DDV

Deutscher Derivate Verband

ANNUAL REPORT 2022

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As at May 2023

Deutscher Derivate Verband
Annual Report 2022

Foreword

In 2022, investors were faced with major challenges: The Russian attack on Ukraine, sharply rising prices for energy and commodities, strict lockdowns in China, and increased supply chain disruptions pushing inflation rates to heights not seen for decades, with central banks trying to keep up by massively hiking interest rates. As a result of steadily increasing interest rates and a gloomy economic outlook, the stock and bond markets were weak, with the popular products of previous years hit particularly hard: Shares of growth and technology companies lost more than average, while value stocks rose in investors' favour.

However, the steep fluctuations also presented many opportunities – especially for structured products: The high volatility and increased interest rates made the conditions and comfortable safety buffers of many investment product categories very interesting for investors – and these products were heavily used to achieve returns in sideways and even falling markets. Many investors also used leverage products for positioning and hedging. In the DDV's December 2022 trend survey, some 17.3 percent stated that they had achieved returns of over six percent over the year with their portfolio – they were also able to resist the downward trends of most asset classes with the help of structured products.

Structured products were thus able to consolidate their place in German securities accounts. The market volume in structured products reached 80.5 billion euros at the end of November – the highest volume in eight years. In addition, some 58 billion euros of structured products were traded on the Stuttgart, Frankfurt, and gettex exchanges alone in 2022. This is the third-highest volume

From left to right: Christian Vollmuth, Jan Krüger, Peter Bösenberg, Christine Romar, Markus Bärenfänger, Dr Henning Bergmann

since statistics began in 2013; in terms of transactions, it was actually the strongest trading year on record.

Closer to home, we also restructured the Association's Board of Directors in 2022. Dr Henning Bergmann and Christian Vollmuth act as CEOs, while Markus Bärenfänger (DZ BANK), Peter Bösenberg (Société Générale), Jan Krüger (LBBW), and Christine Romar (Citi) complete the Board in their honorary positions.

We undertake to communicate the added value and flexibility provided by structured products in a portfolio to the general public, to promote a culture of enlightened, responsible investors, to facilitate access to structured products for all, and to continuously improve the conditions for our industry, thus contributing to the sustainable development of the market. In doing so, we want to continue to constructively shape national and European legislation and regulation, and develop solutions that work for everyone.

We are facing the many challenges that the coming year brings – and look forward to constructive discussions with our members and supporting members, so we can actively shape change together and transparently.

The DVD Board of Directors

INDICES


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+140.04 -3.36
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"Structured products are a part of the solution"

Interview with Dr Henning Bergmann and Christian Vollmuth, CEOs and Members of the Board of Directors

2022 was another challenging year on the markets. How did this impact investors and policymakers?

CV: The majority of structured products show their strengths particularly in market phases that are characterised by uncertainty – their conditions are attractive where fluctuations are high, they can deliver returns even when markets are moving sideways, they are able to absorb moderate downward movements, and can serve as a hedge. Investors have learned to use these instruments and know how to deal with such market phases. This is reflected in the satisfying development of turnover and market volumes – proof to us that structured products are an indispensable part of investment culture, particularly in times of crisis.

HB: Policymakers have been intensively engaged in counteracting the fundamental causes of these intense market developments. Financial market regulation has not been markedly in the foreground. However, in parallel, work on longer-term projects has continued, which is no less labour-intensive: The EU is working on the Retail Investment Strategy. And, at the German federal level, the Future Financing Act (Zukunftsfinanzierungsgesetz) should provide positive stimulus.

The Retail Investment Strategy aims to motivate as many people as possible to invest in the markets and make it easier for them to do so. In your view, is the right approach being taken?

HB: More and more people in Germany are investing their money in securities. Despite all the price movements in 2022, they want to make increased use of the investment opportunities of the capital market. This is a positive development that the European Union should continue to promote. There are, however, very divergent investor groups – their respective needs have to be taken into account in the interest of a good investment culture. As such, we continue to advocate for the coexistence of both fee-based and commission-based advisory services. A ban on commissions would effectively prevent broad sections of the investor community from receiving investment advice. Many people consider the fees for advisory services to be too high and therefore do not accept them. Indeed, fees are only economical for higher investment amounts. Furthermore, in the non-advised business for self-directed investors, no "compulsory advice" should be introduced.

How do you think sustainable finance will develop, and what role will structured products play here?

CV: Structured products can make an important contribution to sustainable finance. Under MiFID, there are currently three categories of sustainability preferences provided by the legislator. In principle, structured products can fulfill any of these categories. It's important to us that we receive the same level of clarity and transparency from policymakers and regulators that we use in our communications with investors. The concepts of the legislator, for example, on the degree of sustainability, are too complex and thus difficult to understand for many. An illustrative example of this is that there are two different definitions of a "sustainable investment"; one according to the EU Taxonomy, the other according to the EU Disclosure Regulation. Furthermore, ESG-related requirements currently apply only to some financial instruments – mainly to funds. I am convinced that avoiding greenwashing in financial products is of considerable importance for the success of sustainable transformation. However, a clear regulatory framework is needed first, which is unfortunately still lacking in some places at present.

"Especially in challenging market phases like 2022, structured products can help set up portfolios in a more nuanced and defensive manner - the majority of investment products already generate positive returns when markets move sideways and can also counterbalance weaknesses."

Christian Vollmuth, CEO and Member of the Board of the DDV

There's renewed policy interest in financial education and training in Germany – to what extent can the DDV contribute to this?

CV: Since its foundation, the DDV has been a strong advocate of transparency, standardisation, and product communication. We are pleased that financial literacy has now also become a policy concern. Only well-informed investors with a solid understanding of economic relationships, the capital markets, and the securities traded there can make confident investment decisions, accompanied by advice or as self-directed investors. We want to actively participate in the discussion and continue contributing to reducing complexity in product information, most importantly bringing it to a comprehensible level. The most important concepts here are EU labels, sustainability labelling, and risk indicators. Certainly, current forms of communication and media also need to be reconceptualised. I'm thinking here of the Key Information Document – especially with regard to a new generation of investors who clearly prefer electronic delivery and uncomplicated usability with just a few clicks.

Digital transformation and blockchain technology in particular are hot topics. Will this find its way into the securities business and, if so, what will this mean for structured products?

HB: The securities business in Germany is already very efficient and well positioned digitally. Its performance and reliability are second to none. Nevertheless, new digital applications can further increase efficiency and speed, and improve services even more. These opportunities should be seized. With the Electronic Securities Act of 2021 and a supplementary regulation, Germany has established the basis for issuing securities electronically – even based on distributed ledger technology infrastructure – as well as for maintaining the corresponding registers. The industry is already taking its first steps here. For structured products in particular, further cost advantages may arise in future, which will ultimately benefit investors as well.

What are your expectations and hopes for the current year?

HB: The Retail Investment Strategy poses major challenges with respect to investor protection regulation. In addition to preserving commission-based advisory services and not hastily banning payment for order flow, we must also make sure that experienced self-directed investors in the non-advised business do not find their way to capital markets impeded by excessive bureaucracy. What is needed here are practical guidelines that are also accepted by the clientele. We hope that the coming regulations will take all investors into account and offer something suitable for everyone. It's about strengthening diversity – with an adequate level of investor protection. At the national level in Germany, particular effort should be made to improve the tax framework for investors – a first step has been taken here with the increase in the savings allowance.

CV: Our goal is to further highlight the benefits of structured products for a modern investment culture. Alongside equities, ETFs, and funds, structured products are part of the investment universe open to private investors and represent a part of the solution.

"Future regulations must take into account the different expectations and situations of investors."

Dr Henning Bergmann, CEO and Member of the Board of the DDV

EQUITIES

Regulation needs to take all investors into consideration

The Retail Investment Strategy should appropriately strengthen diversity in the market

In Germany, securities can be acquired in many different ways. Supply is extremely broad at all levels – issuers, direct banks, and exchanges. Many options are available, and there are suitable products for very different investment needs, different acquisition channels, and different risk preferences. An investor-centric approach, which the European Commission intends to pursue with the new Retail Investment Strategy, should therefore adequately reflect the entire spectrum of consumer demand. As such, in many cases the best approach is probably not “either/or”, but rather “both/and”.

