About BNP Paribas Real Estate ...

BNP Paribas Real Estate is the market leader in commercial real estate services across Europe with 658 million € of gross turnover, 156 million € of gross operating profit and 3,400 employees.

We manage 31 million m² in commercial real estate across Europe

13 billion € of assets under management across Europe

76,300 valuations completed across Europe in 2011

206,000 m² of office space delivered in 2011

Real Estate advisory 66%
Building consultancy 24%
Occupier services 10%

One transaction every 16 minutes
3,900 commercial real estate transactions completed in 2011
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Germany by numbers

Gross domestic product (GDP)
2,570 bn €
Share of EU's GDP over 20%

Harmonised consumer price index
2.5%
EU average: 2.7%

Population
81.8 m
First increase for several years

Unemployment rate
6.6%
Fewer than 3 million unemployed

GDP growth 2011
3.0%
EU average: 2.0%

Investment turnover
23.52 bn €
+20%; best result since 2007

People in employment
41 m
New record

Sources: Eurostat, Destatis, BNPPRE
Foreword

GERMANY – THE DOMINANT INVESTMENT MARKET IN WESTERN EUROPE

With almost 82 million inhabitants and a nominal GDP surpassing 2.5 trillion €, Germany is the most populous country in the European Union and its strongest economy. Not surprisingly, the country has established itself as the dominant investment market in Western Europe, recording a total commercial transaction volume of 23.5 billion € in 2011 (+20% vs. 2010) and a growing market share of almost one quarter, ahead of France (17%) and second only to the UK (34%).

More than half of Germany’s total annual investment volume is registered in its six major office locations: Berlin, Cologne, Düsseldorf, Frankfurt, Hamburg and Munich, also known as the “Big Six”.

The rising interest in German real estate among international investors – constituting more than one third of aggregate turnover – is driven by asset liquidity, market diversity, and structural stability in a market environment distinguished by a relatively low yield volatility and a low rental level vis-à-vis London or Paris.

Following the top 10 reasons to invest in Germany, this guide presents some investor case studies featuring real-life tips for a successful market entry before highlighting Germany’s “Big Six” office locations and the key figures of its sub-markets.

An investor toolkit addresses the most pressing questions investors may raise in connection with real estate investments in Germany. The international law firm Freshfields Bruckhaus Deringer outlines key legal and technical terms investors need to know about German property, including tax aspects.

This guide finishes with Germany’s hot spots and real estate development projects that may shape investors’ future target market allocation decisions.

We hope this brochure offers you some initial guidance in your endeavours to manoeuvre in the German real estate market and would be pleased to welcome you in Germany in the near future.

Mathieu Brummer
Director International Investment
BNP Paribas Real Estate
with a continuing positive business climate

With a GDP of 2.5 trillion € in 2011, Germany is the strongest economy in Europe and ranks fourth worldwide. With a population of almost 82 million, Germany is also the most important market in Europe and a leading investment location, hosting the world’s 500 largest firms. The German economy again grew strongly in 2011, outstripping the average growth of the European Union in 2011 (2%) with a price-adjusted GDP increase of 3%, continuing its recovery from the 2009 economic crisis for the second year in a row. Its labour market has proved extremely robust, with more than 41 million persons employed in 2011, while the unemployment rate is the lowest for 20 years (6.6%). By the end of 2011, Germany’s inflation rate (2.3%) was down for the third consecutive month. With a brightened business climate rising for the third time in succession in January 2012, prospects for the German economy for 2012 start positively.
2 Market diversity
unique in Western Europe
helps allocating risk

Apart from well-built quality assets, unique to Germany is also its diverse investment environment across the principal investment markets. The relative contribution of each of the Big Six cities is more or less evenly spread. Grouping Cologne and Düsseldorf together, each location represents about 1/5th of the Big Six total investment volume. Yet, every market has a slightly different touch. Berlin is predominantly known as the seat for all ministries and lobbying groups. Hamburg is famous for its print and media industry, besides a flourishing industrial sector due to its harbour. Düsseldorf has a lively fashion scene. While Cologne is home to many insurances, Munich is strong in the technology and electronics sector. And then there is Frankfurt as financial centre in Continental Europe. In the Big Six, the 2011 transaction volume was 12.2 billion € (+10% vs. 2010), representing a 52% share of Germany’s total annual investment volume.

3 Product diversity matches everyone’s investment criteria

Whilst office and retail investments dominate the field, Germany has a diverse investment environment across the whole property type spectrum, be it commercial or residential real estate investments. Total investment turnover in 2011 was headed by retail properties, with a volume of 10.7 billion € and a share of 46% of commercial real estate investments (+38% vs. 2010). Office properties accounted for 7.0 billion €, constituting 30% of total volume. With 1.2 billion € invested in logistics, the share of investments in logistics properties (5%) stands almost on a par with the share of investments in hotels (4%), which accounted for 1.0 billion € (+12% vs. 2010). In addition to commercial real estate investments, interest in residential properties is increasing, totalling 6.0 billion € in 2011 (+59% vs. 2010) over and above the 23.5 billion € invested in commercial real estate.

4 Low volatility offers investors stability

If you look at the 10-year historic prime office yield level, you’ll find that Germany offers much more security within a narrow 100 basis point band of 4.5% to 5.5% vis-à-vis London or Paris, cities that exhibit a far greater yield variance with at least a 225 basis point band between peaks and troughs ranging from 3.75% to 6.00% (London) and 6.25% (Paris). The German real estate market, therefore, offers investors price stability and is perceived as more likely to weather a recession, due to its diversified and strong economy as evidenced by its most recent economic development.
Asset liquidity leads to a smooth entry and exit. Over the last 10 years, the average annual investment volume in German real estate amounts to 18 billion €, more than the aggregate investment volume of Benelux and the Nordic countries together. Among single investments, the relative contribution of deals between 10 – 25 million €, 25 – 50 million €, and 50 – 100 million € is almost evenly spread with each size category representing about 1/5th of total single investments closed. Similarly, the diverse investor groups active in Germany, whether special funds, closed-end funds, developers, open-ended funds, pension funds or listed property companies, to name just a few, are a testimonial to the high level of liquidity for German property as an asset class, leading to a smooth entry and exit in and out of Germany.

Attractive risk-adjusted returns over government bonds. With 10-year German government bonds hovering around 2% since October 2011, investor appetite is reinforced by attractive risk-adjusted returns, considering a spread of 250 basis points and more to prime German real estate, currently priced between 4.5% and 5%. For the second year in a row, prime office rents across Germany’s major office locations increased (260 € pa in Cologne to 36 € m² per month, London (over 1,000 € / m²) or Central Paris (over 800 € / m²) leaving room for future rental upside in the long term for investors entering the German market.

8. Investing in Germany - Q1 2012 / Germany Overview
Strong investor appetite proves attractiveness of German property

In 2011, investment activity remained dynamic and Germany established itself as the dominant investment market with a growing market share reaching almost one quarter in Western Europe, second only to the UK. Out of the nine primary investment markets in Western Europe, four markets are located in Germany – Frankfurt, Munich, Hamburg and Berlin – and Germany is the only country represented by more than one city. Interest in German commercial real estate remains high among both German and international investors. The relative contribution of international investors was 34% of 2011 aggregate turnover, led by European and American money managers. In total, international investors spent 8.0 billion € in Germany in 2011 (+12% vs. 2010). Germany continued its strong progress, with a total investment volume of 23.5 billion € in 2011 (+20% vs. 2010), more than twice the volume of 2009 (10.6 billion €).

Structural stability minimizes external risks

Germany is a country that offers a high degree of economic and political stability, a transparent and independent judiciary, and a moderate climate and geography usually spared from natural disasters, so all-in-all an ideal place for investors trying to minimize uncertainties and external risks beyond their direct control.

