German reaction to Brexit and Trump

Most people would say that the prospects for the German restructuring market in 2017 are likely to be shaped by things like the Brexit vote, the new protectionism touted by President Donald Trump and the continuing banking crisis, particularly in Italy. The oil price will also have an impact.

But German banks seem to be taking a remarkably relaxed view of prospects for 2017, according to survey carried out in Germany and published this month into lenders' opinions.

Over half the respondents to the CIC survey conducted between 17 November and 2 December last year found that they expect that the election of Trump "will have no consequences for the German economy" (see **Table 1**).

Another 42 per cent, however, are not so sanguine, expecting that "there will be negative consequences – the economy declines."

When it comes to the consequences of the UK's vote to 'Brexit' the EU, a mere 10 per cent expect a 'hard Brexit' (see **Table 3**).

Fully 85 per cent expect a negotiated settlement, most plumping for a 'Swiss Model' (access to the European Single Market with around 120 single agreements), while a smaller number are expecting a 'Norwegian Model' to be followed (access to the European Single Market and the European Economic Area but no votes in the EU organs and accepting all EU rules).

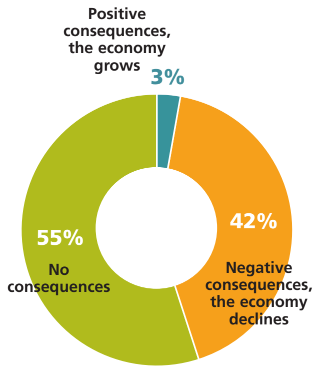
And exactly a half of respondents expect "no consequences from Brexit for the Germany economy" (see **Table 4**). Another 42 per cent expect negative consequences. A surprising eight per cent actually believe the German economy will grow as a consequence of Brexit.

So who are these respondents? CIC Consultingpartner GmbH compiled their 'Expert Dialog; Development of the German restructuring market' survey by questioning 124 restructuring experts from German and foreign banks and other lenders; Just over 80 per cent of respondents were banks, while 16 per cent were private equity and hedge funds.

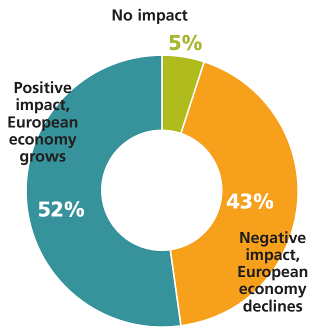
Europe's biggest economy

CIC's look into the intentions of lenders inside Europe's biggest economy will grow in interest as Germany also becomes more dominant politically in the EU, with the departure of the UK.

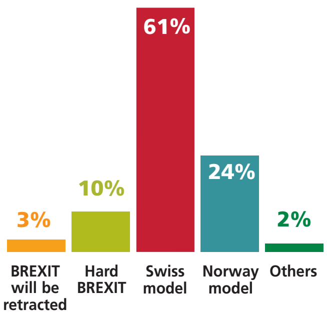
1 Which consequences will the Presidential election in the USA have for the German economy?



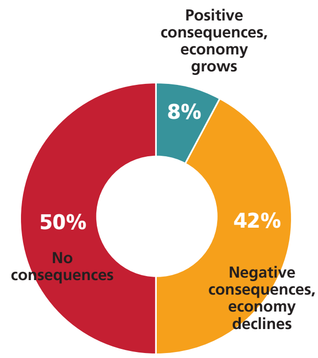
2 How did the European economy change in your point of view since the last financial crisis in 2007?



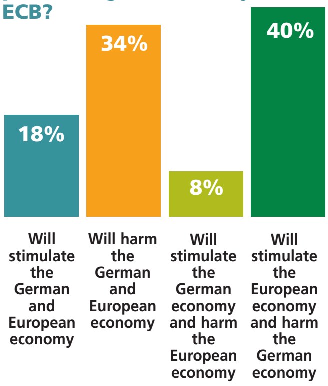
3 Which form of BREXIT do you expect?