Receiving commission-based advice: Up to the client

This applies, for example, to the very heated discussion about advisory models and the underlying question of the permissibility of inducements in the context of commission-based advisory services. In 2021, a study by the professional services firm KPMG found that fee-based advice is more expensive than commission-based advice up to an investment amount of 25,000 euros. According to the study, the median financial assets of German households total 16,900 euros. As such, fee-based advice is by no means cheaper for most investors in Germany.

In addition, according to a representative survey conducted by the market research and consulting company Kantar, only 16 percent of respondents would consider paying a separate fee for consulting. They considered, on average, an hourly rate of 35 euros to be appropriate, and only 0.3 percent would be prepared pay the current actual rate of 180 euros an hour. In contrast, the vast majority (74 percent) would not be willing to pay a fee for consulting.

Germany has a wide range of different advisory services. Commission-based advice ensures that the doors to securities advice are open to millions of people without an entry fee. The DDV believes that these doors need to remain open in order to continue to facilitate access to the capital market for as many investors as possible.

The non-advised business should remain attractive and diverse

The call for the diversity of services and products on offer also applies to the non-advised business. Many experienced investors in Germany do not want recommendations and must be able to access the entire product range. This is illustrated, for example, for leverage products in the 2020 study by Prof. Dr Steffen Meyer and Prof. Dr Lutz Johanning, which was based on a broad sample of investors. In its targeted consultation in February 2022, the European Commission presented an approach with different ways to improve the suitability and appropriateness assessments. This must not lead to the disappearance of the non-advised business. The current appropriateness regime has proven itself, especially in Germany, and investment advice should not be made compulsory. Moreover, the European Commission's plans should not end in a levelling of the services offered by splitting the products into service categories or by designing uniform portfolios. This would lead to automated advice on standardised products. Instead, diversity needs to be preserved.

"In the non-advised business segment, investment advice should not be made compulsory."

Dr Henning Bergmann, CEO and Member of the Board of the DDV

Streamline investor information and harmonise cost information

An excess of irrelevant information can be counterproductive in the information and documentation provided with investment advice. Less is sometime more – at least this is the feedback frequently received from the market. In the latest DDV issuer survey, around half of those surveyed are in favour of streamlining the mandatory information for investors. When providing information via websites, special publications, training courses, and videos, issuers go beyond legal requirements so that informed investors can make the best possible investment decisions. As such, information and documentation relating to securities investments for private individuals should be as appropriate and practical as possible.

Are the costs for investors too high?

Questions are often asked about the costs of securities investments – often with a critical undertone. The latest study by the Academic Advisory Board of the DDV clearly addresses this criticism with academically sound work. According to the study, on average, structured products have relatively low costs in Germany. The study shows the average total costs of structured investment products in the second half of 2020 to be 0.81 percent per year of investment – around a fifth less than in the previous study conducted three years earlier. Furthermore, the costs of structured products have become increasingly transparent over the years.

It is also important that cost information is comprehensible for investors, so it can be correctly understood and managed. Inconsistent sources of information should therefore be avoided – however, this is precisely the danger that exists due to diverging requirements for the disclosure of costs under MiFID and the Key Information Documents according to PRIIPs. In its proposals for the EU Retail Investment Strategy, which are expected in the first half of 2023, the European Commission should correct this discrepancy.

New requirements for the Key Information Documents will apply as of 1 January 2023. There will also be some changes with respect to costs – but a uniform presentation of costs will not yet be achieved.

> "The costs of structured products have become increasingly transparent over the years."
>
> *Dr Henning Bergmann, CEO and Member of the Board of the DDV*

No rushed ban of payment for order flow – retail investors should continue to have easy access to securities investments

The number of securities investors in Germany is growing. This satisfying trend is also reflected in the number of securities accounts – according to the German Bundesbank, the number of securities accounts rose to almost 30 million by the end of 2022. This development was given a boost by a compensation practice known technically as payment for order flow (PFOF), where brokers receive fees or commissions from a third party (usually a market marker or systematic internaliser) for forwarding client orders to the third party for their execution. Through such payments, providers are able to offer services to their clients at low direct fees. This practice is being discussed very critically in Brussels. However, before undertaking serious intervention, such as a ban on payment for order flow, the effects should be carefully analysed and evaluated.

Constructive solutions are needed. The keys to this are intense competition, strict compliance with requirements relating to the use of compensation, and the possibility for clients to choose between execution venues.

New developments in sustainable finance

Sustainable finance kept legislators and supervisory authorities busy in 2022 as well. At the EU level, among other measures, the EU Green Bond Regulation proposed by the European Commission in 2021 went through the legislative process, but final adoption was still pending at the end of the year. In contrast, the new EU Corporate Sustainability Reporting Directive (CSRD) was adopted shortly before the end of the year. According to the directive, companies will have to provide much more comprehensive information on sustainability than before, starting in the 2024 financial year. This information is also relevant for financial instruments with sustainability characteristics that relate to securities of the respective company, in particular to fulfil product-related sustainability requirements.

In 2022, new sustainability requirements for product distribution came into force. Since the beginning of August 2022, when providing investment advice, it has been mandatory to ask clients about their sustainability preferences for the investment based on predefined criteria. For these clients,

Association Concept/Target Market Concept jointly developed by the DK, the DDV, and the BVI.

Other products - Not part of the MiFID target market		Products which may be addressed to customers with sustainability-related objectives pursuant to Art. 9 No 9 subpara. 1 MiFID II Delegated Directive		
Basic	ESG strategy product	PAIs (Consideration of significant adverse impacts, lit. c)	Sustainable investments as defined by the SFDR (ES, lit. b)	Ecologically sustainable investments (Taxonomy, lit. a)
Company takes into account the UN Global Compact + has a sustainability rating + Company takes into account ESG product and transparency standard	Underlying(s): dedicated ESG strategy + Company takes into account the UN Global Compact and Company achieves the status of a sustainable company with at least one rating agency + Company takes into account ESG product and transparency standard	Company takes into account standard PAIs and the UN Global Compact; Company achieves the status of a sustainable company with at least one rating agency + Underlying(s): dedicated ESG strategy with selective consideration of standard PAIs through the minimum exclusions + Company takes into account a recognised industry standard	Impact-related investments as defined by the SFDR: specific percentages + Company takes into account the UN Global Compact and Company achieves the status of a sustainable company with at least one rating agency + Underlying(s): dedicated ESG strategy; no serious violations of the UN Global Compact and democracy/ human rights + Company takes into account a recognised industry standard	Impact-related investments as defined by the Taxonomy Regulation: specific percentages + Company takes into account the UN Global Compact and Company achieves the status of a sustainable company with at least one rating agency + Underlying(s): dedicated ESG strategy; no serious violations of the UN Global Compact and democracy/ human rights + Company takes into account a recognised industry standard

Source: www.derivateverband.de, Transparency section, Target-Market-Concept three categories have been firmly specified by the legislator: The percentages of sustainable investments relevant for the product in accordance with (i) the Taxonomy Regulation or (ii) the Sustainable Finance Disclosure Regulation (SFDR), as well as (iii) the consideration of principle adverse impacts (PAIs).

In order to be able to check client preferences for individual financial instruments, distributors need product-related data, which must be provided by issuers. Accordingly, issuers and distributors together were intensively engaged in providing this data until the new obligations came into force. This also included agreeing on standardised data formats and the required calculation methods. At the same time, numerous new requirements (especially from the European supervisory authorities) had to be taken into account with regard to these obligations and other relevant requirements in the field of sustainability.

The DDV has been dealing intensively with the topic of sustainable finance for several years, as well as with the question of what contribution structured products can make to it. As such, the new version of the DDV Sustainable Finance Code of Conduct, which has been in force since 2021, has been adopted in time for the new sustainability requirements relating to product distribution. This has been particularly instrumental in aiding DDV members to implement the current target market concept. This concept was jointly developed for financial instruments such as structured products by the German Banking Industry Committee (Deutsche Kreditwirtschaft, DK), the German Investment Funds Association (BVI Bundesverband Investment und Asset Management, BVI), and the DDV.