Highly qualified workforce provides services at every stage of real estate life cycle

Besides a highly qualified workforce in general, Germany profits from many skilled real estate professionals, including over 1,000 chartered surveyors, offering the full range of expertise across the whole real estate spectrum. From property development, valuation, transaction, property management, investment management, to consulting, countless experts from a dozen accredited real estate business schools stand ready to provide domestic and foreign investors services at every stage of the life cycle at the highest professional and ethical standards. And: most professionals actually speak English, if you discount our odd accent.
InVEStor caSE StUDIES

Real-life tips for success

Germany is a liquid and stable real estate market which attracts international and institutional investors

What do you consider the main strengths and weaknesses of the German property market?
The German property market is highly liquid, with a broad spectrum of national and international investors and well-established mortgage banks, which ensure the availability of bank financing at attractive rates. The German property market is also one of the least volatile property markets in the world and offers stable values in uncertain times. Conversely, total returns for German properties are comparatively low from an international perspective. This is also true for developments, where the market is very competitive and local developers who dominate the markets in the six strongholds (known as the Big Six) accept profit margins of around 10%, which is low in an international context.

Secondary property markets offer better opportunities, especially in the current market where we see a historically wide yield gap between prime and secondary properties. However, the availability of financing for secondary properties is restricted and secondary markets often lack transparency, making it difficult to identify investment opportunities with sound fundamentals and high potential.

What do you see as the most attractive assets in the German property market?
MGPA has focused on retail warehouse portfolios over the last three years and we still see attractive opportunities in this market segment. Retail warehouses and food discounters represent a growing market sector and offer high yields with strong covenants.
The German property market is also one of the least volatile property markets in the world and offers stable values in uncertain times.

While institutional investors target retail warehouses with a long unexpired lease term, MGPA’s focus is very much on investments with shorter lease terms, where we can add value through re-lettings, refurbishments or redevelopments. Shopping centres in need of refurbishment or repositioning also represent attractive investment opportunities. Notably West German cities offer attractive opportunities, where we did not witness any oversupply in the past and where the supply of new shopping centre space is restricted.

What is your investment strategy in the short and medium term in the German market? MGPA has acquired three retail warehouse portfolios in 2010 and 2011 and in the short term our focus remains on retail warehouse investments where we can add value, including hypermarkets, discounters and retail parks. We currently have approx. 175 properties under management and have built up a specialised asset management platform for the management of large retail warehouse portfolios. We are also looking for opportunities to acquire or participate in shopping centre refurbishments across Germany. MGPA has also recently acquired a stabilised retail park for a long term, income generating separate account mandate and in the medium term we will also seek value retail investments with long leases.
What would you consider the main strengths and weaknesses of the German property market?
The fundamentals of the German economy are very strong. Many attributes are conducive to sustainable long-term growth, including a highly skilled workforce, good infrastructure and stable institutions. A static population remains the only constraining factor for even better capacity utilization. The country’s strong export and investment-led rebound from the global financial crisis 2009 unimpressed by the market turbulences caused by the sovereign debt crises has revealed an impressive adaptability despite underperformance in the previous years. The structural adjustment shift towards a more service-oriented economy will positively affect the German property markets, given that the share of the manufacturing industry remains high with still some rigidities in the service sector. The primary property markets are spread across 6 cities, with decorrelation enforced by different industry drivers. But this decentralized nature implies also that investment and occupier trends will be less extreme than centralized markets as Paris or London harming liquidity. Investments in the German property markets offer next to the low price volatile so-called “safe haven” attribute also a secured legal environment. Although Germany has a high network of established market participants, the low transparency makes it difficult for foreign investors to perform without a local operation or trusted real estate advisor.

What do you see as the most attractive assets in the German property market?
So far the occupier side for office space has remained strong. The projected high demand and limited supply for office space is reflected by positive net absorption, which is expected to remain strong for the top 6 cities. This implies that vacancy rates are falling bound to an increase in rental growth. Sustainability in the real estate industry is one of the major challenges of the present and the near future. Not just spectacular landmark buildings will be underlining the modernity of a city, but especially economic, low-emission and energy efficient buildings will signalize a state-of-the-art and innovative mindset of a city. Whilst German offices are already “greener” compared to other West European offices, high quality green buildings are still expected to be taken up to a much higher extent than the overall net absorption.

What is your investment strategy in the short and medium term in the German property market?
A key core recommendation in AEW Europe’s investment strategy for 2012 is to accept “safe haven” pricing and to expect capital growth to match inflation. The German core markets
Investments in the German property markets offer next to the low price volatile so-called “safe haven” attribute also a secured legal environment.

will stay active and liquid because the majority of core investors do not rely on leverage and wish to increase their allocations to real estate. “Safe haven” pricing will drive yields further down. Investors will have to accept high prices for durable, credit-worthy income with the expectation that, (i) yields will stay low; (ii) rental income will offer reversionary potential at lease expiration; and (iii) LTVs will remain cautious. The pricing gap between core and non-core assets is expected to widen further and recompress in five to seven years.

Offices: Development activity in the key German office markets is at an historic low, which will put upward pressure on rents in selected markets. We recommend to favour good locations in regional Germany, outside the top six cities, for higher returns. On the higher risk curve, developing high sustainable modern office buildings for institutional investors bears also an attractive window of opportunity, given the current green cycle.

Logistics: Germany is one of the key logistics corridors in Europe. Assets in this market have undergone a strong price correction over the past years. Key players are increasingly global. Look for long leases or pre-leased logistics assets in established hubs.

Retail: German retail sales remained reasonably robust during 2011. Households have been supported by a strong labour market experiencing historically low levels of unemployment. A significant number of international retailers are still expanding, in a bid to gain market share and maximise sales volumes, however, such expansion continues to focus on the prime high streets of the major seven cities and shopping centre locations. High street rental values increased by an average of 16% in 2011. Although economic growth is expected to slow during 2012, a light development pipeline should offer some support to rental values.

Keen competition amongst investors for prime high street and shopping centre assets is likely to persist. As available investment stock at reasonable prices becomes increasingly scarce, both landlords and prospective buyers should look for refurbishment and extension possibilities on existing buildings.
What would you consider the main strengths and weaknesses of the German property market?

We find the liquidity and depth of the German real estate market to be two of the most attractive features for an institutional investor like TIAA-CREF. Germany has the fourth largest economy in the world, the largest economy in Europe, and the largest commercial property market in Europe. There is no real safe haven in these uncertain times, but we expect Germany’s economy to be the most durable and resilient in Europe if there is further deterioration in the eurozone economy. Similarly, we believe that the income streams and values of top quality German real estate assets will prove to be the most durable and secure in the event of additional volatility in global equity and capital markets. We also recognize that Germany’s federal government structure has an important influence, as each large city has its own economic, demographic and real estate market trends that ultimately determine the performance of our real estate investments.

Dominant shopping centres in Germany are attracting more and more investors, hence the main drawback related to the German market is the increased level of competition, particularly for the most important properties.
What do you see as the most attractive assets in the German property market?
We see shopping centres as the most attractive assets. We are especially keen on centres that are market dominant or dominate an affluent and densely populated catchment area. These types of centres often have both defensive attributes, particularly with respect to their income streams, and growth opportunities from upgrading the merchandise and tenant mix to capture a larger share of trade area spending. Market dominant centres have an extremely valuable commodity to offer top retailers — space in a successful agglomeration of top retailers with high levels of shopper traffic in a proven location. Dominant centres with top retailers have also historically increased their market share during economic downturns by capturing sales from weaker centres. Of course, this requires a highly focused asset and market selection process. Prior to any investment, we conduct rigorous and detailed research and analysis at both the property and market level in order to identify strengths and weaknesses as well as potential investment risks and opportunities. We also like the strict zoning regulatory environment in Germany which controls the development of new centres and thereby creates an attractive position for existing centres.

What is your investment strategy in the short and medium term in the German property market?
Our primary focus will remain on dominant shopping centres – examples include our investment in Erlangen and more recently the acquisition of a dominant shopping centre in Munich. Over time, we plan to consolidate a portfolio of shopping centres in Germany and across Europe providing active management opportunities and economies of scale with respect to management, operations and leasing. Given TIAA-CREF’s considerable investments and experience in the office sector in the U.S., UK and France, we also have interest in the high quality office sector.
Germany’s Big Six

Whatever your investment strategy, Germany has something to offer, as our overview shows

Berlin: Capital city with potential

Berlin, the German capital, has evolved positively in recent years. It has completed a structural transformation into a modern services centre and has taken on a fresh look, with new centrally located urban quarters. Berlin’s historical sights, cultural monuments and major events attract countless visitors. With a population of nearly 3.5 million, Berlin is Germany’s largest city and also one of the most important centres of culture and the arts.

