Deutscher Derivate Verband

WORKING FOR DIVERSITY AND FREEDOM OF CHOICE

Annual Report 2016

Setting the agenda

→ Elections are always a time of setting the political agenda. This applies particularly so to the German Bundestag elections on 24 September, the result of which will also determine whether the securities investment culture in Germany continues to be left out in the cold, and whether investor protection becomes more liberal or paternalistic in nature.

Investors who want to build wealth and make private provisions for their old age are no longer being given the green light. There is a widespread movement in favour of abolishing the German flat-rate withholding tax (Abgeltungsteuer), and proponents of the financial transaction tax have largely ignored the arguments against this potential threat to the financial market. Both tax issues have great political symbolism, as they ostensibly establish some social justice. In reality, however, they will not achieve their aims and amount to another nail in the coffin of the securities investment culture in Germany.

Things are not looking good on the investor protection front either, where there is the risk that the wrong policy decisions will be made. An increasing number of members of the German Bundestag are making the case for a stronger investor protection policy and for the 'nannying' of all investors, no matter how well informed they are. What is lacking are voices campaigning for a diverse range of securities and for freedom of choice for the retail investor. We believe there is a need for action, which is why we have entitled this year's annual report 'Working for diversity and freedom of choice'.

An annual report naturally includes a review of the previous year. As the wave of regulation continues to roll, with no sign of the tide of national laws and European directives and regulations ebbing, these regulatory projects inevitably feature yet again. We also report on key DDV events, and on new publications and interesting public relations projects. Furthermore, we present the latest key figures on the structured products sector and introduce the people involved in making the work of the DDV a success.


Dr Hartmut Knüppel

'The Bundestag election in 2017 will also determine whether the securities investment culture in Germany continues to be left out in the cold.'

We are delighted with the interest taken by the media, policymakers and many retail investors in the issues that concern us. The year 2016 was another eventful one for the association and, thanks to the great support of our staff and sponsors, also a successful one. On behalf of the Board of Directors, I would like to take this opportunity to express my gratitude.

Berlin and Frankfurt am Main, March 2017

Dr Hartmut Knüppel
CEO and Member of the Board of Directors

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Investor protection is a high priority in Germany and in Europe. However, opinions differ strongly as to how investors can be protected effectively. While some people campaign for greater product transparency, others are willing to restrict investors' freedom of choice and undermine the basic principles of the free market by banning products.

→ Following the dissolution of the Warsaw Pact, and the havoc wreaked on the Eastern Bloc countries by the planned economy, many people thought the free market had proved its superiority and would be generally accepted from then on.

Although the free market system is not being called into question in its entirety, socialist planned economy ideas are once again gaining ground. Some are emerging quietly, while others are hard to ignore. The same goes for regulation, where increasing numbers of rules based on populist policies are being issued in the name of investor protection, restricting the diversity of the products on offer and the investor's freedom of choice.

No prosperity without risk

All the key policymakers in Germany are united in their goal of safeguarding and increasing the prosperity of its people. They want to develop a legal framework that allows people to build wealth, and particularly to make their own provisions for retirement. However, given the European Central Bank's zero interest rate policy, this is only possible if people invest to an appreciable extent in securities. Yet this is where misguiding policies get in the way. Self-designated financial experts, whose motto is 'Whatever you do, don't take any risks', are warning people against buying equities or structured products, and are advising investors to put their money into government securities with poor rates of interest, claiming that these securities are very safe. Once inflation has begun to gather pace again, this will result in wealth destruction. As such, those promoting absolute caution are themselves the greatest risk to retail investors' safety. Clever politicians and investor protection bodies, on the other hand, know that only securities with a manageable amount of risk offer investors good potential in the medium and long term to build wealth and provide for their old age.

Diversity benefits investors

Unfortunately, the securities investment culture in Germany leaves much to be desired. Yet the conditions for investing in securities are excellent. Nowhere in Europe is there such a wide variety of products as in Germany. Investors have a huge product universe of equities, bonds, investment funds and structured products to choose from. There is also a whole range of proven assessment tools and points of orientation that lead investors safely through the product landscape to find the financial instrument that is right for them.

But instead of creating conditions that give investors easy access to these securities, policymakers often do just the opposite.

Why is this? Quite simply, many of these well-intentioned measures are based on a paternalistic attitude towards the general population that is inappropriate in a free society. In a free market system, where consumer sovereignty is supposed to prevail, responsible consumers make independent decisions as to which products they buy. They make their own decisions about the level of risk they are prepared to assume, particularly with securities.

Many investor protection bodies and politicians do not have this trust in people. Many of them believe investors to be irresponsible or incapable of making sensible decisions, and use the whole regulatory toolbox to stop investors making bad investments. What motivates their actions is their idea that investors lack independence and need help, as they are neither able nor willing to invest their money sensibly and

‘Product transparency protects investors better than product bans.’

Dr Hartmut Knüppel

must therefore be protected against the wicked financial sector. They feel morally superior because their actions are for the supposed good of investors, and they feel intellectually superior because they of course know better than investors what is good for them. Proponents of a liberal market economy who believe consumers can think for themselves are not naïve. They know that this model is based on an important pre-condition: product transparency. The general principle is that an investor should only ever buy a financial instrument if he or she understands the instrument's fundamental characteristics. For this to be possible, the product has to be transparent. It is the investor's responsibility to be adequately informed, but the issuer and the seller of the financial instrument are responsible for describing it in a transparent, comprehensible way.

Transparency is the ideal solution

Transparency is therefore the key to investor protection. All regulatory measures taken by national and European legislators and regulatory authorities should thus concentrate on ensuring that securities are comprehensible and transparent. Incidentally, whether a financial instrument is transparent or not can be tested by objective criteria. It would also be good if policymakers took into account the latest findings of behavioural research. What matters is the quality rather than the quantity of information. Less is often more for the purpose of transparency. The German product information sheets, each of which describes in three pages how a particular financial instrument works and its essential characteristics, have proven their worth and serve as an important point of orientation. However, no one can seriously expect an investor to trawl through a securities prospectus that is several hundred pages long. Besides, the comprehensibility of the information depends to a large extent on how it is presented. Indicators describing factors such as the risk, the cost and the performance of a financial product are usually much more easily understood than a narrative form of presentation. The DDV and its Academic Advisory Board play an active role in this connection. We help shape regulatory opinion and contribute to the regulatory decision-making process at a European level by making practical suggestions.

Unfortunately, some European countries are taking a very different route. Instead of promoting product transparency, in many cases they are opting to ban products. The European Securities and Markets Authority, ESMA, is authorised under the revised Markets in Financial Instruments Directive (MiFID II) to ban products, and the German regulatory authority now also has the option to implement this drastic measure, which they believe they should take advantage of. However, while the German Federal Financial Supervisory Authority, BaFin, has ultimately used this instrument very judiciously in Germany, there has been a significant increase in the number of products banned in countries such as the Netherlands and Belgium.

Structured products sector as a trailblazer

What can an association like the DDV and its members do in this situation? The best alternative is surely to make it clear by self-regulation how sensible rules can work – rules that truly protect investors and do not restrict their freedom of choice. Transparency is an essential factor. For the German structured products sector, there is hardly any need for further action with regard to increasing transparency, because structured product issuers have done their homework and have set important industry standards: product classification in the form of the Derivatives League; the definition →

of standard terminology; sample product information sheets for all types of structured products; informative risk indicators for almost all structured products; structured product tests to make it easier for investors to choose a structured product; structured product indices, which enable comparisons to be made between the performance of structured products and that of other financial products; and finally the Fairness Code, which demands the greatest possible product and cost transparency from issuers of structured products.

On the vexed issue of the form that effective investor protection should take, the DDV and its members have taken a clear stance: product bans are the wrong approach. They unnecessarily restrict product diversity and investors' freedom of choice. Product transparency, on the other hand, is protection that really benefits the investor.

INFORUM: **the key issues in 2016**

The DDV publishes a regular policy newsletter entitled INFORUM, which examines and takes a clear line on current issues affecting the structured products sector. This information service is aimed primarily at policymakers in Berlin and Brussels.

→ Investor information: quality, not quantity

→ Structured products in Europe

The newsletter is another way in which the association contributes to policy discussions and helps to shape opinions. To this end, the DDV compiles and analyses essential facts and figures related to the structured products sector, and interviews policy experts, academics and industry professionals. Each issue also has a specific policy focus.

The first issue of 2016 focused on the comprehensibility and transparency of financial products, as well as the range and quality of investor information, with the underlying motif of quality matters, rather than quantity. In another issue, we analysed the very different structures of the national structured products markets in Europe. For instance, the exchange turnover in structured products is concentrated in just a few countries. The good news is that Germany's investors are the European champions at dealing in exchange-traded structured products.

The INFORUM newsletter has become an important element of political communication. It allows us to explain complex issues to policymakers directly and clearly.

Structured Products Breakfast: **early morning inspiration**

To get politicians and business people to sit down together, you occasionally have to get up early. The Structured Products Breakfast, organised by the DDV, is no exception.

The various teams working for members of the German Bundestag, policy advisers attached to the different parliamentary groups, and embassy specialists and advisers play an often underestimated role in Berlin's political scene. We know how important they are for the process of shaping political attitudes, so we invite them to our regular Structured Products Breakfast at the DDV's Berlin offices. This event offers an occasion for them to discuss financial policy matters in a relaxed atmosphere. On 25 October, the issue being discussed was the extent to which the banning of financial products can make a significant contribution to investor protection.

First, Thomas Wulf, Secretary General of EUSIPA, the structured products sector's European umbrella association, gave us an overview of current and planned product bans in Europe. He explained that there are two schools of thought among Europe's national regulatory authorities. One advocates product transparency, while the other favours banning products. According to Thomas Wulf, the latter attitude is gaining ground in some countries. He added that experts are also watching very closely the position taken by the German Federal Financial Supervisory Authority, BaFin, on the matter. Whereas previously BaFin subscribed to the view that investors are responsible adults, and was committed to product transparency, many people in Europe are now wondering if the German supervisory authority has switched sides and has plans for stronger market intervention in the form of product bans.

Dr Lutz Johanning, Chair of Empirical Capital Market Research at WHU – Otto Beisheim School of Management, provided an academic perspective. He talked about the latest research findings on the comprehensibility and transparency of financial products. In his view, German product information sheets, which summarise on three pages all the essential information for investors, have thoroughly proved their worth. He added that the information sheets have been further improved by the replacement of narrative descriptions with standardised indicators, such as cost, risk, and performance. These indicators have to be included in the Key Information Document (KID), which is to be introduced for the vast majority of securities in Europe at the beginning of next year.

Professor Johanning pointed out the conflict between the banning of products and the regulatory requirements for product transparency. He commented that, if a financial product meets all the requirements of the European Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and thereby establishes a great degree of transparency, the drastic measure of a product ban becomes unnecessary. He considers it nonsensical that, on the one hand, legislators want to enable investors to make a well-informed decision as to which financial product is suitable for them by ensuring they have access to good information, but on the other hand ban products, so restricting investors' freedom of choice.

