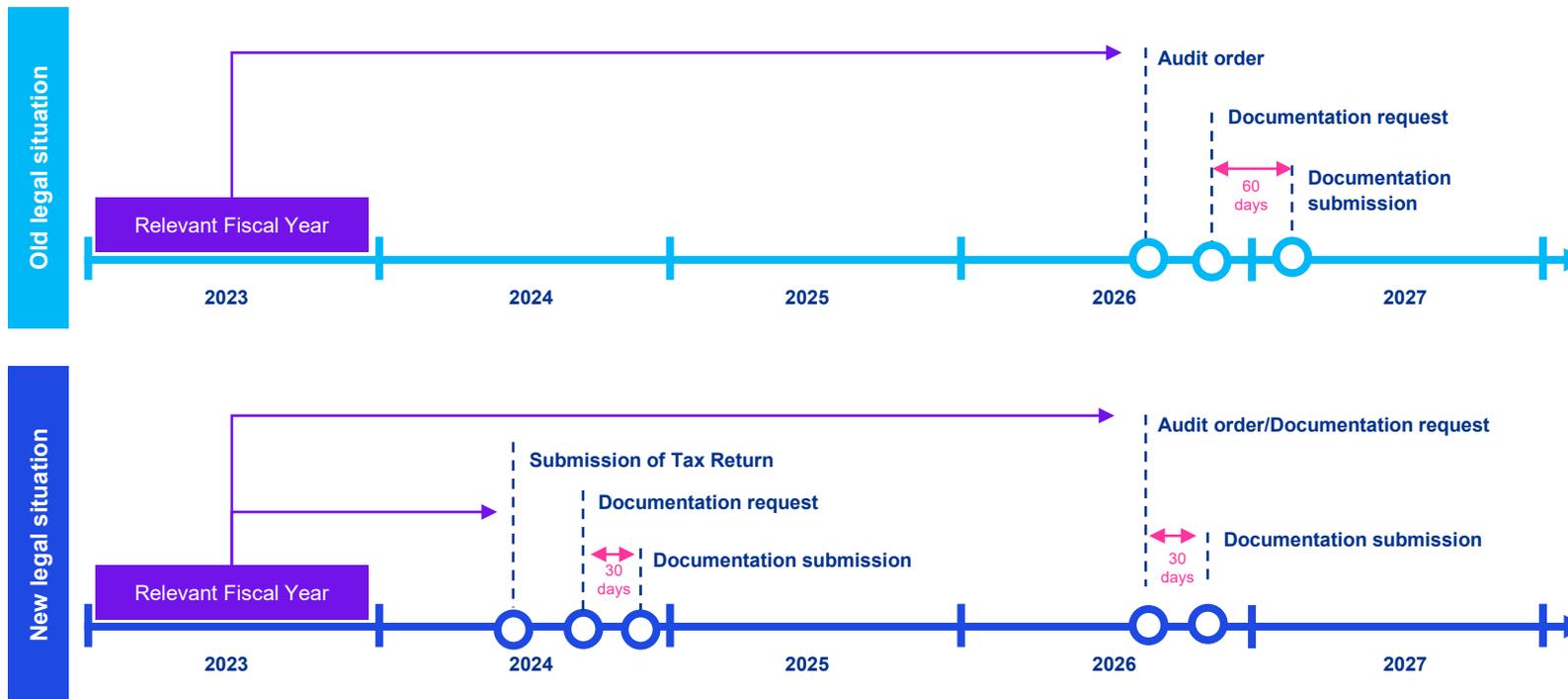


Fully deductible

# Further tightening of transfer pricing regulations

## Implementation DAC 7 & Modernization of law on tax procedures

Goal: Acceleration of tax audits and modernization of tax audits procedures (prompt and timely conduct of tax audits)



