

# **Leasing in Germany**

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Secretary General**

**BDL Bundesverband Deutscher Leasing-Unternehmen  
BDL Federal Association of German Leasing Companies**



# Agenda

- Association of German Leasing Companies
- About the members
- About the market – structure, development
- About Leasing – general definition, law basics



## Association of German Leasing Companies

- Year of foundation: 1972
- International: member of Leaseurope since 1972
- Members: 150 leasing companies
- Registered leasing companies in Germany:  
about 350, 180 companies of them are subsidiary companies of our member
- Market share of the member companies: > 90 %
- Associated members: 80 companies
- Secretariat: staff of 12 employees
- Offices in Berlin and Brussels



## Association of German Leasing Companies

- **Representation of the German leasing industry**  
After the merger of BDL (old) und IDL in 2001, the BDL (new) is the only association to represent and promote the interests of the whole German leasing industry.
- **Dedication for a fair economic framework**
  - First goal of the association: promotion and protection of leasing in Germany
  - Safeguarding of a fair legal, fiscal and economic environment for leasing
- **Collaboration with other national associations on the European level**
  - Member of Leaseurope
  - Leaseurope represents 45 national associations from 33 countries with more than 2.000 leasing companies.



# Association of German Leasing Companies

- **Public relations**
  - Main contact for legislative authorities, public administration, other associations and media
- **Services for member companies**
  - Information and analysis of actual legislation, jurisdiction and public administration decisions
  - Support of members at fulfillment of new legal and fiscal requirements
  - Platform for professional discussions
  - Professional education and training; seminars
  - Statistics



# **Association of German Leasing Companies**

## **General assembly**

- Twice a year, one in spring, one in autumn
- Election of board members for a term of 3 years
- Approval of the budget

## **Regional conferences of managing directors of the member companies**

- Once a year, in spring, in 5 different cities
- Discussion of current topics, exchange of experiences

## **Meetings of the technical committees**

- Generally 2 - 4 times a year

## **Meetings of the Forum for mid-sized companies, Forum Digitalisation**

- Once or twice a year
- Discussion of legal, fiscal and technical issues

## **Parliamentary breakfast or evening**

- Once a year , at the Parliamentary Society of the German Bundestag

## **Seminars, workshops**



# Association of German Leasing Companies

## Technical Committees

- Accounting and Taxation Committee (chair: Rainer Steinbach)
- Business and Management Issues Committee (chair: Heinz-Hermann Hellen)
- Financing Issues Committee (chair: Christina Brand)
- Legal Affairs Committee (chair: Boris Dassen )
- Public Relations Committee (chair: Hans-Joachim Dörr)

## Forums

- Forum for mid-sized companies
- Forum Digitalisation



# Association of German Leasing Companies

## Current Topics

- **Basel III / Supervision**
  - Risk management requirements
  - Risk bearing capacity
  - Reporting requirements
- **Anti money laundering**
- **Institutional remuneration ordinance (BaFin)**
- **National Guidelines - Green finance (BaFin)**





# Association of German Leasing Companies

## Current challenge

- Change in the concept / term of investment  
traditional capital investments => digitalisation

## Industry 4.0

- Product innovations, process innovations, new business models
- Horizontal networking of value creation partners
- Consideration of the entire value chain
- different financing options for the cooperation partners
- IT security as a central point requires risk assessment by the financiers



## About the members

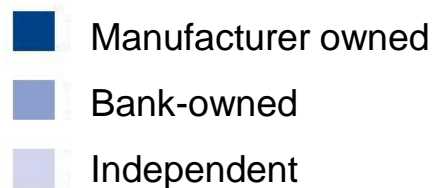
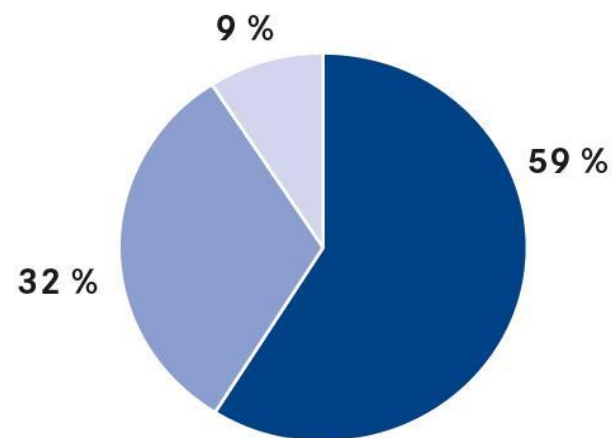
- **Heterogeneous membership**
  - Number of employees from 2 to more than 1.000
  - New business volume from € 2 m to more than € 10 bn
- **Background of the Leasing Companies**
  - Bank-owned leasing companies
  - Manufacturer-owned leasing companies (captives)
  - Independent leasing companies
- **Diverse business strategies**
  - From a regional provider of one type of assets to an international active player with a wide range of assets
- **More than half of the members belong to the group of small and medium-sized companies.**
- **Every member has one vote in the general assembly.**