Regulation: **product bans must only be a last resort**

Last year, the planned ban on the distribution of Credit-Linked Notes was hanging over the structured products sector like a sword of Damocles. The ban has been averted for the time being, due to extensive self-regulation.

→ The discussion concerning the right degree of investor protection is always based on a certain conception of the consumer. In the past, politicians and regulatory authorities based their thinking on the conception of a mature and well-informed investor. That approach was right. Investors should not be prohibited from taking risks as long as they are able to find out beforehand precisely what level of risk is involved. Recently, we have been moving further and further away from this conception of the consumer. A race has now broken out between the regulatory authorities in Europe to be the first to ban a product. By mid-2015, the German legislators had granted the Federal Financial Supervisory Authority, BaFin, the power to ban products under the German Retail Investor Protection Act (Kleinanlegerschutzgesetz). The revised Markets in Financial Instruments Directive (MiFID II) and the Markets in Financial Instruments Regulation (MiFIR) granting this authority take effect from January 2018. However, both sets of regulations rightly provide for product interventions only to be applied in very limited circumstances. Above all, there must be a specific risk to investors' interests that cannot be averted by other regulatory methods – a product ban is only to be used as a last resort. BaFin considered its first specific product ban in the summer of 2016. When BaFin announced that it

31 August 2016

'Controversy over Credit-Linked Notes'

Should Credit-Linked Notes be banned? Christian Vollmuth from the DDV rejects the criticism of these controversial financial products.

Mr Vollmuth, the Federal Financial Supervisory Authority, BaFin, intends to ban the distribution of Credit-Linked Notes to retail investors. What does BaFin object to?
According to the draft of its General Decree (Allgemeinverfügung), BaFin objects to supposed conflicts of interest involving the issuers. It also considers the credit risks to be difficult for investors to assess, and deems the product designation misleading.

What is your position on the criticisms?
In our view, the proposed General Decree would be unlawful in its present form. It does not meet the conditions of the rule of law on which it is based, nor is BaFin's response proportionate. With no real basis in fact, a sledgehammer is being used to crack a nut.

'The regulatory authorities' deliberations on product prohibitions should be directed primarily at financial products where it is clear right from the start that the investor has no real chance of receiving the promised return.'

Christian Vollmuth

would be banning the marketing, distribution and sale of Credit-Linked Notes to retail clients for the purpose of investor protection, the financial sector took these concerns very seriously and responded by developing the 'Principles for the issuance of Credit-Linked Notes for distribution to retail clients in Germany'. The ten principles, developed jointly by the German Banking Industry Committee (Deutsche Kreditwirtschaft, DK) and the DDV, were accepted in December 2016 by BaFin, which subsequently suspended the proposed ban. BaFin plans a review in 2017 to establish whether the financial sector's package of measures is actually effective. Given the extensive self-regulation of the sector, according to BaFin, these principles could achieve the same objective as the proposed ban – a considerable improvement in investor protection. BaFin considers self-regulation a less restrictive remedy than a general ban. The concerns expressed by BaFin were addressed by the creation of a uniform market standard and by a serious commitment to self-regulation. This has prevented the regulatory authority from having to take the drastic measure of banning the product.

But Credit-Linked Notes did not come onto the market overnight. Why is this attack coming now?

BaFin did investigate the market for Credit-Linked Notes at the beginning of the year. However, it did not publish any findings revealing irregularities. No investors lost money on this financial product as a result of a credit event within the period of the investigation in 2015, nor had our members, in the structuring of these products, taken into account credit risks on their own books. So the alleged conflicts of interest raised by BaFin are also non-existent. And we were all the more astonished that BaFin announced such a drastic measure.

BaFin also objects to the German term for Credit-Linked Notes – Bonitätsanleihen. Anleihen means 'bonds' in German, and BaFin does not consider Credit-Linked Notes to be bonds. But exactly the same would apply to Reverse Convertibles, as the German term for these (Aktienanleihen) consists of the German words for 'equities' (Aktien) and 'bonds' (Anleihen). Is there more trouble ahead?

We currently have no reason to fear further bans, as the structured products sector has been doing its homework over the past few years, in contrast to many other providers of financial products. In its media release announcing the proposed ban, BaFin also referred to the 'great importance of the structured products sector in Germany'. Incidentally, we believe BaFin objects more strongly to Bonität (credit-linked) in the German term than to Anleihen. Some issuers are already using different product designations. We can certainly envisage changing the DDV product category, if BaFin is of the opinion that this measure would improve transparency.

If BaFin gets its way with its proposal for a ban on these products, it would be the first time that the financial regulator has banned a product for retail investors. What is your general opinion on bans of this kind?

Under certain, very specific conditions, a ban can be considered – after all, the purpose of banning a product is supposed to be to remove the rotten apples from the market. However, the legislator is very exacting about the circumstances that would indeed justify product interventions. Also, in the interests of proportionality, a ban must always be used only as a last resort. Our opinion is that, in justifying its General Decree, BaFin omitted to take into consideration several less restrictive measures that would have been effective. In future, it would be better if regulatory authorities devoted most of their attention to financial products or issuers where it is obvious from the time of the product launch that an attempt is being made to dupe investors. After all, there have been enough examples of these in the past.

What is the next step?

First, we are currently only at the stage of preliminary regulatory proceedings. The General Decree has not yet been issued by BaFin. Of course, we will enter into an in-depth dialogue with BaFin to contest the ban. Nevertheless, if the General Decree is indeed issued in its current form, we will have to advise our members to request an investigation of BaFin's actions in the administrative courts. However, we would find such an escalation regrettable.

MiFID II: target markets for structured products

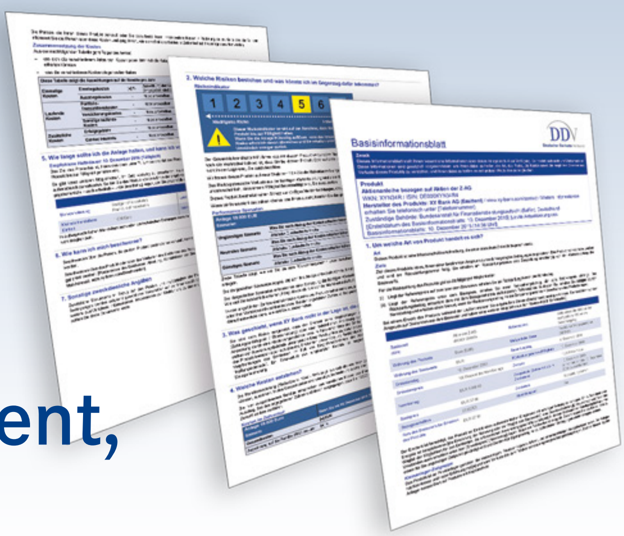
The introduction of the revised European Markets in Financial Instruments Directive (MiFID II) in 2018 will bring far-reaching changes to the structured products sector. For example, issuers will have to comply with extensive organisational requirements and business conduct rules, starting from the 'manufacturing' stage of a structured product or warrant.

MiFID II provides for various procedures surrounding the approval and the supervision of a financial product. Issuers will be expected to keep track of the entire path of a product – from initiation and approval to ongoing monitoring – for as long as the product is being distributed. As part of these control measures, also termed 'product governance', issuers must determine a target market for the financial products they offer. In principle, this means that, as the manufacturer of the product, they already have to think about the type of investor it is generally suitable for when it is being launched. The result is to be published so that investors can find out whether the manufacturer of a product considers it to be suitable for them.

According to the European guidelines, the target market must be specified to an appropriate level of detail. The main problem this poses for issuers is that they do not know their potential clients, and can therefore only specify a target market in general terms. Basically, however, the target market specifications must be compatible with the objectives, needs and characteristics of potential clients. Some initial indications of the criteria to be used by issuers in determining the target market are contained in the European implementation standards for MiFID II. They stipulate, for instance, that issuers have to state what level of knowledge and experience the intended clients are expected to have, and also to take into consideration their capacity to bear financial loss and their risk tolerance, and assess whether the risk / reward profile of the product is compatible with the target market. The investment objectives and needs of the potential client must also be taken into account.

The DDV started looking into the future requirements with regard to target market determination at an early stage and worked with its members to explore which criteria could be implemented in practice. In order to arrive at an approach that could be applied to all product types, the DDV engaged in active dialogue with the other major financial associations. What emerged is a cross-sector target market concept that is now nearing completion, which the DDV will present to BaFin jointly with the German Banking Industry Committee (Deutsche Kreditwirtschaft, DK) and the German Investment Funds Association (Bundesverband Investment und Asset Management, BVI). The goal of all the associations and the financial sector is to establish a uniform market standard and, in doing so, a practicable solution for both issuers and distributors.

Nikolaus Wilke
Vice President Legal and Regulatory Affairs



PRIIPs:
despite postponement, no time to rest

On 23 December 2016, just over a week before issuers of structured products would have been required to provide a key information document (KID) for each of their products, the anticipated postponement was finally approved, including on the legal front. On that day, the EU Commission published an amending regulation to this effect.

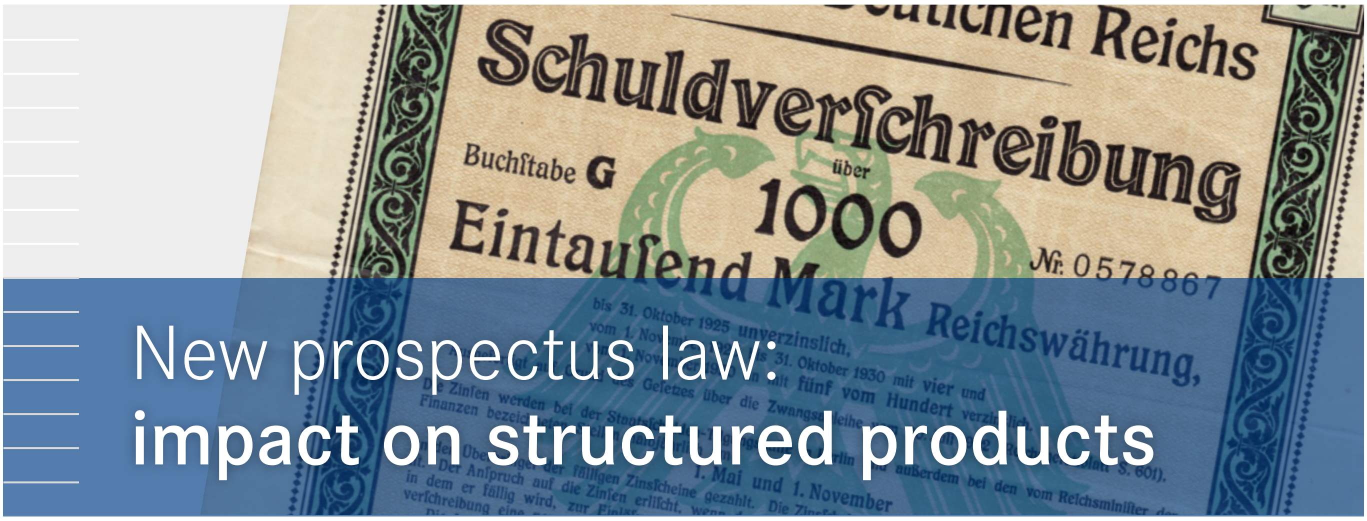
The regulatory measures set out in the PRIIPs Regulation now have to be implemented by 1 January 2018. This brings together the timeframes for the implementation of PRIIPs and MiFID II, as the sector had always demanded.