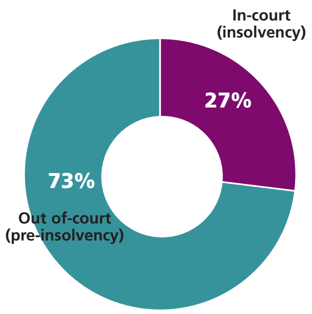
4 Which consequences do you expect from BREXIT for the German economy?



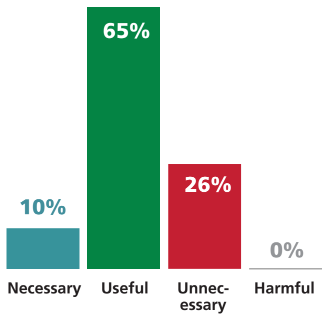
5 How do you rate the low interest policy and the purchasing of bonds by the ECB?



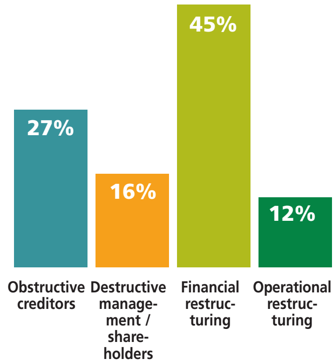
6 Which restructuring procedures do you see as more successful after the start of the "ESUG"?



7 Do you think the introduction of a pre-insolvency procedure corresponding to the proposal of the EU Commission is basically:



8 In which cases do you see such a procedure as useful?



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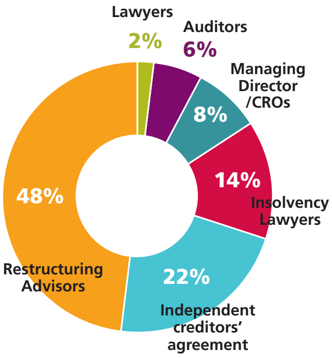
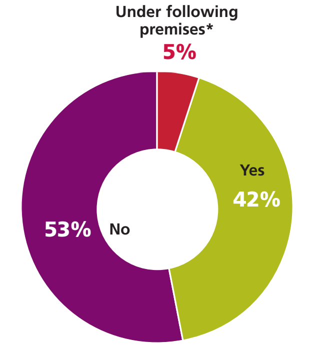
9 Who should control such a procedure in your opinion?

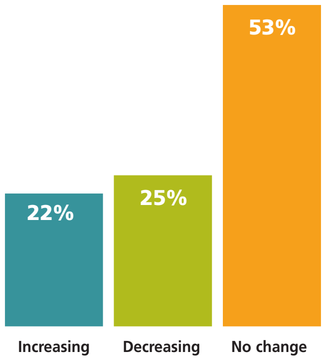


10 Should courts be involved in such a procedure?

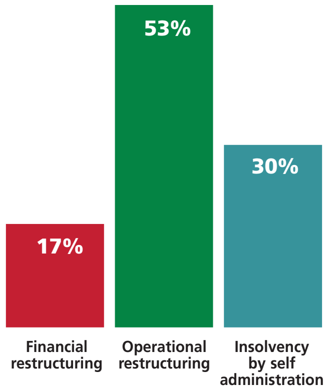


* Premises:
- If consensual restructuring is not feasible (e.g. destructive lenders)
- If provisional enforceability of individual lenders is needed

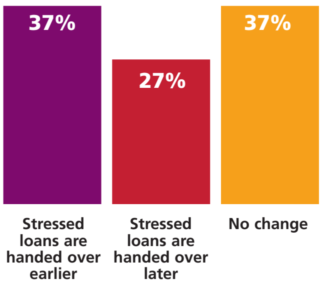
11 How did the use of a CRO change in the last 24 months?