Services, industry and research
In the past 15 years, Berlin has undergone far-reaching economic change. Services have gained in importance; industry and construction have declined somewhat in significance. But Berlin still has a strong industrial core, with electrical engineering and electronics, food and chemicals. As the seat of government, it houses ministries and many lobby groups. It is also an outstanding centre of science and R&D.

Well established in the top league
The Berlin office market is closing the gap on the country’s other major players. Three times in the past three years, take-up has passed the 500,000 m² mark. Just as in other European capitals, public administration is one of the strongest sources of demand. But the fact that second and third places are taken by consultancies and ICT firms shows that Berlin is definitely aligned to the future.
Great long-term potential

Berlin is one of the Top 3 investment locations in Germany; since 2008, it has three times had the biggest transaction volume. Nowhere else do retail properties generate such a high share of real estate investment, with a long-term average of around one third of the total. The level of sales prices is comparatively moderate, and this, together with Berlin’s scope for long-term development, especially attracts foreign investors. In the past ten years, they have accounted for 47% of aggregate turnover in Berlin – considerably more than in other major German centres.

The right spot for every taste

Berlin has a wide range of attractive locations, each with its own character. These include the Kurfürstendamm, Berlin’s world-famous boulevard, with its fascinating side-streets, and the tradition-rich Top City East, completely refurbished after the Fall of the Wall, with the Gendarmenmarkt and Friedrichstrasse. Then there is the revitalized Potsdamer Platz, which now, with the landmark Sony Center, forms an integral part of the capital. And then there are the trendy and creative districts, especially Hackescher Markt, with its many lofts and factory floors.

**KEY FACTS**

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**SELECTED DEALS**

**TAKE-UP OFFICE**

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**INVESTMENT DEALS**

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<td>Die Mitte</td>
<td>Shopping centre</td>
<td>Private investor</td>
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<tr>
<td>Linden-Center Berlin</td>
<td>Shopping centre</td>
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Cologne: Dynamic metropolis on the Rhine

Cologne, Germany’s oldest large city, bears the stamp of many different traditions. With around 1 million inhabitants, it is the fourth-biggest centre of population in Germany and plays an important role in the country’s business life. Here, tradition and progress merge. With its emblem and chief landmark, the cathedral, and a very colourful history stretching back more than two thousand years, this metropolis on the Rhine occupies an outstanding position among the great cities of Europe. A very tolerant place, it is well-known for its hospitality, its humour and its zest for life – all of which come together in Cologne Carnival, the biggest street festivity in Europe.

Germany’s top insurance location
Cologne is the most important German centre for insurance companies. Almost 60 have their head offices in the city, while many others are represented here. In addition, the city is increasingly developing into a media centre. Europe’s biggest public-sector broadcaster, WDR, is based in Cologne, and so too is Germany’s largest private television station, RTL. Another aspect of this city is commerce: many major German wholesale/retail companies, like Rewe Zentral AG and Kaufhof AG, run their German and worldwide business activities from here.

Steady upward trend
In 2011, the Cologne office market generated take-up of 300,000 m² for the first time, thus impressively underlining the city’s growing significance as a key office centre. The mix of business sectors here is broad; the chief sources of demand for office premises are insurances, consultancies, and firms in advertising and the media. Cologne has now established itself firmly among the top locations in Germany.

Impressive development as investment location
In the past few years, this Rhineland city has gained appreciably in importance as a magnet for real estate investment. Step by step it has closed the gap on the other big cities. The average

<table>
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<th>INVESTMENT VOLUME OVERALL (MILLION €)</th>
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<td>252 (Retail)</td>
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<tr>
<td>78 (Logistics)</td>
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<tr>
<td>842 (Total)</td>
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</table>

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annual investment turnover is close to 1 bn €, but in recent years, this has quite frequently been exceeded. Demand is strong for both office buildings and retail assets, with both making extensive contributions to the investment total. Foreign investors are also increasingly active in Cologne.

**City Centre and Deutz as key downtown districts**

With its striking structures and outward-radiating arterial roads, Cologne’s city centre, situated on the left bank of the Rhine, comprises distinctive areas with their own specific character. These include the banking and insurance district, and also the peninsula of Rheinauhafen, where a modern urban quarter with high-grade waterfront apartments and office buildings has been created. On the other side of the river lies Deutz, whose status has been upgraded in the past few years by many interesting projects, such as the Rheinpark-Metropole, the maxCologne and the KölnTriangle.

## KEY FACTS

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<td>Take-up (m²)</td>
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<td>Top rents (€/m²/month)</td>
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<td>Proportion of foreign investors (%)</td>
<td>27</td>
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## SELECTED DEALS

### TAKE-UP OFFICE

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### INVESTMENT DEALS

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<td>KölnTriangle</td>
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<td>AIRE/InfraRed</td>
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Düsseldorf: Buoyant centre in Northrhine-Westphalia

Düsseldorf, capital city of Northrhine-Westphalia, Germany’s most densely populated federal state, has close to 600,000 inhabitants. It is the administrative centre of the federal state and the base for many companies from the Ruhr District. Its international status is underlined by the fact that it also houses many companies from other parts of Europe and from Asia. Thanks to its central location in Germany, with short distances to such key European cities as Brussels, Paris and London, Düsseldorf will be a major beneficiary of increasing European integration.

Telecommunications and fashion
Growth-oriented B2B service-providers in Düsseldorf include ICT firms, the media and advertising, law firms and business consultancies. This Rhineland metropolis is a major centre of telecommunications and houses the head offices of most of Germany’s network providers. It is also Germany’s fashion capital and the scene of important trade fairs and exhibitions. From the international angle it is particularly worth mentioning that Düsseldorf is the most important base for Japanese companies in Germany.

Healthy blend of cutting-edge and traditional sources of demand
With office space take-up of some 375,000 m² a year, Düsseldorf is one of the five chief cities in Germany. One particular feature of this market is the buoyant demand generated by companies in the information and communications technology sector, which are strongly represented here. And in no other German office premises market do firms in the wholesale/retail business play such an important role. But other services, especially B2B services, also make an important contribution to take-up.

No. 1 location in Northrhine-Westphalia
In Northrhine-Westphalia, Düsseldorf is the No. 1 investment location; nationwide it takes fifth place in the ranking of the cities with the biggest...
turnovers. With a transaction volume averaging close to 1.2 bn €, Düsseldorf performs better than many other cities in Europe of comparable size. Office buildings, which account for nearly 70% of all the capital injected in the city in a long-term comparison, are at the focus of investor interest. The great activity exhibited by investors from outside Germany also underlines this city’s attractiveness.

Central areas with their own profile
Düsseldorf’s prime address is what is called the Banking District, along Breite Strasse and Kasernenstrasse. The sophisticated architectural mix of spectacular new structures and historic buildings creates an exclusive ambience. Then there are the traditional office areas, such as Kennedydamm, which offer good locational quality at favourable prices. Rounding off the varied range is the newly developed Medienhafen (Media Harbour) district directly by the Rhine, while such architectural highlights as the Stadtter (City Gate), the Rhine Tower and the Frank O. Gehry office high-rises help to shape this city’s creative character.

