

Germany Update: COVID-19 Private Equity Impact

Corona-Matching-Facility Builds on Well-Established Structures

Update on German Government COVID-19 Stimulus Package for Private Equity and Venture Capital-Financed Companies

Authored by Federico G. Pappalardo, Giovanni Russo, Christian Böhme

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In its recent statement, the German government recognized the innovative power that startups and young technology companies have and how important these companies are for the German economy. These companies will typically not have a relationship bank, and therefore have no access to loans from the German Development Bank's Corona Loan Program (*Kreditanstalt für Wiederaufbau, KfW*), as these loans are only available through a company's relationship bank.

As referenced in our previous [OnPoint on April 20, 2020](#), many young German companies and startups may have difficulties meeting the eligibility criteria of Germany's support programs aimed at mitigating the economic consequences of the COVID-19 pandemic on the German economy. The German Federal Government, therefore, designed a special support program for such companies amounting to €2 billion and has now released further details on it. Two pillars build on well-established structures.

Pillar 1, called the Corona-Matching-Facility (CMF), focuses on startups which already are or will be financed through venture capital funds. The financial support is targeted at the startup but will only be made available by the CMF to the startup indirectly through a venture capital fund (VC) which will be funded by CMF and can use the CMF monies to fund the startup as part of a financing round.

The VC must be accredited with the CMF and will be a trustee of the public monies under a Co-Investment and Trust Agreement to be entered into between the VC's fund manager and KfW Capital, a subsidiary of the KfW. The VC fund manager must be independent and must be European. In addition, the following criteria must be met in order for the VC to be eligible:

- Successful KYC and governance review by CMF of the VC fund.
- Investing schemes of the VC fund must meet market terms.
- Fund currency and term to be in accordance with the regulations of the KfW and the CMF.
- The fund must have a majority of private investors (more than 50% of the fund volume) and no single majority investors.
- In the case of newly established special purpose vehicles, no other fund managers or venture capital funds are allowed as investors and compliance with state aid requirements is a condition.

Eligible startups and young companies:

- Must be a portfolio company or new target of a VC with a strong link to Germany.
- Financing documentation is required, including a shareholder resolution approving the investment.
- No single financial or strategic investors holding a majority of shares and/or votes are allowed.
- No financial difficulties as of December 31, 2019.

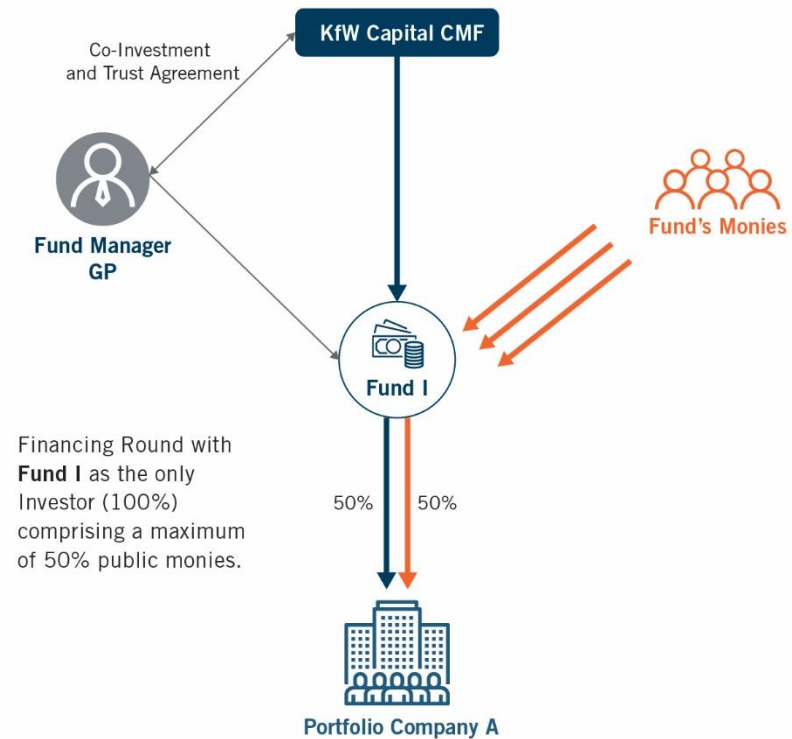
The following bullet points outline the details of the CMF matching process:

- A single VC may match its own funding in connection with a financing round up to a maximum of 70% with CMF funds (i.e. the investment by the VC can comprise up to 70% public monies and 30% monies coming from the fund); provided, however, that in connection with a single financing round the maximum amount of public CMF monies must not exceed 50% of the overall monies invested in that round. **See also charts on the following slide.**
- If a VC intends to use public monies from the CMF it must tie itself down to a fixed matching proportion (i.e. up to 50% matching with the possibility to increase the matching up to 70% until the overall investment in a financing round comprises a maximum of 50% public monies from the CMF).
- To the extent a VC decided on a specific matching proportion, the VC is obliged to apply such proportion to all of its investments in other portfolio companies until December 31, 2020. In other words, the VC must offer all future investments until December 31, 2020 to the CMF with the same matching proportion (so called offer obligation (*Andienungspflicht*)).
- Further, in addition to investments into its existing portfolio companies, a VC may also use the matching facility for investments into new targets whereby the VC will also be obliged to offer all future (new) investments until December 31, 2020 to the CMF with the same matching proportion. The VC's matching proportion for existing portfolio companies may differ from the proportion for new targets.