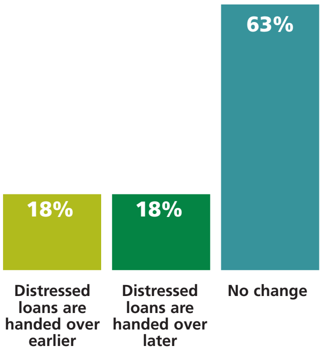
12 Where do you see the use of a CRO as being essential?



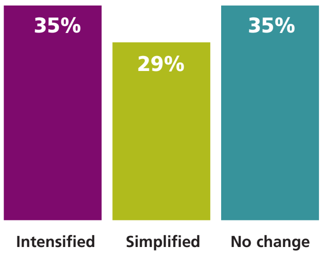
13 How did the time period for the handover of distressed loans from sales to intensive care departments change?



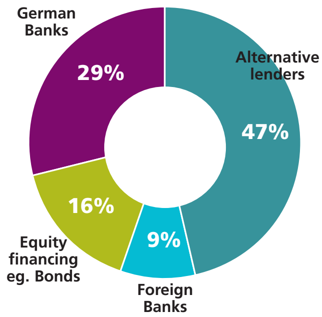
14 How did the time period for the handover of distressed loans from intensive care to work-out departments change?



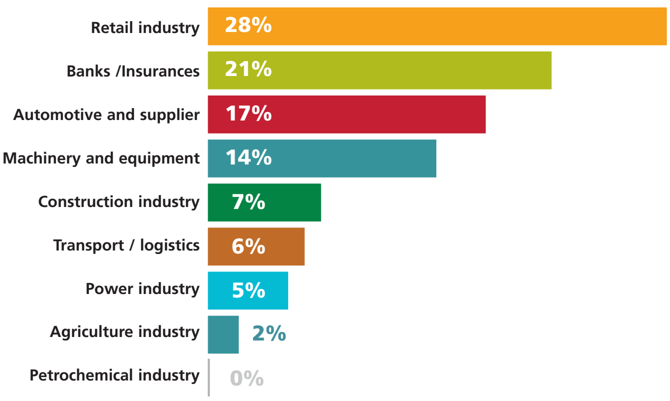
15 How did the criteria regarding the issuance of loans change in the last 24 months?



16 Which financing party gained relevance in the last 24 months in restructuring cases?



17 Which sectors seem to be susceptible to risk in the future?



The low interest rate policy of the European Central Bank (ECB) got the thumbs down from the survey's respondents, 34 per cent who believe such rates will hurt both the German and European economies, and another 40per cent think it will harm the German economy even if it stimulates the European economy (see **Table 5**).

Shifting our gaze to the restructuring market itself, Germany has benefited hugely from the ESUG reorganisation legislation introduced a number of years ago. Even so, critics point out ESUG is still an insolvency procedure. The survey highlights that out of court restructurings are growing significantly in popularity in Germany, until twenty years ago a bastion of banker-led liquidations.

Keep it out of court

A vast majority of respondents perceive out-of-court-restructuring solutions as much more successful than in-court-restructuring ones (see **Table 6**).

Also, they welcome the EU commission's recent proposal to introduce guidelines for a pan-European pre-insolvency restructuring procedure (see **Table 7**). This EC initiative was originally prompted by the success the UK's Scheme of Arrangement as an international restructuring tool, usable for non-UK businesses all over the world.

The EC was prompted to give its initiative a big push last year when the UK voted for Brexit. Brussels is keen to be seen around the world as 'open for business," and being seen to be friendly to out-of-court business reorganisations organised by bondholders, private equity funds and other new lenders is important.

In this respect two thirds of respondents see the EU commission's proposal for a pre-insolvency restructuring procedure as useful. Just one third say it is unnecessary.

> The perceived value of such a procedure is mainly seen in financial restructurings and in situations with obstructive creditors (see Table 8).

In the majority's opinion the steering of this procedure should lie with restructuring advisors (see **Table 9**). Another solution could be based on an independent creditors' agreement.