## About the members

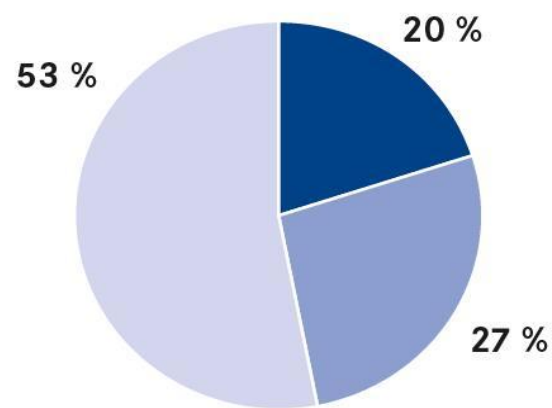
### Background of the members

Part of New Leasing Business



### Background share holder

Part of Manufacturer owned /  
Bank-owned / independent

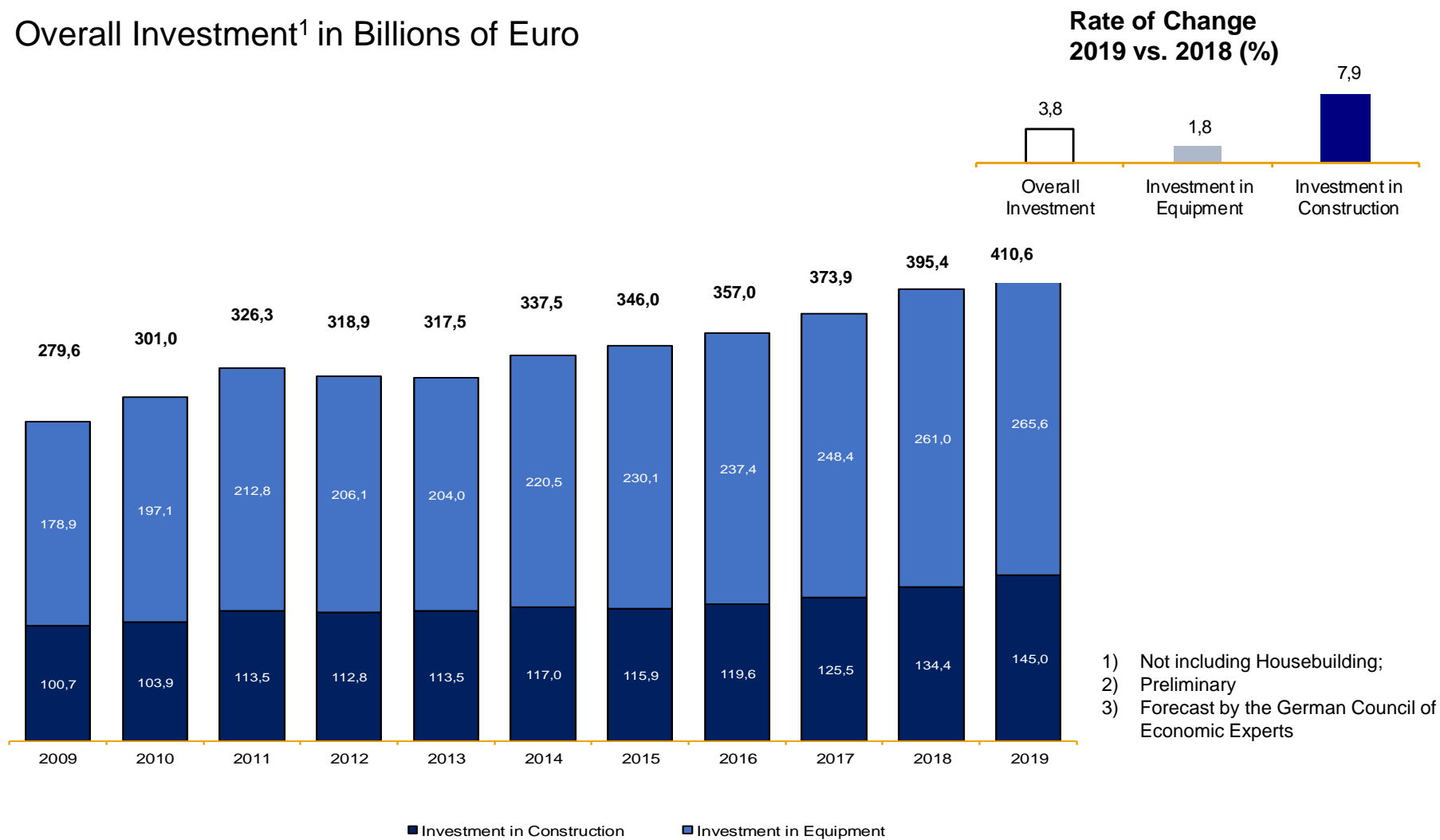


Quelle: BDL



# About the market

Overall Investment<sup>1</sup> in Billions of Euro



Source: ifo Investitionstest. Federal Statistical Office



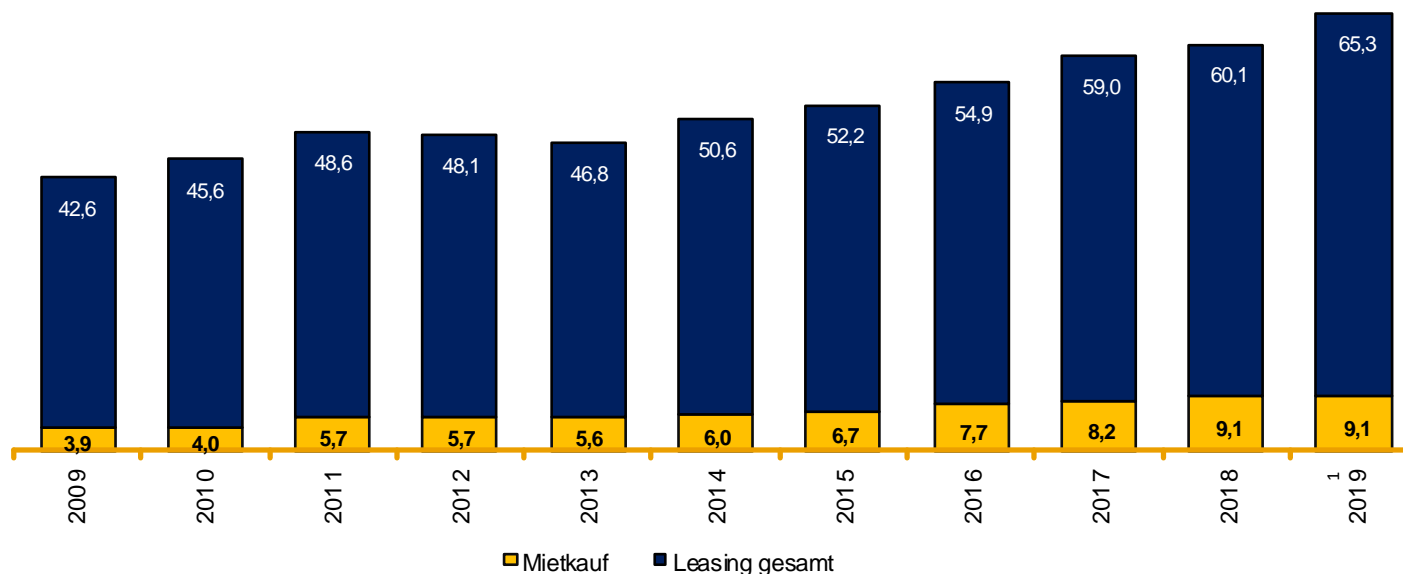
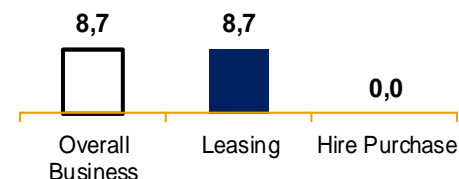
## About the market

### Investment of the Leasing Industry

2019: New Business Increases to Euro 74,4 Billion (+ 8,7 Prozent)

- Investment of the Leasing Industry in Billions of Euro -

Rate of Change  
2019 vs. 2018 (%)



