

# Luther.

## Your Team for Banking and Capital Markets Law

# Banking and capital markets laws



**In the area of banking and capital markets laws, Luther is represented in five offices in Germany as well as in London and Luxembourg by a team of highly qualified lawyers who have vast experience in the market.**

Our team of specialists in banking and capital markets laws advises banks, financial service providers, issuing houses, financial investors and (listed) companies on all issues pertaining to banking, financial and capital markets laws as well as on regulatory requirements.

We will advise you on how to develop and devise new financial products, the structuring, negotiation and documentation of domestic and international finance transactions as well as the daily handling of already existing finance transactions. Where required, we also advise on restructuring measures, including the relevant aspects under the German reorganisation and insolvency laws and on the legal enforcement of or defence against claims under banking and finance laws.

Our lawyers are fully familiar with the legal issues surrounding the implementation of finance transactions as well as the respective market environment and market standards: Thus we can achieve optimum results for you in negotiations and prepare the required documentation to a high standard – even if we are hard-pressed for time. Our advice always focuses on

your business interests and is designed to suit your needs from the outset. Working closely with you, our lawyers will develop and devise appropriate and tailor-made legal strategies and structures. We are used to communicate with the legal department but also the business departments of our clients.

Regulatory requirements prove challenging for our clients. The ever changing requirements of the German Banking Act (KWG), the German Payment Services Act (ZAG), the German Securities Trading Act (WpHG), the German Securities Prospectus Act (WpPG), the German Financial Assets Act (VermAnlG) and many other legal norms are proving increasingly difficult to manage. There is hardly any other sector pushing “Europeanisation” in a way similar to the regulation of the financial sector through, for example, the AIFMD, MiFID II, CRR and Solvency II, etc. In this context, our regulatory experts, who benefit from excellent relations with the competent authorities, can be at your side to advise you competently.

We will also represent you in court if it comes to banking and capital markets law disputes. Since the collapse of Lehman

Brothers, the requirements for successful litigation have increased considerably. For example, over the past few years it is not only the civil-law standards regarding banker' liabilities and prospectus liability that have been rigorously tightened, but also the pertinent procedural rules, not least through the German Federal Court of Justice's "swap judgment" in 2011. These changes require know-how of the subject matter, as well as highly professional and prudent management of litigation proceedings. Strategically important decisions need to be made at an early stage. If necessary, we can also advise you in the run-up to a legal dispute on the strategic and economic alternatives to a litigation. If a large number of proceedings are about to be initiated, we will coordinate the procedural and communication strategy with you, which will be reviewed and, if necessary, be adjusted on a regular basis.

Our banking, financial and capital markets law advice is complemented by our integrated tax advice to ensure that you avoid any negative tax consequences and profit from any tax benefits.

By collaborating closely with tax advisors and lawyers from other jurisdictions, we can provide you with sector-specific know-how in cross-border transactions and legal issues in approximately 50 countries. Nonetheless, throughout the process, the person responsible for your matter will always be a lawyer from our banking and capital markets law team.