### KEY FACTS

<table>
<thead>
<tr>
<th></th>
<th>Office</th>
<th>Retail</th>
<th>Logistics</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Take-up (m²)</td>
<td>362,000</td>
<td>240,000</td>
<td>5.10</td>
<td>22</td>
</tr>
<tr>
<td>Top rents (€/m²/month)</td>
<td>24.25</td>
<td>240.00</td>
<td>5.10</td>
<td></td>
</tr>
<tr>
<td>Prime yield (%)</td>
<td>5.00</td>
<td>4.30</td>
<td>6.80</td>
<td></td>
</tr>
<tr>
<td>Proportion of foreign investors (%)</td>
<td>25</td>
<td>10</td>
<td>85</td>
<td>22</td>
</tr>
</tbody>
</table>

### SELECTED DEALS

#### TAKE-UP OFFICE

<table>
<thead>
<tr>
<th>Tenant</th>
<th>m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESOURCES Germany GmbH</td>
<td>11,800</td>
</tr>
<tr>
<td>KPMG</td>
<td>9,500</td>
</tr>
<tr>
<td>LG Electronics</td>
<td>9,000</td>
</tr>
</tbody>
</table>

#### INVESTMENT DEALS

<table>
<thead>
<tr>
<th>Name</th>
<th>Form of use</th>
<th>Buyer</th>
<th>Price (m €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rheinpark Center (94.9 %)</td>
<td>Shopping centre</td>
<td>UIR</td>
<td>approx. 230</td>
</tr>
<tr>
<td>Dreischeibenhaus</td>
<td>Office</td>
<td>Momeni and Black Horse Investments</td>
<td>approx. 70</td>
</tr>
<tr>
<td>La Cour</td>
<td>Office</td>
<td>R&amp;V Versicherung</td>
<td>approx. 50</td>
</tr>
</tbody>
</table>
Frankfurt: Financial Centre and Global City

Frankfurt is one of the world’s most attractive business locations and a truly Global City, a key hub in an increasingly internationalized world. This is due to Frankfurt’s role as a centre of European finance and as the home of both the European Central Bank and the Bundesbank. It is the second most important banking centre in Europe and a leader in many other respects as well. For example, it houses Germany’s chief stock exchange and the largest international airport in continental Europe.

Banks and international business consultancies
Frankfurt’s positive economic development is fuelled above all by a high-grade services sector. This includes banks and financial services, advertising agencies, market research institutes, international business and management consultancies, insurances, and trade and industrial associations. More than 250 German and foreign banks have a base in Frankfurt and in no other German city are so many of the 100 top-performing German business companies represented. By nationwide standards, Frankfurt is an exceptionally international metropolis.

Sustained stable demand
As a banking centre of global significance, Frankfurt traditionally exhibits strong demand for office space. In terms of take-up, it occupies second place in Germany after Munich. Even though banks and international business consultancies are the most important target groups, companies of many other kinds are interested in this city. This is evidenced, for instance, by the fact that in 2011, take-up of office premises once again exceeded the 500,000 m² threshold, although it was a year in which banks accounted for only 15% of the total.

Skyline with international flair
On a long-term comparison, no other city in Germany attracts so much real estate investment as Frankfurt. In 2011, it once again led the field with a transaction volume of close to 3 bn €.
One distinguishing feature of the market here is the large number of major investments in core office properties; the city has a concentrated assemblage of attractive office towers that is unique in Germany. So it is hardly surprising that foreign investors exhibit such a strong interest. They contribute a long-term average share of 44% to total turnover, giving Frankfurt second place in this respect, just behind Berlin.

**Blend of the modern and the traditional**

Frankfurt’s Banking District is the No. 1 address for national and international financial service-providers. Many of them are based in this exclusive location, which extends along Mainzer Landstrasse, Taunusanlage/Gallusanlage, Neue Mainzer Strasse and Junghofstrasse. This is a part of Frankfurt characterized by high-rises in diverse architectural styles. No less exclusive, but with a different kind of charm, is the Westend district. It features attractive older buildings, often with opulent facades dating back to the late 19th century, which together with modern project developments form a fascinating and stimulating urban planning mix.
Hamburg: Gateway to the World

Hamburg, Germany’s second-largest centre of population and the biggest city in the country’s north, combines a cosmopolitan character with almost British understatement. As the most important German seaport and the third-largest port in Europe, it has long since been known as this country’s Gateway to the World. In addition, it is the main bridgehead to Scandinavia and the Baltic states. With almost 1.8 million inhabitants within the municipal borders and around 4.25 million people living in the metropolitan region, Hamburg is one of the strongest economic areas in Germany. Moreover, it regularly gains a foremost place in European rankings on the quality of life.

Harbour, aviation and the media

Hamburg boasts a wide spectrum of business sectors, but with a focus on especially innovative and promising fields of activity. These include aviation, IT and the media, the docks and logistics, life sciences, nanotechnology and renewable energy. International trade is a dynamo of the economy and the city has particular competence in business dealings with China, which is Hamburg harbour’s most important business partner, with growth rates that are increasing all the time. This Hanseatic city is a hub of trade between Europe and the Far East, and Germany’s chief centre of logistics.

Innovative sectors form main sources of demand

With average annual office space take-up of over 500,000 m² in the last five years, Hamburg occupies third place among the major German office locations, behind Munich and Frankfurt. The strongest sources of demand typically include the innovative and creative business sectors, such as the media and advertising, consultancies, information and communications technology firms, and B2B service-providers.

Traditionally stable investment market

Hamburg is one of the most important and most highlyfavoured investment locations in Germany, and in recent years has gained a firm place for
itself in the country’s top ranks in this respect, alongside Berlin, Frankfurt and Munich. Investors appreciate the stable market conditions and the many attractive areas the city has to offer, often close to the waterfront. While sales of office buildings remain the key market segment, there is also extensive investment in retail assets. In all, the city can lay claim to a balanced investment structure in the field of real estate.

**Water as a major locational factor**
The city centre, with its blend of modern and historical buildings, is what really shapes the picture of Hamburg and conveys Hanseatic exclusivity; impressive structures such as the Hotel Vier Jahreszeiten on the Inner Alster create a highly distinctive waterfront skyline. And closeness to water is an essential feature of other particularly favoured areas as well. First and foremost in this connection comes HafenCity, Europe’s largest downtown development project. Its geographical position, by the harbour basin and along the river Elbe, makes for a location that is truly unique in Europe. But the eastern harbour fringe, located directly on the river, also radiates typical Hamburg maritime flair.

### KEY FACTS

<table>
<thead>
<tr>
<th></th>
<th>Office</th>
<th>Retail</th>
<th>Logistics</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Take-up (m²)</td>
<td>536,000</td>
<td></td>
<td></td>
<td>745,000</td>
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<tr>
<td>Top rents (€/m²/month)</td>
<td>23.50</td>
<td>255.00</td>
<td>5.60</td>
<td></td>
</tr>
<tr>
<td>Prime yield (%)</td>
<td>4.80</td>
<td>4.25</td>
<td>6.60</td>
<td></td>
</tr>
<tr>
<td>Proportion of foreign investors (%)</td>
<td>26</td>
<td>29</td>
<td>42</td>
<td>30</td>
</tr>
</tbody>
</table>

### SELECTED DEALS

#### TAKE-UP OFFICE

<table>
<thead>
<tr>
<th>Tenant</th>
<th>m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civic Centre</td>
<td>45,000</td>
</tr>
<tr>
<td>Hamburg University</td>
<td>14,000</td>
</tr>
<tr>
<td>Federal Agency for Public Property</td>
<td>10,000</td>
</tr>
</tbody>
</table>

#### INVESTMENT DEALS

<table>
<thead>
<tr>
<th>Name</th>
<th>Form of use</th>
<th>Buyer</th>
<th>Price (m €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hamburger Meile (85%)</td>
<td>Shopping centre</td>
<td>Real i.S.</td>
<td>approx. 220</td>
</tr>
<tr>
<td>Alte Post</td>
<td>Office/retail</td>
<td>Stenham</td>
<td>approx. 110</td>
</tr>
<tr>
<td>Hammerbrookhöfe</td>
<td>Office/retail</td>
<td>Deka</td>
<td>approx. 70</td>
</tr>
</tbody>
</table>
Munich, capital of the federal state of Bavaria, is one of the most attractive locations anywhere in Europe. With its healthy, future-oriented economic structure, it offers a business environment that is the envy of many other regions. With a population of some 1.4 million, Munich is the third-largest city in Germany, while as a centre for leisure activities it definitely takes first place. Both the Alps and the Mediterranean are within easy reach. And then, of course, there is the Oktoberfest, the world’s biggest popular festivity and well worth a visit.

New technologies and traditional industries
Munich is distinguished by its mix of sunrise industries and traditional business sectors. In Germany, it is the most important location for the electronic media. In particular, television stations and international IT companies like Microsoft, Apple, Oracle and Lotus have their administrative headquarters in Bavaria. Munich is the country’s second main industrial city, housing world-leading companies such as Siemens, BMW and MAN. Rounding off the diverse spectrum are many research establishments, e.g. Max-Planck and Fraunhofer institutes.