A paradigm shift has taken place – away from product categories to the three categories of client sustainability preferences newly specified by the legislator for advisory services. As specified in the original version of the DDV Sustainable Finance Code of Conduct, there are additional requirements for the underlying, the issuer, and the product.

By creating such standards, the DDV Sustainable Finance Code of Conduct contributes to confidence in the market: Investors can rely on the fact that structured products actually have sustainability characteristics if the relevant requirements of the Code are met.

Sustainable Asset Pool: A further model within the framework of sustainable finance

Since 2021, the members of the DDV have also been working on the concept of a Sustainable Asset Pool. According to this approach, structured products with sustainability characteristics can also be issued with the promise of a special use of proceeds: Namely, that the issuer maintains a separate (from an accounting perspective) portfolio of assets – an asset pool – for the respective issuance proceeds. For this Sustainable Asset Pool, there are published internal frameworks combined with regular audits and reports.

Similar to green bonds, the assessment of the sustainability characteristics of such structured

"Investors can rely on the fact that structured products actually have sustainability characteristics if the relevant requirements of the DDV Sustainable Finance Code of Conduct are met."

Christian Vollmuth, CEO and Member of the Board of the DDV

products is then based on the assets contained in the pool. One of the advantages of this concept for investors is the special transparency associated with the "allocation principle" of the use of proceeds. It is clear at all times that the assets selected according to the specifications of the internal framework are used for the sustainability rating of the product. This concept has also been included in the new version of the DDV Sustainable Finance Code of Conduct.

The DDV advocates the sustainability traffic light system

The German federal government's 2021 sustainable finance strategy already envisaged the introduction of a sustainability traffic light (Nachhaltigkeitsampel) system. The government's Sustainability Advisory Council, in which this proposal was originally developed, resumed work on the concept in autumn 2022, which is now known as the ESG scale (ESG-Skala). It is now proposed that the scale be anchored at the European level through the mandatory inclusion of the corresponding information in the Key Information Documents for financial products. The proposed scale provides for levels A, B, and C (the highest level, A, has sub-levels), combined with a colour coding scheme for the products. The DDV welcomes this approach – this kind of financial product labelling can make it much easier for investors to get their bearings and make decisions, especially in view of the overall complexity of regulation on the topic of sustainability.

Regulation remains far too complex – a readjustment is called for

The introduction of a set of rules on sustainable finance is by its very nature not an easy undertaking – there is no natural definition of sustainability in the financial sector, but rather a multitude of potential approaches and aspects that have also evolved over the years. The EU regulations introduced in recent years make it unnecessarily difficult for all parties involved (especially investors) to deal with sustainability in the financial sector. In many places, the rules are unduly complex and insufficiently coordinated. An illustrative example of this is that there are two parallel definitions of a "sustainable investment" from two EU regulations. From the DDV's point of view, the legislation needs to be readjusted in the next few years to prevent interested parties from keeping away from sustainable investments due to difficulties in understanding these products.

It remains the DDV's goal to support the shift to sustainability in society and the economy to the best of our ability and with everything that structured products can contribute. This is why we continue to set standards in the market and contribute to the policy-making process.

Link to the DDV Sustainable Finance Code of Conduct

New Key Information Documents at the turn of the year – but an ideal solution has yet to present itself

The year 2022 should have been a significant one for the PRIIPs regime. There were, in fact, some changes, but these were preceded by tough discussions, which resulted in delays. The difficulties arising from comparing very different products were already evident at the beginning and have not yet been fully overcome.

The basic concept still makes sense – but within certain limits

The PRIIPs Regulation entered into force on 1 January 2018, and stipulates the provision of a Key Information Document (KID) for packaged retail and insurance-based investment products (PRIIPs). The regulation aims to strengthen investor protection and restore the confidence of retail investors in the market through increased transparency. The introduction of KIDs is intended to enable retail investors to understand and compare the potential performance and costs of PRIIPs on the basis of key features and risks, and to allow them to make informed decisions on this basis.

One of the major challenges of the PRIIPs regime lies in its objectives, which include enabling a comparison of the costs and performance of products as different as, for example, structured investment products and annuities. This is equivalent to comparing apples and oranges, and perhaps even bananas.

The PRIIPs Regulation had a bumpy start: The European Parliament initially rejected the Regulatory Technical Standards (RTS) of the EU supervisory authorities EBA, EIOPA, and ESMA. The start of the regulation thus had to be postponed by a year to 1 January 2018. The second version of the RTS (RTS 2.0) also took several attempts. This was finally published on 7 September 2021 and has been applicable since 1 July 2022. As a result, the applicability of the PRIIPs Regulation to the funds industry had to be postponed to 1 January 2023. The material scope of application is still unclear, and, since the introduction of the PRIIPs Regulation, there have been strongly diverging views on how the performance of products should be presented.

RTS 2.0 specifies individual points in the existing KIDs in further detail. The modified provisions for the contents of the PRIIPs KID take into account the special features of funds, to which the PRIIPs Regulation has also been applicable since the beginning of 2023. The changes also aim to address some of the weaknesses in the existing KIDs and improve comprehensibility and comparability. The new RTS also introduces an additional methodology for performance scenarios – and thus continues the long-running dispute about the presentation of performance.

Another shortcoming that the DDV has consistently indicated is the partial shift of responsibility to the PRIIP manufacturers stipulated by the legislator. The legislator makes them responsible for correcting the data calculated on the basis of the legal requirements if these lead to misleading results. The introduction of such discretionary elements clearly comes at the cost of comparability and the establishment of market standards, which is why the DDV has always advocated limiting the exercise to exceptional cases.

The tension between the comparability and the comprehensibility of the information contained in the KID remains a dilemma in the PRIIPs regime – both in the new RTS as well as at level 1 in the PRIIPs Regulation itself. If too much attention is paid to the comparability of the products, which can be highly divergent at times, the comprehensibility of the KID suffers – and comprehensibility should be the more important goal in the context of investor protection.

The DDV supports implementation by members with KID templates and guidelines

With the recently adopted amendments to the RTS, the financial sector faced a major regulatory change, and the timely implementation of these by 31 December 2022 posed no small challenge (the revised version of the RTS came into force only in July 2022). The DDV was able to support its members with implementation by creating revised KID templates and a DDV PRIIPs guide. In addition, the ongoing dialogue with BaFin and various working groups (both internally and at EUSIPA) made it possible to convey essential information to DDV members. The DDV was also able to support its members in the communication with WM Datenservice – where all amended PRIIPs KIDs had to be submitted.

Review of the PRIIPs Regulation can bring decisive improvements

The main stumbling blocks of the content of the PRIIPs regime were not resolved by the RTS. Still, the next steps have already been mapped out: On 2 May 2022, the European Supervisory Authorities (ESAs) published their technical advice to the European Commission on the review of the PRIIPs Regulation. In it, the ESAs recommend significant changes to the PRIIPs Regulation, and encourage the Commission to consider a comprehensive review of the PRIIPs framework and conduct appropriate consumer testing before formulating proposals for changes. The recommended changes aim, among other things, to improve the presentation of information to consumers and make it easier for them to compare different products, such as by using different approaches for different products. In the technical advice, the ESAs also suggest adapting the KID to digital media and making greater use of the potential of digital publication, for example, by multi-layered presentation (layering) and adapting the format for readability on smartphones. With further digital development, it should also become feasible to provide a more personalised information sheet. In addition, sustainability should be give more attention.

The PRIIPs regime has thus yet to provide an ideal solution. One cannot speak of a “new (PRIIPs) KID on the block” – at least in the world of structured products with respect to the changes in RTS 2.0. In the ongoing legislative process, the DDV advocates that the comprehensibility of the Key Information Documents is further improved, even if this means that comparability, at times, is relegated to second place.

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Digital transformation of the capital market: Things are moving forward

The German Electronic Securities Act (Gesetz über elektronische Wertpapiere, eWpG) came into force on 10 June 2021. In addition to shares in certain investment funds, companies can now issue bearer bonds – including structured products – also in electronic form. Until now, the physical securitisation of a bond issuance by means of a global note deposited with a central securities depository was customary (in Germany, this is Clearstream Banking AG). If an issuer opts for an electronic issuance, a database entry in a legally defined register is now sufficient for the issuance to take place.