## Regulatory law

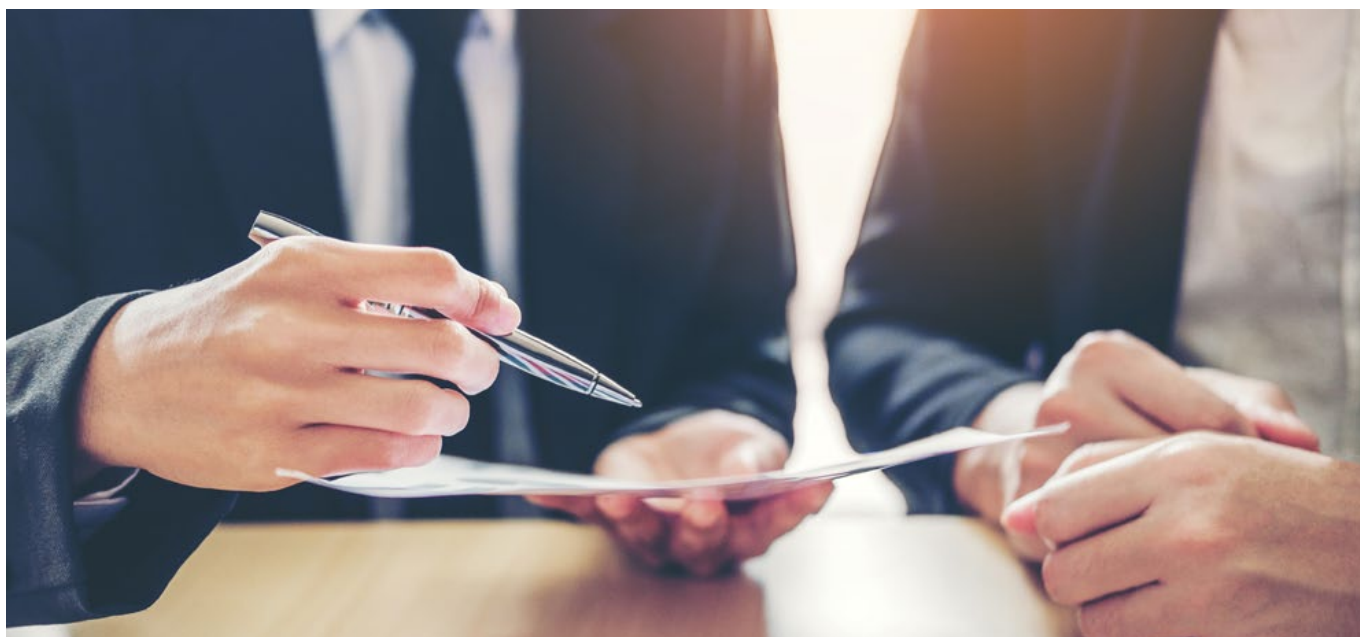
- Advising on the establishment, acquisition and restructuring of banks and financial service providers, branch offices and representative offices
- Advising on licensing requirements, assisting banks, financial service and payment service providers and investment (management) companies on the application for the respective licenses
- EU passport
- Notification and reporting duties under regulatory laws
- Outsourcing of banking and financial services and regulatory duties
- Compliance management
- Requirements for risk management
- Advice on the implementation of the AIFM directive
- Capital and liquidity requirements
- Money-laundering prevention

## Debt financing

- Syndicated loans, working capital facilities, guarantee facilities
- Acquisition financing (comprehensive advice throughout the acquisition process)
- Project financing (financing of projects and legal advice during the implementation of the project)
- Structured corporate financing (in particular with group financing with regard to the interface between debt financing and equity financing (senior and junior tranches, subordinated loans, working capital facilities, revolving credit facilities, bank guarantees, etc.))
- Real estate financing
- Leasing and factoring (invoice financing)
- Refinancings and secondary debt trading
- Legal due diligence reviews, legal opinions and other expert opinions
- Coordinating processes and advising businesses with regard to financing (project coordination, selecting a bank)
- Drafting and negotiating term sheets, credit and security agreements, finance documentation in German and English
- Distressed assets and financial restructuring

## Funds

- Structuring funds (open- and closed-end funds, including special funds)
- Preparing prospectuses (for securities and capital investments) and the related documentation (capital investments information sheet)
- Advising on the approval proceedings with the German Federal Financial Supervisory Authority (BaFin)
- Sales notices or notification procedures for foreign funds in Germany and German funds abroad
- Fund-specific capital market, regulatory, distribution and competition laws
- Advice on implementing the AIFM directive and the German Capital Investment Act (KAGB)
- Repackaging of classic funds and investment strategies into structured products
- Restructuring of fund products