Well out in front in terms of take-up
The average take-up of office premises in Munich in the past five years has been almost 730,000 m². That gives this South German city a clear-cut lead over all the other major office centres nationwide. A stable turnover is assured especially by the wide range of the sources of demand. These are headed by ICT firms, consultancies and the administrative units of important industrial companies.

The favourite of private investors and family offices
With investment turnover at a long-term annual average of over 2.5 bn €, Munich is one of the very top locations in Germany in the field of real estate investment. The city is distinguished above all by great stability and is renowned as a safe haven.
In terms of real estate prices, it is the country’s most expensive location. Traditionally, it attracts in particular private investors and family offices, which invest more capital here than they do anywhere else. But the city is also held in high regard by investors from abroad, and they account for an average share of 37% of aggregate turnover.

**Large new development complexes offering plenty of potential**
Downtown Munich is the home of many business consultancies, law offices and banks. Almost all the Bavarian state government ministries are also to be found here. In recent years, the inner-city area has been upgraded through new projects and conversions, such as Fünf Höfe, the Schäfflerblock, Alter Hof, the Hofgarten Palais, the Altstadt-Palais, the Ludwigpalais and the Maximilianshöfe am Marstallplatz. Then, to cite a current example, there is the Palais an der Oper. At the same time, new development complexes, like Theresienhöhe on the former Munich trade fair grounds, and the land previously owned by German Rail along the axis Central Station-Laim-Pasing provide attractive locations for a number of different target groups.

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### KEY FACTS

<table>
<thead>
<tr>
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<th>Office</th>
<th>Retail</th>
<th>Logistics</th>
<th>Total</th>
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<td>Take-up (m²)</td>
<td>883,000</td>
<td></td>
<td>332,000</td>
<td></td>
</tr>
<tr>
<td>Top rents (€/m²/month)</td>
<td>33.00</td>
<td>325.00</td>
<td>6.20</td>
<td></td>
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<tr>
<td>Prime yield (%)</td>
<td>4.75</td>
<td>4.20</td>
<td>6.60</td>
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<tr>
<td>Proportion of foreign investors (%)</td>
<td>23</td>
<td>64</td>
<td>39</td>
<td>39</td>
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### SELECTED DEALS

#### TAKE-UP OFFICE

<table>
<thead>
<tr>
<th>Tenant</th>
<th>m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Osram GmbH</td>
<td>28,200</td>
</tr>
<tr>
<td>BMW Group AG</td>
<td>21,100</td>
</tr>
<tr>
<td>MAN Bus und Truck AG</td>
<td>20,500</td>
</tr>
</tbody>
</table>

#### INVESTMENT DEALS

<table>
<thead>
<tr>
<th>Name</th>
<th>Form of use</th>
<th>Buyer</th>
<th>Price (m €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PEP Shopping Mall, Perlach</td>
<td>Shopping centre</td>
<td>TIAA-CREF</td>
<td>approx. 410</td>
</tr>
<tr>
<td>Karstadt Oberpollinger</td>
<td>Department store</td>
<td>Signa Holding/Centrum</td>
<td>approx. 190</td>
</tr>
<tr>
<td>Pasing Arcaden (approx. 55 %)</td>
<td>Shopping centre</td>
<td>mfi</td>
<td>approx. 180</td>
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</table>
Finding the right way in the highly regulated German real estate market is sometimes regarded as challenging. Freshfields lawyers Niko Schultz-Süchting and Claudia Stern outline some key information. The German legal system on the acquisition of real estate is extremely easy, secure and certain. In contrast, the statutory lease regime is rather complex and provides for pitfalls one would not expect.

**DIFFERENT TYPES OF REAL ESTATE**

Real estate located in Germany can be owned as
- Freehold (i.e. full legal and unlimited title to the land and the buildings thereon),
- Condominium ownership (Wohnungseigentum, i.e. exclusive ownership in parts of a building combined with joint ownership in further common parts together with the community of co-owners),
- Ground lease (Erbbaurecht, i.e. a long-term right of use to the land and soil, combined with right to construct and own buildings on the land during the term of the ground lease; usually, the term of a ground lease is between 60 and 99 years).

For every region of Germany, there is an official and public cadastral map and a corresponding official and public land register. Ownership to real estate is disclosed in the land register. Only occasionally, certain public properties (such as public roads, town halls) and clerical properties (churches) are not listed on the land register.

**ACQUISITION OF REAL ESTATE**

Transfer of title to real estate properties requires the execution of a sale and purchase agreement before a notary public, and the registration of the new owner in the land register. A buyer is usually secured by a priority notice of conveyance (Auflassungsvormerkung) before paying the purchase price. Such priority notice allows the buyer to directly pay the agreed purchase price to the seller and the seller’s financing banks before becoming the owner of the asset (which depends on the corresponding entry onto the land register). Notarization of a sale and purchase agreement is entertaining as the agreement needs to be read aloud by the notary. After notarization, it usually takes four to twelve weeks until closing.
LAND REGISTER

The land register (Grundbuch) is a public register that enjoys good faith. On the basis of the land register and a cadastral map, a buyer can confirm the seller’s ownership of a certain piece of land as well as discover the existence of encumbrances on the land (e.g. mortgages, land charges, pre-emption rights, rights of way etc). Entries on the land register are made by qualified, legally trained staff and administered by the local court. Because it enjoys good faith, a buyer will become the owner of the property even if it transpires that the seller is not the correct owner, as long as the seller appears to be the owner on the land register.

The German system of land registers is well-known and has been replicated in other jurisdictions. The system, although time consuming, can make the legal aspect of dealing with German real estate easy, secure and certain.

ENERGY CERTIFICATES

According to the 2009 Energy Savings Regulation (EnEV), an energy certificate is to be created upon the construction or significant enlargement of a building. Such certificate has to be presented to the other party when selling, letting or leasing the building (e.g. not required for historic monuments or with respect to existing contractual relations). If the energy certificate is not presented in time, public authorities may impose a penalty on the seller or the landlord. However, in practice many transactions are implemented without an energy certificate having been provided. It is expected that this will change over time.

LEASES

There are two main lease types, commercial leases and residential leases. Whereas residential leases are highly regulated with the clear objective of protecting tenants, commercial leases are less regulated and more balanced. In recent years, court decisions on standard terms have a tendency to align both regimes and are generally tenant friendly. If the parties choose not to specify the terms and conditions of the lease in detail, they will be bound by a statutory set of rules. If the parties deviate from this statutory set of rules substantially, for instance if the landlord uses a standard form or the property is used for residential purposes, German law becomes increasingly inflexible with a bias toward the tenant.

Leases without a fixed term can be terminated by either party with statutory notice normally between three to six months. However, there are many compulsory tenant protection provisions which make it particularly difficult to terminate leases for residential properties.
NEED TO KNOW

FORM OF LEASES

Generally lease agreements can be concluded verbally and do not require a specified form. However, if the lease is entered into for a fixed term of more than one year, certain standards as to the form must be adhered to. If these requirements are not met, parties to the lease are entitled to prematurely terminate the lease on short notice (usually between three to six months). The risk of early termination makes compliance with the form requirement important, and since various aspects of the requirement are rather unique, in practice many parties fail to properly comply with the written form requirement. This sounds dreadful, but the market has found ways to handle this issue in practice.

SUBLETTING / TRANSFER OF LEASES

German law does not allow for a transfer of the lease agreement to a third party; such right must be agreed between the parties to the lease. Under German law, the tenant may not sublease the premises without landlord consent. If, however, the landlord withholds consent for no good cause the tenant may prematurely terminate the lease agreement. Parties to the lease may deviate from those provisions, however this is not market practice.

TERM

Commercial leases may be entered for an indefinite term and terminated within the statutory notice period. Parties to a lease may also agree to enter into a lease for a fixed term and exclude any prior termination right. However, the maximum commitment period is 30 years; if a lease provides for a longer term it may be terminated after this 30 year period, by either party. The right to terminate a lease for an important cause cannot be contractually excluded, however, case-law has specified what an “important cause” can be. The threshold for an important cause is in fact very high.