In 2016, we took part in more than 20 meetings in which we drafted a total of 23 sample KIDs with our members and external experts, covering all the main categories in the DDV product classification and the main sub-categories. These samples were also translated into English. This gave our members early access to the first drafts. However, the postponement does not mean that we can rest. Fundamental aspects of the content of the regulation and its associated Regulatory Technical Standards (RTS) are still contradictory, unclear or have not been addressed at all. It is important to establish clarity and to make further improvements to the DDV samples in the time remaining in order to create the most practical standard possible for the sector.

The areas needing most work are the presentation of costs, the performance scenarios and the presentation of risks, and particularly the 'comprehension alert'. This warning is supposed to be added to KIDs if it is likely that the investor will find it hard to understand. Until recently, it would have been possible to develop a concept that would implement these guidelines in a meaningful way, based on the regulation's recitals. However, the amended RTSs provide for this warning to be attached to all 'complex' products – which includes all structured products, reverse convertibles and warrants. In the interest of investors, we will therefore be talking to the Commission and the regulatory authorities again to arrive at a meaningful differentiation between the financial products covered by the PRIIPs Regulation. If this is not done, the warning will lose all meaning and even be counterproductive from the point of view of investor protection.

If we take into account the time needed by the IT departments of banks for a smooth implementation of KIDs into their systems, not a great deal of time remains to work on the sample KIDs. The goal is to complete the project in the first half of 2017. Prior to this, however, there are many individual issues that need to be clarified with our members, the regulatory authorities and the EU Commission.

Berthold Knetsch
Vice President Legal Documentation / Project Management



New prospectus law: **impact on structured products**

At the end of December 2016, the European Parliament, the European Council and the European Commission agreed on new rules for public offerings and listings of securities. The project is part of the European effort to bring about capital markets union.

The new regulation is to come into force 24 months after its announcement in the Official Journal of the European Union – most likely mid-2019. The aim of the new regime is to break down excessive regulatory requirements for public offerings and the admission of securities to listing on an exchange.

What is new is that prospectus law will be governed by a European regulation. Large parts of the German Securities Prospectus Act (Wertpapierprospektgesetz, WpPG), which has implemented the EU Prospectus Directive in effect up till now, will become obsolete. This is intended to contribute to the more consistent application of the regime throughout the European Union, and particularly to facilitate cross-border offerings. Because some parts of the new prospectus regulation have been completely re-worded, higher initial implementation costs could be incurred, especially by tap issuers.

The new prospectus regulation contains more than 20 authorisations for implementing acts of the EU Commission and the European Securities and Markets Authority, ESMA. Whether the new prospectus rules are practicable will be determined by how ESMA sets them out. The most important thing is that the prospectus formats from the current prospectus regulation should be transferred largely unchanged into a new delegated act. The current formats have proved effective, and even slight changes could involve great expense for tap issuers, as their documentation is usually largely automated.

A measured approach to implementation at Level 2 is also necessary for the obligation to publish a supplement. Article 22 stipulates not only the future publishing of supplements, but in cases where the financial instrument is distributed through financial intermediaries, investors must also be ‘contacted’ on the day of publication. Taken literally, this obligation cannot actually be met. For one thing, the tight deadline makes it impossible, and for another, the financial intermediary does not know every investor. For these reasons, the prospectus law has until now only incorporated disclosure requirements, while direct obligations regarding the provision of information to investors are based on the MiFID guidelines on distribution. This needs clarification at level 2.

On the whole, issuers of structured products will at best only benefit from the new prospectus rules with regard to cross-border offerings. No major simplification can be expected for offerings confined to a specific country. Above all, this would have required a fundamental evaluation, as called for by the DDV, of the various (often overlapping and parallel) disclosure requirements imposed on tap issuers. Unfortunately, there was no appetite for this among the involved parties in Brussels.

Dr Thomas Preuße
Director Legal and Regulatory Affairs

IOSCO: international standards for securities regulation

The recommendations of the International Organisation of Securities Commissions (IOSCO) shape many of the laws and market structures at a national and a European level. As an affiliate member, the DDV brings its expertise in all matters concerning structured securities to IOSCO's international conferences.

With around 200 members from all over the world, IOSCO plays a leading role in the setting of international standards for securities regulation. Its members, the national securities supervisory authorities, exchange information and develop standards to improve both domestic and cross-border regulation of securities trading and market participants. The aim is to create a fair and efficient trading environment where the interests of investors are taken into account. The German Federal Financial Supervisory Authority, BaFin, is also a member of IOSCO, which was founded in 1983.

The DDV has been on the Affiliate Member Consultative Committee (AMCC) of IOSCO since 2013. In its role as an affiliate member, it represents the interests of the structured products sector at an international level. The DDV and the Deutsche Börse AG are the only German institutions that have been appointed affiliate members by IOSCO. The DDV takes an active part in the discussions of the AMCC's project groups, particularly when they are about regulatory measures for structured products and warrants.

In September, Christian Vollmuth, Managing Director at the DDV, gave a talk at IOSCO's biannual conference in Chicago entitled 'PRIIPs – the new European Key Information Document'. The main focus of the talk was the work completed on the DDV's sample key information document (KID) and the DDV PRIIPs reports, in which the DDV examined in detail the risk calculation methods planned by the European supervisory authorities.

Around 200 regulators and experts in the field gathered at the 41st IOSCO conference in May 2016.

Taxation: **taxing times**

The DDV had two main tax issues to deal with in 2016, which were of great import to both the structured products sector and investors. The new US withholding tax on derivative instruments, which now also affects German structured products with US underlying assets, has not been well received. However, there was also some good news in the form of tax recognition of losses on the expiry of warrants.

The long arm of Washington

The long arm of the US tax man reaches as far as Germany. Washington is now imposing a tax that also applies this side of the Atlantic, known by the cryptic abbreviation of 871(m). It is levied on dividend equivalent payments on derivative instruments linked to US equities. The absurd thing is that with some derivative transactions carried out only in Europe and purely between European financial market participants, banks now have to deduct US withholding tax. But where has this tax come from, and how has the US Internal Revenue Service (IRS) got access to these transactions in the first place?

Questionable US demands

The complex legislation, known as the 'Foreign Account Tax Compliance Act' (FATCA), obliges banks around the world to report tax-related information on US citizens to the revenue service in Washington. However, not content with this, the US legislature now obliges banks to implement Section 871(m) of the US Internal Revenue Code.

This means European banks must deduct US withholding tax for European structured products from their European clients, despite the only US connection being the structured product's underlying asset. Many people have therefore called into question this tax grab by the IRS. It is specifically the dividend factored into the derivative – the 'dividend equivalent' – that is taxed. This year the tax only applies to products that reference dividend-paying US equities on an approximately one-to-one basis. In general, these are Tracker Certificates, Constant Leverage Certificates and Knock-Out Warrants. The only structured products exempted from the tax are those that are linked to a 'qualified index' such as the Dow Jones Industrial Average. From 1 January 2018, the tax will also apply to derivative products that track the performance of the underlying up to 80 percent or more.

The rules emerged as a response to tax dodging schemes in the US, in which mainly institutional investors were evading tax on dividends through the use of swap transactions around the dividend record date. It is evident that this move by US representatives is intended to prevent these practices. However, the global bureaucratic monster that has now been created goes much further than this objective.

US legislature knows nothing about German market

Because the US legislature was only focusing on the US market, the provisions are not specific enough for the German market, and many issues regarding the correct way to implement them remain unresolved. The reason for this is the significant difference between the US and European mar-

kets. The many kinds of structured products available on the European market are debt instruments that are traded freely like equities. The issuers of the securities do not know who owns them, or the owners' tax statuses. Hence, the appropriate amount of tax cannot be deducted. In the US, on the other hand, derivative instruments are bilateral contracts, in which the two parties to the contract know each other. As such, deducting the correct amount of tax is not a problem there. The US legislature apparently assumed that market structures are similar in other countries.

The DDV took part in a meeting between the Internal Revenue Service, the US Department of the Treasury and representatives of the German structured products market, in which we provided some background information on the German market, so helping the US authorities understand the associated implementation difficulties. However, further efforts at persuasion will be necessary. We are planning to issue a report on the subject matter.

The long arm of Washington has caused collateral damage in Europe. However, we are confident that by working closely with the Association of German Banks (Bundesverband deutscher Banken) the damage can be limited and the wide range of structured products with US underlyings can be maintained.

Tax-deductible losses: a victory for common sense

On another matter, structured product investors can heave a sigh of relief. If their market expectations are wrong with a warrant and it expires worthless, the tax authorities will now once again recognise a loss. Up to recently this was not the case, and was a serious disadvantage of warrants as compared with all other types of securities. In January 2016, the German Federal Fiscal Court (Bundesfinanzhof, BFH) decided in two rulings that losses resulting from the lapse of warrants must be recognised for tax purposes. The Federal Fiscal Court's decision contradicted the German Federal Ministry of Finance (Bundesfinanzministerium, BFM), which until then had taken a position contrary to this. The Federal Ministry of Finance felt obliged to correct its legal opinion, and on 16 June 2016, in a letter to the highest tax authorities of the German federal states, it stated that losses resulting from the expiry of options are once again tax-deductible. This applies not only to unsecuritised options, but also to securitised options (warrants). The Federal Ministry of Finance has since clarified the situation further. In its letter of 23 January 2017, the Ministry stated that warrants with knock-out characteristics will also benefit from the revision. The tax treatment of warrants will have retrospective effect without any time limit.

This is a great victory for retail investors, on whose behalf the DDV has appealed many times to the Federal Ministry of Finance. The DDV certainly also contributed to this success by authoring numerous bylined articles and news features in which it adopted a clear position on tax discrimination against structured product investors, thus speaking up for the interests of retail investors.

Julian Grigo
Vice President Government Relations

Europe in stormy seas: **EUSIPA keeps the ship on course**

EUSIPA represents the interests of the European structured products sector in dealings with EU institutions, and campaigns for an appropriate regulatory framework for structured products. Together with its nine member associations, the umbrella association sets standards for the sector throughout Europe. These range from clear product classification and consistency of terminology to wide-ranging self-regulation in the form of an industry code.

eusipa EUROPEAN STRUCTURED INVESTMENT PRODUCTS ASSOCIATION

The year 2016 was initially dominated by technical discussions on the multitude of EU guidelines to be implemented in the near future. The decision of EU policymakers to postpone the implementation date for the PRIIPs Regulation by a year to January 2018 is good news. PRIIPs and MiFID II will now become effective on the same date. This means the elaborate IT infrastructure for producing the new product information sheets can be implemented on time. The postponement also allows some inconsistencies and ambiguities in the PRIIPs and MiFID II requirements – for instance relating to the disclosure of the costs of a financial product – to be ironed out by the start of next year. EUSIPA will continue to campaign for appropriate rules that are actually implementable in practice in the marketing and distribution of products.

