

BAI Newsletter VI/2022 – December 2022

Editorial article from Frank Dornseifer

Managing Director, BAI e.V.

Dear Ladies and Gentlemen, Dear Members,

As if this year had not been bad enough already! And to make matters worse, the German national team was eliminated in the preliminary round of the World Cup in Qatar, and that, of all things, at the "best World Cup ever"! So please don't expect a contemplative editorial in the December's final issue of the BAI-Newsletter.

2022 - an annus horribilis

Actually, it could have been a good year. The beginning of the end of the Corona pandemic seemed to have been ushered in and with it a slow return to normality, not only in society but also in global and financial politics. That the policy of cheap money would come to an end had to be clear to everyone and was also longed for by many; after all, there was more than enough time to adjust to it. Of course, there were, plenty of challenges elsewhere, above all in the fight against climate change. even though Europe in particular seemed to be on the right track with the Green Deal and the centerpiece Sustainable Finance Package.

However, the Russian war of aggression has destroyed any hope of normalcy and for the past ten months one has had the daily-greet-the-marmot experience every day and wonders when this destructive and inhuman madness in Ukraine will come to an end. Nobody knows If and when there will be a good answer to this question. As so often the motto can therefore only be to hope for the best and prepare for the worst. As surreal as the wishful thinking of a failed FIFA president was that this war would pause for the World Cup, so is the hope that Putin will come to his senses and the war will come to a quick end. This unimaginable human tragedy in the 21st century continues.

The catastrophic economic side effects such as record inflation and the accompanying interest rate flash, impending recession, energy crisis, etc. don't need to and should not be discussed here, but it's getting obvious that institutional investment cannot escape these turbulences. The capital investment is in the change! The picture drawn by the 106 institutional investors in the BAI

Investor Survey, also with a view to the Ukraine war, interest rate turnaround, inflation shock, recession, etc., continues to inspire confidence in principle, but it is far from clear that this confidence was or is justified, because how things will develop in 2023 is completely open. In short, next year and probably the year after will be extremely challenging, also in terms of capital investment. And it is not only the real estate sector that is currently being watched with a wary eye.

As is well known, however, this is no reason to bury one's head in the sand, because people are adaptable, as we have proven over thousands of years; on the other hand, hope dies last, or as they say in the Rhineland: *es hätt noch immer jut gegange*. And so, to the next catastrophe...

FTX implosion or: does every industry get the fraudster it deserves?

Bernie Madoff is still in good memory for some, but possibly also in bad memory. Cult of personality paired with a maximum of criminal energy (and probably also incompetence) and naive investors who like to leave due diligence to others, topped off by regulation and supervision that do not deserve their name. With these ingredients, a big wheel can be turned again and again, and this time it has hit lemmings of the crypto industry, who have fallen into the financial abyss via or with the crypto exchange FTX. The exorbitant financial damage (which, by the way, is likely to be significantly greater for FTX than for the Madoff case, which resulted in immense repayments to aggrieved investors) is hardly inferior to the reputational damage for the entire crypto industry, which can be seen not only in the price of Bitcoin, Ethereum & Co. The fact that one has little to do with the other is irrelevant. And the fact that the FTX crash was also avoidable is another aspect that will probably also hardly receive any attention. Because a crash is a crash.

And the fact that existing or recently launched European regulation (keyword Digital Finance Package with the centerpiece MiCA Regulation) is in principle also suitable for preventing such implosions here in Europe is also only a small consolation. After all, what good is consistent regulation in the EU if charlatans continue to find domiciles in the globalized financial world that enable or permit concealment, fraud, and corruption? It is therefore all the more important that the EU takes a clear stance towards third countries and only permits products and services in the EU if there is equivalence in regulation and taxation in the third countries. The fact that FTX can operate a trading center and hold customer assets in custody, moreover in this dimension, without having a minimum of functioning structural and procedural organization, compliance, etc., especially also in the custody and use of crypto assets, is unimaginable today. And not only the

investors who - completely naively and apparently without any or sufficient due diligence - used various services and traded with questionable cryptocurrencies are to be blamed, but above all the states in which FTX was active, as well as their supposed supervisory authorities, which were or would have been responsible for licensing and supervision.

No matter if financial instruments, assets, goods, or crypto assets: Trading venues, issues, associated services and their providers must be regulated! Those who still haven't understood this can't be helped. It may well be the much-cited regulatory "sandbox" in which, for example, young technology companies develop, but what supposed prodigies like Sam Bankman Fried can do inside and outside a sandbox shows that even experimental spaces must be set certain and functioning limits. And that brings us to the main topic of this newsletter.

BAI focus on Digitalization and New Technologies

Of course, the continuing *raison d'être* of the crypto ecosystem on the one hand and, above all, the underlying (blockchain) technology on the other must be separated from the FTX case. It is grotesque that the latter will now sink into insignificance in the wake of FTX, as some prophets of crisis are proclaiming. On the contrary, the opposite is the case. Because the consistent use of blockchain technology (keyword "not your keys, not your coins") on the one hand, and a dedicated regulatory network as here in the EU consisting of the regulation for crypto-assets markets MiCAR, the regulation on Digital Operational Resilience DORA, the pilot regime for DLT-based market infrastructures, etc. on the other hand, could have just avoided such developments and lapses.

The use of DLT and blockchain technology has immense potential far beyond the financial sector, so it would be completely wrong to write off this groundbreaking technology now. With this assessment, by the way, I am in good company, not only with crypto enthusiasts, but also with Larry Fink, among others.