For electronic securities, the eWpG differentiates according to the type of register: Central register securities are entered in a central register, which may be maintained either by a central securities depository or a custodian bank (if expressly authorised by the issuer).

"The securities industry is one of the most advanced businesses with respect to digital transformation. Its performance and reliability are second to none."

Dr Henning Bergmann, CEO and Member of the Board of the DDV

In contrast, a crypto security is to be registered in a crypto security register, which is based on a decentralised database structure. The main use case of such a distributed ledger technology (DLT) is the blockchain. The maintenance of a crypto securities register constitutes a newly introduced financial service subject to authorisation. The register may be maintained by central securities depositories and custodian banks, as well as by other companies that have obtained the necessary permission from the German Federal Financial Supervisory Authority (BaFin). The issuer itself may also maintain the crypto securities register if it does not commission a service provider for this purpose.

The technical requirements that apply to each of the two variants of register maintenance are not contained entirely in the eWpG. Rather, the specification of details has been delegated to the German Federal Ministry of Justice (Bundesministerium für Justiz) and the German Federal Ministry of Finance (Bundesfinanzministerium). The ministries issued a joint decree on the requirements for electronic securities (eWpRV) with effect from 29 October 2022. This now defines all regulatory requirements for the issuance of electronic securities under German law and for the maintenance of the associated registers.

Issuance activities for crypto securities are also gaining pace. This list of crypto securities to be maintained by BaFin on the Internet pursuant to Section 20(3) of the eWpG is expanding. In some cases, issuances are conducted using an external service provider as crypto securities registrar, in others the issuer itself acts as registrar. The initial issuances have since been repaid and have been deleted from the register.

The Deutsche Börse Group is driving digital transformation in central register securities via Clearstream. Under the project name D7/DI Execution, it has enabled issuers to issue debt securities and structured products in electronic form since autumn 2022. The first issuers of fixed-income securities have already made used of this.

Upon delivery, the issuer provides Clearstream with the data relating to the securities as well as the legal documentation required for distribution, such as the terms and conditions of issuance or Key Information Documents. For transmission, Clearstream will move from a simple user interface to a programming interface in the future. All information on an issuance will be compiled by Clearstream in a digital instrument (DI) and can be accessed by the parties involved (distributors, supervisory authorities, exchanges, data providers, or other central securities depositories). In addition, a smart contract can be deposited in the digital instrument for the respective product. This could, for example, simplify the servicing of capital by automatically triggering distributions or repayments when certain pre-programmed conditions are met.

"For structured products issued in large quantities, new digital technologies can give rise to advantages that ultimately also benefit investors."

Dr Henning Bergmann, CEO and Member of the Board of the DDV

Besides Luxembourg. Germany is currently the only EU member state with an independent, dedicated legal framework for digital securities. However, Brussels is following suit. An EU regulation on the DLT Pilot Regime came into force on 23 March 2023. This establishes a limited test environment in which DLT market infrastructures for trading and settling DLT financial instruments can develop. In order to give the participants in the pilot phase the necessary regulatory leeway, exemptions from certain otherwise applicable requirements of the European Central Securities Depositories Regulation (CSDR) and the European Markets in Financial Instruments Regulation (MiFIR) can be made.

Finally, another EU regulation is expected in 2024: The Markets in Crypto-Assets Regulation (MiCA) is intended to create a legal framework for crypto-assets, crypto-related activities and services, and the parties involved in these activities. Specific regulations will also apply to issuers and providers of asset-referenced tokens (ARTs), such as stable coins, as well as electronic money tokens (EMTs), which only reference a single traditional currency.

For the DDV, the digital transformation of the capital market is an important topic of the future. In order to explore the potential of this future technology for the industry, the association is in ongoing dialogue with its members.

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COMMODITIES

Increase the attractiveness of capital markets and establish an appropriate tax framework

In the current legislative period, the German federal government is providing important and welcome impetus to the capital market by means of the Future Financing Act (Zukunftsfinanzierungsgesetz). Nevertheless, the DDV believes that further steps are necessary to make investment in retail securities more attractive. This also requires an appropriate tax framework.

With the Future Financing Act, the German Federal Ministry of Finance and the German Federal Ministry of Justice intend to strengthen the performance of the capital market. They are taking this approach because the financing of the urgently needed investments in the future cannot be left to the public sector alone. Access to the capital market is to be facilitated, especially for young companies, and financing options on the capital market in general are to be improved. Furthermore, the draft law aims to provide greater tax incentives for employee share ownership and to increase the attractiveness of equities. In future, it should also be possible to issue these equity securities in electronic form on the basis of the German Electronic Securities Act (Gesetz über elektronische Wertpapiere). Through these and other individual measures in the field of financial market supervision, digital transformation and modernisation in the financial services sector are to be advanced.

"An appropriate tax framework can contribute to the attractiveness of securities investments."

Dr Henning Bergmann, CEO and Member of the Board of the DDV

In view of high inflation, rising energy prices, and other increases in the cost of living, accumulating and securing wealth presents a difficult task for many members of the public.

Given this situation, the DDV is of the view that the state should consider ways to better promote wealth accumulation across the board. The savings allowance (Sparer-Pauschbetrag) remains an ongoing topic of discussion. At the beginning of the year, this was increased from 801 euros to 1,000 euros (double for married couples). However, in view of rising interest rates, this should be adjusted soon. In 1993, the savings allowance was the equivalent of just over 3,000 euros (6,000 euros for married couples), so there is still room for improvement here.

Measures under discussion include increased support in the Capital Formation Act (Vermögensbildungsgesetz) combined with an increase in the income limit, as well as the introduction of further tax allowances for capital gains. However, at present, it is mainly direct equity investments or equity funds that are under consideration. The DDV proposes that improvements should be made here and that certain structured products should also be included. If these are equities-based and, instead of a cash payment, are geared to crediting the underlying equity to the securities account (physical delivery) at final maturity, they enable participation in the success of the company comparable to that of a direct investment in equities. As such, equities-based securities with physical delivery should be promoted in a similar manner.

There are also discussions about abolishing the separate offsetting groups for investment income as well as the limits to the amount that can be offset; this would also be required from a constitutional point of view. The DDV supports the goal of allowing the complete offsetting of gains and losses in securities investments in order to eliminate tax asymmetries and to simplify the procedures relating to the flat tax on private income from capital (Abgeltungssteuer).

Author: Carsten Heise, Legal Counsel

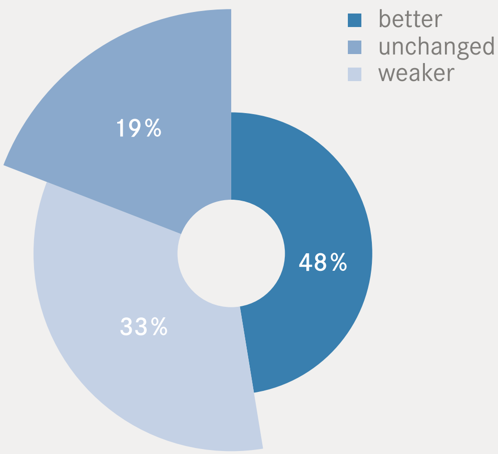
Issuers take an optimistic view of 2023

Inflation and sustainability drive innovation in structured products

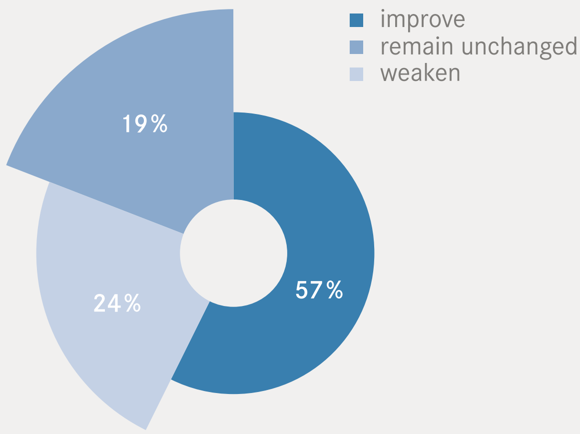
According to the 2022 DDV issuer survey, around two-thirds of issuers have growth plans for 2023 and want to continue investing in their structured products business. The 14 members of the DDV took part in the survey, as well as other issuers on the German market.

