

# Outsourcing under scrutiny

## Regulatory Update Germany

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15 September 2021



# Agenda



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Development of the regulatory landscape

2

Outsourcing process

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The FISG and its implications

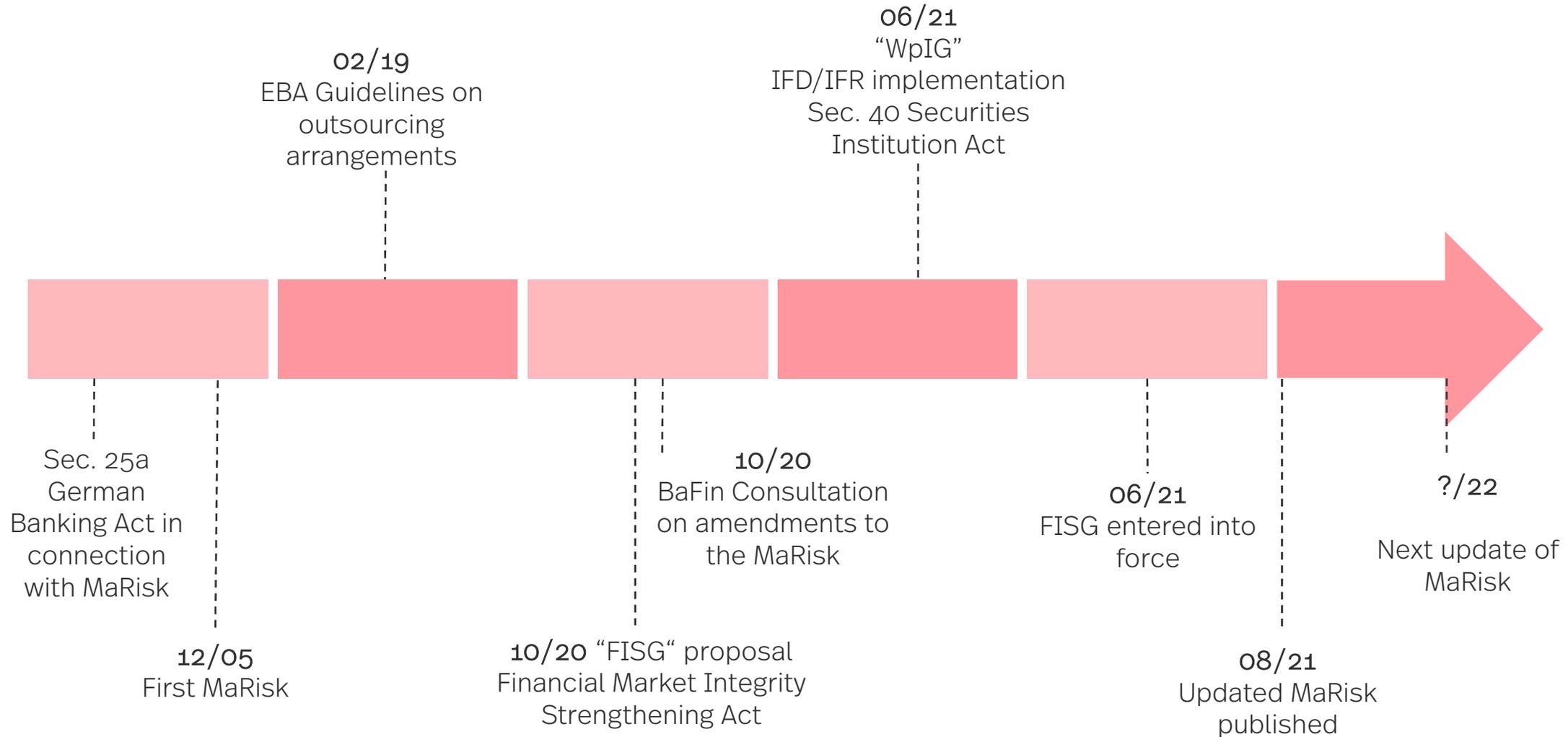
4

Practical implications

# Outsourcing regime



## Development of the regulatory landscape



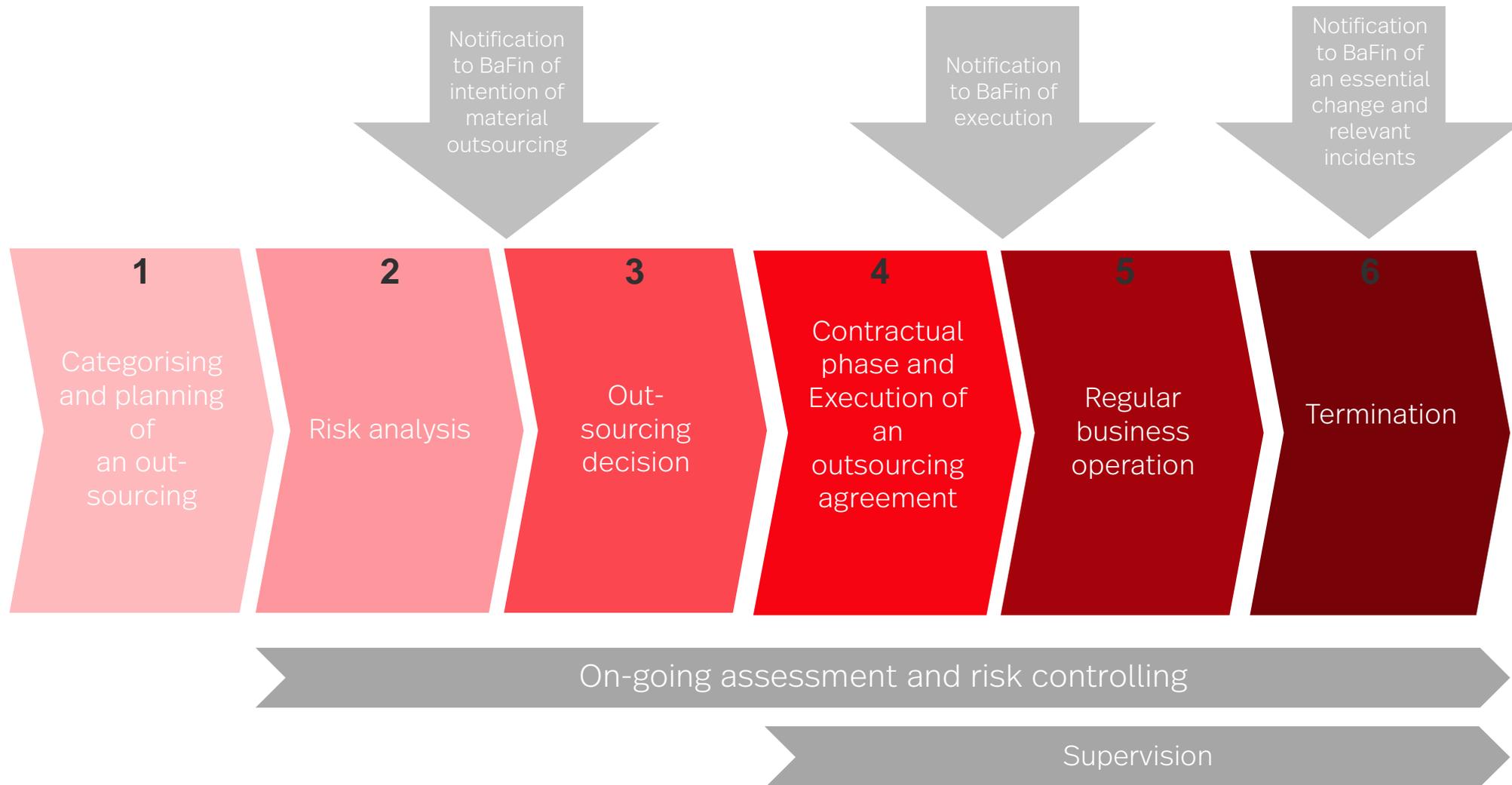