At the same time, there is a need for an appropriate and dedicated regulatory framework for relevant market participants, service providers, products, and services, not only for investor protection reasons. And it is precisely here that the EU has taken on a pioneering role and MiCAR & Co. can and should therefore also be the benchmark for other jurisdictions. The FTX implosion should therefore give the EU enough tailwind to appear confidently on the international stage and not only to work towards the USA, but especially towards various offshore domiciles, that a sheriff is also needed in the wild crypto west, who then also has the say and above all takes action!

Precisely because the topic of digitization with all its facets is being approached and implemented with much greater seriousness in the EU, and Germany in particular has taken on a certain pioneering or leading role here (among other things with the pioneering BaFin administrative practice in crypto and digitization topics, but also through important legislative impulses, e.g. through the eWpG), we are very concerned that this newsletter should once again be dedicated to the topic of digitization and new technologies. Since we have taken on a certain pioneering or leading role in this area (e.g. with BaFin's groundbreaking administrative practice in crypto and other areas, but also with important legislative impulses such as the eWpG), it is very important to us that we once again focus on digitization and new technologies in this newsletter and in our articles on digitization and new technologies, which were very well received, including our BAI webinar on the tokenization of fund units on December 8.

At our InnovationsDay in September, we again presented and discussed many exciting technology topics, which I would like to refer to once again at this point, and this newsletter in particular is intended to follow on from this with many exciting and insightful specialist articles that will further stimulate and drive forward the discussion.

In this context, however, I would like to mention a wise saying from InnovationsDay, which clearly contributed to amusement, and which should not be forgotten for this reason alone: "Not every problem needs a blockchain! True, but I would like to add the following to this sentence: "But sometimes the blockchain helps to solve a problem!"

BAI Science Award Ceremony 2022 - live and not only digital

And even though we now live in an increasingly digital world and many dream of the metaverse, this year we were finally able to present the BAI Science Award live and in the real world. After the award ceremony had to be cancelled twice due to Corona, this year we again had the pleasure of welcoming our award winners in person following a very successful BAI Insight at FERI on the topic of "Private Markets & Impact Investing - Requirements for Measurement and Reporting in Practice". You can find detailed information on the Science Award ceremony, the award-winning papers and impressions of the award ceremony here in the associated [special newsletter](#).

It is pretty much worth reading here. And of course, the application deadline for the BAI Science Award 2023 is already open.

AIC 2023 - the countdown has started

And of course, next year's AIC will also take place as a presence event and in time for the end of the year we can already present you with an almost finalized program. Please click on <http://www.ai-conference.com> and have a look at the agenda of the three days. Exciting and informative presentations and panel discussions await you within the framework of the advertised member slots, for which you can apply until January 6, 2023, by the way, but also at the break-out sessions, which will again be very varied in the coming year. I would also like to highlight here the keynote presentations, which - as always - are a highlight of the AIC. Prof. Dirk Zetzsche will kick off the pre-event with his presentation "Impact of AIFMD II on the law of collective investment schemes? - sustainability, digitalization, loan funds and cross-border matters". On the first AIC day, you can look forward to presentations by Prof. Monika Schnitzer ("Germany as an investment location in times of geopolitical change") and Prof. Jörg Rocholl ("Germany and Europe on the way to the next financial and debt crisis"), and on the second AIC day, Prof. Reiner Braun will talk about his very practically relevant research on "Recession and its impact on portfolio companies and returns". By the way, all keynote speakers have agreed to also participate in the investor dinner or get-together and there - and this should also be mentioned here of course - Prof. Ricarda Rehwaldt will talk about happiness at work. We are already very excited!

You already know that the pre-event will focus on current regulatory topics, and Prof. Zetzsche's presentation title has been chosen accordingly. In addition to the innovations and changes due to AIFMD-II (in particular with regard to credit funds), which are due next year, we will also shed light on the new ELTIF and discuss the role and practice of evergreen funds and continuation funds, and much more concerning current fund practice. By the way, you can already find a technical article on the status of the ELTIF review in this newsletter, which also presents the main features of the new regulation.

News in the BAI Newsletter, Merry Christmas and all the best for the New Year 2023!

Just in time for Advent, we also have a little surprise for you. From now on, the BAI Newsletter will contain a new column in which a well-known representative from our membership or our investor network can place an opinion piece on a current topic related to our industry. The beginning makes in this issue Dr. Thomas Mann of Ampega Investment GmbH with his contribution "Alternative Investments 2025 - Portfolio Consolidation Ahead?". The dialog with you is very important to us and we also want to promote the exchange among ourselves.

Particularly in these challenging times, there are a multitude of topics that concern us all and it is all the more important to provide a platform for opinion-forming and dialog. This is, of course, on the one hand our newsletter, and on the other hand our new member platform, where we then also offer the opportunity to further deepen the exchange. You will also find Dr. Mann's contribution there, and we can use the chat function to conduct the discourse with you.

And before I wish you an exciting and insightful reading of this newsletter, may I wish you, also and especially because the year 2022 has been anything but as we all would have wished, also on behalf of the BAI Board and the entire BAI office, a peaceful, merry and reflective Christmas and of course all the best for the coming year. Let us hope that reason and humanity will prevail and 2023 will be a better year.

Last but not least, we would like to thank our members, the industry and investors for the trust they have placed in us again this year and for their support in our work. We are also very pleased that we were able to gain 40 new members this year. And with these positive reports from the association, we are then also very much looking forward to the association's work in the coming year!

Frank Dornseifer