



**DLA**  
The Power of Fintech Lending

**Managing Director**

October 30, 2024

Digital Lending Association e.V. - Leipziger Str. 124 - 10117 Berlin

BMF  
Ref. VII B 5  
Wilhelmstr. 97  
11016 Berlin

## **Investor Protection Improvement Act (AnlVerG)**

Dear Mr. Franke,

As so often since the DLA was founded in the summer of 2019 and most recently this year during the consultation of the draft bill for an executive decree on money laundering identification by video identification (Money Laundering Video Identification Decree - GwVideIdentV-E), our association only found out about the consultation of your draft law to improve investor protection for investments through third parties. We therefore ask for your understanding for our once again delayed response.

The DLA welcomes the German government's next step in bringing order to the Grey Capital Market. Our members are also doing a lot here in their own way: by developing [industry standards](#) for the twelve central areas of fintech lending. In addition to a uniform understanding of the lenders operating in the White Capital Market among our members, i.e. those regulated under AIFMD, MiFID and ECSPR, we are working to formulate an ambitious offer to all those companies still operating in the Grey Capital Market to improve their own performance. The feedback from investors at [our annual investor conference](#) shows that the idea of greater quality, professionalism, transparency and integrity associated with the standards is understood and supported.

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### **Board**

Marco Hinz  
Philipp Kriependorf  
Patrick Stäuble

### **Managing Director**

Constantin Fabricius

**Tax ID:** 27/620/63392

**Bank:** Berliner Volksbank, IBAN DE19.1009.0000.2794.4660.01, BIC BEVODEBB



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<ul style="list-style-type: none"><li>➤ IT Infrastructure &amp; Cybersecurity</li><li>➤ Asset Safekeeping Services</li><li>➤ Uniform Data</li></ul>	<ul style="list-style-type: none"><li>✓ Good Conduct</li><li>✓ Compliance Management</li><li>✓ Complaint Management</li><li>✓ Outsourcing Management</li><li>✓ Enterprise Risk Management</li><li>✓ Receivables Management</li><li>✓ AML &amp; TF</li><li>✓ Conflicts of Interest</li><li>✓ Public Disclosure of Information</li></ul>

The **subordinated loan** regulated in Para. 1 Sec. 2 No. 4 VermAnlG is incompatible with the mind-set described in our standards insofar as it concerns private investors. For the four founding companies of our association - auxmoney, Kapilendo, creditshelf and Funding Circle - one of the main reasons for setting up the DLA was to differentiate themselves from others through their membership of the association with regard to subordinated loans. Companies that operate within the scope of Para. 1 Sec. 2 No. 4 VermAnlG cannot be Ordinary Members of the DLA. For the sake of good order, it should be noted that we are just as strict on the debtor side [as far as pay day loans are concerned](#). Investors appreciate this clear stance because it gives them guidance.

The subordinated loan is highly problematic for private investors. By its very design, it creates ample scope for misleading investors through a lack of transparency. In our view, a product makes no sense if the repayment of the capital is to depend solely on the discretion of the borrower. However, an attitude that private investors know what they are getting themselves into is a poor one in view of the often densely and surprisingly worded contractual clauses. This was also the view of the Federal Court of Justice - for example in connection with the validity of so-called qualified subordination clauses in loan agreements.

We suggest that the deletion of Para. 1 Sec. 2 No. 4 VermAnlG, as far as private investors are concerned, be examined in connection with the internal coordination of the upcoming government

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draft. For many business models among the platforms that earn their money with subordinated loans, for example, the ECSP Regulation provides a sophisticated, European-regulated alternative in the White Capital Market. In this respect, the German government could perhaps also examine why there is still such a low number of ECSPR-regulated fintech lenders with a license in Germany, or why there is still such a high number of Grey Market platforms that operate with subordinated loans, and whether there is a connection here?

We have no objections to the publication of our statement.

Our association is registered under the number R000904 in the Lobby Transparency Register of the German Bundestag.

Finally, we would ask you once again to include our association in your mailing list for future consultations, etc. The association represents the interests of fintech lenders and is committed to the professional, honest and transparent organization of digital lending as an attractive investment asset class. Further information can be found on our [homepage](#).

The undersigned will be happy to answer any questions you may have.

Yours sincerely



Constantin Fabricius  
Managing Director  
Lawyer (in-house lawyer)

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