## Capital markets law

- Advising on public offerings and private placements of financial instruments (e.g. bonds, certificates, warrants, structured bonds and other structured products, capital investments and shares)
- Preparing prospectuses for debt issuance programmes (EMTN/Debt Issuance Programmes for banks and large corporate issuers) programmes for structure bonds, programmes for covered bonds, base prospectuses for bonds, certificates and warrants, prospectuses for exchange traded commodities
- Advice relating to draw-downs under issuance programmes and structuring the final terms
- Preparing documentation for certificated loans (Schuldscheindarlehen)
- Preparing prospectuses for corporate bonds (including bonds issued by mid-size companies (Mittelstand)) and bonds secured by real estate and shipping assets
- Preparing prospectuses for capital investments (e.g., profit participation rights and registered bonds)
- Advising on the requirements of the German Financial Assets Act (VermAnlG)
- Restructuring of bonds pursuant to the German Bond Act (Schuldverschreibungsgesetz)
- Preparation of the documentation for contracts for difference (CFDs) for financial intermediaries and retail clients
- Drafting of hosting contracts for CFDs and cooperation agreements with CFD-brokers
- Preparing ancillary documents (e.g., PIB and VIB), including to confirm compliance with the legal and regulatory requirements of the German Federal Financial Supervisory Authority (BaFin)
- Review of information and marketing materials with respect to compliance with all regulatory requirements including compliance with MiFID
- Preparation and review of distribution agreements
- Advice relating to the requirements of the German Securities Trading Act (WpHG) (documentation, ad-hoc disclosures, prevention of insider trading)
- Advice on admission to trading
- Advice relating to selecting issuing banks, assisting with negotiations
- Drafting the underwriting agreement with the issuing bank
- Preparing legal opinions
- Advising after an IPO (e.g. reporting duties, compliance)
- Assessing financial products (especially eligibility as cover fund investments) and how they are structured
- Advising on asset-backed securities, including residential mortgage-backed securities and commercial mortgage-backed securities, mezzanine financing, PPP and insurance (alternative risk transfers/insurance-linked securities)
- Advising on derivatives (underlying, inter alia in the areas of finance, loans, energy, real estate, projects and insurance)

- Advising on legal aspects of ISDA framework agreements and German framework agreements as well as on the regulation of OTC-derivatives (EMIR)
- Notification of the sale of financial instruments under an EU passport

## Mezzanine and equity financing

- Financing of subordinated capital through participation rights, subordinated loans, profit or sales participating loans, typical and atypical silent participations, shareholder loans
- Raising hybrid capital by issuing convertible and income bonds
- Warrant bonds, perpetual and high-yield bonds, participation certificates and preferred stocks
- Devising debt mezzanine and equity mezzanine instruments taking into consideration accounting rules and tax implications
- Equity capital financing according to the German Banking Act (KWG) and the German Insurance Supervision Act (VAG)
- New share issues, rights issues, IPOs and preparatory corporate actions
- Carrying out legal due diligence, compiling the prospectus and the relevant contracts
- Offers relating to the acquisition of securities and underwriting/takeover bids

## Banking litigation

- Representation in banking and capital market litigation, including advisory and prospectus liability
- Advice on the strategic and economic alternatives to litigation
- Representation in court in mass actions, including coordinating the activities of numerous law firms
- Shadow counselling in sensitive court proceedings
- Devising procedural and communication strategy where a large number of legal proceedings are about to be initiated

## What others say about us

**Chambers**  
AND PARTNERS

The Chambers FinTech  
Guide lists Luther from  
2019 to 2023.

IFLR1000

IFLR1000 recommends  
Luther Luxembourg for  
Tier 3 Banking in 2022.

 **kanzleimonitor.de**

Kanzleimonitor  
recommended Luther in  
2022/2023 for banking law  
and financing.



# Your contacts



## **Dr Rolf Kobabe**

**Lawyer, Savings bank officer, Partner**  
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Dr Rolf Kobabe, a trained savings bank clerk, was initially assistant to the board of the private bank Hallbaum, Maier & Co. AG in Hanover. After completing his doctorate with a thesis on the law of EU central banks, he from 1998 initially practised as a commercial lawyer with a focus on financing measures for small and medium-sized enterprises. Dr Kobabe has published numerous books, brochures and essays on current developments in the capital markets, among other things, most recently as co-author of the commentary on the German Banking Act and the CRR published by Schäffer-Poeschel Verlag (4th edition 2023).

### **Areas of practice**

Dr Rolf Kobabe specialises in the areas of regulatory law, asset management and funds. Here, Dr Kobabe advises on all issues relevant to supervisory law, in particular from the KWG, WpIG, ZAG, WpHG, KAGB, VAG, VVG and the Gewerbeordnung (Trade Regulation Act), and assists his clients with all necessary BaFin authorisation and ownership control procedures, the specific organisational and conduct obligations as well as in the drafting of contracts and documentation for the launch and management of mutual and special funds of all asset classes (including crypto assets). His regulatory expertise also includes questions regarding the German Money Laundering Act (GwG). A further focus of his work is banking contract law, banking supervisory law and capital market law in all its facets.