INDEXATION

Most commercial leases provide for an indexation of the rent by which the rent is adjusted according to the change of a previously agreed index (e.g. Consumer Price Index). Such indexation clauses are only permitted if, amongst other things, the landlord is bound by the lease agreement for at least 10 years, and there is no asymmetric indexation in favour of the landlord. Some commercial leases provide for a stepped rent. Without having contractually and validly agreed on a rent adjustment clause, the landlord is not allowed to increase the rent in commercial lease agreements (with respect to residential leases, statutory law allows for a limited adjustment to the market rent). A “rent-review” is not common, but is possible in Germany.
MAINTENANCE / REPAIRS

German law in principle provides that the landlord is responsible for maintenance and repair. In most cases, the parties of a lease agreement deviate from this general rule, by shifting the responsibility for maintenance and repair to the tenant. German law to a certain degree allows for such shift of responsibility to the tenant, but imposes restrictions on the landlord, in particular when using standard terms. This is sometimes found to be not very user-friendly. If the parties would like to agree on a triple-net-concept in which the tenant is responsible for all parts of the property, they cannot easily agree on such concept in a legally feasible way.

SHARE DEALS

Since German regions apply real estate transfer tax between 3.5% and 5% on a transfer of real estate assets, many investors are used to trading not the real estate asset itself, but the shares in a company (or the interest in a partnership) holding the asset. By this means real estate transfer tax can be avoided as long as a maximum of 94% of the shares or interests are transferred to the buyer. The German legal system for such shares (or interest) is well-developed, and the German real estate industry is accustomed to accepting a corporate wrapper when commercially dealing with real estate assets.

GREEN BUILDING AND GREEN LEASES

The German market increasingly recognises sustainability as an important aspect of the real estate industry. In this context, standards for the sustainability of buildings become increasingly important as many investors and tenants require their buildings to achieve certain standards (such as BREEAM or LEEDS or the German DGNB). Furthermore, some banks are said to offer different margins for debt-financing, depending on whether the building is “green” or not. Apart from the quality of the building, the use by the tenant is attracting increasing interest, and many professional investors have started to include “green” aspects into their standard form lease agreement. Some tenants even request such lease agreements.

TYPICAL STRUCTURES FOR INDIRECT INVESTMENTS

German law provides a variety of vehicles suitable for indirect real estate investment. Joint Ventures or clubs usually invest through a corporation or partnership. Managed vehicles are those of listed real estate companies and funds. The number of listed real estate companies is not as high as in many other comparable markets, and REITs (Real Estate Investment Trusts), though legally existing and available, are only to a very limited extent available in the market. In turn, the German real estate market largely consists of open-ended funds and special funds, i.e. tax transparent vehicles open for retail and professional investors and managed by professional fund managers. Currently, many open-ended funds are experiencing challenges and the industry is expected to consolidate. But for the moment, the fund managers of open-ended and special funds are by far the most powerful domestic real estate investors, followed by pension funds, insurance companies and foreign investors.
### NEED TO KNOW

#### Acquisition – specifications in German law compared to French law

<table>
<thead>
<tr>
<th>How can real estate be held?</th>
<th>Germany</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Freehold ownership;</td>
<td>• Part- or condominium ownership;</td>
<td>• Freehold ownership (which may take the form of co-ownership or volume division if the property is held by more than one owner);</td>
</tr>
<tr>
<td>- Part- or condominium ownership;</td>
<td>• Ground lease (real estate-like right in rem entitling its holder to use the land and construct / own buildings on the land during the term of the ground lease).</td>
<td>• Long-term leasehold agreements (bail à construction and bail emphytéotique).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What rights over real property are required to be registered?</th>
<th>Germany</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>All rights in rem over real estate require registration in the land registry (Grundbuch) to be valid, including ownership rights, encumbrances (e.g. easements, pre-emption rights, usufruct rights, priority notices, ground leases) and security rights (e.g. land charges, mortgages).</td>
<td>All documents transferring or encumbering real estate must be published at the land registry (conservation des hypothèques) in order to be binding upon third parties. This is also the case for security rights (e.g. land charges, mortgages).</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Are there nationality restrictions on land ownership?</th>
<th>Germany</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generally no restrictions except for certain intervention rights of public authorities based on exchange control provisions.</td>
<td>Generally no restrictions except under certain circumstances where exchange control provisions trigger filing obligations.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who usually produces the documentation in real estate transactions?</th>
<th>Germany</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>Typically, seller’s legal counsel prepares first draft, which is subsequently negotiated between the parties before being notarized. In the professional real estate market, German notary has a powerful but more executive role in the implementation of agreements.</td>
<td>French notaries have a monopoly for the execution of property conveyance deeds. However, in large commercial transactions structured as asset deals, lawyers often participate in the drafting and negotiation of the documentation. Drafting exclusively done by legal counsel in case of a share deal.</td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>What are the main usual documents involved in a real estate acquisition?</th>
<th>Germany</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Confidentiality agreement;</td>
<td>• Offer letter;</td>
<td></td>
</tr>
<tr>
<td>- Heads of terms / LOI;</td>
<td>• Due diligence report;</td>
<td></td>
</tr>
<tr>
<td>- Due diligence report;</td>
<td>• Property or share sale and purchase agreement under conditions (promesse) precedent, if such conditions precedent are provided;</td>
<td></td>
</tr>
<tr>
<td>- Sale and purchase agreement (to be notarized before a notary public).</td>
<td>• Property deed of sale and purchase agreement (if no conditions precedent were provided or if such conditions precedent have been fulfilled).</td>
<td></td>
</tr>
</tbody>
</table>
## Acquisition – Specifications in German Law Compared to its European Neighbours

<table>
<thead>
<tr>
<th>ENGLAND &amp; WALES</th>
<th>SPAIN</th>
<th>ITALY</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Freehold ownership;</td>
<td>• Freehold; (which can be registered with the property registry);</td>
<td>• Freehold ownership;</td>
</tr>
<tr>
<td>• Leasehold;</td>
<td>• Other limited rights in rem (usufruct, surface right - derecho de superficie).</td>
<td>• Right in rem entitling its holder to erect (and maintain) a building on land owned by a third party (diritto di superficie);</td>
</tr>
<tr>
<td>• Commonhold;</td>
<td></td>
<td>• Usufruct;</td>
</tr>
<tr>
<td>• Licence.</td>
<td></td>
<td>• Leasehold.</td>
</tr>
</tbody>
</table>

All documents transferring or encumbering real estate or creating leaseholds of certain types of more than 7 years in length must be registered at the land registry in order to be binding upon third parties.

Some specific real estate rights need to be registered in order to be effective, such as mortgages or surface rights. Although in principle real estate rights must not be registered to be effective, in practice any transfer of real estate assets is registered in order to benefit from the publicity provided by the property registry.

Rights in rem over real estate require registration, including:
- Ownership;
- Easements, pre-emptive purchase rights, usufruct rights, priority notices and ground leases;
- Land charges and mortgages.

### No

Generally, the seller’s legal counsel prepares the documentation in relation to an asset sale and often in relation to share sales.

Generally, the parties’ lawyers prepare the draft of the purchase agreement which is subsequently notarized by a notary public through a public deed. Apart from very specific exceptions, only public deeds authorised by a notary public have access to the property registry.

Typically, Italian public notaries in case of a direct sale of real estate properties. In case of an indirect sale by way of a share deal, usually, seller’s lawyer prepares the first draft of the sale and purchase agreement which is subsequently negotiated between the parties.

### Documents

- • Heads of Terms;
- • Due diligence report;
- • Sale contract;
- • Transfer documents.

- • Due Diligence report;
- • Purchase agreement;
- • Transfer deed to be executed before a Notary Public.

- • Offer letter/letter of intent;
- • Due diligence report;
- • Preliminary sale and purchase agreement under conditions precedent;
- • Final sale and purchase agreement;
- • Possible indemnity agreement.
# Leasing - what’s market standard in Germany vis-à-vis its European neighbours?