Issuer sentiment remains very positive: The vast majority expect business to improve or remain stable in 2023.

How did your structured products business develop in 2022 compared to the previous year?



How do you expect your structured products business to develop next year?

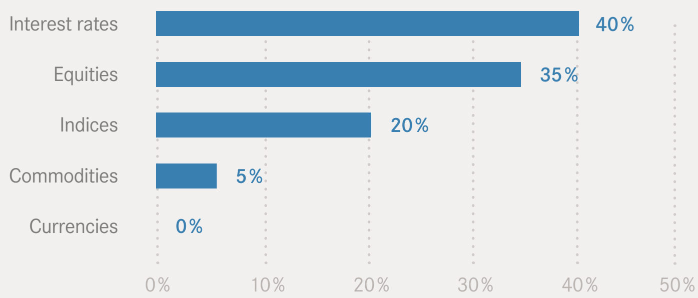


Percentage of participating issuers

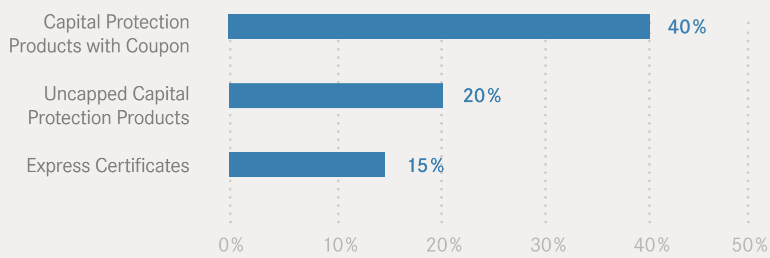
Two-thirds of issuers expect investment volumes to increase, while one-third expect volumes to remain constant. More than 50 percent of issuers want to expand their product range in terms of the available product categories and underlyings, but without significantly increasing the number of products.

When asked about the underlying assets in 2023, the participants expect the asset classes of interest rates (40 percent) and equities (35 percent) to lead the field. In the client advisory business, Capital Protection Products with Coupon (40 percent) and Uncapped Capital Protection Products (20 percent) will be among the favourites according to issuers.

In your opinion, what will be the top underlying of 2023?



In your opinion, which products will be in particular demand in client advisory services in 2023 (Top 3)?



Percentage of participating issuers

Main themes: Sustainable finance, inflation, and capital protection

More than half of issuers have already issued products with sustainability characteristics and plan to do so again in 2023. A moderate increase in the number of these products is expected; such products are mainly purchased in the client advisory business. The majority of issuers expect stable or growing sales volumes.

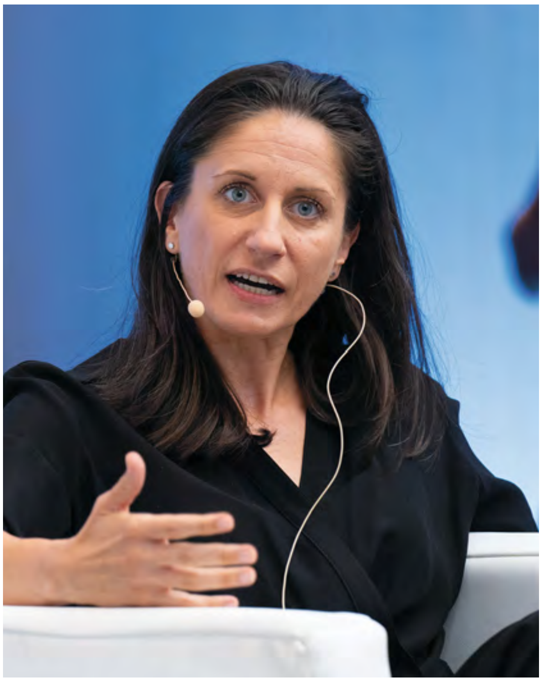
Most issuers also plan to focus on inflation as an investment theme. Hedging products are expected to continue to play a role as well, although the majority of issuers do not expect demand for these products to grow. The strong rise in interest rates allows for significantly more attractive conditions for capital protection products: Some 70 percent of issuers want to expand their offering in this product category for conservative investors.

14th German Derivatives Day

"Unlike 2008/2009, the financial sector is not the cause of the crisis. This is a positive difference. In this respect, I have no problem stating: It is not a part of the problem, it is a part of the solution."

Peer Steinbrück,
former German Federal Minister

12 September 2022
Hotel Steigenberger Frankfurter Hof



"In the summer of 2022, sustainability means becoming more transparent and honest. We want to first disclose where we are so that we can quickly take action from there in order to also make the right point politically."

Wiebke Merbeth, Partner, Strategy Consulting, Monitor Deloitte

"In this regard, questions like – What are certificates? What are derivatives? What are funds? What are ETFs? – are increasingly part of financial education and communication."

Peer Steinbrück, former German Federal Minister

"We have overcome a major crisis before. The current crisis is of a different nature. However, even this crisis – whose end no one can yet foresee – offers us opportunities again, which we have to seize."

Christian Vollmuth,
CEO and Member of the Board, DDV

"I note with respect that the Sustainable Finance Code of Conduct was presented a few weeks ago. It provides for various options on how to make a structured investment product sustainable. The green bond principle is one of several approaches. What I consider extremely innovative is the ring-fenced asset pool."

Prof. Dr Christian Koziol, Chair of Finance, Eberhard Karls Universität Tübingen and Chair of the Academic Advisory Board of the DDV

"The EU Taxonomy would have been a wonderful vehicle to say that these are the criteria that a product needs to meet to be considered sustainable. Unfortunately, this approach has been devalued to some extent. We need to take corrective action. We need other criteria. Under the previous government, we discussed the sustainability traffic light system. We also concurred in the coalition agreement that we might move in this direction at the EU level."

Sascha Müller, Member of the Bundestag, Alliance 90 / The Greens

"I think that the topic of green certificates will perhaps reach us sooner than we had imagined. Overall, the whole debate about green financial products has gained enormous momentum."

Alexandra Jour-Schroeder, Deputy Director-General, European Commission

"That’s why I want investors to know what’s involved. They’re supposed to develop precisely this perspective and make this transformation. I only have a problem with this is if it leads to pre-determined conclusions. I want to leave it up to individuals rather than a situation where the state ends up making the decisions."

Till Mansmann, Member of the Bundestag, FDP

"The financial sector has done its homework and changed for the better. As such, it’s difficult to understand why some still refer back to the financial market crisis or the Lehman bankruptcy in the current situation. That crisis was unique – and it was overcome."

Dr Henning Bergmann,
CEO and Member of the Board, DDV

DDV Business Journalism Awards

Winners of the 2022 DDV Business Journalism Awards

Melanie Bergermann
Business and investigative journalist at *WirtschaftsWoche*
Journalist of the Year

Carsten Korfmacher
Reporter at *Nordkurier*, for the series *Armes, reiches Deutschland*
Category: General Economic and Financial Policy

Birgit Wetjen
Editor-in-Chief at *Courage*, for the article *Nimmersatt*
Category: Financial Investments

Anton Riedl
Editor at *WirtschaftsWoche*, for the article *Zähmung des Feuers*
Category: Structured Products

Special Jury Award

The *Handelsblatt Today* podcast
with the editorial team of Mary-Ann Abdelaziz-Ditzow, Christian Heinemann, Florian Högerle, Lena Jesberg, Anis Mičijević, Maximilian Nowroth, and Alexander Voß

Reporter ohne Grenzen e. V.
received the Special Jury Award this year for its commitment to freedom of the press. The award was accepted by Executive Director Christian Mihr

Together with the Stuttgart, Frankfurt and gettex exchanges, the DDV Business Journalism Awards are presented annually in recognition of outstanding journalistic achievements.