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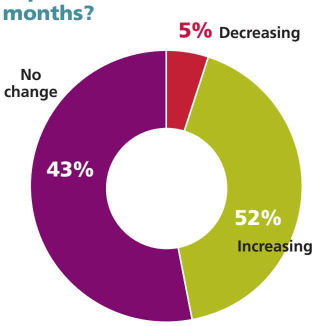
18 Which development concerning the amount of restructuring cases do you expect in the next 12 months?



Again, the opinion on whether to involve a court in this procedure or not is equally divided, with the 'no' vote just shading it (see **Table 10**).

Almost 90 per cent of the participants confirmed that in pre-insolvency restructuring procedures an IDW S6 restructuring opinion (German version of an Independent Business Review or IBR) should be prepared.

Just as the German market has embraced the American use of funds to drive restructurings as opposed to banks overseeing liquidations, so it has welcomed the use of CROs; over half of respondents saw the use of CROs increasing, arguably a good sign for the boutiques that supply them (see **Table 11**). CROs will be most often used in operational turnaround roles, of course (see **Table 12**).

The way loans pass through the banking system when they become distressed had not changed much, according to respondents (see **Tables 12 to 15**). The march of the funds continues, however, with nearly half "gaining relevance in the last 24 months in restructuring cases" (see **Table 16**).

As for 'hot' sectors, respondents expected retail to head the list for restructurings in the future, followed by banks and insurance companies and auto businesses.

The fact that German banks are seen as ripe for restructuring testifies to the depth of the continuing European financial crisis; it isn't just Italian banks that are causing concern.

To conclude, over half the respondents expect an increase in restructuring cases in the next twelve months (see **Table 18**). It will be fascinating to see how their predictions will fare, considering last years' Brexit and Trump votes, which both defied all opinion polls.

Wolf Minerals digs itself out of a hole

Readers may be used to hearing about London-based mining groups that finance new mines in Australia, but are perhaps less familiar with Wolf Minerals, a Perth-based company that has built England's first mine in 45 years.

The Drakelands open pit mine on the borders of Dartmoor in southwest England was started in 2014 in an effort to break Chinese stronghold on tungsten ore, one of the hardest of metals, with important applications in industry and the military.

But the ore turned out to be finer than expected, and coupled with the general downturn in raw material prices generally the new venture needed a restructuring. The trigger point came last year when it became clear that it was likely to default on the minimum forward cash flow requirements of its debt facilities because of the shortcomings at Drakelands.

Wolf has secured a standstill agreement on its senior debt of UK£64 million (A$103 million), as well as a UK£20 million bridging loan from its sponsor and 56 per cent controlling shareholder, the resources equity fund Resource Capital Funds.

Wolf shares traded on the Australian Stock Exchange (ASX) have been suspended from trading since 30 September 2016 while the rescue package was worked on. They last traded at A10.5 cents a share, well short of the A33 cents in September last year when Drakelands got going.

The company was holding cash of A$35 million at the end of June 2016 but burning through cash at a rate of A$24 million a quarter. Now Resource Capital Funds has provided a UK£20 million bridge facility for a maximum of 12 months from first drawdown.

Wolf Minerals Firms & Faces

The company

Wolf Minerals was represented in the restructuring talks by Mayer Brown, led by London-based partner **Ian Coles**.

It was also represented in Australia by Clayton Utz, with a team including M&A partner **Matthew Johnson**, banking partner **Rohan Mishra**, senior associate **Annie Atkins** and special counsel **Kate Casellas**.

The sponsor

Resource Capital Funds was sponsor and majority shareholders of Wolf Minerals, and was advised in the restructuring by **Lachlan Edwards**, global co-head of restructuring at Lazard. Edwards is based in Australia and had to fly to the UK to meet Wolf's lenders, which included ING and a German reinsurer.

The sponsor was represented by Allen & Overy, with a team led by **Peter Wilkes** in Perth and **Carolyn Conner** in London.

The banks

Wolf's banks were represented by Dentons, led by **Bryon Nurse** in London.