There are still some difficulties with the MiFID II Directive. The banks are concerned about the provisions relating to the target market. In future, this will have to be identified of each financial product sold to retail investors in the EU. A narrow definition of the target market could hamper the distribution of some classes of structured products. Self-directed investors, who order securities without advice through financial portals, would be particularly badly affected by any constraint on the distribution of those securities, and their freedom of choice would be restricted. EUSIPA has been appealing to the European Securities and Markets Authority, ESMA, on behalf of retail investors.

Product bans loom on the horizon

One of the future core areas of EUSIPA's activities is sure to be the anticipated market interventions – particularly product interventions and bans – at both the national and European level. While up to now the umbrella association has primarily been a platform for exchanging information on the initiatives of the national regulatory authorities, its range of tasks is likely to be expanded from 2018. The reason for this is the new MiFIR Regulation. From next year, it will grant ESMA its own new powers of intervention. ESMA will also be given a major say in the measures taken by national regulatory authorities, for which uniform standards will apply. Because most of the structured products issuers in Europe operate internationally and distribute the same securities in several countries, there is a great commercial interest in avoiding a regulatory patchwork. The extra costs involved would be a burden not only for issuers but also for investors.

Consequently, with any future product interventions and bans, whether European or national, European structured product issuers would have to coordinate their approach and position themselves in a global market. EUSIPA is on hand to act as a coordinator and a voice in communications with ESMA.

Overtaxed

In addition to financial market regulation, there were also some tax issues on the agenda again in 2017. One of these was the European financial transaction tax (EU FTT). Contrary to many predictions, this matter has not died a quiet death, even though the number of its passionate proponents has declined. The issue is still topical mainly due to pressure from the German and French governments, whose domestic policies are committed to an EU financial transaction tax and who had publicly announced that it would be

implemented. In November 2016, the ten EU member states that want to press ahead with the project by means of the 'enhanced cooperation' procedure met again and presented a new policy paper. With regard to the tax assessment base for derivative instruments, the new draft paper is much more appropriate for its purpose than previous versions. This is most certainly also attributable to the relentless efforts made by EUSIPA and the DDV.

→ Full members

ACEPI Associazione Italiana Certificati e Prodotti di Investimento

SETIPA Swedish Exchange Traded Investment Products Association

afpdb association française des produits dérivés de Bourse

SVSP Schweizerischer Verband für Strukturierte Produkte / Swiss Structured Products Association / Associazione Svizzera per prodotti strutturati / Association Suisse Produits Structurés

BELSIPA Building transparency

UK Structured Products Association™

DDV Deutscher Derivate Verband

Zertifikate Forum Austria

Nedsipa

(March 2017)

Thomas Wulf
EUSIPA Secretary General

The technical teams of the rotating EU Council presidency, which are taking the lead in the EU FTT project, were repeatedly advised of the huge risks presented by flaws in the detailed regulations, and constructive suggestions were made for improvements. It is unclear how many of the ten countries continue to support the project. If two further participating states withdraw their support, it ends automatically in accordance with European contract law. Most of the uncertain participants are smaller member states, for whom the foreseeable expense of levying the tax would be out of all proportion to the expected tax receipts.

However, with regard to transaction-related taxes there is also positive news in Europe that shows that some governments are quite prepared to rectify undesirable developments. In Belgium, for instance, the 33 percent financial speculation tax introduced at the start of 2016 was abolished at the end of December following a collapse in exchange turnover during the year. EUSIPA gave its full support to the Belgian member association, BELSIPA, in its campaign against the tax.

Brexit and its consequences

Apart from these regulatory matters, the Brexit decision in the United Kingdom has strongly influenced policy debates in Brussels since June 2016. The planned exit has not yet had any direct influence on the way EUSIPA works. After all, EUSIPA already has one very active member association that is not from an EU country – the Swiss Structured Products Association (SSPA), which is one of the association's founding members. However, no event is likely to change the European Union in the next few years as much as the Brexit. The impact on the financial industry in general, and the structured products sector in particular, is difficult to predict. Many areas will be affected – for instance, the UK's credit rating could be downgraded, resulting in its government having to pay higher interest to creditors.

→ Board of Directors

Heike Arbter
President of EUSIPA

Roger Studer
Vice-President EUSIPA

Jean-Philippe Cavrois
AFPDB

Dr Hartmut Knüppel
DDV

Zak de Mariveles
UKSPA

Erik Mauritz
NEDSIPA

Dario Savoia
ACEPI

Jürg Stähelin
SSPA

Gilles Staquet
BELSIPA

Frank Weingarts
ZFA

Glenn Wigren
SETIPA

→ General Assembly

Heike Arbter
ZFA

Jean-Philippe Cavrois
AFPDB

Zak de Mariveles
UKSPA

Erik Mauritz
NEDSIPA

Klaus Oppermann
DDV

Dario Savoia
ACEPI

Christiaan Sterckx
BELSIPA

Roger Studer
SSPA

Glenn Wigren
SETIPA

→ Committees

Principles Committee
(Chair: Frank Weingarts)

Legal Committee
(Chair: Dr Nikolaus Neundörfer)

Categorisation Committee
(Chair: Irene Brunner)

Outstanding:
the DDV wins a hat-trick of awards

At the beginning of February, the DDV was awarded the title of Best Structured Products Association Europe for the third consecutive year. This title is awarded every year at the European Structured Products Conference in London.

Managing Directors Christian Vollmuth and Lars Brandau proudly accepted the award

The DDV has defended its title of Best Structured Products Association Europe yet again in 2016. A total of ten associations from all over Europe were nominated in the Trade Associations category. The winners of the awards were selected mainly on the basis of a survey of more than 1,200 institutional investors and companies operating in the financial sector throughout Europe, such as banks, exchanges, index providers and commercial law firms.

Speaking at the awards ceremony, Jan Scibor-Kaminski, Managing Director of StructuredRetailProducts.com, explained why the award went to the DDV: ‘We would like to congratulate the German Derivatives Association on repeatedly proving its mettle as Europe’s top association and defending its position for another year. An impressive number of industry insiders throughout Europe once again voted for the DDV this year, which had to fight off stiff competition. The Association’s many training and communication initiatives were a crucial factor in bestowing the award to the DDV. This award is a further acknowledgement of all the DDV’s hard work in various areas and recognition of its importance. The many initiatives and efforts of the association set ground-breaking European standards and pave the way for even wider acceptance of structured products among retail investors.’

Lars Brandau, Managing Director at the DDV, commented: ‘We are delighted to receive this new accolade for our work as an association. It shows us that our commitment to a sustainable culture of investing in securities, and particularly to greater product comprehensibility and transparency, is also well received at a European level.’

The DDV chooses continuity: Board of Directors re-elected

DDV Board of Directors (left to right): Klaus Oppermann, Dr Hartmut Knüppel, Jan Krüger, Grégoire Toublanc, Stefan Armbruster

The general meeting of the DDV in March re-elected the Board of Directors for a further two years. Stefan Armbruster (Deutsche Bank), Jan Krüger (LBBW), Klaus Oppermann (Commerzbank) and Grégoire Toublanc (BNP Paribas) all perform their board roles in an honorary capacity in addition to their professional occupations. As CEO, Dr Hartmut Knüppel also remains part of the Board of Directors. Speaking on behalf of the DDV Board of Directors, Stefan Armbruster expressed his thanks: ‘We are delighted to have been re-elected to the Board of Directors and are grateful to our members for the confidence they have shown in us. In the coming years, we will continue to make every effort in campaigning for the interests of our members and of structured products investors.’

The 2016 German Derivatives Day

Topical policy and financial market issues were the focus of the German Derivatives Day in Frankfurt am Main, to which the DDV had invited politicians, journalists, representatives from investor protection bodies and financial experts. Particular attention was given to regulation again at this year's event.

→ For this year's event the DDV attracted another prestigious guest speaker: Wolfgang Clement, former German Federal Minister of Economics and Labour, now the Chair of the Board of Trustees of the Initiative New Social Market Economy (INSM). He talked about the growing welfare state and the challenges of reforming it and making it future-proof. Wolfgang Clement also addressed the subject of investor protection and the securities investment culture, which are of such importance to the structured products sector.

Investor protection: not a substitute for thinking

In his compelling speech, he was generally positive about regulation for investor protection, but was critical of the multiplicity of laws and the growing bureaucracy connected with it. These, he believes, add to the complexity – but investors must know that they 'cannot be a substitute for using their heads'. What is needed from policymakers, and specifically from financial market regulators, is trust.

According to Wolfgang Clement, policymakers must have more confidence in the economy and society, instead of producing one law after the other. This, he said, is the only way to manage the ever-increasing complexity of the world. He also stood up for a stronger securities investment culture in Germany, adding that it is 'unwise and economically regrettable' that broad sections of the population avoid securities.

Pushing for competition and product diversity

In his introductory speech, Dr Hartmut Knüppel, CEO and member of the Board of Directors of the DDV, summed up the position of the German structured products sector and outlined what structured products issuers are offering investors just now. He pointed out that in the current zero-interest rate environment it is hard to generate any income from many of the financial products available. However, structured products offer investors precise control of their investments and allow them to select securities tailored to their own risk appetite and expectation of returns. Investors can not only generate income with structured products, but in a bull market they can also hedge against falling market prices. Dr Knüppel would like to see politicians and investor protection bodies in Germany stop denying these advantages of structured products. He commented that the diversity of the products and the tough competition between banks are improving the quality of securities and directly benefiting the retail investor. Finally, Dr Knüppel welcomed the good cooperation between the financial market regulator and the banks in Germany, and underlined the importance of detailed and ongoing exchange of expert knowledge and information.

The morning concluded with an engrossing panel discussion chaired by DDV Managing Director Christian Vollmuth, concerning how much consumer protection investors can tolerate. The participants in the enthusiastic discussion, in which some controversial points were made, were Dr Henning Bergmann of the German Savings Banks Association (Deutscher Sparkassen- und Giroverband, DSGV), Christian Bock of the Federal Financial Supervisory Authority, (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) and Dorothea Mohn of the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband, vzbv).

The afternoon was devoted to the issues we will face in the future. Futurologist Harry Gatterer spoke about the social change caused by digitisation, and Professor Dr Thomas Mayer, Founding Director of the Flossbach von Storch Research Institute, explained how blockchain and other innovative payment technologies could lead to profound changes in the financial sector.




More than 250 guests attended this year's German Derivatives Day to hear talks by renowned experts and discuss the latest developments in the financial and structured products sectors.