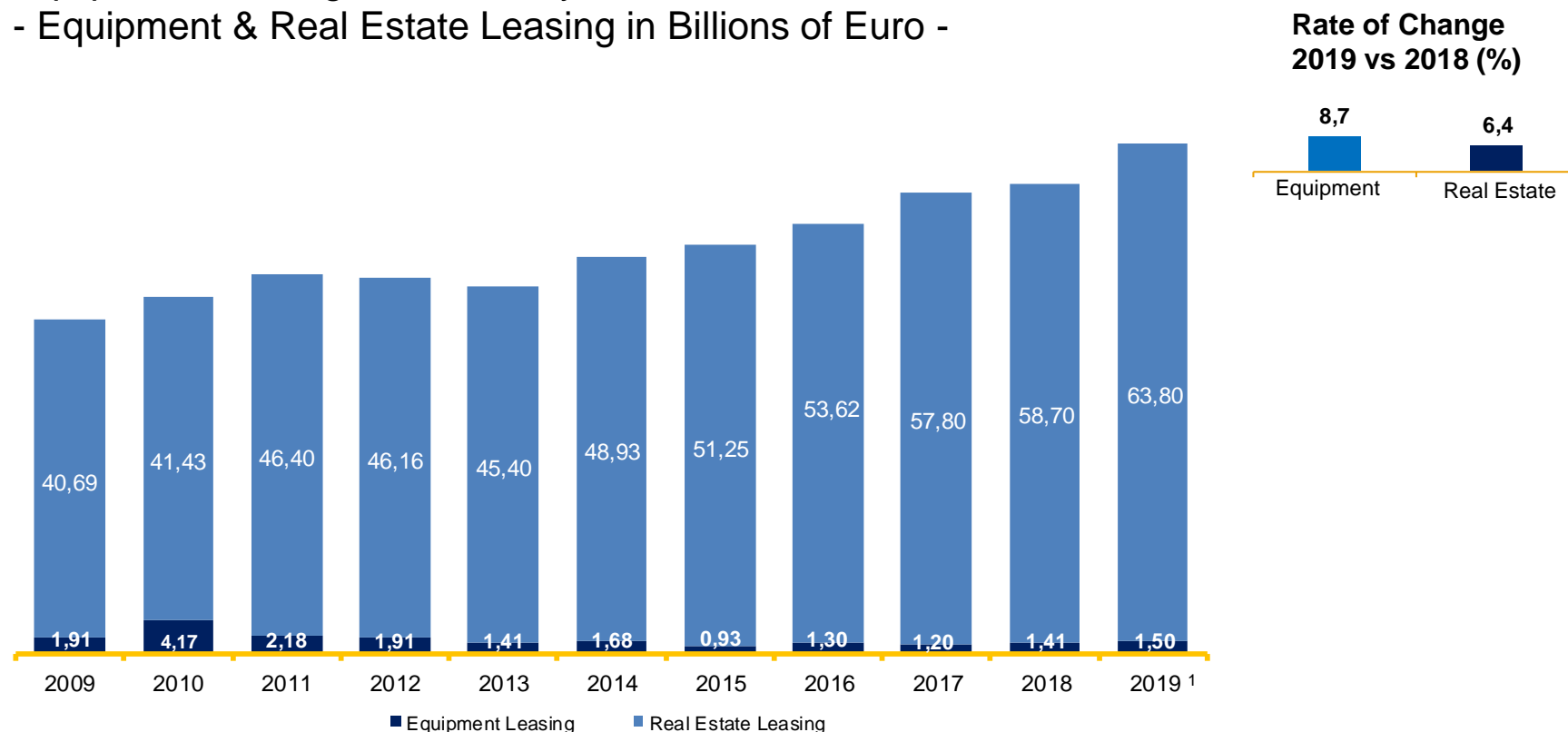
<sup>1)</sup> Calculated on the Basis of  
Plan Figures

Source: BDL, ifo Investitionstest



## About the market

Equipment Leasing Increases By Almost 9 Prozent  
- Equipment & Real Estate Leasing in Billions of Euro -



Source: BDL, ifo Investitionstest

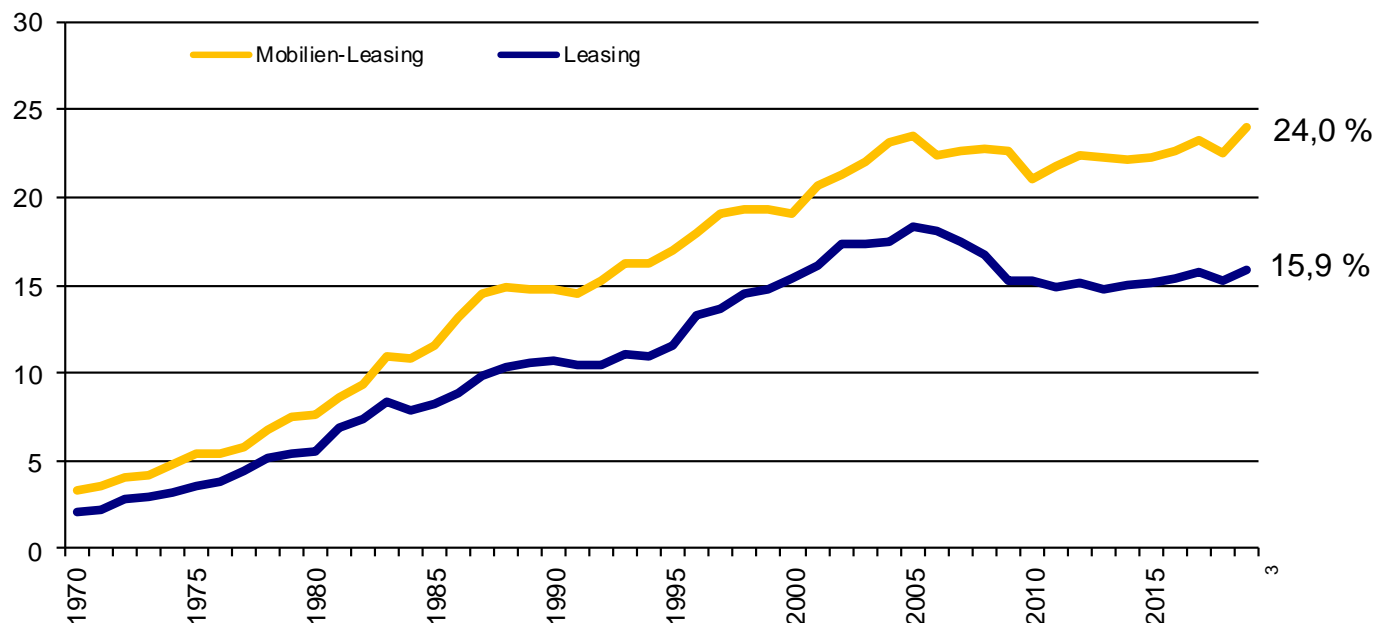
<sup>1)</sup> Calculated on the Basis of  
Plan Figures



## About the market

Equipment Leasing Penetration Rate at 24 %

Leasing Penetration Rates<sup>1</sup> in Germany: Leasing-Sector's Share of Aggregate Investment<sup>2</sup> and Investment in Equipment – incl. Other Equipment in %