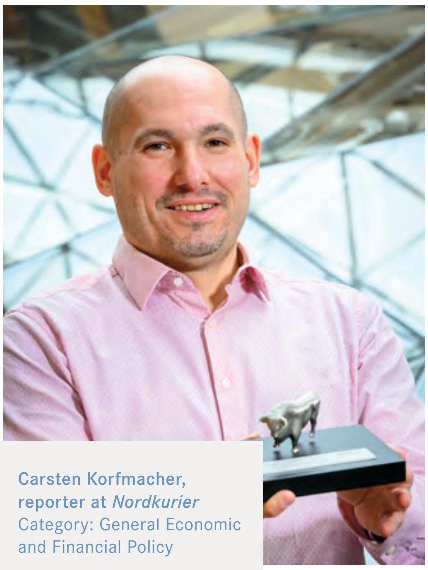
Melanie Bergermann, business and investigative journalist at *WirtschaftsWoche*
Journalist of the Year

Anton Riedl, editor at *WirtschaftsWoche*
Category: Structured Products

Christian Mihr, Executive Director at Reporter ohne Grenzen e. V.
Special Jury Award

Birgit Wetjen, Editor-in-Chief at *Courage*
Category: Financial Investments

The *Handelsblatt Today* podcast
Special Jury Award



Carsten Korfmacher, reporter at *Nordkurier*
Category: General Economic and Financial Policy

Study demonstrates low costs for structured investment products

The latest study by the Academic Advisory Board of the DDV examines the costs of structured investment products in Germany. The result: On average, the total costs of structured investment products in the second half of 2020 amounted to 0.81 percent per year of investment. This is around one fifth less than in the previous study.

These figures were calculated by the Academic Advisory Board of the DDV on the basis of 16,495 structured investment products issued by twelve DDV members in the second half of 2020, constituting a total investment volume of 6.284 billion euros in the month of issuance or the following month. The average lifetime of the products was 5.15 years.

Prof. Dr Lutz Johanning presenting the study at a press conference

The PRIIPs Regulation and the MiFID II Directive strictly regulate which costs are disclosed to clients when they invest in securities. The European requirements for the disclosure of costs for securities investments are currently under scrutiny. For this reason, the Academic Advisory Board of the DDV prepared the new cost study. It is the third in a row, following the studies conducted in 2013 and 2017.

“Cost transparency has continued to improve over the past ten years. Today, investors have the highest degree of transparency. The intense competition on the German market ensures high efficiency and relatively low prices,” said Prof. Dr Lutz Johanning, Chair of Empirical Capital Market Research at WHU - Otto Beisheim School of Management, when presenting the study.

The Chair of the Academic Advisory Board, Prof. Dr Christian Koziol, emphasises: “The study shows large differences in the individual product groups. The fact that the weighted average costs are relatively low is also confirmed by the study from 2017. It is important that the costs are transparent for investors. Academics also benefit from the new quantities of data available, as it helps them understand cost structures.”

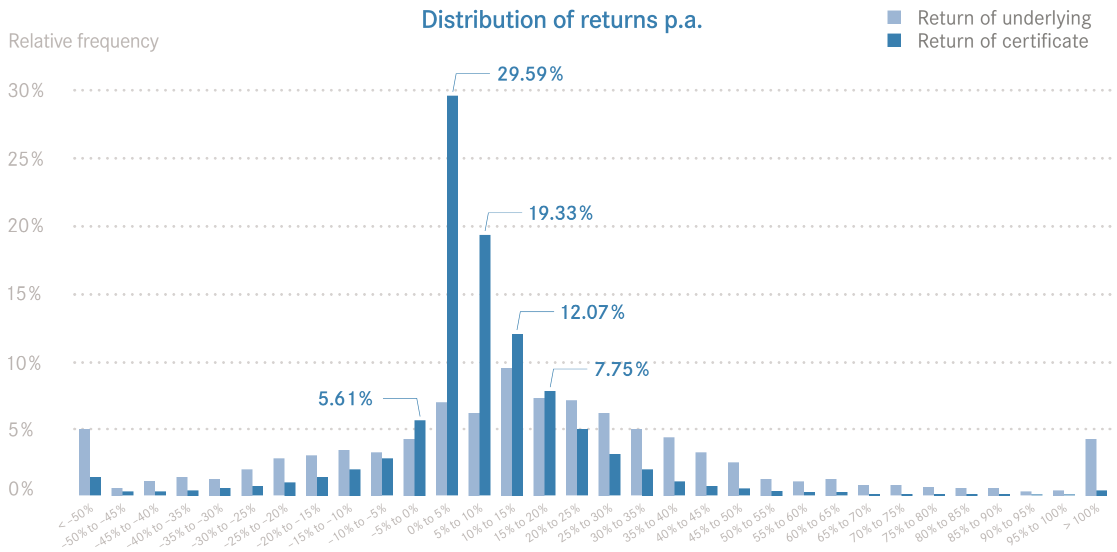
2021 Discount Certificates Study shows remarkable performance for this investment classic

In 2021, some 83.12 percent of Discount Certificates achieved a positive return

The year 2021 proved to be eventful on the stock markets: The ongoing pandemic, high inflation with continuously expansionary monetary policy, disruptions in global supply chains – and yet the markets climbed from high to high. In this environment, 83 percent of Discount Certificates achieved a positive return. For 41 percent of the certificates, the return was above that of the underlying. About 14 percent of the certificates achieved a positive return in the period under review despite the underlying asset performing negatively. These are the results of the 2021 Discount Certificates study, which the DDV again presented together with TTMzero and Börse Stuttgart. The study analysed 152,898 certificates with the 70 most popular underlyings (individual equities and indices) from Europe and the United States.

Of the maturing Discount Certificates, 81 percent achieved their maximum return in 2021. The average maximum return was 8.57 percent per year.

Distribution of returns p.a.



The returns of Discount Certificates were significantly more positive in 2021 than in the previous year: Returns between zero percent and 5 percent p.a. were achieved by 29.59 percent of certificates (in 2020: 23.32 percent), returns between 5 percent and 10 percent p.a. were achieved by 19.33 percent of certificates (in 2020: 12.95 percent), returns between 10 percent and 15 percent p.a. were achieved by 12.07 percent of certificates (in 2020: 11.00 percent), returns between 15 percent and 20 percent p.a. were achieved by 7.75 percent of certificates (in 2020: 7.79 percent), returns between 20 percent and 25 percent p.a. were achieved by 4.90 percent of certificates (in 2020: 5.83 percent), and 16.87 percent had negative returns – significantly less than the 23.93 percent in 2020.

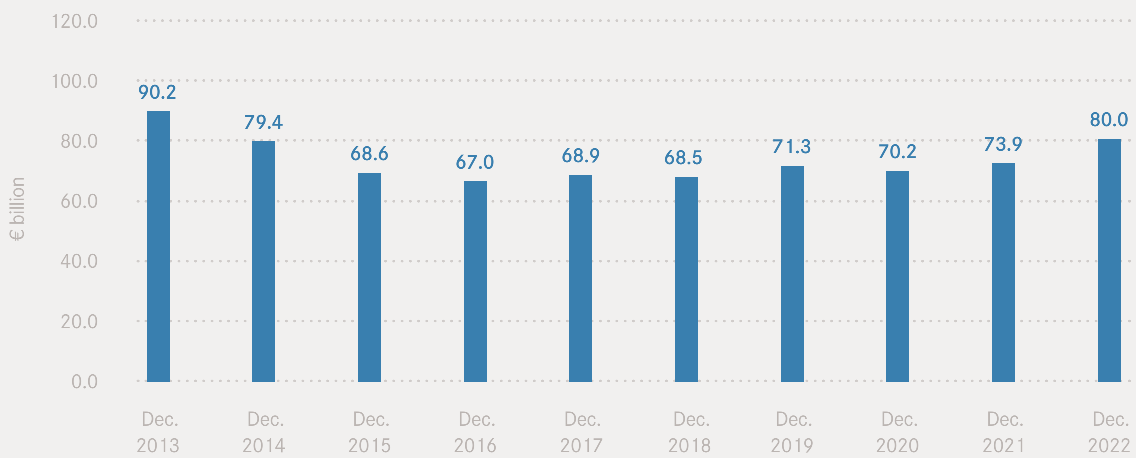
In total, investors achieved annual returns between zero and 20 percent for 68.7 percent of the certificates in 2021. The average annual return of all certificates examined was 7.34 percent for the year.