Within the scope of his work, Dr Rolf Kobabe advises international and national credit institutions, investment firms, financial service providers, asset managers, capital management companies, custodians, issuing houses and insurance companies, but also capital-seeking and financial market-oriented SMEs, as well as Fin-Techs and start-ups.

# Your contacts



## **Daniel Latta**

**Lawyer, Graduate in Business Law, Partner  
Berlin**

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Daniel Latta is a trained banker. After studying law and completing an additional business and economics programme (with a focus on banking and finance) at the Universities of Bayreuth and Augsburg (both Germany), he worked at leading German law firms in Dusseldorf and Berlin (Germany). Daniel Latta joined Luther in August 2022.

### **Areas of practice**

Daniel Latta advises credit institutions on matters pertaining to bank contract law, in particular in the areas of consumer credit law, payment transactions and the drafting of general terms and conditions typically used by such institutions. Over the years, he has also gained a wealth of experience as a lead trial lawyer in state courts, where he especially represents his clients in disputes relating to corporate, banking and financial law.

# Your contacts



## **Bob Scharfe**

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Bob Scharfe obtained an LL.M. in International Business Law from the University of Kingston Upon-Hull, a Master's degree in Private Law from the University Robert Schuman in Strasbourg, and a Certificate in General Management from the Stanford University Graduate School of Business. He was admitted to the Luxembourg Bar in 2008. Prior to joining Luther in 2018, he worked in the banking, finance and capital markets department of an international law firm in Luxembourg.

### **Areas of practice**

Bob Scharfe is a Partner and heads the Banking, Finance and Capital Markets practice of Luther's Luxembourg office. He advises banks, multi-national corporations, and private equity firms on a wide range of banking and financing matters, capital markets, structured finance, securitisation and insolvency law aspects, and structuring private equity investments through Luxembourg. He also has solid experience in general corporate law.



# Your contacts



## **Christoph Schauenburg, LL.M. (London)**

**Lawyer, Partner**

**Frankfurt a.M.**

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Christoph Schauenburg studied law at the Freie Universität in Berlin, Germany, and earned an LL.M-degree from King's College, London, England. After having completed his legal clerkship in Berlin, he was admitted to the bar in 2003. From 2003 to 2012, he worked with international law firms in Frankfurt am Main and London. He joined Luther in 2012, as a Partner in the Service Line Banking, Finance & Capital Markets. Besides German, he speaks English and French.

Christoph Schauenburg regularly lectures and publishes on banking & finance topics.

### **Areas of practice**

Christoph Schauenburg's practice focuses on advising lenders, borrowers and private equity investors on all aspects of banking and finance transactions. This includes the structuring, negotiation and documentation of syndicated loans, acquisition, project and real estate financings, as well as securitizations and other receivables' financings. Furthermore, he advises on all aspects of corporate bonds as well as non-performing loans and financial restructurings.

# Your contacts



## Ingo Wegerich

**Lawyer, Postgraduate studies in business law, Partner  
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Ingo Wegerich studied law at the University of Hamburg, Germany, and also successfully completed supplementary studies in business law. From 2002 to 2013, he worked for various renowned law firms in the field of capital markets law. In 2013, Ingo Wegerich joined Luther as a partner.

Ingo Wegerich is frequently invited to speak as an expert on capital markets law topics at lectures and other events, both in Germany and abroad, and has published numerous articles in financial newspapers and specialist journals.

Ingo Wegerich is President of the Association of Capital-Market-Oriented Small and Medium-Sized Enterprises e.V. ("Interessenverband Kapitalmarkt KMU"). The Frankfurt/Main-based Association, which was founded on 30 August 2017, is particularly committed to improving the relevant framework conditions for small and medium-sized enterprises (SMEs) in capital market financing. Its members are SMEs, service providers, financial institutions and media companies. The Association has repeatedly been able to influence the legislative process in the interest of capital-market-oriented SMEs. More than 100 Board members of capital-market-oriented enterprises have participated in a petition and collection of signatures to amend the German Securities Prospectus Act. The petition has led to an amendment to the Act allowing rights issues worth up to EUR 8 million to be carried out without a prospectus. This is the first time in the history of German capital market law that a petition and collection of signatures has been used to influence the legislative process.