<table>
<thead>
<tr>
<th>NEED TO KNOW</th>
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<tbody>
<tr>
<td><strong>GERMANY</strong></td>
<td><strong>FRANCE</strong></td>
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</tbody>
</table>
| **What different types of real estate leases exist?** | • Commercial leases;  
• Residential leases;  
• Tenancy agreements (Pachtverträge), i.e. lease agreements where the tenant is entitled to reap the benefits from the intrinsic value of the real estate.  |
| **Are commercial lease provisions freely negotiable?** | Commercial leases are subject to certain mandatory provisions but less regulated than residential leases. Additionally, if the commercial lease qualifies as standard terms and conditions, it is subject to a specific regime and rather strict court rulings.  |
| **Is there a maximum term for commercial leases?** | The maximum lease term is 30 years – if a lease provides for a longer term it may be terminated after this 30-years-period by either party within the statutory termination periods.  |
| **How are commercial rents reviewed?** | Agreed rent indexation in accordance with changes of the consumer price index or agreed increase by stepped rent. Without having contractually agreed such rent adjustment, no party is entitled to claim for a fair market rent review in commercial leases.  |
| **What are usually the basic obligations of landlords?** | • Hand over the leased space in the agreed condition;  
• Maintenance and repair of the leased property (usually, the parties shift this obligation to the tenant).  |
| **What are usually the basic obligations of tenants?** | • Pay rent and service charges;  
• Providing a collateral (usually three times monthly rent);  
• Keep the leased property in good maintenance and repair (only if contractually agreed, structure and roof remain within responsibility of landlord);  
• Insure its belongings, merchandise and goods within the rented premises.  |
| **FRANCE** | • Commercial leases;  
• Residential leases.  |
| **While certain provisions of the commercial lease regime mandatorily apply under French law (e.g. minimum duration, right of renewal), commercial leases remain freely negotiable within such regime.** | Commercial leases have a minimum duration of 9 years. Tenants benefit from a break-option at the end of each 3-year term. Such right may be waived in the lease. Commercial leases entered into for a duration of over 12 years must be published with the land registry.  |
| **Commercial rents may contain automatic indexation provisions. In addition, legal rent review can be claimed before court every three years at the request of either party if specific criteria are met.** | Agreed rent indexation in accordance with changes of the consumer price index or agreed increase by stepped rent. Without having contractually agreed such rent adjustment, no party is entitled to claim for a fair market rent review in commercial leases.  |
| **What are usually the basic obligations of landlords?** | • Guarantee that the tenant enjoys peaceful possession of the property through the lease term and can use it for the purposes established in the lease agreement;  
• Insure the rented premises (premiums may be charged to the tenants).  |
| **What are usually the basic obligations of tenants?** | • Pay rent and service charges;  
• Operate the leased premises;  
• Keep the leased property in good maintained and repaired status;  
• Insure its belongings, merchandise and goods within the rented premises.  |
à-vis its European neighbours?

<table>
<thead>
<tr>
<th>ENGLAND &amp; WALES</th>
<th>SPAIN</th>
<th>ITALY</th>
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<tbody>
<tr>
<td>• Building/Ground leases (whereby the tenant undertakes to construct buildings on landlord’s plot of land);</td>
<td>• Residential Lease;</td>
<td>• Property non-residential leases (e.g. all other purposes than residential);</td>
</tr>
<tr>
<td>• Commercial leases;</td>
<td>• Non-Residential Lease (e.g. all other purposes than residential, such as leases of retail premises, offices, etc.).</td>
<td>• Property residential leases;</td>
</tr>
<tr>
<td>• Residential leases.</td>
<td></td>
<td>• Business leases.</td>
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</tbody>
</table>

Yes. However some landlords subscribe to a voluntary lease code.

The non-residential lease is in principle governed by the will of the parties and only very few provisions of the 1994 Urban Leases Act (Ley de Arrendamientos Urbanos) are mandatory (such as the delivery by the tenant to the landlord of a legal deposit equivalent to two months of rent).

Commercial leases remain freely negotiable within such regime. Yes. However some landlords subscribe to a voluntary lease code.

No. However leases longer than seven years must be registered at the land registry.

The term is freely negotiable between the parties.

Commercial leases can not exceed a term of 30 years. A lease agreement providing for a fixed term of more than 30 years will be deemed a lease having a 30 year term.

Commercial rents are commonly subject to regular (often 3 or 5 years) upwards-only rent review (on an ‘open market’ basis). However, parties can agree indexation or any other basis.

Indexation in accordance with changes of the consumer price index (Indice de Precios al Consumo) or any other rent review regime (e.g. stepped rent or fair market rent, which is not unusual in long-term leases in combination with annual indexation).

Commercial rents may be indexed on an annual basis linked to the public consumer price index published by the Italian Statistic Office (ISTAT). Commercial leases can not generally provide for a stepped rent or a lease review clause to adjust the rent to fair market rent.

• To provide and allow the tenant to occupy the leased premises;
• In a multi-occupied building, to insure and maintain the structure and common parts of the building;
• Where there is a superior lease, to comply with its terms to the extent this obligation has not been passed on to the tenant (principally this will refer to the obligation to pay rent under the superior lease).

• Hand over the leased premises in the agreed condition;
• Duty to make all repairs necessary to preserve the property in good condition for leasing purposes;
• The landlord might be obliged to indemnify the tenant (who has carried out a retail activity in the premises) in case of refusal of extension of the lease term once the initially agreed terms expire. This indemnity payment is usually specifically excluded from the lease.

• Hand over the leased space in the agreed condition;
• Repair and maintain the structure of the rented premises (generally major repairs/extraordinary maintenance);
• Insure the property.

• Pay rent and service charges;
• Keep the leased property in good condition;
• Insure its belongings, merchandise and goods within the rented premises.

• Pay rent and service charges;
• Keep the leased property in good condition;
• Use of the leased property for the activity agreed under the lease;
• Providing the legal deposit (fianza) equal to two months of rent.

• Pay rent and service/common charges;
• Keep the rented premises in good conditions;
• Insure its belongings, merchandise and goods within the rented premises as well as other risks connected with the activities carried out in the premises.
Tax clinic

Investors looking for opportunities in the German real estate market should be aware of the incentives provided by German tax law. Freshfields partner Dr. Ulrich Blaas highlights the key tax elements for a successful investment strategy.

1. INCOME TAX ON RENTAL INCOME

Rental income from German real estate is subject to German income tax for individuals and German corporate income tax for corporations, irrespective of whether they are tax resident in Germany or abroad. The German income tax rate for individuals is progressive and can reach 45% at the top level. Corporate income tax is charged at a flat rate of 15%. There is an additional 5.5% solidarity surcharge on the assessed tax amount. Thus, the aggregate tax rate amounts up to 47.475% and to 15.825% respectively. German based individuals may also face an additional church tax.

Subject to some exceptions, commercial buildings can be amortized for tax purposes at a rate of 3% of the tax base cost of the building and residential buildings at the rate of 2% of the tax base costs, thereby reducing the taxable income. Land cannot be depreciated.
Interest expenses for debt-financing connected with property are tax deductible. However, the deductible amount of interest expenses is capped at 30% of the taxable EBITDA. If the investment is efficiently structured, either by the annual net interest expense per relevant entity being below EUR 3 million or by a specific equity ratio test being satisfied, the cap may not apply. Partnerships are transparent for income tax purposes so that the rental income of a partnership is subject to income tax at the rate of the ultimate individual or corporate partner.

2. TRADE TAX ON RENTAL INCOME

Unless property is held by an individual as a private asset or through a non-trading partnership rental income can also be subject to trade tax. Trade tax on the rental income of a partnership is owed by the partnership and not by the individual partners. The trade tax rate varies among the municipalities and currently ranges between 7% and approximately 17%. 25% of the interest expenses deductible for income tax purposes are added back for trade tax purposes so that the profit for trade tax purposes is often higher than for income tax and corporate income tax purposes. Individuals may benefit from a trade tax credit on their income tax bill, so an individual may be less concerned about trade tax than a corporation. No trade tax is levied if an investor can benefit from the so-called extended trade tax reduction. This advantage is granted to entities having no income other than that from letting real estate and interest. To achieve this benefit, the corporate and real estate aspects of an investment need to be tailored very carefully, in particular if the asset is management-intensive (e.g. shopping centre, hotel). Fixtures and fittings may have to be carved-out timely.

Moreover, foreign individuals and companies owning German real estate but not having a place of management or permanent establishment in Germany do not have to pay trade tax. In order to avoid such a permanent establishment, certain requirements need to be implemented in the corporate as well as the management structure of an investment.