Overview of the structured products market

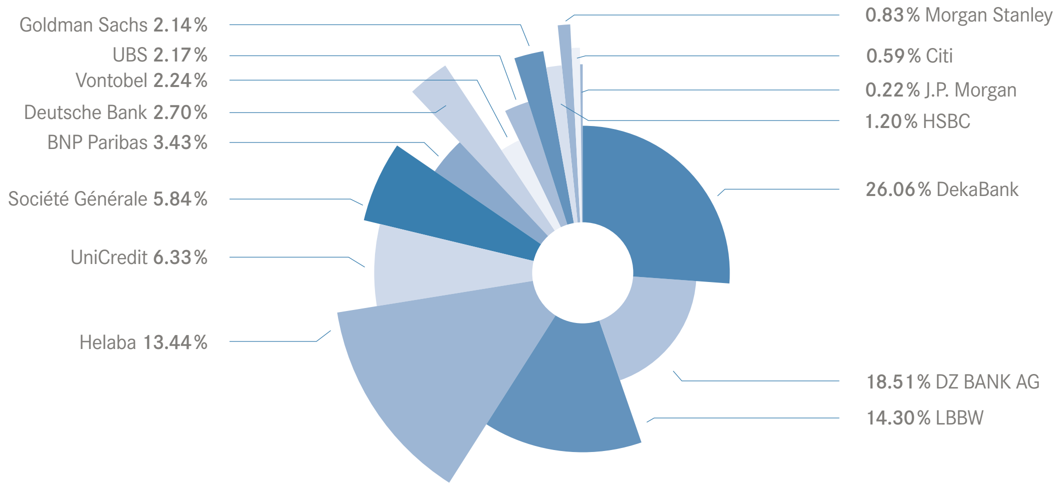
Structured products reach highest year-end level since 2014

The German retail market for structured products developed very positively in 2022. At the end of December 2022, the market volume of investment and leverage products totalled 80.0 billion euros. This is eight percent higher than at the end of 2021, when the market volume was 73.9 billion euros, and represents the highest year-end level since 2014. Of the 2022 market volume, investment products represented the far larger share (96.9 percent). These are insights provided by the data that Infront Quant AG collects on a monthly from 15 banks on behalf of the DDV, which is extrapolated to all issuers.

Market volume (€ billion)



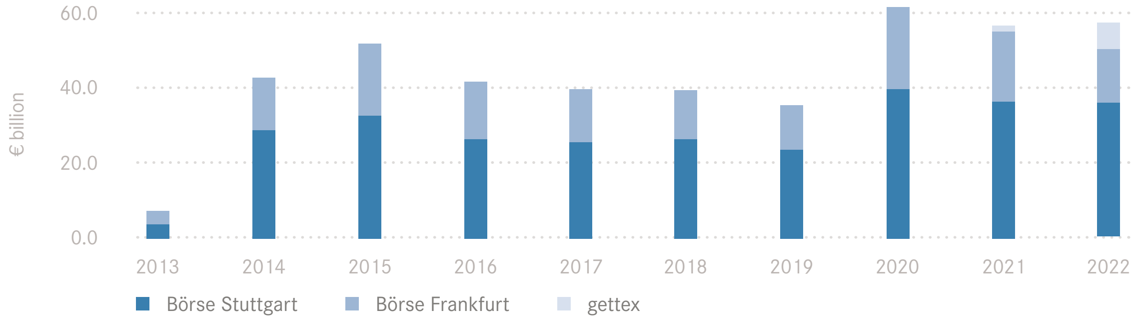
At the end of 2022, the most popular underlyings for investment products were interest rates (40.0 percent), indices (37.0 percent), and equities (21.5 percent). Leverage products were primarily based on equities (57.7 percent), followed by indices (31.8 percent), and commodities (6.2 percent).



Very high exchange turnover in structured products sets new transaction record

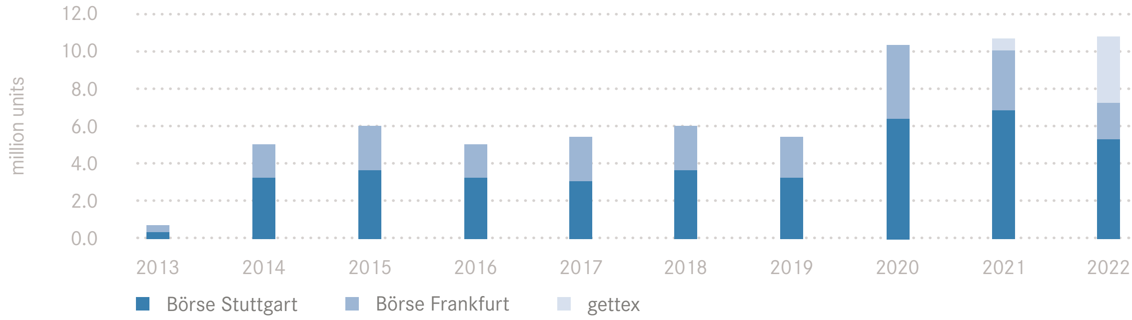
The year 2022 was characterised by very lively trading on exchanges. A total of 57.6 billion euros of structured products changed hands on the Stuttgart, Frankfurt, and gettex exchanges, making it one of the top three years in terms of turnover since statistics began in 2013.

Annual turnover by exchange (€ billion)



Transactions on the three trading venues rose to 10.8 million units – the highest level ever.

Annual transactions by exchange (million units)



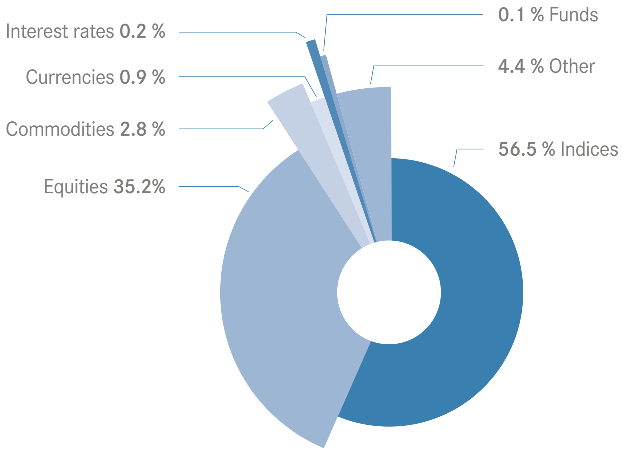
Leverage products dominated stock market activity

As in previous years, leverage products dominated trading – with 43.8 billion euros, they accounted for the vast majority of the order volume of 57.6 billion euros. Trading in structured investment products accounted for 13.8 billion euros.

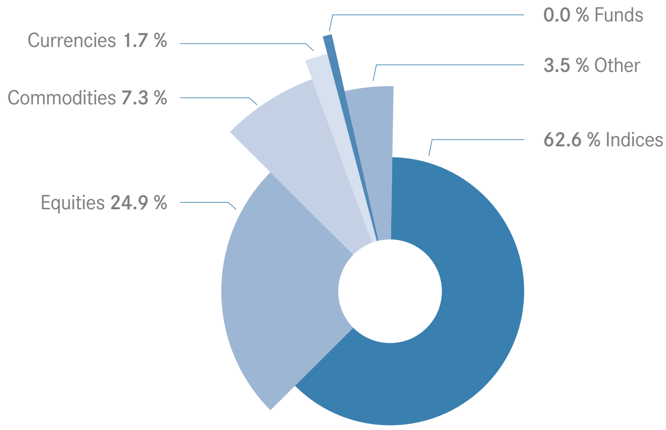
Most popular underlyings in exchange trading: Indices and shares – but with different weightings for investment and leverage products

Index products were clearly in first place among underlyings – 56.5 percent of structured investment products and 62.6 percent of leverage products referenced the DAX, S&P 500, or other index. In second place were equities, with shares of 35.2 percent (investment products) and 24.9 percent (leverage products).