Off the record: a close-up view of indices

In 2016, the DDV once again invited well-known business and financial journalists to its offices in Frankfurt am Main for discussions on key issues concerning the structured products sector. This face-to-face exchange of information and opinions is especially valuable for communications in our digital age. The open dialogue is beneficial for both sides.

A panel of financial experts fielded questions from journalists on the history and future of Tracker Certificates.

Indices play an increasingly important role in the investment decisions of both retail and institutional investors. There are now so many of them that it is hard to keep track. But indices – based on regions and sectors alike – have become a feature of the capital market.

How does an index of this kind work, and what advantages does it offer investors? If you want to get a feel for the performance of the German equity market and its best-performing stocks, for example, you would really have to look at each company individually. This, however, would be extremely time-consuming. Index providers do this job for investors by collecting and analysing the relevant data on joint-stock companies. They then calculate an index based on this data. The investor can evaluate the performance of the market quickly and easily by taking a look at this index.

Incidentally, indices are also regulated. Under the Benchmark Regulation, EU policymakers and the European Securities and Markets Authority, ESMA, are increasingly turning their attention to indices. With this in mind, the DDV invited journalists to an off-the-record event in June entitled ‘How German is the DAX index? Aspects of modern index composition’ to examine this extremely important subject from different angles.

First, Professor Dr Lutz Johanning, Chair of Empirical Capital Market Research at WHU – Otto Beisheim School of Management, explained in detail the importance of indices to the capital market and to investors. According to Professor Johanning, they have rapidly gained importance in recent years. Ulrich Stoof, Head of Derivatives Business Management at index provider MSCI, then looked at the parameters that are currently most important for indexing. Construction of an index may not be rocket science, but it does demand an extremely high level of expertise and professionalism. Finally, Oliver Dreher, lawyer and partner at CMS Hasche Sigle, examined the regulatory challenges facing index providers. In his opinion, the current regulatory framework favours large index providers and is putting smaller providers under increasing pressure. He therefore believes some consolidation of the market will take place in the near future.

The DDV Business Journalism Award: **in a nutshell**

The financial world is complex. What makes brilliant journalists stand out from the rest is their ability to explain complex matters succinctly so that anyone can understand. For the art of presenting financial topics in an interesting way without using technical jargon, the DDV again awarded six prizes for journalism in 2017. The prizes were awarded for the ninth time at the Kunstmuseum in Stuttgart, on the evening before the investor fair INVEST.

On 14 April, the DDV presented its Journalist of the Year award for 2016 to Benjamin Feingold and Daniel Saurenz, the founders of the investment portal Feingold Research. Both award winners are known to a wide readership from their many years working together as editors of the financial newspaper Financial Times Deutschland and the investment magazine BÖRSE ONLINE. They have more than two decades of stock market experience and their expertise makes them sought-after advisers in the sector.

Explaining the jury's unanimous decision to award the prize to the two journalists, Lars Brandau, Managing Director at the DDV, commented: 'Benjamin Feingold and Daniel Saurenz are thoroughly well-versed in complex financial matters – and not only those relating to structured products. They have demonstrated this by the wealth of articles they have produced in their many years of journalism. Both journalists are skilled at breaking down complex issues and presenting them in a form that appeals to their readership and audience. By doing this, they have made a crucial contribution to broadening the acceptance of structured products among retail investors. Both have also written books including Handeln mit Futures und Optionen – Ein Leitfaden für den Privatanleger (Trading in futures and options – a guide for retail investors) and the attractively presented reference book Finanzjournalismus (Financial journalism). Both books are now considered required reading for interested investors.' The award comes with prize money of EUR 5,000.

The main criteria on which the jury based their selection were quality of language, originality of approach and, above all, whether the material is presented in a way that is readily understandable. The DDV award was again supported by Börse Stuttgart and Börse Frankfurt Zertifikate AG.

Above: the evening's winners with the host (left to right): Dr Malcher, Ohr, Crolly, Feingold, Saurenz, Uebel, Brandau, Hübner

Awards were presented in five other categories (each with a cash prize of EUR 1,000). The winners were:

→ Print (daily newspaper)
Frank Stocker: Von Rendite und Richterskala (On yield and the Richter scale), Welt am Sonntag, 14 June 2015

→ Print (magazines)
Dr Ingo Malcher: Taler, Taler, du musst wandern (Thaler, thaler travel), Brand Eins, Issue 4/2015

→ Overall online concept
Finanzen.net, www.finanzen.net/special4g/Zertifikate (in German)

→ Online media
Gerd Hübner: Welthandel bricht ein – Droht jetzt eine globale Rezession? (World trade collapses – are we facing a global recession?), finanzen100.de, 30 July 2015

→ Audio/Video
Thomas Becker, Michael Houben, Peter Koppe, Cornelia Uebel: Banken unter Kontrolle (Banks under supervision), WDR, 23 February 2015

Efficient communication: **more than just creating and distributing content**

With the underdeveloped securities investment culture in Germany, and the ongoing discussion regarding the extent to which investors are capable of making an informed investment decision, the questions is: why are the obvious facts and the arguments in favour of securities investment apparently not getting through to investors? Communication must be about more than just making information available.

→ We live in challenging times. People are communicating almost continuously, and everywhere. For instance, multinational corporations contribute to sometimes heated debates on political and social issues. Customers, on the other hand, want to know what a company sustainably stands for. They demand commitment – whether in the form of a global beer brewer making a statement on the immigration ban, or a telecommunications company offering practical assistance for refugees on its website. The means used are as varied as the subjects themselves – and practically endless. What is behind all of this? The vast majority of people are constantly seeking guidance, from what car they should buy to what life assurance policy is most suitable for them. With the huge amount of information available, points of orientation serve as a compass to help us separate the essential details from the irrelevant facts. In this context, advanced, targeted communication is becoming particularly important. Today, therefore, people not only expect rapid and digital communication that is 'human' and credible, but they also seek sustainability. Entire reputations rise and fall on what is said and how it is communicated, and it is undeniably true that reputational damage is hard to recover from. To prevent such damage, effective communication must be incorporated into a well thought-out strategy. Drawing up a strategy means also becoming aware of the potential of communication and then allocating the available budget and time appropriately on a case-by-case basis. This being so, targeted messages are just not dispersed through various channels out of context. How does this look in practice in the DDV's work as an association?

In view of the modest human and financial resources at the disposal of the DDV, we concentrate on a kind of 'puzzle-solving' strategy.

Detailed and efficient communication is our ongoing objective. In particular, we concentrate on content and influencer communications, involving opinion makers that are influential in the sector. We also issue regular statistics, product and trend reports, videos and audio files, as well as new books, brochures and similar information. Whether a measure is efficient or not ultimately depends on small details, which not only generate a regular flow, but are also presented according to the needs of each of our interest groups using a range of different media channels. There are some assumptions that should be challenged: for example, the much talked-about demise of print media in the age of digitisation. Print is by no means outdated. Indeed, those believed to be dead often live the longest. For wide-ranging financial communication, print remains the most important medium.

However, our focus is not limited to readers – our messages are targeted at diverse groups. Our public relations activities are aimed at policymakers, journalists, consumer protection bodies, academics and, most importantly, prospective investors. Our main concern is to convey the added value of structured products to these target groups by providing detailed information and presenting different points of view in a transparent manner, as well as helping to shape opinions on all issues affecting our sector.

Using both traditional and modern communication tools, we set up an authentic dialogue. This creates communication links that are based on mutual trust and are thus always able to serve as multipliers of knowledge. With complex financial issues in particular, communication can only create trust if it is credible and honest. For politicians, journalists, academics and investor protection bodies to develop well-informed

‘Every successful investment portfolio includes structured products. That is our core message. We believe the way to get this across is to provide transparent information and engage in continuous, close dialogue.’

Lars Brandau

opinions on the structured products sector, the best basis and starting point is reliable information that is tailored to the different target groups. We have been committed to this approach for years. Making financial matters less complex constantly presents new challenges for us. We are therefore constantly re-examining our approach.

The right communication mix

In the high-tech world of the twenty-first century, the combined use of different communication tools is more essential than ever. Print and online media of every kind should complement each other, not compete. On our clearly structured, multimedia website, the public can obtain statistical information on the structured products market – such as on market volumes, exchange turnover and market shares – in addition to brochures, podcasts and videos on issues concerning structured products. We also provide regular online articles, a large number of recent investor and issuer surveys, and details on events. Those who prefer to read about structured products in brochures and books can order them online, free of charge, from our Bestell-Center (order centre), currently available only on the German-language website.

However, even in the age of the Internet, traditional media relations work has lost none of its importance for us. The media act as multipliers in our communications with our target groups. In media releases, guest editorials and interviews in the print media, we provide detailed information on market trends and decisions in the sector, and we give our view on current political issues. Print materials are ultimately an important link between the online and offline worlds, especially in the context of a value-creating cross-channel management strategy.

Above all, our stakeholders expect us to provide honest and helpful information with added value – in simple, readily understandable language. Personal contact and dialogue are particularly important in ensuring that we are perceived by the editorial staff of the various publications as reliable, trustworthy partners. Dialogue is also a crucial communication tool in all our public relations activities – not just in our relationship with the media. Active relationships in stable networks are only possible with mutual feedback. The DDV is a well-established contributor to discussions in the often fast-paced finance community. Foreign journalists are also increasingly asking for our assessment of regulatory issues and other market developments.

There is no question that PR is about the struggle to attract the limited resource of attention. If you want to do this successfully, you need a clear strategy, and you need to adhere to it. The DDV will continue to work tirelessly to provide facts to counter prejudice. It is not always easy, particularly as competition is increasing. The core message is that every successful investment portfolio will continue to include structured products. We believe the way to get this message across is by continuing to provide transparent information and engage in continuous, close dialogue.

DDV publications: **quality is everything**

How much financial knowledge do retail investors have? Not a great deal, as studies have repeatedly shown. Yet financial knowledge is more necessary than ever. We want to make a contribution to educating investors. This is why, for years, we have provided consistently high quality information, developed a considerable range of publications and online media, and organised events. We are convinced that quality is everything.

Structured products compass

Those wishing to build wealth and provide for their retirement cannot ignore securities, and structured products are particularly suitable for this purpose. Indeed, one of the key features of our sector is its wide, diverse range of products to choose from, so it is understandable that many investors seek clear guidance. They need tools that can guide them safely through the varied and versatile product landscape – something to serve as a compass. As such, the DDV has issued a publication (in German) in response to this need – a book entitled Kompass Strukturierte Produkte – Alles was Sie über Anlage- und Hebelprodukte wissen sollten, um erfolgreich zu investieren (Structured products compass – all you should know about investment and leverage products for successful investing). This reference book, comprising more than 200 pages, is not primarily aimed at beginners who want a quick overview. For them, the DDV and its members provide a wide range of material that describes briefly and concisely the key features of the various categories of structured products and explains how they work. The book, however, is aimed more at investors who already have some knowledge of securities but would like to learn more before making an investment decision.