Source: ifo Investitionstest, Statistisches Bundesamt

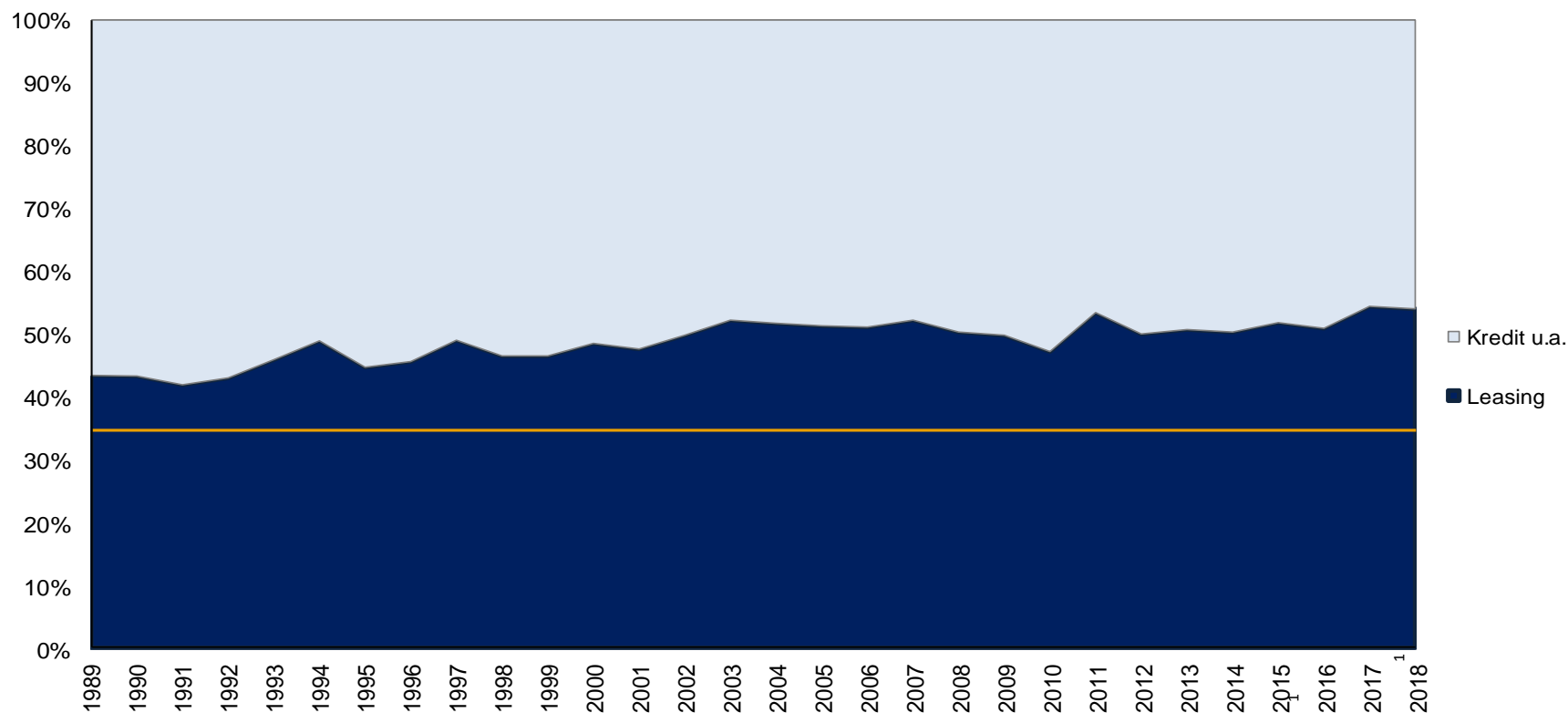
- 1) From 1991 According to New Statistics Approach (ESVB)
- 2) Without Housebuilding. From 1991 incl. New Federal States (Neue Bundesländer)
- 3) 2019 Calculated on the Basis of Plan Figures