### Areas of practice

Ingo Wegerich has many years of experience in the field of capital markets law. He comprehensively advises banks and issuers on capital markets and derivatives transactions (securitised derivatives and OTC derivatives), including related regulatory law issues. He specialises in the preparation of various kinds of debt issuances programmes (inter alia, EMTN, covered bond programmes, structured notes programmes), amongst other things, and advises on the issue (and refinancing) of bonds, including the listing and the follow-up obligations, as well as on transactions regarding registered bonds and bonded loans. With regard to the impending changes to various regulations at the European level, he advises market participants on the implementation of MiFID II, EMIR, PRIIPs, the Market Abuse Regulation and the Capital Markets Union.

# Hits the mark. Luther.

Luther Rechtsanwaltsgesellschaft mbH is one of the leading corporate law firms in Germany. With some 420 lawyers and tax advisors, we can advise you in all fields of German and international corporate law. In addition to having offices in every economic centre throughout Germany, we are also present in 11 locations abroad: in Brussels, London and Luxembourg in Europe, and in Bangkok, Delhi-Gurugram, Ho Chi Minh City, Jakarta, Kuala Lumpur, Shanghai, Singapore and Yangon in Asia.

Our advisory services are tailored to our clients' corporate goals. We take a creative, dedicated approach to achieving the best possible economic outcome for each of our clients. The name "Luther" stands for expertise and commitment. With a passion for our profession, we dedicate all our efforts to solving your issues, always providing the best possible solution for our clients. Not too much and not too little – we always hit the mark.

We know how crucial it is to use resources efficiently and to plan ahead. We always have an eye on the economic impact of our advice. This is true in the case of strategic consulting as well as in legal disputes. We have complex projects on our agenda every day. At Luther, experienced and highly specialised advisors cooperate closely in order to offer our clients the best possible service. Thanks to our fast and efficient communication, permanent availability and flexibility, we are there for you whenever you need us.

Luther has been named "Law Firm of the Year: Germany 2021" and also "European Law Firm of the Year 2021" by The Lawyer, one of the most well-known legal magazines worldwide.



## About unyer

unyer, founded by Luther and Fidal in 2021, is a global organisation of leading international professional services firms. Besides law firms, unyer is also open to other related professional services, especially from the legal tech sector. unyer is based in Zurich as a Swiss Verein. unyer is globally connected but has strong local roots in their respective markets.