Before buying a financial instrument, investors should be clear about their market expectations, their risk appetite and their return expectations, as well as their intended investment horizon. With this new publication, they now have a guide that will help them achieve their objectives. It describes the various components of specific products and the factors that influence their price. It also explains in an accessible way the risks and rewards of structured products, using realistic scenarios to illustrate them.

This book is a comprehensive guide and an important element in the enlightenment and education of investors. Informed people make better investment decisions. People who invest successfully are satisfied. And, naturally, structured product issuers are also pleased to have satisfied customers who invest repeatedly in structured products. With this publication, the DDV has also achieved its objective of making investment and leverage products as transparent as possible.

Online training

The fundamental rule when buying a financial instrument is to only buy a product if you understand how it works. Sound financial knowledge helps investors, firstly in the choice of the most suitable securities category, and secondly in selecting a financial instrument that meets their market expectations, risk appetite and return expectations. It is much easier to understand how a structured product works and learn about its key features than most people think. The DDV and its members provide a large amount of well-presented literature on structured products for retail investors. The association also offers online training for investors wishing to broaden and test their knowledge of structured products. The training concept is simple, and consists of three modules: basic knowledge, product knowledge and specialist knowledge. At the end of each module investors can test themselves to check if they have understood everything.

→ Further information is available on our website at www.derivateverband.de under the heading Knowing the facts: Certificate training. The training is currently only available in German.

Popular underlying assets in the SDAX index

Each month, the DDV publishes a media release on the most popular underlyings for structured products. There is no doubt that it is useful to know something about the underlying asset – the most important feature of any structured product. The first media release in 2011 covered the most popular underlying by far – the German blue-chip index, DAX. The range now includes everything from equities and indices to commodities. The index for small German public limited companies, SDAX, featured most strongly in 2016. The following underlyings were examined:

- The carbon specialist: SGL Carbon SE
- Market leader: Heidelberger Druckmaschinen AG
- Seats for millions: Grammer AG
- Fashionable: Gerry Weber AG
- Attracting attention: Borussia Dortmund GmbH & Co. KGaA
- Well-heeled: Puma SE
- Provides propulsion: Deutz AG
- Going places: Sixt SE
- Banking transactions online: comdirect bank AG
- On the right track: Vossloh AG
- Broad-based: BayWa AG
- Steel and aluminium: Klöckner & Co. SE

Retail investors can choose whether they want the information presented in the form of a short video, or if they prefer to read it. Both are currently available in German only. The text versions can be downloaded from the DDV website at www.derivateverband.de under the heading Wissen (knowing the facts), while the films can be downloaded from the Video-Center under the heading Presse (media).

In conversation with the DDV

For several years now, for its 'In conversation with the DDV' series, the DDV has interviewed high-profile individuals who provide strong facts and opinions on key financial topics. In 2016, five business and policy experts were featured. They conveyed interesting perspectives to readers, and covered a wide range of topics. We talked to:

- Christoph Lammersdorf, Chair of the Board of Trustees of the German numeracy foundation Stiftung Rechnen, and CEO of Börse Stuttgart AG until 2015
- Gerd Kommer, Head of the UK branch of FMS Wertmanagement Service GmbH in London, and winner of a DDV Business Journalism Award in 2016
- Professor Dr Thomas Mayer, Founding Director of the Flossbach von Storch Research Institute, and former Chief Economist at Deutsche Bank
- Heike Arbter, Chair of Zertifikate Forum Austria (ZFA), and newly elected President of EUSIPA, the European umbrella association of the structured products sector
- Wolfgang Clement, former German Federal Minister of Economics and Labour, now Chair of the Board of Trustees of the Initiative New Social Market Economy (INSM)

→ These interviews, which we offer to the financial media and to our members' customer magazines, are available in German on our website at www.derivateverband.de under the heading Publikationen (publications), DDV im Gespräch (in conversation with the DDV).

Reaching new target groups through YouTube and other platforms

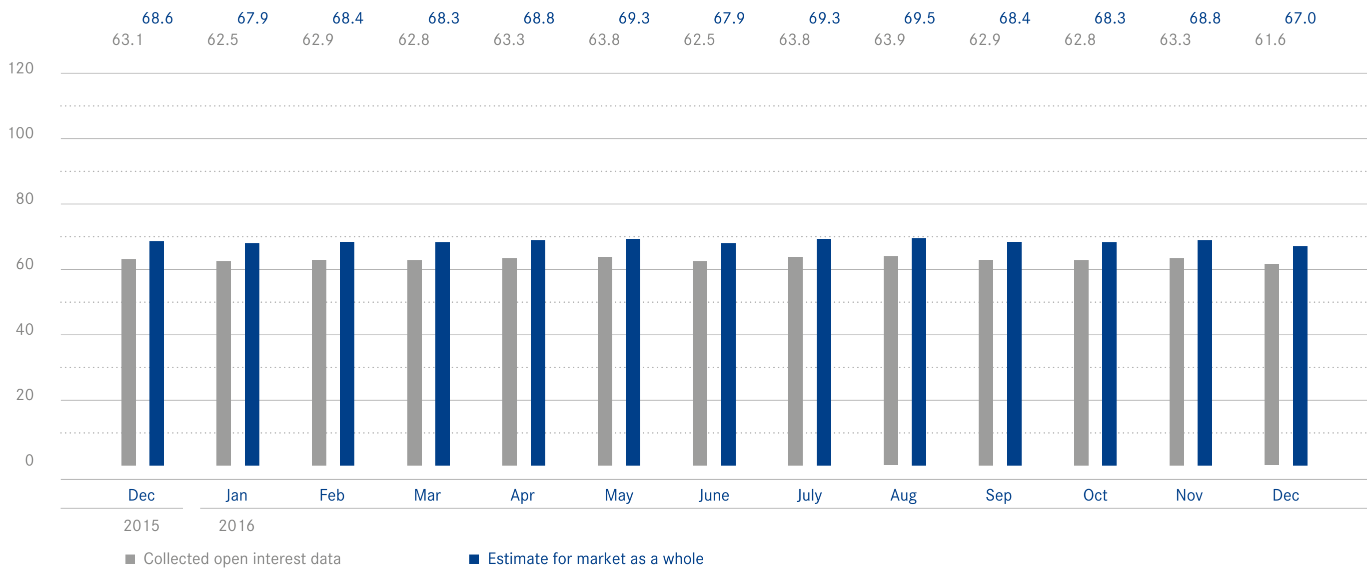
The world is getting smaller, and social media is booming. Ever since the general public have become followers and users, information of all types has been uploaded and shared through various channels. For a number of years, the number of people around the world with a Facebook account has exceeded the number with social security cover. Even some German schools are considering incorporating social media training into their curriculum. It was therefore an obvious decision for the DDV to extend its communications to selected channels. For some time now, the latest videos have been uploaded not only to the DDV website, but also to other financial portals including the DDV's own YouTube channel. We use networks within the financial sector and their video portals, as well as the popular XING and LinkedIn platforms. This means our information reaches a considerably wider audience than before.

The structured products market in 2016: **facts and figures**

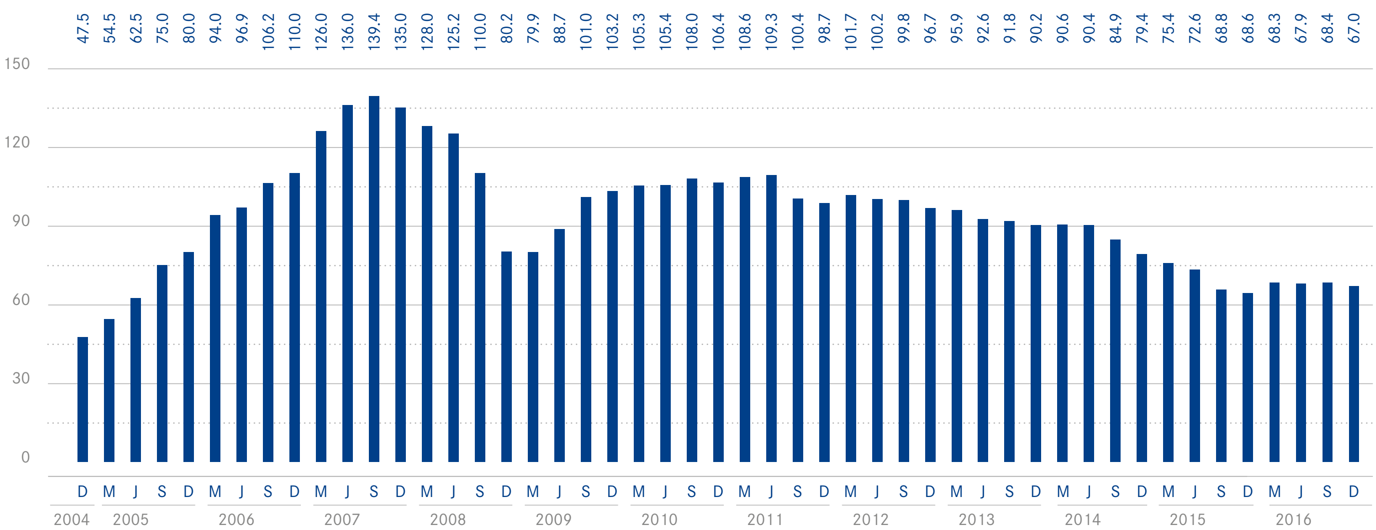
The year 2016 had investors on tenterhooks again. After a weak start to the year, global equity markets fairly quickly made up for some severe losses. Even the Brexit vote did not unsettle them for long, and they finally launched into a year-end rally. In 2016, retail investors showed increased interest in securities with an attractive risk-reward profile. Market volumes for structured products offering full capital protection fell noticeably as a result. However, strong growth was recorded in Reverse Convertibles and Express Certificates.