## About the market

### Share of Leasing of outside financed investments

- more than half of outside financed investments is realized through Leasing



Source: ifo Institut

<sup>1)</sup> Estimate

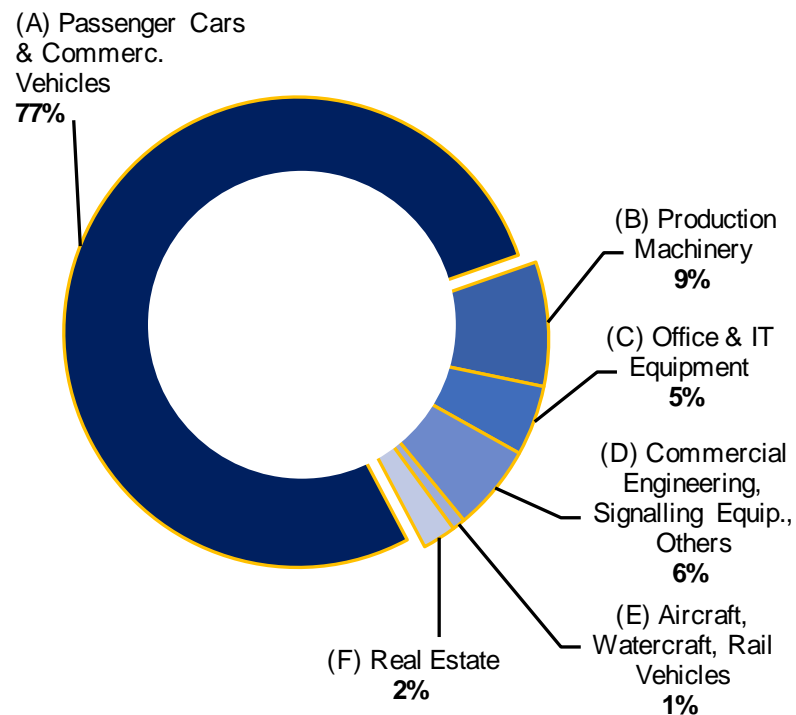




# About the market

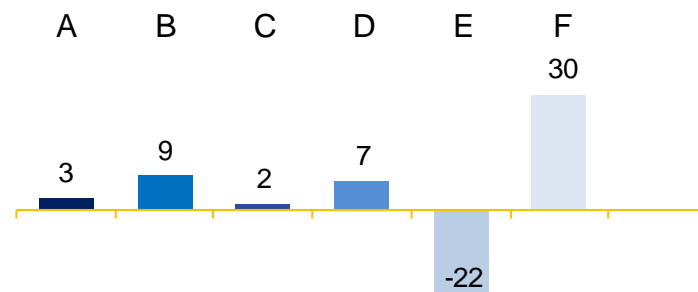
## Asset Types

### Vehicles Dominate New Business – Breakdown by Asset Type of Leasing New Business



\* inkl. sonstige Ausrüstungen  
Quelle: BDL, ifo Investitionstest

### Rate of Change 2018 vs 2017 According to Acquisition Value (%)

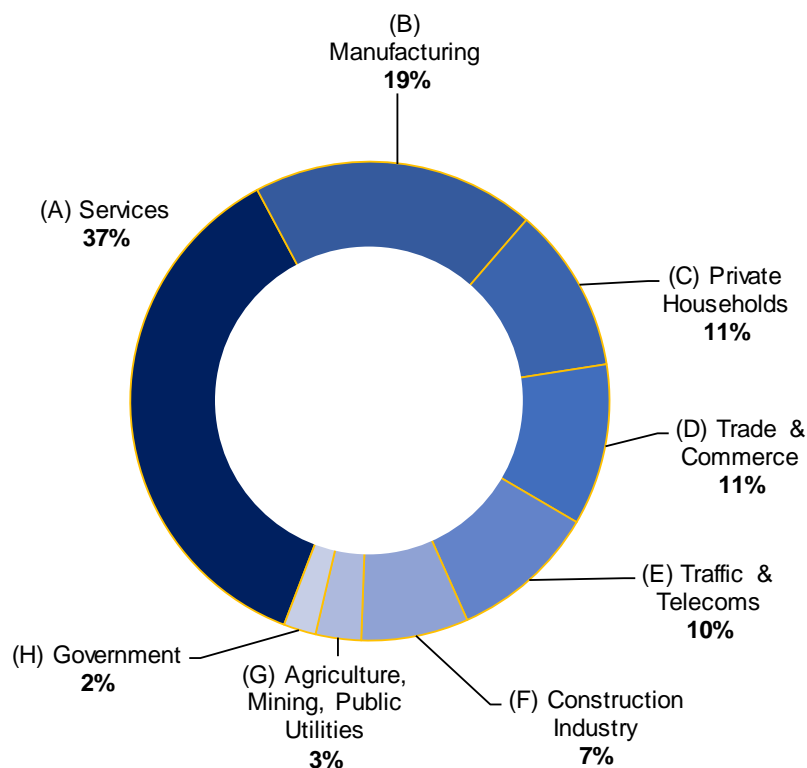


# About the market

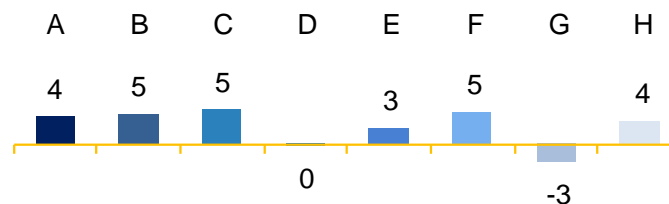
## Customer Structure

Services: Most Important Client Segment

– Breakdown by Customer Type of Leasing New Business



Rates of Change 2018 vs 2017 (%)  
According to Acquisition Value

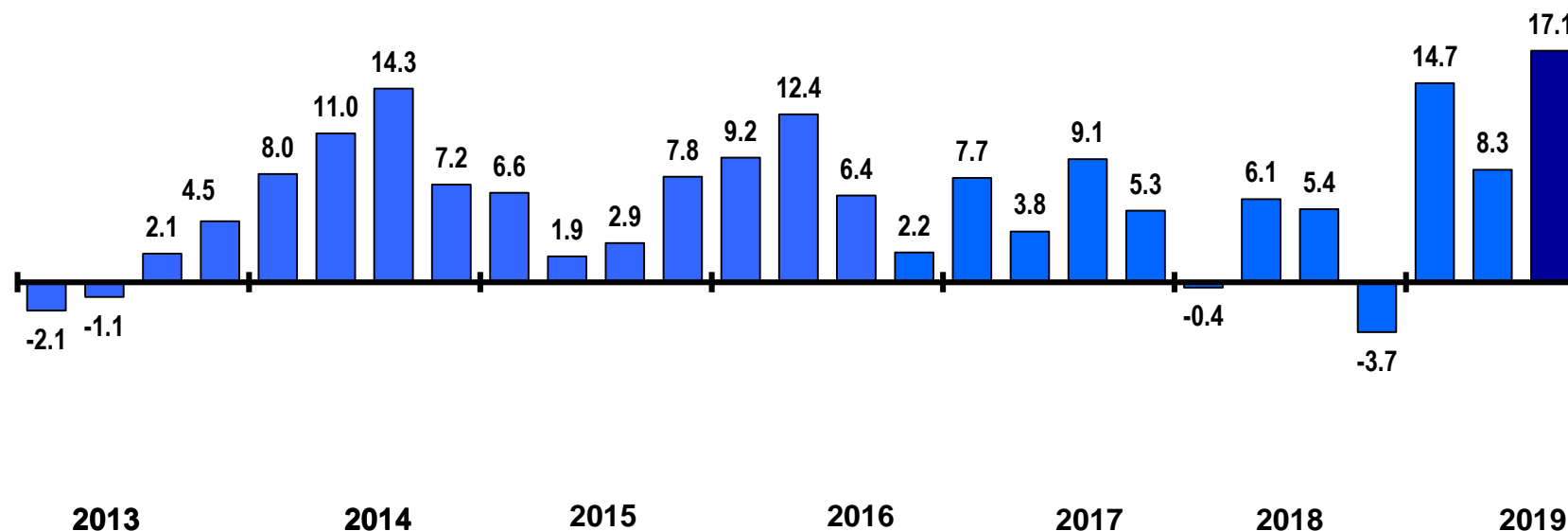


Source: BDL, ifo Investitionstest



## About the market

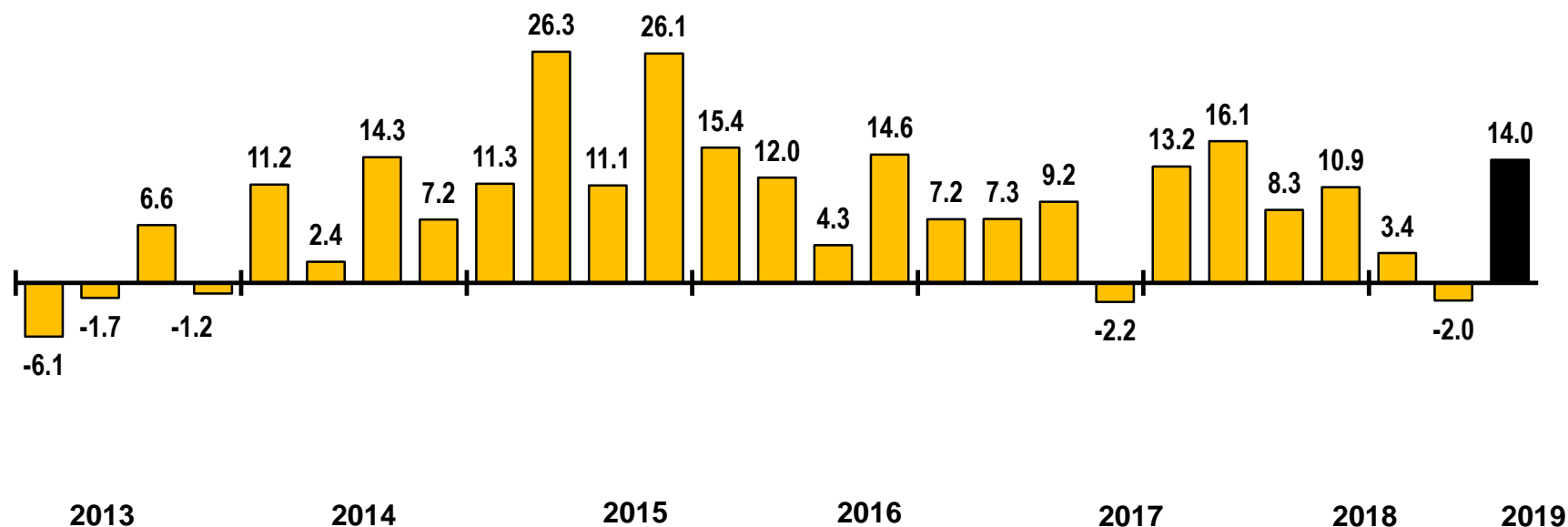
**BDL-New equipment business,  
quarterly change, compared to the previous year (%) I/2013 – III/2019**



## About the market

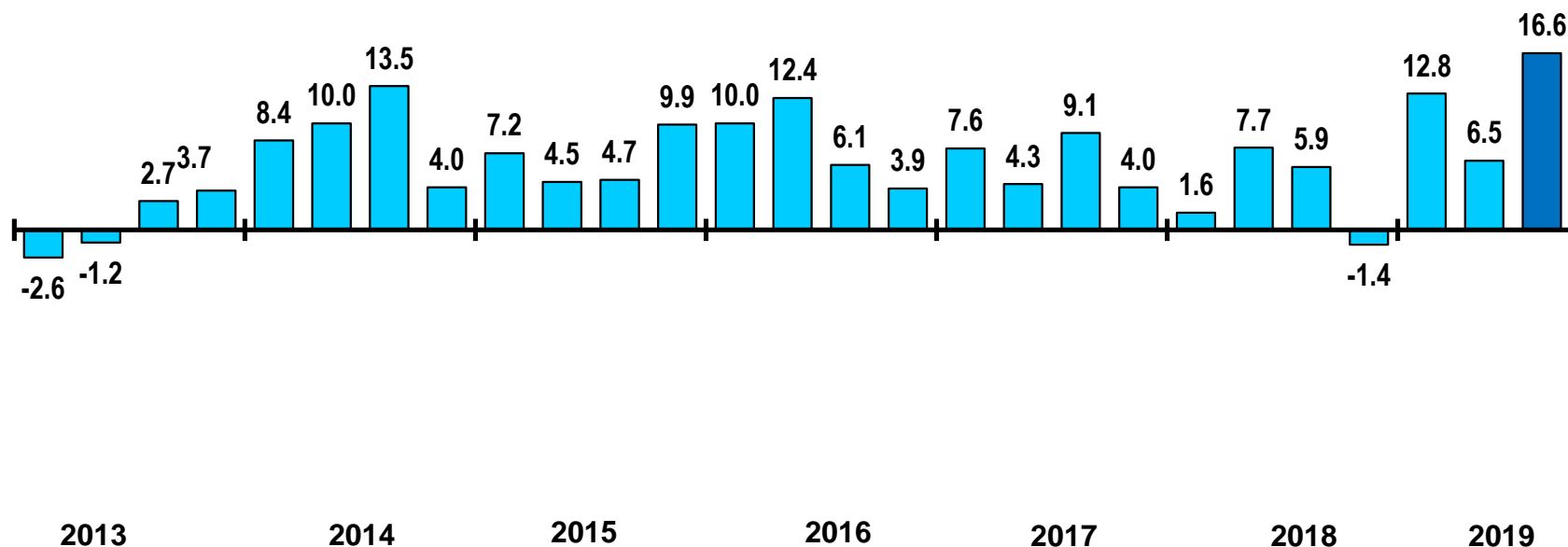
### BDL-New equipment business - hire purchase