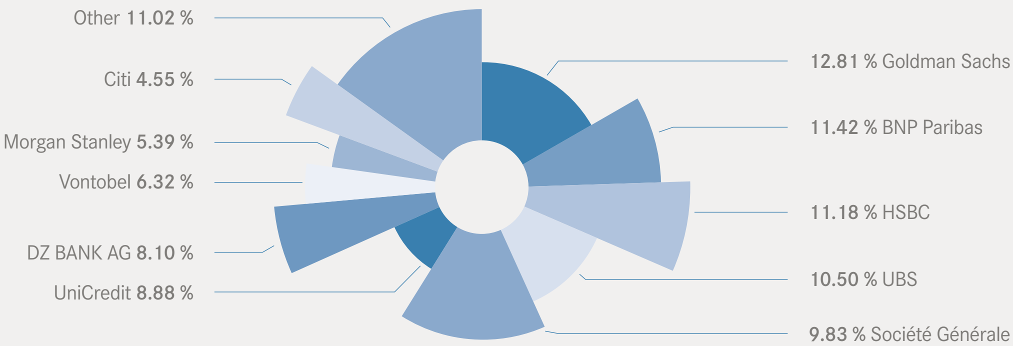
Investment products



Leverage products



Market share by stock exchange turnover as at the end of the year



Index Reports

The Index Reports provide a direct performance comparison of various types of structured products with other financial products. In 2022, Discount Certificates and Reverse Convertibles particularly played to their strengths, with their respective indices performing noticeably better than the EURO STOXX 50. For all four indices, volatility was lower than for the European share index, especially in 2022 for Discount Certificates and Uncapped Capital Protection Certificates, as well as for Reverse Convertibles. The DDV supports the initiative of Infront Quant AG to calculate indices for various categories of structured products.

Uncapped Capital Protection Index

In 2022, the EURO STOXX 50 trended downwards until autumn. During this phase, Uncapped Capital Protection Certificates were able to limit losses. As a rather defensive instrument, they were generally able to cushion the falls of the EURO STOXX 50. This conservative characteristic meant that Uncapped Capital Protection Certificates rose less strongly than the European stock market in 2022. At the end of the year, the Uncapped Capital Protection Index was down by 8.89 percent, which was less than the EURO STOXX 50, which fell by 11.90 percent. With an average annual return of 2.63 percent since the launch of the index in 2006, Uncapped Capital Protection Certificates have performed significantly better than the EURO STOXX 50 over the same period, which has achieved an average annual return of 0.30 percent. The product has also proved its worth with respect to risks, as its volatility of 3.81 percent was considerably lower than that of the EURO STOXX 50 (22.33 percent).

Reverse Convertibles Index

In sideways or moderately downwards trending markets, the coupons of Reverse Convertibles guarantee a steady source of income, however, in rising markets, the participation cap results in a lower return. Prices rose only towards the end of 2022, but due to the defensive orientation of Reverse Convertibles, the Reverse Convertibles Index was able to compensate well for the previous losses of the EURO STOXX 50. The Reverse Convertibles Index even rose slightly (by 0.63 percent) during the turbulences of 2022, while the EURO STOXX 50 fell by 11.90 percent. The Reverse Convertibles Index has generated average annual returns of 2.99 percent since 2009, and the EURO STOXX 50 has achieved 2.92 percent in the same period. Although the returns of the two indices have been very similar, risk also has to be taken into account. In this respect, the volatility of the Reverse Convertibles Index (9.22 percent) was less than half that of the EURO STOXX 50 (21.47 percent).

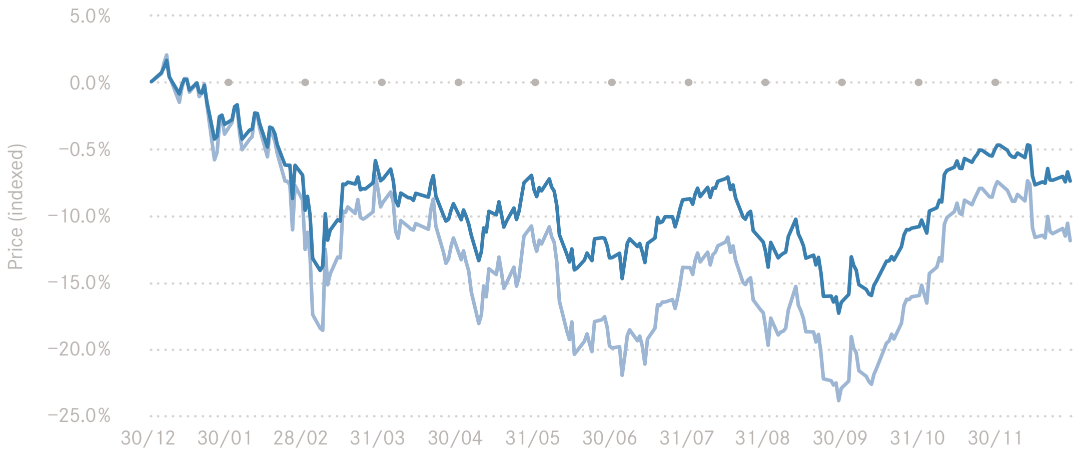
Discount Index

Until autumn, investors with Discount Certificates could face the price declines on European stock markets with little concern. However, the limitation created by the upward cap became noticeable towards the end of the year. Nevertheless, as 2022 was a relatively moderate year on the stock markets, Discount Certificates were able to play out their advantages. The EURO STOXX 50, for example, was down 11.90 percent overall, while the defensive Discount Index achieved an increase of 2.94 percent. Since its launch in January 2006, the Discount Index has achieved an average annual return of 3.43 percent, recording a total increase over this period of 77.53 percent. The EURO STOXX 50 has performed much worse over the same period, with an average annual return of 0.30 percent. Furthermore, the volatility of the Discount Index (10.73 percent) is less than half that of the EURO STOXX 50.

How do structured products perform in comparison to direct investments? The monthly Index Reports answer this question. These report on and analyse the performance of the four certificate indices examined by Infront Quant AG. The indices reflect the performance of the popular certificate categories of Uncapped Capital Protection, Discount, and Bonus Certificates, as well as Reverse Convertibles. In doing so, they enable a direct comparison of the performance of these structured products with other financial products.

Bonus Index

The Bonus Index and the EURO STOXX 50 followed similar price trends in 2022. At the end of the year, the Bonus Index was down 7.44 percent, whereas the EURO STOXX 50 lost 11.90 percent. The increase on the European stock market late in the year also resulted in Bonus Certificates rising, albeit at a slower pace. In return, loses were mitigated in moderate downward phases. When prices fall sharply and approach the barrier, Discount Certificates lose more than average. In phases of strongly rising prices, Bonus Certificates do not quite keep up with the performance of the underlying. The investment strategy of Bonus Certificates also works in the long term. Since 2006, the Bonus Index has achieved an average annual increase of 2.46 percent, while the EURO STOXX 50 has averaged 0.30 percent. The total return of the Bonus Index is thus significantly higher than that of the EURO STOXX 50.



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Christine Romar
Responsible at Citi Global Markets Europe AG for the distribution of retail structured products within EMEA

Dr Henning Bergmann
CEO and Member of the Board of Directors at the DDV. The holder of a Doctorate in Law has a strong network of contacts within the banking industry as well as the political sphere in Berlin and Brussels.

Christian Vollmuth
CEO and Member of the Board of Directors at the DDV. Based in Frankfurt, he has many years of experience in the financial industry, and works in close contact with DDV members and the supervisory authorities.

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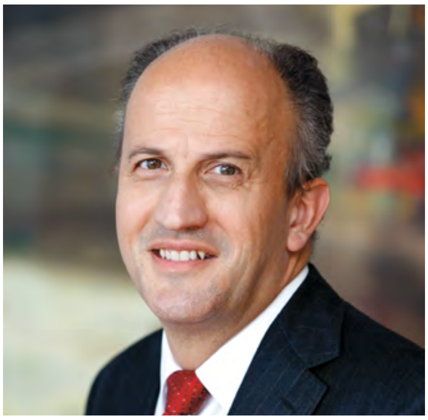

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As at January 2023

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