Market volume

Development of the structured products volume in Germany since December 2015 (in EUR billion)

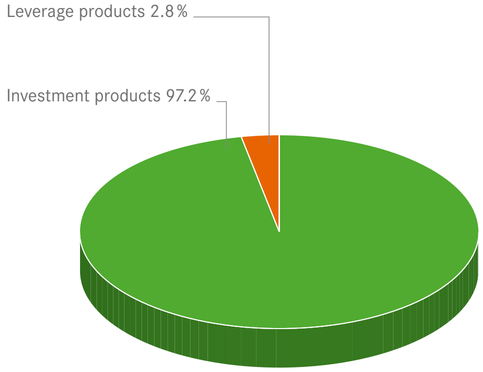


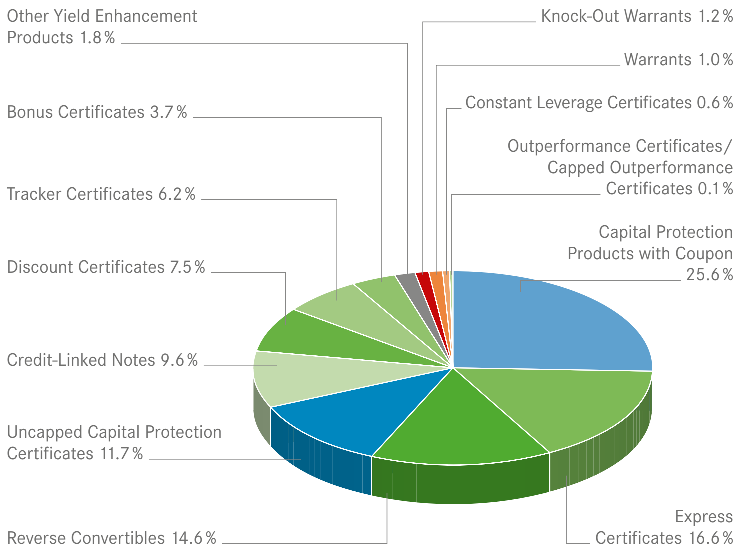
Development of the structured products volume in Germany since December 2004 (in EUR billion)



Market volume by product category in 2016

Category	Market volume December 2016		Market volume adjusted for price changes		Number of products	
	€ '000	in percent	€ '000	in percent	#	in percent
Investment products						
Uncapped Capital Protection Certificates	7,215,231	12.0	7,176,570	12.2	2,054	0.4
Capital Protection Products with Coupon	15,746,615	26.3	15,739,464	26.7	2,481	0.5
Reverse Convertibles	9,002,402	15.0	8,804,437	14.9	109,895	21.7
Discount Certificates	4,586,326	7.7	4,510,902	7.7	153,266	30.3
Express Certificates	10,196,435	17.0	9,782,573	16.6	9,617	1.9
Bonus Certificates	2,248,475	3.8	2,215,437	3.8	222,940	44.0
Tracker Certificates	3,824,004	6.4	3,693,485	6.3	1,758	0.3
Outperformance Certificates/ Capped Outperformance Certificates	76,195	0.1	71,051	0.1	1,446	0.3
Credit-Linked Notes	5,915,474	9.9	5,902,466	10.0	2,347	0.5
Other Yield Enhancement Products	1,089,792	1.8	1,068,683	1.8	853	0.2
Subtotal	**59,900,948**	**97.2**	**58,965,067**	**97.3**	**506,657**	**38.9**
Leverage products						
Warrants	633,569	37.3	587,008	36.4	439,256	55.2
Constant Leverage Certificates	351,285	20.7	349,474	21.7	4,423	0.6
Knock-Out Warrants	714,697	42.1	675,235	41.9	352,328	44.3
Subtotal	**1,699,551**	**2.8**	**1,611,717**	**2.7**	**796,007**	**61.1**
Total	**61,600,499**	**100.0**	**60,576,784**	**100.0**	**1,302,664**	**100.0**



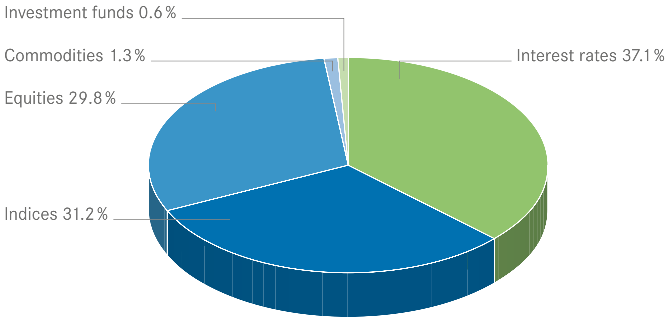


In today's zero-interest environment, the market volume of structured products with full capital protection is steadily declining. As a result, the low interest income of issuers makes it impossible to offer attractive yields as well as capital protection for new issues. By contrast, the upward trend in more 'aggressive' structured investment products has become firmly established. In particular, these include Reverse Convertibles and Credit-Linked Notes as well as Tracker and Discount Certificates. Express Certificates recorded the strongest growth of any structured product category.

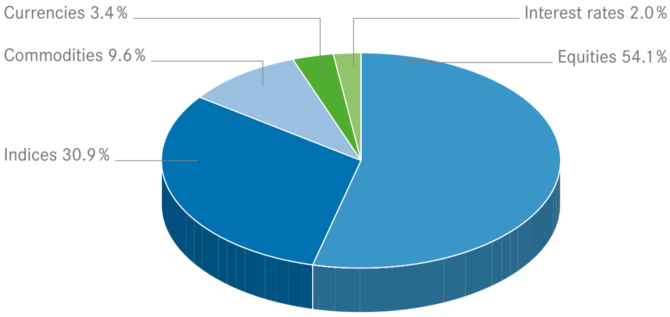
Market volume by underlying in 2016

Category	Market volume December 2016		Market volume adjusted for price changes		Number of products	
	€ 'ooo	in percent	€ 'ooo	in percent	#	in percent
Investment products						
Indices	18,666,698	31.2	18,314,712	31.1	125,244	24.7
Equities	17,848,517	29.8	17,310,145	29.4	373,948	73.8
Commodities	783,364	1.3	763,647	1.3	2,366	0.5
Currencies	25,780	0.0	25,096	0.0	19	0.0
Interest rates	22,195,706	37.1	22,174,023	37.6	4,926	1.0
Investment funds	380,885	0.6	377,444	0.6	154	0.0
Subtotal	**59,900,948**	**97.2**	**58,965,067**	**97.3**	**506,657**	**38.9**
Leverage products						
Indices	524,937	30.9	545,107	33.8	179,071	22.5
Equities	919,248	54.1	797,014	49.5	529,001	66.5
Commodities	163,121	9.6	173,391	10.8	40,898	5.1
Currencies	58,454	3.4	57,637	3.6	43,649	5.5
Interest rates	33,770	2.0	38,546	2.4	3,380	0.4
Investment funds	21	0.0	21	0.0	8	0.0
Subtotal	**1,699,551**	**2.8**	**1,611,717**	**2.7**	**796,007**	**61.1**
Total	**61,600,499**	**100.0**	**60,576,784**	**100.0**	**1,302,664**	**100.0**

Investment products by underlying in 2016



Leverage products by underlying in 2016

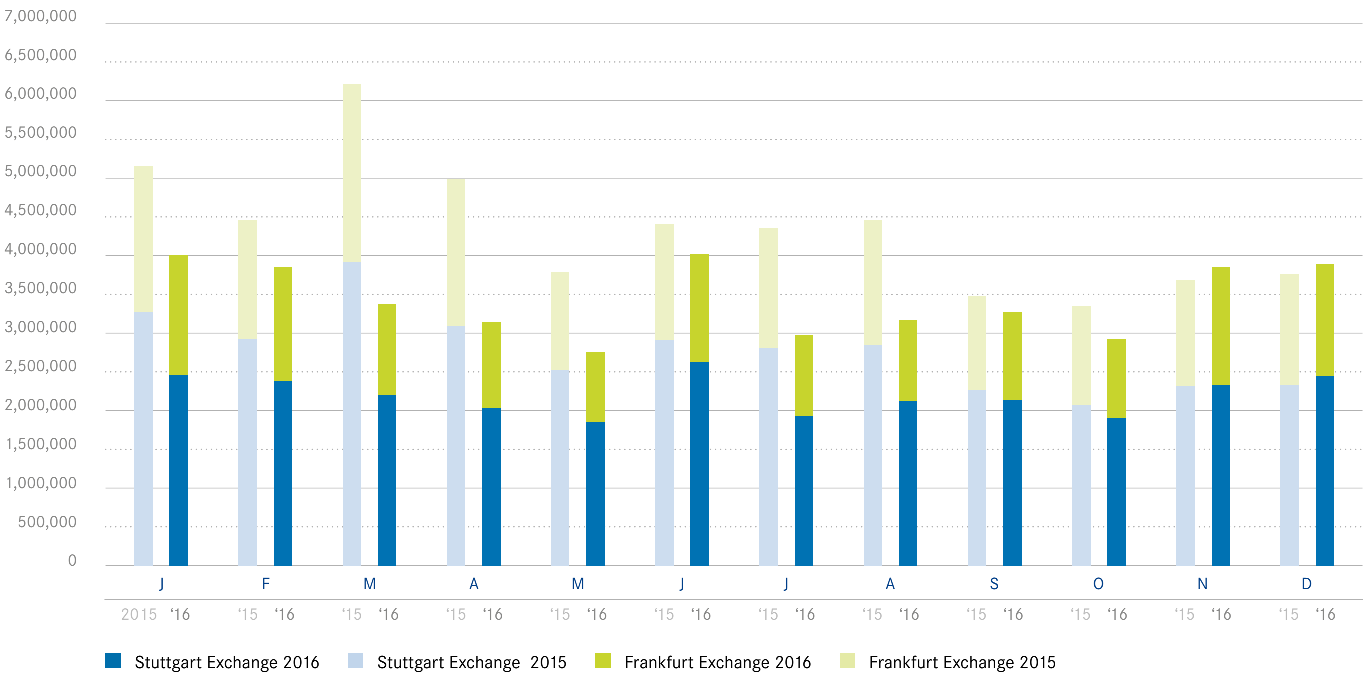


Although less dominant than in 2015, investment products with interest rates as an underlying remained the most popular underlying category in 2016, accounting for 37.1 percent of the total market volume for investment products. Investment products with indices as an underlying followed with a share of 31.2 percent of the market volume. Investment products with equities as an underlying followed closely behind, accounting for 29.8 percent.

For leverage products, equities were the most popular underlying, and accounted for a share of 54.1 percent. Leverage products with indices as an underlying came second with a share of 30.9 percent. Leverage products based on commodities placed a distant third, with 9.6 percent of the total volume.

Exchange turnover

Exchange turnover during the course of the year



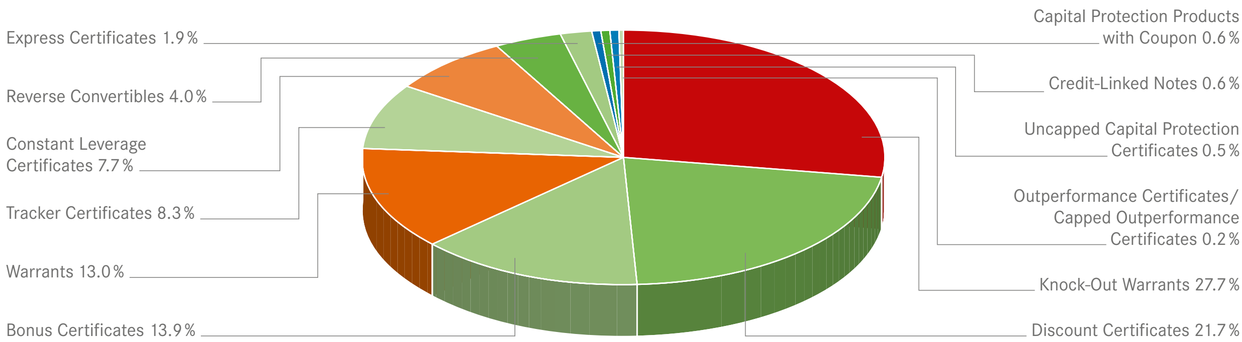
Trading in structured products at the exchanges in Stuttgart and Frankfurt decreased by 20.9 percent compared with 2015 to stand at EUR 41.2 billion. Stuttgart's exchange generated turnover of EUR 26.4 billion from trading in structured products in the reporting year, securing a market share of 64.1 percent. Frankfurt's exchange achieved turnover of EUR 14.8 billion from trading in investment and leverage products. Its share of the total volume over the year was 35.9 percent.