# Outsourcing process

## EBA requirements



# Outsourcing process

## FISG requirements

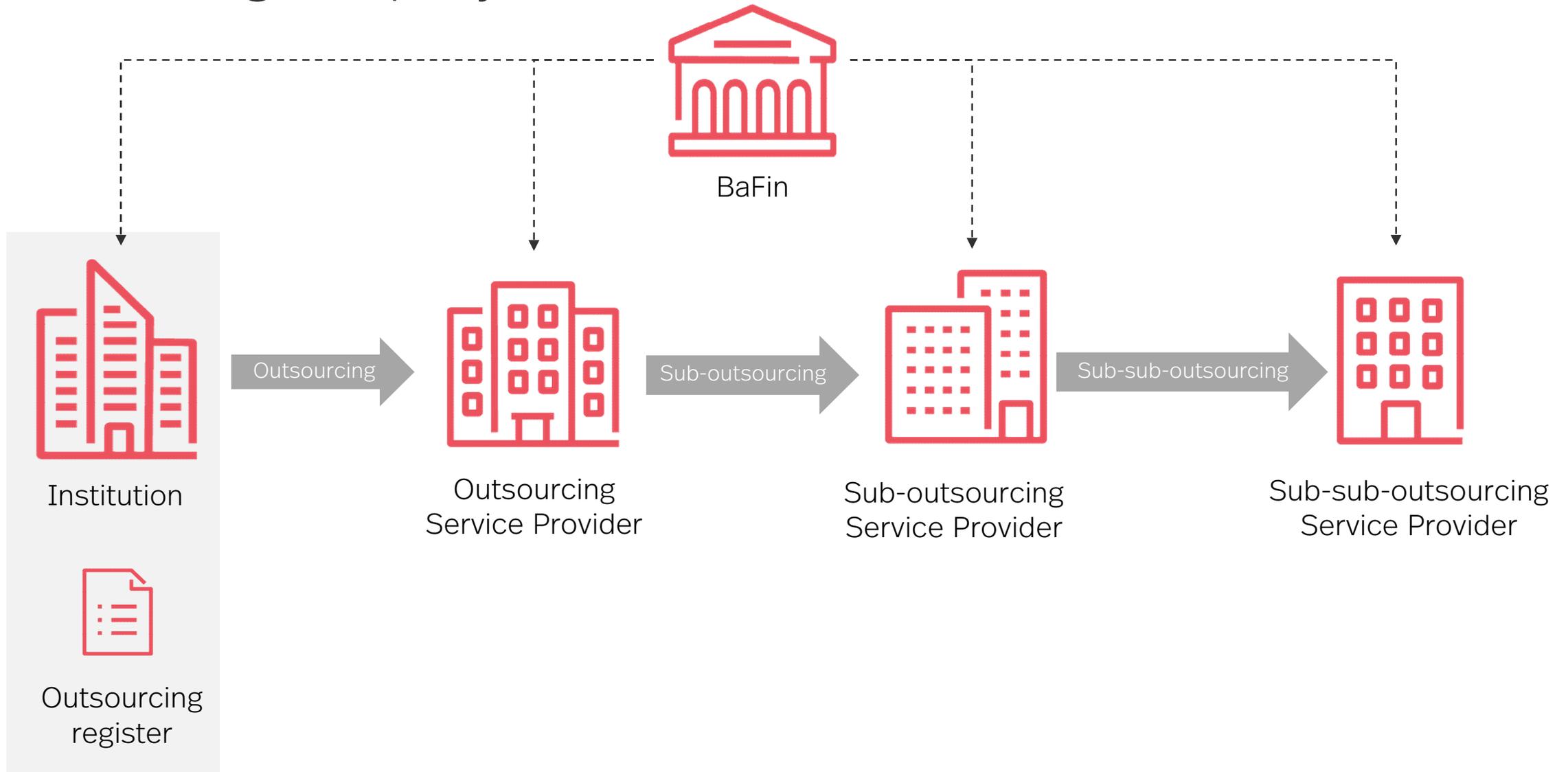


# FISG implications



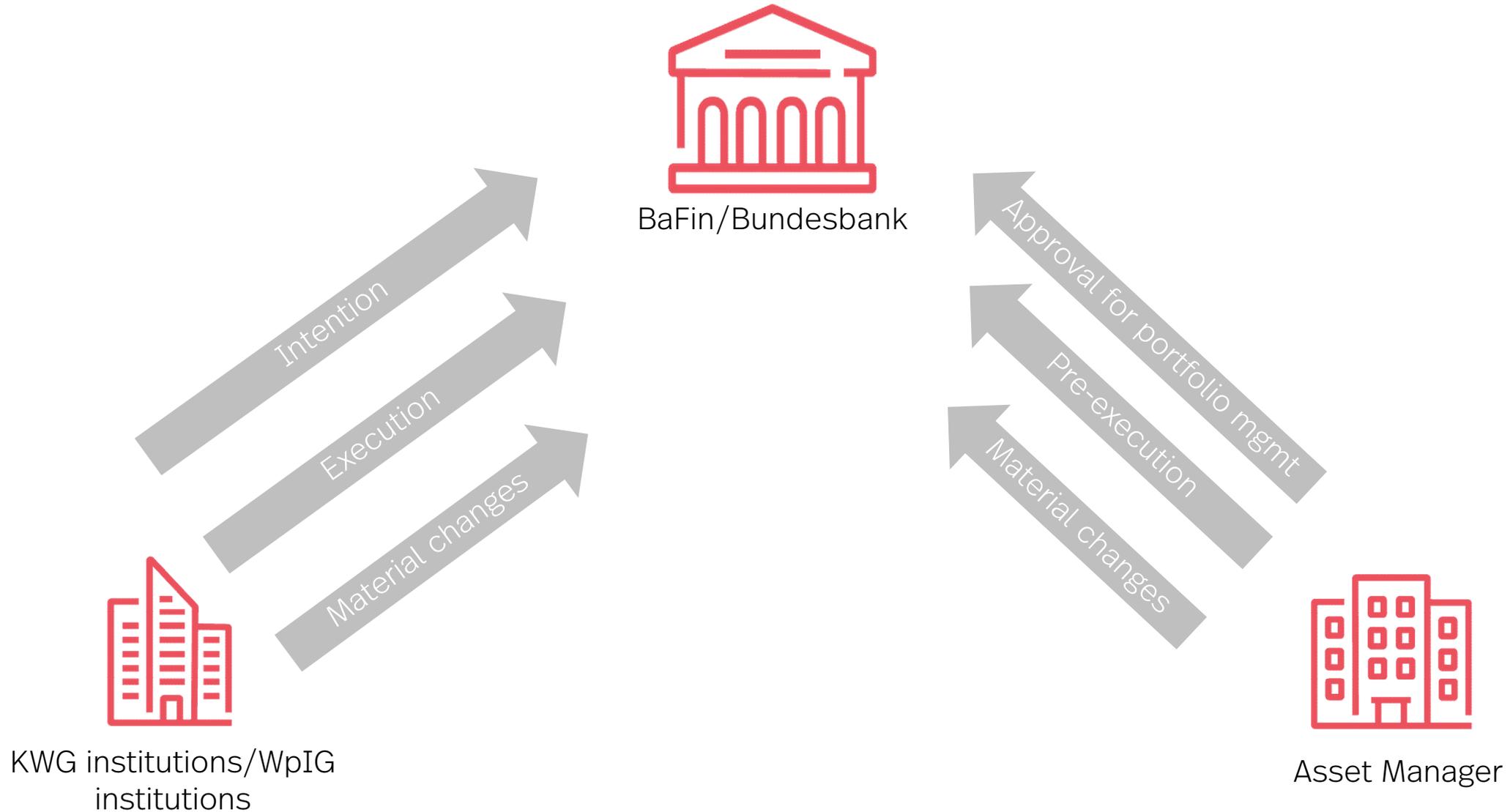
FISG

## Outsourcing company

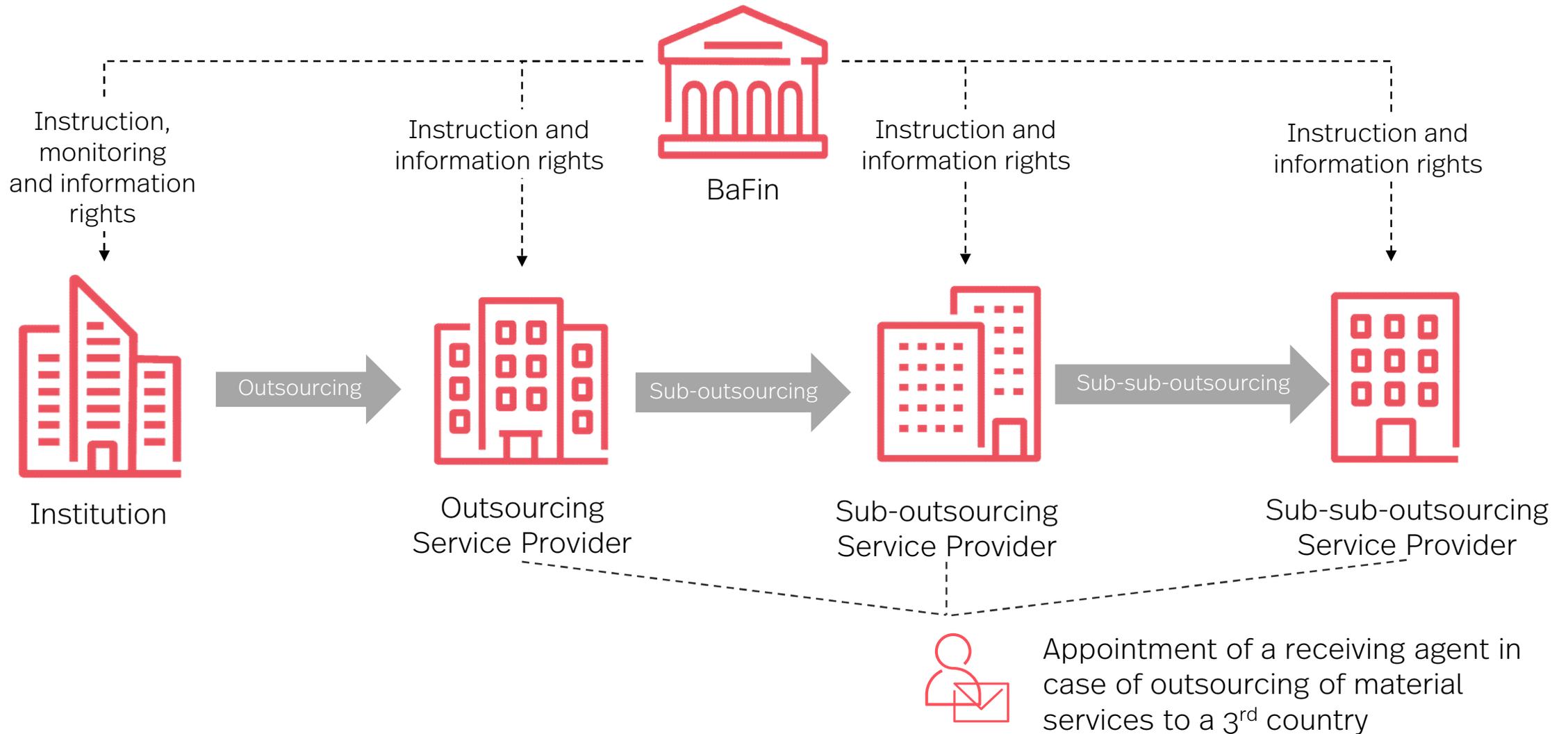


# The FISG and its implications

## Disclosure obligations



# The FISG and its implications



# Practical implications



## Requirements under German law

### Scope and date of application



- The new requirements introduced by way of the FISG and the WpIG apply as of 1 January 2022
- The new requirements introduced by way of the updated MaRisk need to be implemented by 31 Dec 2021
- BaFin grants transition period for existing agreements
  - Existing agreements need to be amended by 31 Dec 2022

### Outsourcing register



- Institutions must maintain an updated register of information on all outsourcing agreements
- Register must be made available to BaFin upon request
- It must contain all information set out in recital 54 and 55 of the EBA Guidelines on outsourcing arrangements
- Requirement as of 1 January 2022

# Practical implications



## Requirements under German law

### Disclosure obligations



- Obligation to notify starts **1 January 2022**
- Notification via BaFin's MVP portal
- Format unclear – preference fields as in EBA guidelines
- Unclear what and when disclosure for intent has to be notified
- Notification can be submitted centralised at group level by the institution carrying out the central outsourcing management

### Appointment of a receiving agent



- Institutions must contractually ensure with a third country Outsourcing Service Provider that it appoints a domestic receiving agent
- Applies to the Sub-outsourcing Service Provider as well
- Only required in cases of material outsourcing
- Requirement as of 1 January 2022

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