quarterly change, compared to the previous year (%) I/2013 – III/2019



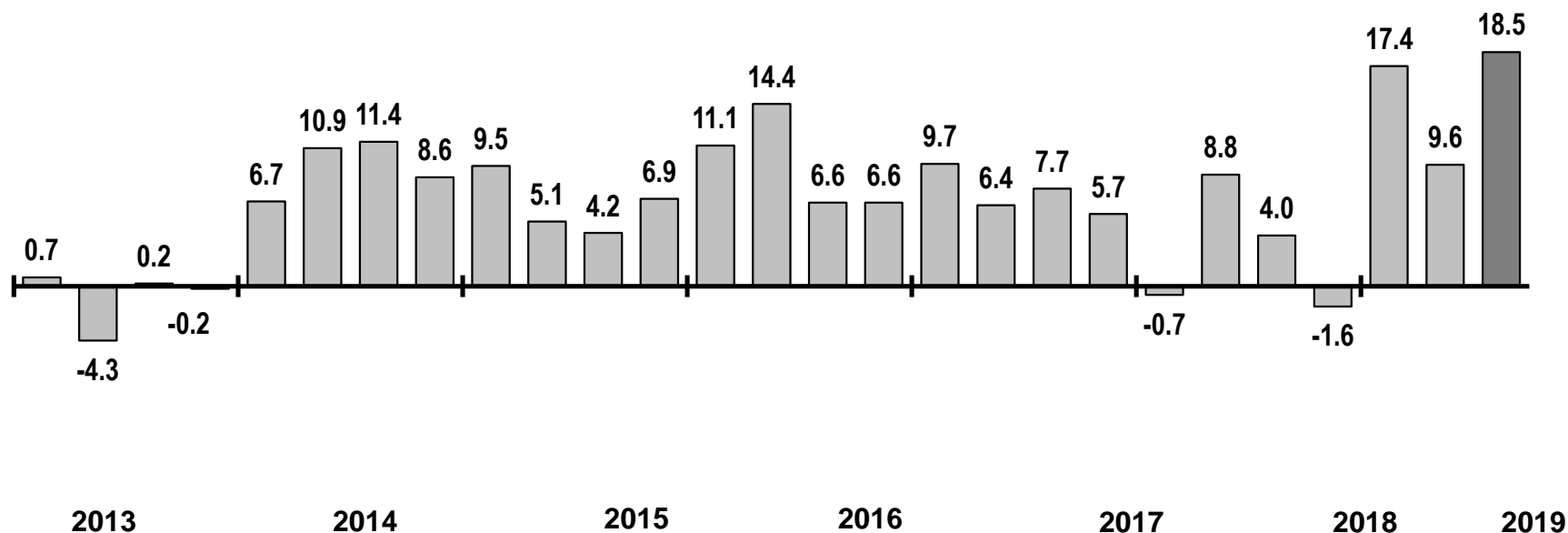
## About the market

**BDL - New equipment business - total**  
**quarterly change, compared to the previous year (%) I/2013 – III/2019**



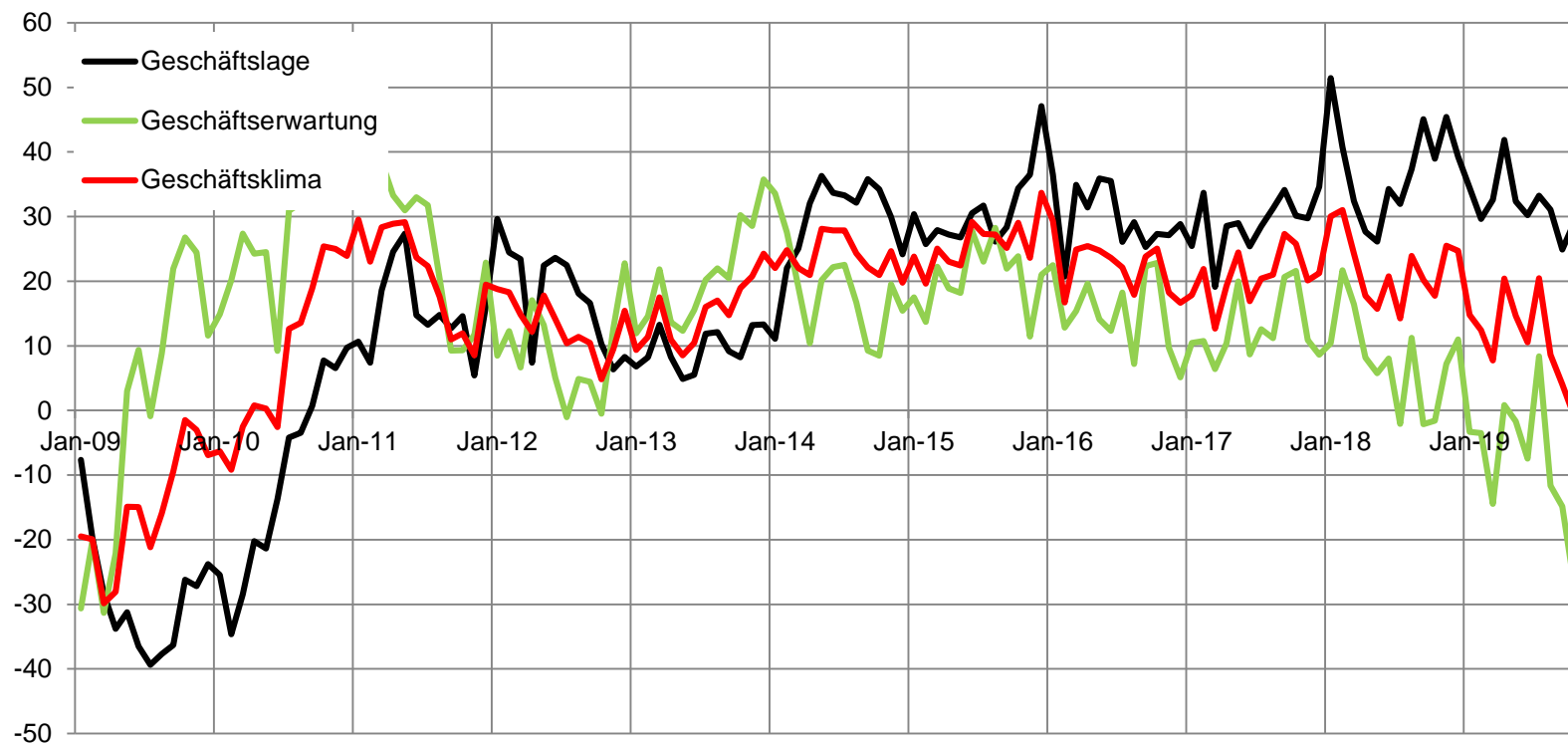
## About the market

**BDL - New equipment business – motor cars**  
**quarterly change, compared to the previous year (%) I/2013 – III/2019**