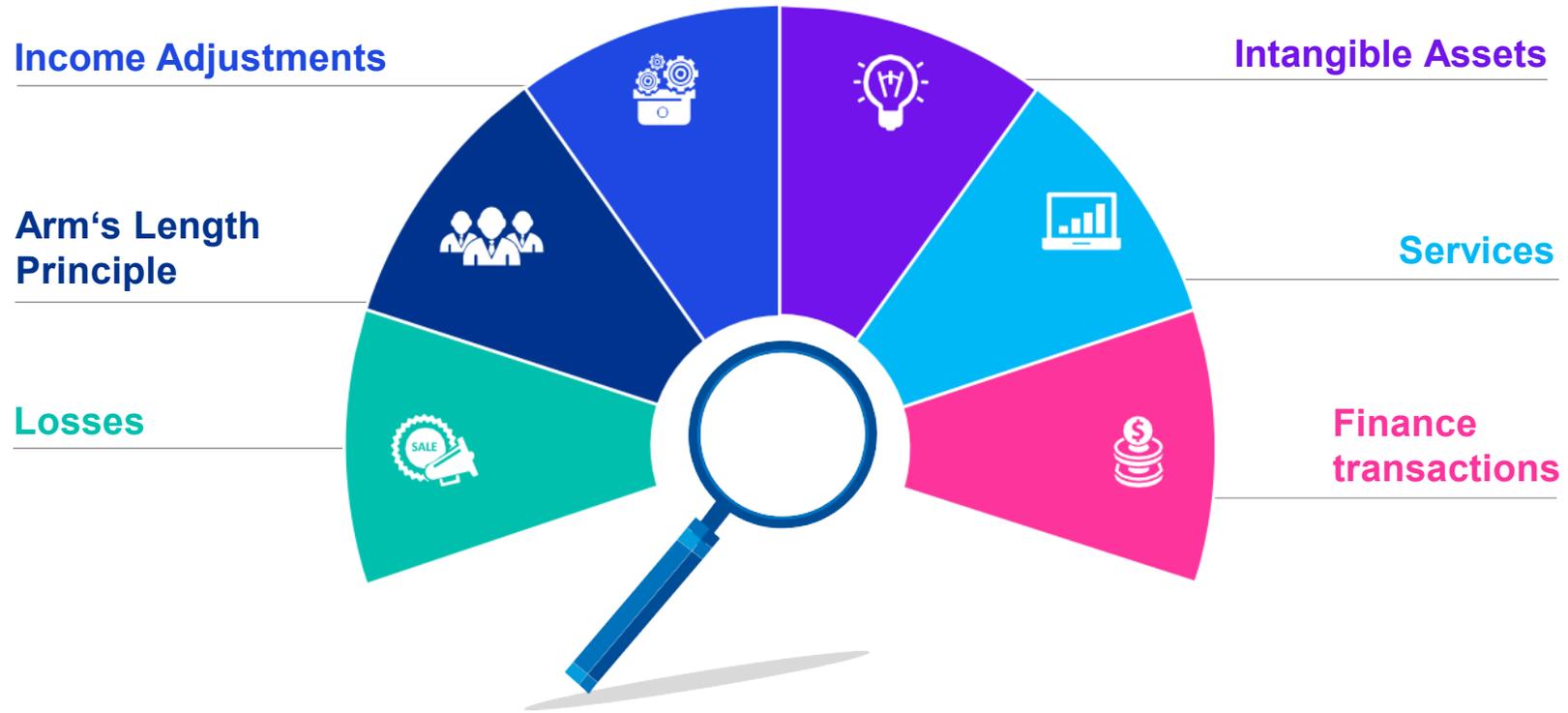
# Internationalization of German Transfer Pricing Guidances