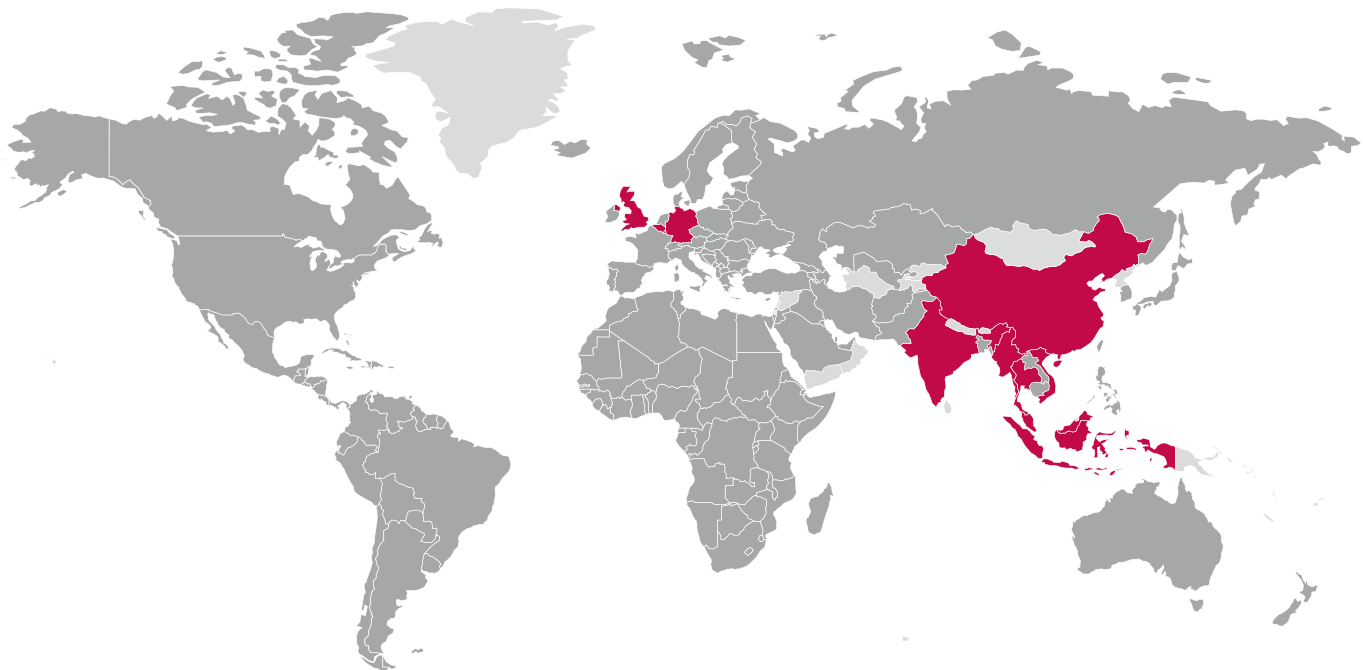
unyer has an exclusive approach and only accepts one member firm from each market. unyer members offer its clients full services across all jurisdictions with a compelling industry focus. The organisation has an annual turnover of more than EUR 650 million and includes over 2,550 lawyers and advisors in more than 10 countries in Europe and Asia. In September 2021, Pirola Pennuto Zei & Associati joined the international organisation. In the spring of 2023, the Austrian law firm KWR joined the group. [www.unyer.com](http://www.unyer.com)



# Our locations

We have a global outlook, with international offices in 11 key economic and financial centres in Europe and Asia. We also maintain close relationships with other commercial law firms in all relevant jurisdictions. Luther is a founding member of unyer ([www.unyer.com](http://www.unyer.com)), a global organisation of leading professional services firms that cooperate exclusively with each other. This way, we ensure a seamless service for our clients throughout their demanding international projects.

Our partner firms are based in Africa, Australia and New Zealand, Europe, Israel, Japan and Korea, the Middle East, Russia and the CIS, South and Central America, the US and Canada.



- Luther locations
- Best friends

| Our locations    |              |
|------------------|--------------|
| Bangkok          | Jakarta      |
| Berlin           | Kuala Lumpur |
| Brussels         | Leipzig      |
| Cologne          | London       |
| Delhi-Gurugram   | Luxembourg   |
| Dusseldorf       | Munich       |
| Essen            | Shanghai     |
| Frankfurt a.M.   | Singapore    |
| Hamburg          | Stuttgart    |
| Hanover          | Yangon       |
| Ho Chi Minh City |              |

# Our industries

We focus on advising transactions with respect to targets in five industries.

## Energy



Conventional or renewable energies: We work efficiently and sustainably.

## Health Care & Life Science



With our expertise, we have our finger on the pulse of time.

## Information Tech & Telecommunications



We connect today with tomorrow.

## Mobility & Logistics



We understand what gets you moving and can set you on the right course.

## Real Estate & Infrastructure



We lay the foundation for you to build on.

# Our practice areas

|                                      |                                       |  |                       |
|--------------------------------------|---------------------------------------|--|-----------------------|
| Antitrust Law                        | Capital Markets & Banking             | Commercial & Distribution Law, Product Liability/ Product Compliance | Complex Disputes      |
| Compliance & Internal Investigations | Corporate/M&A                         | Data Protection Law  | Employment Law        |
| Energy Law                           | Environment & Planning Law Regulatory | Financial Services Investment Funds & Alternative Investments        | Insurance Law         |
| International Trade Law              | IP & Copyright Law                    | IT Law   | Media & Entertainment |
| Notarial Services                    | Public Procurement Law                | Public Subsidies/ State Aid Law                                      | Real Estate           |
| Restructuring & Insolvency           | Start-ups & Venture Capital           | State, Administration, Public Undertakings                           | Tax Law               |
| Telecommunications Law               | White-Collar Crime & Tax Offences     |  |                       |



# Our awards



## JUVE

In the 2022/2023 JUVE Guide to Commercial Law Firms, 52 lawyers from Luther were recommended, and 10 of these were also listed as “leading advisors”. The legal publisher JUVE ranked Luther in 31 areas of law. In 2022, Luther was nominated for the JUVE award “Employment Law” as well as “Real Estate” and was named “Law Firm of the Year” by JUVE in 2019. In the past, Luther already won the JUVE award “Law Firm of the Year 2017 for Environmental and Regulatory Law”.