## About the market

### Leasing-Markt ifo-Konjunkturtest Leasing

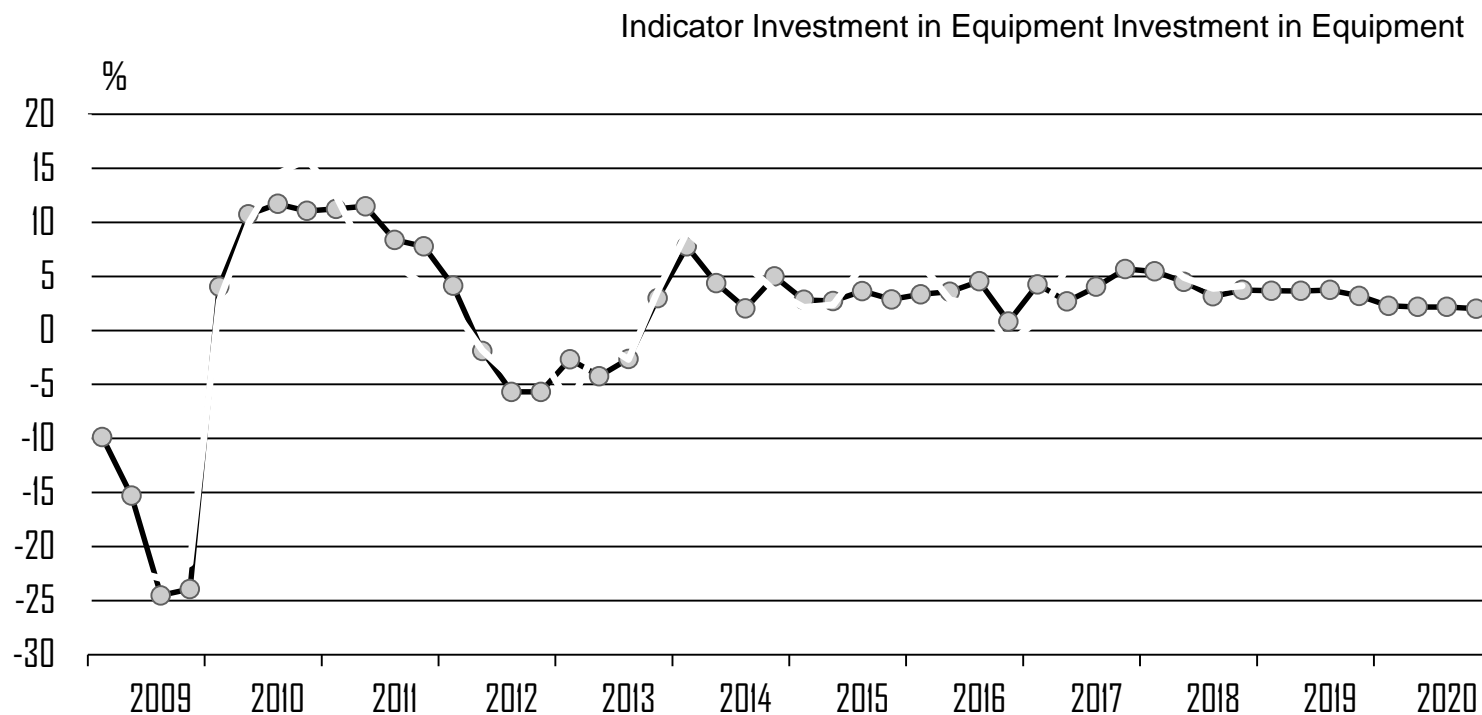


Quelle: monatlicher Konjunkturtest Dienstleistungen; ifo Institut für Wirtschaftsforschung e.V., München



## About the market

### Development of Investment



Sources: ifo Institut. Federal Statistical  
Office. calculations of the ifo Institute  
March 25<sup>th</sup> 2019

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## About the market Outlook

Volume new Business (% change)	III. Quartal	I.-III. Quartal
Leasing	17,1%	13,3%
Hire Purchase	14,0%	4,9%
Total	16,6%	11,9%

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passenger cars, manufacturer owned	17,6%	17,5%
passenger cars, non-manufacturer owned	21,5%	7,3%
passenger cars, total	18,5%	14,9%
Other objects	14,5%	8,0%



## About the market Outlook

Type of objects	III. Quarter	I.-III. Quarter
a) machinery	1,70%	-2,80%
b) IT, office equipment	12,50%	10,30%
c) cars	18,50%	14,90%
d) buses, trucks, trailer	4,00%	5,50%
e) rolling stock, ships, airplane	199,50%	152,10%
f) medical technology	19,40%	12,80%
g) intangible assets	57,10%	31,90%
h) others	7,10%	0,50%



# About Leasing

## I. Legal basics/ leasing contracts

1. Types of leasing
2. Leasingtriangle
3. Contract law (lessee ↔ lessor)
  - German Civil Code
  - Case law
  - Leasing decrees (Leasingerlasse)

## II. Legal basics/ requirements for leasing companies

## III. Other relevant legal areas and topics



# About Leasing

## ***General definition***

According to legal and economic viewpoints, leasing is the "transferral of capital goods for use for a defined time against payment".

From a tax point of view to financing, leasing holds advantageous reporting possibilities in the balance sheet and can thus be considered a valuable opportunity.



# About Leasing

## Different types of leasing

- full-payout lease
- non-payout lease (different types)
  - including a participation in surpluses from realisation
  - with a lessor put-option for the RV
  - cancelable lease
- Sale-and-lease-back
- Operating Leasing  
(i.e. km-lease-contract for passenger cars)



# About Leasing

## Full-payout leases (or full amortisation agreements)

### Full-payout leases

are contracts which lead to a full amortisation of the acquisition costs, financing costs and accessory charges within the non-cancellable lease term.

At the end of this term the lessee usually has three options.

1. The lessee returns the leased object to the lessor.
2. The lessee has the option to buy the object from the lessor.  
(residual book value or market value)
3. Option to ask for a continuation of the lease agreement based on the residual value or market value.



# About Leasing

## Non-payout leases

### Non-payout leases

are agreements which cover only part of the acquisition cost.

- If a participation in surpluses is guaranteed, the lessee is granted a participation in surpluses from realization, if the proceeds from realization exceed the residual value.



## About Leasing

### Sale-and-lease-back

**Sale-and-lease-back** agreements specify the following financial transaction.

The lessee sells an asset to the lessor and leases it back on a long-term basis.

The lessee is still able to use the asset but no longer owns it.