## Enforcement & Objective



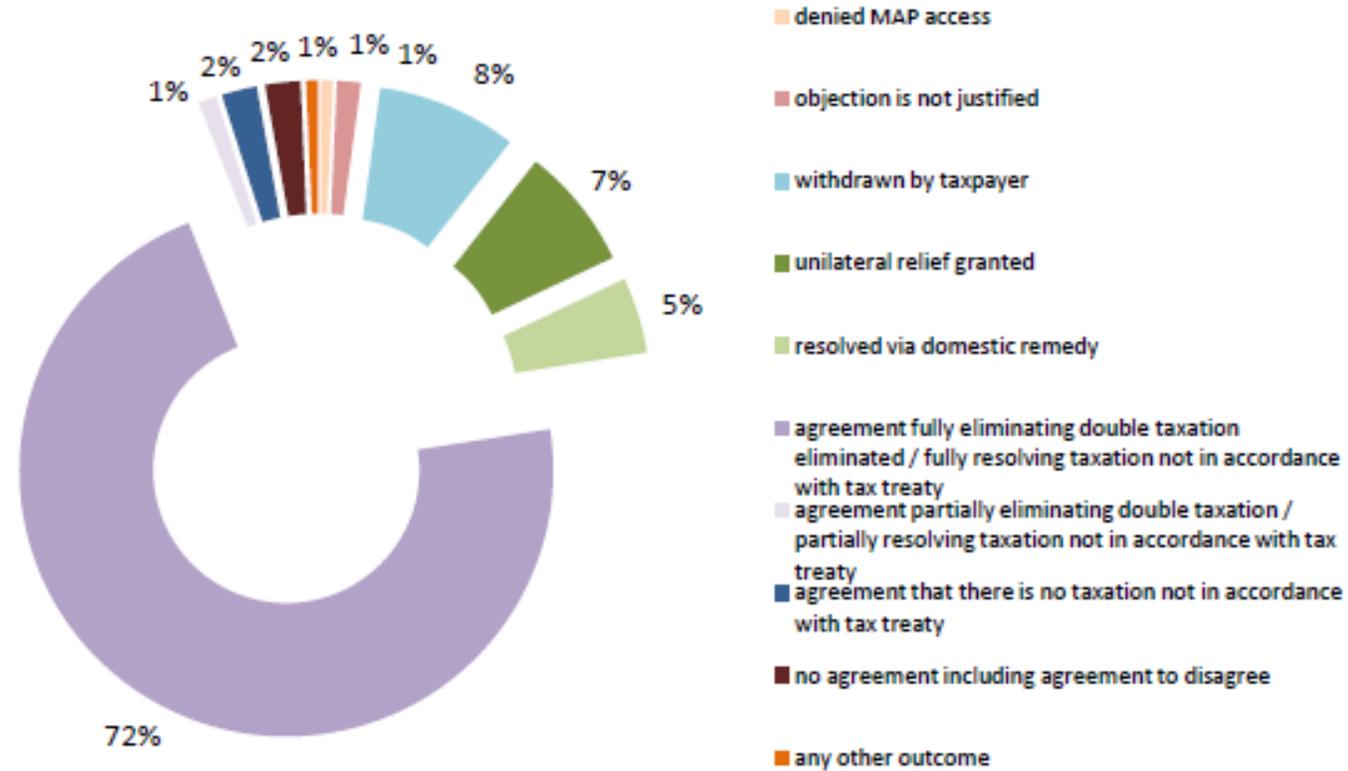
- **Application to all open cases** (all open tax periods)
- **Clarification**
- **Internationalization of the German transfer pricing regulations:**
  - **Explicit reference to** and applicability of the **OECD Transfer Pricing Guidelines**.
  - Helpful: EU Joint Transfer Pricing Forum publications
  - Supportive guidance (non-binding): United Nations Practical Manual on Transfer Pricing for Developing Countries
  
- **Dynamic/static interpretation** OECD-MA (Art. 9 "not decisive" on **arm's length comparison**)
- **Changes in OECD guidelines** to be considered by taxpayers in Germany without further legislative action.
- Application of the OECD Transfer Pricing Guidelines for **DTA / non-DTA countries + OECD / non-OECD member countries**