Trading turnover by exchange in 2016

Category	Customer order volume Stuttgart Exchange		Customer order volume Frankfurt Exchange		Total customer order volume	
	Stuttgart/EUWAX		**Börse Frankfurt Zertifikate**		**Total**	
	Volume	**Share in percent**	**Volume**	**Share in percent**	**Volume**	**Share in percent**
Investment products						
Capital Protection Products	153,832	0.6	312,442	2.1	466,274	1.1
Yield Enhancement Products	13,901,408	52.6	6,927,614	46.8	20,829,023	50.5
	14,055,240	**53.2**	**7,240,056**	**48.9**	**21,295,297**	**51.7**
Leverage products						
Leverage products without Knock-Out	5,592,398	21.2	2,919,819	19.7	8,512,217	20.7
Leverage products with Knock-Out	6,769,362	25.6	4,635,010	31.3	11,404,372	27.7
	12,361,760	**46.8**	**7,554,828**	**51.1**	**19,916,589**	**48.3**
Derivative products	**26,417,001**	**100.0**	**14,794,885**	**100.0**	**41,211,886**	**100.0**

Exchange turnover by product category in 2016

	Volume in € '000	Change on 2015 in percent	Market share in percent	Number of orders	Change on 2015 in percent	Market share in percent	Volume per order in € '000	Change on 2015 in percent
Investment products								
Uncapped Capital Protection Certificates	250,323	−46.4	0.6	11,145	−48.9	0.2	22,461	5.0
Capital Protection Products with Coupon	215,951	−63.6	0.5	11,150	−62.1	0.2	19,368	−4.1
Credit-Linked Notes	265,658	−13.9	0.6	11,240	−14.3	0.2	23,635	0.4
Reverse Convertibles	1,630,728	−20.2	4.0	93,931	−17.8	1.8	17,361	−3.0
Discount Certificates	8,943,798	5.8	21.7	209,325	4.6	4.1	42,727	1.1
Express Certificates	763,316	−13.7	1.9	43,575	−3.8	0.8	17,517	−10.3
Bonus Certificates	5,716,875	−1.9	13.9	160,023	−13.4	3.1	35,725	13.3
Tracker Certificates	3,430,300	−30.8	8.3	211,021	−33.7	4.1	16,256	4.4
Outperformance Certificates/Capped Outperformance Certificates	78,347	−41.8	0.2	4,555	−37.0	0.1	17,200	−7.6
Total	**21,295,297**	**−10.0**	**51.7**	**755,965**	**−19.1**	**14.7**	**28,170**	**11.2**
Leverage products								
Warrants	5,357,308	−36.0	13.0	1,157,868	−22.8	22.5	4,627	−17.2
Constant Leverage Certificates	3,154,909	−46.6	7.7	498,075	−20.3	9.7	6,334	−33.0
Knock-Out Warrants	11,404,372	−19.2	27.7	2,731,694	−9.0	53.1	4,175	−11.2
Total	**19,916,589**	**−29.9**	**48.3**	**4,387,636**	**−14.4**	**85.3**	**4,539**	**−18.0**
Aggregate total	**41,211,886**	**−20.8**	**100.0**	**5,143,601**	**−15.1**	**100.0**	**8,012**	**−6.7**



Exchange turnover by product category

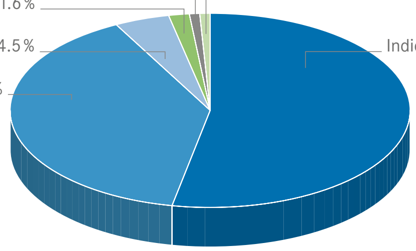
Bucking the general downward trend in exchange turnover, Discount Certificates registered a growth of 5.8 percent to EUR 8.9 billion in 2016. With an almost unchanged trading volume of EUR 5.7 billion, Bonus Certificates also held up well against the overall trend. The aggregate exchange turnover was almost equally split between investment products (51.7 percent) and leverage products (48.3 percent). With a market share of 27.7 percent, Knock-Out Warrants led the pack in 2016. They were followed by Discount Certificates with a 21.7 percent share and Bonus Certificates with a share of 13.9 percent of the exchange turnover.

With a share of 85.3 percent of all orders, trading in leverage products was much more popular than trading in investment products. Knock-Out Warrants ranked first, accounting for 53.1 percent of the total order number. Warrants followed second with 22.5 percent. In third place, Constant Leverage Certificates claimed a 9.7 percent share of all orders executed.

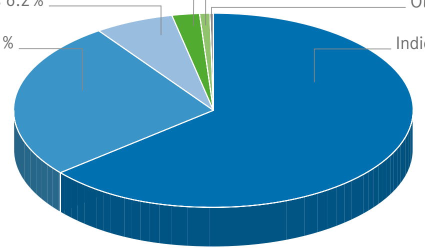
Total exchange turnover by underlying in 2016

	Volume in € '000	Compared with 2015 in percent	Market share in percent
Investment products			
Indices	11,367,675	–3.8	53.4
Equities	8,317,865	–10.7	39.1
Commodities	948,072	–35.3	4.5
Currencies	3,222	–67.8	0.0
Interest rates	330,261	–26.8	1.6
Investment funds	141,832	121.9	0.7
Others	186,371	–66.7	0.9
	21,295,297	**–10.0**	**51.7**
Leverage products			
Indices	12,751,181	–32.0	64.0
Equities	5,266,960	–23.1	26.4
Commodities	1,236,052	–5.3	6.2
Currencies	483,128	–60.8	2.4
Interest rates	164,860	–8.3	0.8
Investment funds	3	–97.4	0.0
Others	14,404	–80.2	0.1
	19,916,589	**–29.9**	**48.3**
Total	**41,211,886**	**–20.8**	**100.0**

Investment products by underlying in 2016



Leverage products by underlying in 2016



Exchange turnover by underlying

Turnover in investment products with investment funds as an underlying jumped by 121.9 percent to EUR 141.8 million in 2016. However, their impact on the overall result was minimal, as they only accounted for 0.7 percent of the total exchange turnover. Given the general decline in exchange turnover, investment products with indices as an underlying performed quite well. Their trading volume totalled EUR 11.4 billion, representing 53.4 percent of the exchange turnover in investment products.

Products with indices, equities and commodities as underlyings accounted for more than 96 percent of both investment products and leverage products. As in the previous year, the heavyweights were products with indices as an underlying. They accounted for 53.4 percent of exchange turnover in investment products and a hefty 64 percent of leverage products. Equities came in second place as an underlying, with a market share of 39.1 percent of investment products and 26.4 percent of leverage products. Commodities ranked third, with a market share of 4.5 percent of investment products and 6.2 percent of leverage products.

The DDV at work: **organisation, committees, executives and staff**

The association's Board of Directors and its committees deal with many specific issues. Almost every week, the individuals responsible meet in various groupings. A look at the calendar for 2016 shows as many as seven meetings of the Board of Directors, fourteen regular meetings of the committees, and numerous meetings of various task forces and project groups. On top of this, there are general meetings as well as meetings of the Academic Advisory Board and of the European umbrella association, EUSIPA.

→ General meetings

Eighteenth general meeting on 15 March 2016
Nineteenth general meeting on 12 September 2016

→ Meetings of the Board of Directors

Seventieth meeting on 19 February 2016
Seventy-first meeting on 6 April 2016
Seventy-second meeting on 20 May 2016
Seventy-third meeting on 8 July 2016
Seventy-fourth meeting on 2 September 2016
Seventy-fifth meeting on 7 October 2016
Seventy-sixth meeting on 11 November 2016

→ Academic Advisory Board

Thirteenth meeting on 15 July 2016

→ EUSIPA Board Meeting

Sixteenth meeting on 11 May in Brussels
Seventeenth meeting on 2 November in Zurich

→ Committee meetings

Regulation and Investor Protection Committee

Thirty-eighth meeting on 16 February 2016
Thirty-ninth meeting on 19 April 2016
Fortieth meeting on 28 June 2016
Forty-first meeting on 14 September 2016
Forty-second meeting on 30 November 2016

Issuance Business Committee

Thirty-ninth meeting on 16 February 2016
Fortieth meeting on 19 April 2016
Forty-first meeting on 28 June 2016
Forty-second meeting on 14 September 2016
Forty-third meeting on 30 November 2016

Tax Committee/Project Group 871(m)

Meeting on 22 February 2016
Meeting on 18 July 2016
Meeting on 16 November 2016
Meeting on 9 December 2016

→ Board of Directors

Stefan Armbruster
is Managing Director at Deutsche Asset & Wealth Management Investment GmbH, the asset management arm of Deutsche Bank AG, responsible for structuring and distribution of structured products and warrants.

Jan Krüger
is Head of the Equity Markets business at LBBW and is responsible for trading, risk control for equities and equity derivatives, and product management.

Klaus Oppermann
is Head of Public Distribution in the Corporates and Markets division at Commerzbank AG. He is responsible for the public distribution and marketing of securitised derivatives in Germany and other European countries.

Grégoire Toublanc
is Head of Exchange Traded Solutions at BNP Paribas and is responsible for the distribution and marketing of structured products.

Dr Hartmut Knüppel
is CEO and Member of the Board of Directors at Deutscher Derivate Verband (DDV). He has previously served in various roles in politics and industry.

(March 2017)

→ Strategic Board

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Deputy Global Head
of Private Investor Products
Global Head of Corporate
Investment Products

Frank Burkhardt
Société Générale S.A.
Managing Director

Stefan Hachmeister
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Sales Institutional Clients

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Dr Jörg Kukies
Goldman Sachs International
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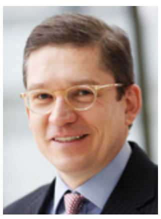
and Investment Banking



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Member of the Board of
Managing Directors

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Spokesperson of the Management Board

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UBS Deutschland AG
Member of the Executive Board

Ralf Woitschig
Bayerische Landesbank
Member of the Board of Management

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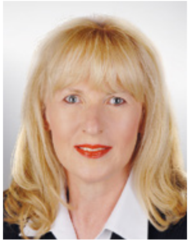
→ Academic Advisory Board



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Professor Dr Christian Koziol
Eberhard Karls University of Tübingen

Professor Dr Bernd Rudolph
Ludwig Maximilians Universität of Munich

Professor Dr Dirk Schiereck
Technische Universität of Darmstadt

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→ Regulation and Investor Protection Committee

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→ Issuance Business Committee

(left to right) Braun, Krull, Lorscheid

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→ Tax Committee

(left to right): Sandkühler, Wagner, Lappas

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