Regarding the contract period during which the lessee has the right to use the leased object, there is no legal difference to other finance lease agreements.





# About Leasing

## Operate-lease

An operate-lease agreement is a lease with a comparably short term in relation to the useful life of the asset or piece of equipment being leased.

An operating lease is commonly used to acquire equipment on a relatively short-term basis.

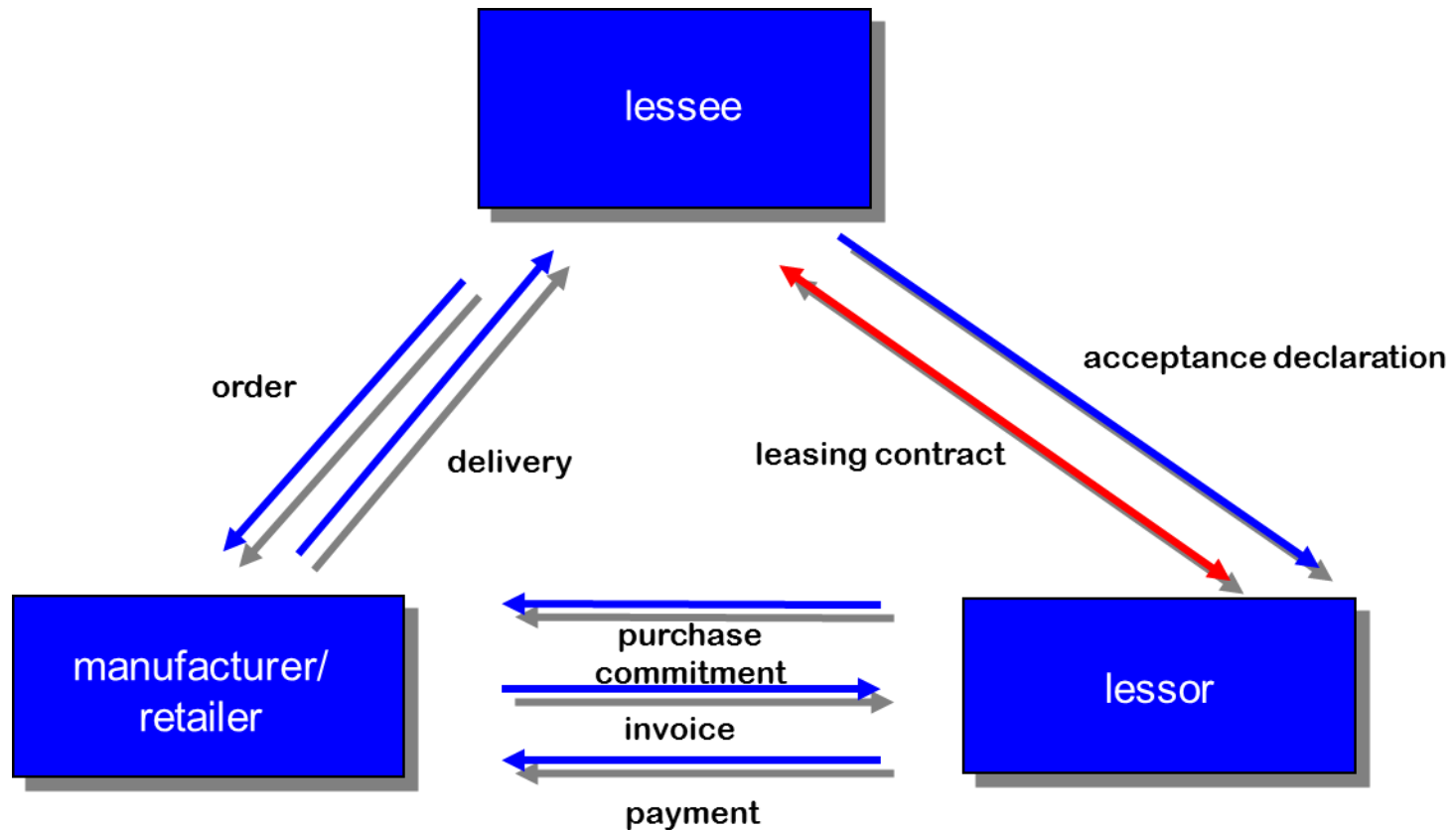
Thus, for example, an aircraft which has an economic life of 25 years may be leased to an airline for 5 years on an operating lease.

The lessee is not liable for the amortisation of the object.



# About Leasing

## Leasingtriangle



# About Leasing

## Contract law

### German Civil Code

To this day, there is no leasing code consolidating all relevant rules.

Leasing is not explicitly codified in the German Civil Code.

Until 10 June 2010 finance lease was mentioned in § 500 and § 499 para. 2 BGB.

Since 11 June 2010 leasing and other ways of financing are partly regulated in Section 506 para. 2.



# About Leasing

## Contract law

Some important rulings of the Federal Court of Justice define the legal nature of leasing contracts.

The VIII Senate of the Federal Court of Justice is the relevant formation regarding leasing issues.

- 23 February 1977 – VIII ZR 124/ 75
- 16 September 1981 – VIII ZR 265/ 80
- 9 October 1985 – VIII ZR 217/ 84

Result:

Leasing contracts are atypical rental agreements with special features of sales law and elements of contract for the management of the affairs of another and loan contracts.



# About Leasing

## Leasing decrees (German: Leasingerlasse)

There are four leasing-relevant decrees issued by the Federal Ministry of Finance to govern the accounting and reporting of leasing equipment in balance sheets and annual accounts.

They were issued between 1971 and 1992.

They represent the fiscal basis for the leasing business in Germany.

- Full-payout decree (movable property) - 19 April 1971
- Full-payout decree (immovable property) - 21 March 1972
- Partial payout decree (movable property) - 21 December 1975
- Partial-payout decree (immovable property) - 22 December 1991



## About Leasing

This decree defines contracts as finance leasing contracts,

- if the contractual term is set (basic leasing period) and the contract is not terminable by any of the contracting parties during this timeframe, and
- if the lessee's payments cover acquisition costs (or costs of manufacturing), financing costs and accessory charges within the basic leasing period.



## About Leasing

This decree determines the allocation of leasing objects from the fiscal point of view and considers different types of leasing contracts.

The common feature of all of these contract types is

- a necessary basic leasing period which is at least 40% of the useful life of the object, however, not longer than 90% of the object's useful life, and
- acquisition costs (or costs of manufacturing), financing costs and accessory charges of the lessor are only partly covered at the end of the basic leasing period.

*[Useful life/ operating life expectancy are generally determined according to the table of depreciation for wear and tear.]*



# About Leasing

## Summary

A leasing agreement is a mixed agreement and often includes elements of rent, purchase and consumer credit law.

Classification in terms of a purchase agreement (purchase of goods, legal purchase and hire purchase) does not apply to leasing as the lessor and not the lessee becomes the economic owner.

According to judicial decisions, primarily the regulations on tenancy law in the Civil Code as already mentioned for leasing agreements are decisive (Sections 535 et seq.) unless specific leasing terms apply.





# About Leasing

## legal basics/ requirements for leasing businesses

- Permission is mandatory since 1 January 2009
- Companies offering finance lease contracts need to get a permission by the German financial supervisory authority (BaFin).
- The need for prior approval was included in § 1 Para. 1a German Banking Act (Kreditwesengesetz) by means of the 2009 Annual Tax Act.



**Thank you for your attention!**

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