# Key Transfer Pricing Hot-Topics



# Efficient Litigation Procedures (1/2)

## MAP Outcomes - TP cases



# Efficient Litigation Procedures (2/2)

| Treaty Partner  | number of post-2015 cases closed during the reporting period by outcome: |                            |                       |                           |                              |   |  |   |  |                   |
|-----------------|--|----------------------------|-----------------------|---------------------------|------------------------------|---|--|---|--|-------------------|
|                 | denied MAP access  | objection is not justified | withdrawn by taxpayer | unilateral relief granted | resolved via domestic remedy | agreement fully eliminating double taxation eliminated / fully resolving taxation not in accordance with tax treaty | agreement partially eliminating double taxation / partially resolving taxation not in accordance with tax treaty | agreement that there is no taxation not in accordance with tax treaty | no agreement including agreement to disagree | any other outcome |
| Australia       | 0  | 0                          | 0                     | 0                         | 0                            | 1   | 0  | 0   | 0  | 0                 |
| Austria         | 0  | 1                          | 0                     | 0                         | 0                            | 12  | 0  | 0   | 0  | 0                 |
| Belgium         | 0  | 0                          | 2                     | 2                         | 0                            | 3   | 0  | 0   | 0  | 0                 |
| Canada          | 0  | 0                          | 0                     | 1                         | 0                            | 2   | 0  | 0   | 0  | 0                 |
| Switzerland     | 0  | 0                          | 0                     | 0                         | 3                            | 13  | 0  | 0   | 0  | 0                 |
| Czech Republic  | 0  | 0                          | 2                     | 0                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Denmark         | 0  | 0                          | 2                     | 0                         | 0                            | 14  | 0  | 0   | 0  | 0                 |
| Spain           | 0  | 3                          | 3                     | 0                         | 0                            | 9   | 0  | 0   | 0  | 0                 |
| Finland         | 0  | 0                          | 0                     | 0                         | 0                            | 3   | 0  | 2   | 0  | 0                 |
| France          | 0  | 0                          | 1                     | 0                         | 2                            | 5   | 0  | 0   | 0  | 0                 |
| United Kingdom  | 0  | 0                          | 0                     | 14                        | 3                            | 14  | 0  | 0   | 0  | 0                 |
| India           | 0  | 0                          | 1                     | 0                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Ireland         | 0  | 0                          | 0                     | 0                         | 0                            | 2   | 0  | 0   | 0  | 0                 |
| Italy           | 0  | 0                          | 3                     | 3                         | 0                            | 57  | 2  | 1   | 4  | 0                 |
| Japan           | 0  | 0                          | 0                     | 0                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Korea           | 0  | 0                          | 0                     | 0                         | 0                            | 4   | 0  | 0   | 0  | 0                 |
| Luxembourg      | 0  | 0                          | 0                     | 0                         | 0                            | 1   | 0  | 0   | 0  | 0                 |
| Netherlands     | 0  | 0                          | 1                     | 0                         | 5                            | 18  | 1  | 1   | 0  | 0                 |
| Poland          | 0  | 0                          | 1                     | 1                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Portugal        | 0  | 0                          | 0                     | 0                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Romania         | 0  | 0                          | 0                     | 0                         | 0                            | 0   | 0  | 0   | 0  | 0                 |
| Slovak Republic | 0  | 0                          | 0                     | 0                         | 0                            | 1   | 0  | 0   | 0  | 0                 |
| Sweden          | 0  | 0                          | 0                     | 0                         | 0                            | 5   | 0  | 2   | 0  | 0                 |
| United States   | 0  | 0                          | 5                     | 0                         | 0                            | 32  | 0  | 0   | 0  | 2                 |

<https://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics.htm>



## **IV. KPMG in Germany and Global Korean Practice in Germany**

# KPMG provides best services to more than 50 Korean companies in Germany

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KPMG in Germany is one of the leading providers of audit, tax and advisory services in Germany, employing nearly 12,600 people 25 locations.

To cope with Korean multinational companies doing business or seeking for a new market entry opportunity in Germany, Korean speaking professionals are stationed in Frankfurt, providing various services including client seminars and newsletters in Korean.

● GKP locations

# Your contact partners



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South Korea Country Practice Head

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---

## QUALIFICATION

- Attorney at Law (Rechtsanwältin)
- German Certified Tax Advisor (Steuerberaterin)
- General Manager at the German-Korean Business Association (DKW e.V.)

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## KEY AREAS OF EXPERIENCE

- Barbara's focus lies on international and German national tax consulting for international clients, in particular regarding international inbound investments from Asia (mainly South-Korea) since 2000.
- Barbara gained experience in the application of international and national tax strategies as well as the structuring of services for international companies with regards to tax optimization.
- Specialization in tax compliance advisory and support in German tax audits are Barbara's key skills.
- Barbara's clients operate in various industries, mostly in the automotive industry, construction, consumer and industrial markets.
- Close communication and long-term client relationships are a matter close to Barbara's heart. Barbara's team and herself have many years of experience in cooperative communication between corporate headquarters and the German and European subsidiaries.
- Barbara visits the corporate headquarters in Korea and KPMG global network several times a year and also values the culture very much in her private life.

---

## PERSONAL ASPECTS

- Experienced in handling C-level contacts at Korean clients
- Familiar with Korean business etiquette
- Expert for trustful communication

# Your contact partners



**Dr. David Leuwer**  
Partner, Tax  
Global Transfer Pricing Services

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## QUALIFICATION

- Certified German Tax Advisor (Steuerberater)
- Dr. rer. pol. (University of Leipzig)
- Master of Science in Economics (University of Leipzig)
- Bachelor of Arts in Governance and Public Policy (University of Passau)

