Berlin, Germany's leading tech city, to push venture capital reforms

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By:

Following up on our report in the Q1 2015 issue of Global Insight on "Intellectual Property Rights in German Insolvency Law", which discussed the outdated provisions governing IP rights under German insolvency law, here are the latest developments to enhance possibilities and ease procedures for investors and startup companies.

Venture capital for German startups: new initiative to boost Germany/berlin's startup scene

The State of Berlin wants to improve the availability and legal conditions of venture capital for German startups. The background is Berlin's booming technology startup community, which is part of the reason that in 2014 Germany was already the second-largest European activity hub for technology startups backed by venture capital. Only the UK has more of this activity.

This trend is increasing: in 2015, venture capital-backed technology companies raised about US$1.15 billion in the first quarter of 2015 across 58 deals in Germany. Over half of all deals (and four of the five largest) involved companies based in Berlin (according to recent market data which can be found on the CB Insights blog from 17

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March 2015 and 5 May 2015).

To maximise this opportunity, Berlin recently prepared a legislative initiative for the “Improvement of the Framework Conditions for Venture Capital”. In order to kick off statutory changes, Berlin wants the second chamber (the Bundesrat) of the German Legislature to issue a declaration along the following lines:

While there is an active startup scene in Germany with good ideas, the market for venture capital is underdeveloped in Germany in international comparison. Innovative founders and companies lack sufficient capital, especially during the growth period of their businesses.

Against this backdrop, the German government shall be asked for the following:

- Additional tax/legal initiatives in order to improve the international competitiveness of Germany as place for investments for venture capital;
- To create incentives for private investors in venture capital funds, including subsidies;
- A binding legal framework in order to create more clarity and legal certainty as to whether venture capital funds are taxed as businesses or as asset managers;
- A clarification, that is reliable in practice, of the treatment of taxation of losses of high-tech companies during their starting phase, especially in view of a transfer of such losses in case of a change of shareholders;
- Concerning the intended reform of the taxation of capital gains of diversified holdings, to come up with special tax-free regimes for startups and business angels which, however, cannot be used for tax evasion arrangements and that are constitutional and in line with European state aid law;
- No further increase of regulatory thresholds for institutional investors (insurances, pension funds) to invest in venture capital funds; and
- The envisaged regulation of crowdfunding shall not lead to limitations on this market’s creative opportunities for development. Since platforms for crowdfunding are already competing with each other internationally, the goal shall be to have a unified legal framework – not on a German level, rather on a European level.

In this regard the Minister of Economy, Technology and Science for the State of Berlin, Cornelia Yzer, recently stated in an interview with Der Tagesspiegel: “Many of the conditions that the startup scene in Berlin needs have to be enacted at the federal level; however, this does not mean that Berlin can do nothing. Rather, Berlin will ensure that its economic policy interests are asserted on a federal level via the Bundesrat.”

Conclusion

Berlin is reasserting itself as a major business city and continues to support policy changes in favour of new business and technology. Backed by a thriving startup scene and, in comparison to the rest of Germany, a booming economy and job market, Berlin appears to have a good chance of achieving at least some of these goals.

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