## The Legal 500

The Legal 500 Germany 2023 recommends Luther in 30 areas of law, with “Top Tier” rankings in two of these areas. 72 lawyers are being recommended, 12 of whom have been specially recognised as “Leading Individual” or “Next Generation Partner”. Luther has also been included for Germany in the first edition of **The Legal 500 Green Guide EMEA 2022**. This guide provides an overview of law firms’ engagement with sustainability, including both work for clients as well as firms’ own best practices and initiatives.



## Chambers

In 2023, Luther was recognised by Chambers Europe for 13 practice areas in Germany as well as in two practice areas in Luxembourg. Moreover, 15 partners were included in the Individual Ranking. Additionally, in 2023, Luther was recognised by Chambers Global in three advisory areas in Germany and Myanmar, while five partners were also included in the Individual Ranking.



## The Lawyer European Awards

Luther has been named “Law Firm of the Year: Germany 2021” and also “European Law Firm of the Year 2021” by The Lawyer, one of the most well-known legal magazines worldwide.



## Kanzleimonitor

Kanzleimonitor 2022/2023 recommends Luther in 25 areas of law and has also included 16 Luther lawyers among the recommended lawyers mentioned by name.

## Best Lawyers

### „Best Lawyers in Germany 2024“

For the year 2024, 99 lawyers have been recommended by Luther as “Best Lawyers in Germany 2024”, an award presented by the US publisher “Best Lawyers” in cooperation with the German Handelsblatt, including one partner as “Lawyer of the Year” for his area of law, and 19 colleagues who have received the recommendation “Best Lawyers - Ones to Watch”.



## WHO'S WHO LEGAL

WHO'S WHO LEGAL listed 21 lawyers in December 2022, four of whom were recognised as Thought Leaders, which is the highest award, and three of whom were named Future Leaders.

# Digitalisation

The digital revolution is well under way. In a highly competitive market new business models are always being developed and existing processes are continually being challenged. Groups, medium-sized businesses and start-ups are all looking for the best possible ways to position themselves in this environment. In this way, new, innovative forms of cooperation are constantly being created. This revolution is being driven by numerous recent technological developments: cloud computing, digital platforms, Big Data and artificial intelligence, the Internet of Things and blockchain technology.

**Luther advises on all legal topics relating to digital business models, agile architectures and technical levers. Our team provides support in all phases of the necessary transformation processes within the company, the law firm or the group, from strategic dialogue to conceptual work and the realignment of value chains, also including the subsequent change process. When providing advice, the Luther team also considers relevant topics and changes in commercial and distribution, employment, IT and data protection law.**

**Protecting Intellectual Property**



**Artificial Intelligence & Big Data**



**Digital Infrastructure**



**Digital Value Chains**



**Blockchain & FinTech**



**Data Protection, Antitrust & Compliance**



**Future Work**



**Digital Media & Gaming**



**Platforms & Communities**



**Start-ups & Venture Capital**



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For reasons of better legibility, the simultaneous use of gender-specific language forms is dispensed with. Corresponding terms apply in principle to all genders in the sense of equal treatment. The abbreviated form of language has editorial reasons and does not imply any valuation.

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# Luther.

**Bangkok, Berlin, Brussels, Cologne, Delhi-Gurugram, Dusseldorf, Essen,  
Frankfurt a.M., Hamburg, Hanover, Ho Chi Minh City, Jakarta, Kuala Lumpur,  
Leipzig, London, Luxembourg, Munich, Shanghai, Singapore, Stuttgart, Yangon**

You can find further information at:

[www.luther-lawfirm.com](http://www.luther-lawfirm.com)

[www.luther-services.com](http://www.luther-services.com)