## KEY AREAS OF EXPERIENCE

- David has joined KPMG in 2013 and has extensive experience in transfer pricing advice. His key areas of expertise particularly include the planning and implementation of transfer pricing systems as well as the defense of transfer prices in tax audits and multinational litigation procedures.
- During his career, David has worked on and managed transfer pricing projects in various areas; particularly also including the application of econometric methods, valuation of intangibles as well as tax transfer pricing advice in terms of cross-border relocation of functions.
- David leads KPMG Germany's GTPS "Economic Analyses and Valuations" focus group and is a member of KPMG Germany's Global Tax Advisory "IP" focus group. Furthermore, David is a member of KPMG's "GTPS-20" program, which is a global platform bundling the expertise of selected local KPMG transfer pricing experts and KPMG's global GTPS leadership.
- David has provided assistance to numerous Korean multinational companies. This particularly includes assistance of Korean multinational companies with transfer pricing documentation, planning and implementation of revised transfer pricing systems as well as successful defense of transfer prices in German tax audits and international litigation procedures.
- Exemplary recent projects in the context of the above particularly included support of Korean multinational companies with respect to APAs as well as bi- and multilateral MAPs and administrative appeals, planning of arm's length transfer pricing set up of new German subsidiary, preparation of efficient transfer pricing documentation, solving questions related to permanent establishments in the course of tax audits, reorganization of European distribution activities.
- Through involvement in various cases dealing directly with the German Competent Authorities and referring to Korean clients, David has built and maintained a constructive working relationship with the German Competent Authority team being responsible for Korean clients.
- The afore-mentioned cases covered a variety of different transfer pricing matters including services, intangibles as well as trading and distribution activities in several industries.

# Your contact partners



## Arndt Rodatz

Partner, Law

South Korea Country Practice Head Law

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## QUALIFICATION

- Attorney at Law (Rechtsanwalt)
- Certified German Tax Advisor (Steuerberater)
- Arndt Rodatz has worked for KPMG since 2001.
- He heads the South Korea Country Practice for KPMG Law and is the contact person for all legal related requests, especially for South-Korean Inbound companies. He is Deputy Head of the Criminal Tax Law Practice Group.

---

## EXPERIENCE

- Arndt has a high degree of expertise and material knowledge in representing international and national clients – both companies and individuals / executives – in preventive criminal tax law and tax litigation cases at all levels as well as sophisticated negotiating skills.
- Furthermore, he focuses on advising clients extensively on AML-regulations.
- He has extensive experience in providing advice on the German transparency register.
- He frequently has been a speaker related to tax criminal and tax procedural topics as well as German transparency register topics.

# Your contact partners



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---

## QUALIFICATION

- Attorney at Law (Rechtsanwalt)
- Certified Anti-Money-Laundering Officer (TÜV)

---

## EXPERIENCE

- Christian is deputy head of the South Korea Country Practice for KPMG Law and is the contact person for all legal related requests, especially for South-Korean Inbound companies
- Christian specializes in representing national and multinational companies in white collar and tax criminal cases. Christian has year long experience in acting as defense counsel and also advising in setting up preventive compliance systems. Further he focuses on advising on all matters of Anti-Money-Laundering compliance, Client-Identification Process and Ultimate Beneficial Registers.
- Christian has extensive expertise in advising and coordinating complex, cross-border (investigative) proceedings. In his work his strength and focus lie in the pragmatic and solution-oriented preparation of facts and legal issues with the aim of reaching an efficient settlement of pending cases.
- Christian regularly acts as a sparring partner and first point of contact for C-Level and Compliance Officers beyond legal advice, taking into account the specifics of corporate policy and business management.
- Christian is a regular speaker related to white collar and German UBO register topics and publishes legal articles in his field of advice. Further he had the Co-leadership of a national research study on terrorist financing enforcement for the German Ministry of Finance.

# Your contact partners



## Youlee Kim

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## QUALIFICATION

- Korean Institute of Certified Public Accountant (KICPA)
- Financial Risk Manager (GARP)
- FSA(Fundamentals of Sustainability Accounting) Credential (IFRS Foundation)
- Bachelor of Business Administration, Ewha Womans University

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## EXPERIENCE

- Capable to position solutions of all functions (especially Consulting and Deal Advisory, but also Audit and Tax)
- Coordination Experience with many Korean inbound clients, inc. Hyundai Motor Group and LG Group
- Sufficient Knowledge about K-IFRS, KSA (Korean Standard of Audit)
- Significant experience leading K-SOX engagements for a range of financial institutions

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## PERSONAL ASPECTS

- Experienced in handling C-level contacts at Korean inbound clients
- Familiar with Korean business etiquette, Eloquent and smooth in communication
- Cooperative, able to build trusted relationships
- Good English skills
- Sector expertise in Banking and Finance
- Good network within KPMG South Korea



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