3. TRANSFER TAXES

The acquisition of a German property attracts German real estate transfer tax at a rate between 3.5% and 5%
of the purchase price, depending on the location of the property. The real estate transfer tax can also apply to share deals. A German or non-German investor acquiring directly or indirectly at least 95% of the shares in a corporation holding German real estate will have to pay real estate transfer tax. In the case of a direct or indirect transfer, of at least 95% of the interest in a partnership holding German real estate, to new partners, the partnership itself faces a comparable tax cash-out. The good news is that German tax law offers opportunities to structure share deals free of real estate transfer tax and asset deals in a tax saving manner.

4. **TAX ON EXIT PROFIT**

The sale of property is subject to income tax and corporate income tax. Capital gains can be reduced by tax losses and losses carryforwards. The use of tax losses carryforwards is restricted under the German minimum taxation rules if the capital gain exceeds EUR 1 million. Trade tax may be applicable if the transaction is not structured in a trade tax-free manner. In case of a share sale in a corporation, a 95% exemption may apply. Foreign investors holding such shares in another jurisdiction may be fully exempt from German exit taxation provided that there is a Double Taxation Agreement between Germany and the other jurisdiction attributing the right to tax such capital gains solely to the other jurisdiction.

5. **WITHHOLDING TAX**

Generally there is no withholding tax on rental income or on cash payments from a partnership to its partners. A withholding tax free distribution of profits from a real estate owning German corporation to its foreign shareholder is, amongst other things, possible if and to the extent that the shareholder is eligible under the EU Parent-Subsidiary Directive.

6. **VAT**

The standard German VAT rate is 19%. The general rule is that letting and selling real estate is VAT exempt. However, certain exceptions apply. The seller of a property can opt for VAT if the property is sold to another entrepreneur. The option is usually exercised if and to the extent that the property is used for commercial and not for residential purposes.
Letting commercial properties can be arranged in a VATable manner but there is no VAT option available for letting residential properties or for commercial properties used for purposes not VATable, for example if let to banks, insurance companies or schools. Only if and to the extent that the property is used for a VATable transaction corresponding input VAT on the costs charged to the owner of the property can be recovered.

7. REAL ESTATE TAX

An annual real estate tax is levied on the owner of German real estate. Though this type of cost is incurred on an ongoing basis, most landlords will not be able to recover the annual real estate tax from the tenants via the service charge.

8. G-REITS

It is possible to set up a German real estate investment trust (G-REIT) to deal with commercial properties. The G-REIT is a publicly listed stock corporation which is exempt from corporate income tax and trade tax. Distributions are in principle subject to tax. Each direct shareholder should hold less than 10% of shares in the G-REIT.

9. OPEN-ENDED FUNDS

Real estate can also be held by an open-ended real estate fund. Special regulatory and tax rules apply to such funds which are tax transparent for income taxation purposes.
Hot Spots

Discover 3 outstanding real estate projects that illustrate the Germany of the coming years

Berlin: Europacity in the heart of the capital

Hardly any other European metropolis has undergone such rapid urban transformation as Berlin since the Fall of the Wall. Europacity, a development site with an area of almost 40 hectares in the heart of the city, is one of the most outstanding projects. Situated in the immediate vicinity of the new Central Station, the Chancellery and the parliament building, it offers locational quality which is likely to remain unrivalled for a long time to come. With the preparation of the master plan in 2009 and the approval of the zoning plan by the Berlin Senate in 2010, the way was clear for construction work on the first Europacity projects to begin. On the grounds of the former goods station, a site which today still largely has an industrial character, a mixed and lively urban district is to be created. Alongside offices, hotels, shops and stores, it will also include housing and cultural facilities. The master plan provides for the residential units to be set in lots of greenery and to offer typical Berlin features such as inner courtyards. On its southern boundary, the site is already being used for such interesting projects as the Museum für Gegenwart (Museum of the Present Day), in what is called the Hamburger Bahnhof, and the Rieck Hall, which houses the Flick art collection.

The go-ahead for the initial projects has been given. The end of 2011 saw the start of building work on an eight-storey hotel to be run by Steigenberger on the basis of a 20-year lease. With 420 rooms, it will be the biggest InterCity Hotel in Germany. Also under construction is the Total-Tower, a 17-floor high-rise in which Total, the French mineral oil group, had leased nearly 14,000 m² of space for its German headquarters. Other plots of land have already been sold, making it likely that further projects will soon be underway and that the site as a whole will be developed rapidly.
Hamburg: HafenCity Waterfront Development

Hamburg’s HafenCity is the largest downtown development project in Europe and one of the most striking waterfront developments worldwide. It has a total area of some 157 hectares, meaning that once all the planned construction measures have been completed in the next 20 to 30 years, Hamburg’s city centre will have grown by around 40%. The master plan for the project was approved by the Hamburg Senate at the beginning of 2000, giving the go-ahead to create a huge new central municipal district geared to living and working, and offering a dense urban-flair mixture of services, culture and the arts, leisure and tourist facilities, shops and stores.

Up to mid-2011, 1,300 residential units had already been created. And alongside major companies like Unilever, SAP, China- Shipping and Germanischer Lloyd, over 300 small and medium-sized firms have moved to this area. Educational establishments have also opted for this location; these include HafenCity University (HCU), the International School of Management and the Frankfurt School of Finance & Management. Rounding off the picture are facilities like the Hamburg-Amerika-Center, a cruise terminal and, in the Überseequartier, a spectrum of retail outlets.

In the past few years, HafenCity has also evolved into one of Hamburg’s most important office space submarkets. Here, sustainability is a key topic. In addition to such familiar certificates as DGNB, Leed and Breeam, HafenCity now also has its own sustainable construction label. By far the majority of all the new buildings here have the top possible certification. This is one more reason why HafenCity has become such a favoured location for real estate investment. In recent years, office buildings here have attracted more than 1.5 bn € from investors in Germany and abroad.
Frankfurt Europaviertel

The closure of Frankfurt’s main goods station in the direct vicinity of the trade fair grounds opened up a unique opportunity to plan an inner-city development site right from scratch. So currently, on a site with an area of around 90 hectares, an entire urban district is being created, with a wide range of forms of occupancy, such as residential units, offices, hotels, retail, leisure and attractively greened precincts. The first master plan was approved in 2000, and initial infrastructure provision works began in 2005. Once the project as a whole has been completed, it will provide around 30,000 jobs and homes for some 10,000 people. A number of projects have already been erected. They include a few residential buildings with several hundred apartments (more housing is currently being constructed), a Mövenpick hotel, and the Meininger and Dormero hotels which have already opened their doors. In the first office building to be completed, in mid-2010, BNP Paribas has taken up 11,000 m² of space for its new German headquarters, and at the beginning of 2012, the first high-rise was inaugurated, the Tower 185, with premises totalling around 60,000 m². Among the tenants: Price Waterhouse Coopers.

The centrepiece of the Europaviertel will be the Skyline Plaza quarter. Construction work on this started in the middle of 2011 and it is due to be opened in 2013. In addition to a shopping centre of 38,000 m², there will be catering outlets with a combined area of around 4,500 m² and an 8,500 m² wellness area. Rounding off the spectrum are a top-class Grand Hyatt Hotel and a conference centre accommodating 2,000 people. One special feature is the large (11,500 m²) roof garden with a range of restaurants, cafés etc. and with a spectrum of events intended to attract visitors throughout the year.
BNP PARIBAS REAL ESTATE INVESTMENT IN GERMANY
Our Investment Department

Our German Investment Team deals with investors within the framework of advisory missions for asset transfer or acquisition (single assets, portfolios, sale & lease back...)

During 2011, we have strengthened our leading position and consolidated our market shares with **867 transactions and a volume of 2.4 bn €**, consisting of all types of products, e.g. offices, retail, industrial, warehouses/logistics, sites, hotels.

Our consultants will enable you to profit from our deep knowledge of the German real estate market, dynamic analysis of different actors, including their investment criteria and their acquisition or arbitrage policy. This allows us to offer you a personalized view whatever your strategy.

The BNP Paribas Real Estate organisation and its international coverage (30 countries worldwide) allow us to reach large international markets.

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