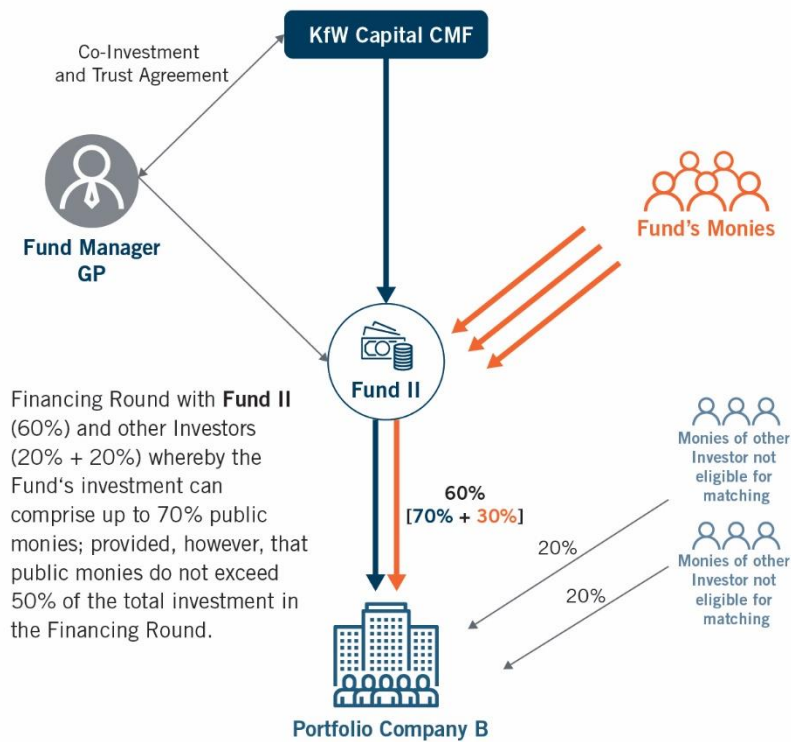
Pillar 2 of the government's support program is addressed to startups, and to small- and medium-sized companies that are not backed by venture capital. Under Pillar 2, the government is planning to open new paths and provide support to these companies through the individual German states as well as state and regional support institutions with the participation of private investors.

Matching Process

Matching Proportion 50%



Matching Proportion 70%



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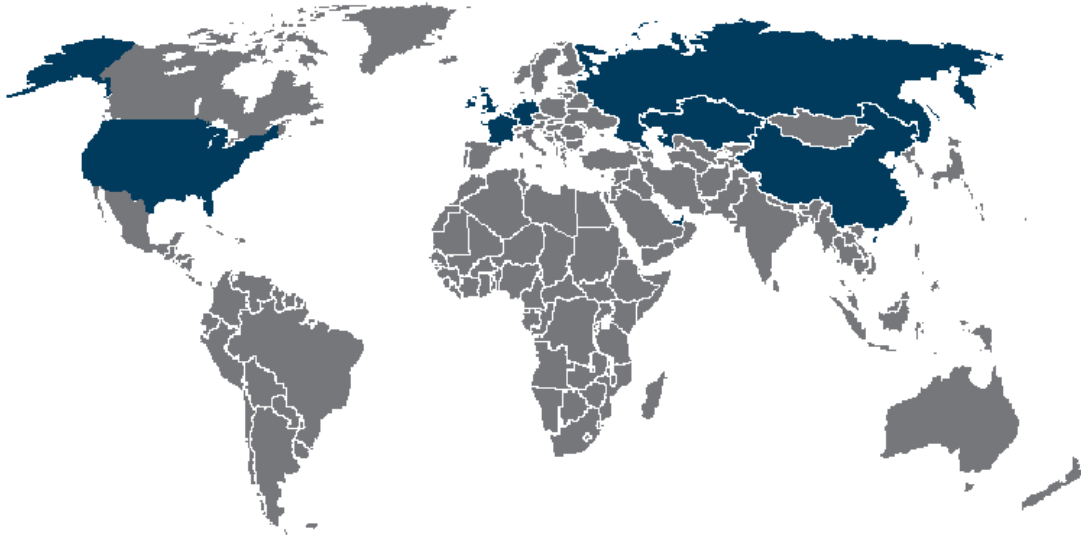
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