



Crossing the Atlantic

**Go-to-Market Insights
for Berlin's FinTech Startups**

Funded by



EUROPEAN UNION
European Regional
Development Fund



BERLIN GOES INTERNATIONAL
A Program of the Senate
Department for Economics,
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Introduction

Welcome to a brief guide crafted specifically for entrepreneurs in the FinTech sector, thinking of or preparing for an expansion into a complex US market. This guide is not your typical "one-stop" solution but a fountain of firsthand insights —stories from Berlin's FinTech pioneers who have dared to cross the Atlantic and lessons from those who have aided their journey.

Our aim is to inspire strategic guidance on whether the US market is worth considering, also keeping in mind the unique challenges that different business models, stages, and stakeholders present. We've gathered stories and real-life experiences from Berlin-based entrepreneurs and companies who've made strides in the US and can inspire you to think of your go-to-market strategy.

With its leading global FinTech space and high investment potential, the US is an arena worth considering for any entrepreneur with a global strategy in mind. We invite you to delve into these pages, which capture the firsthand learnings from June 2022 – June 2023.

This guide is curated by the Berlin Finance Initiative in collaboration with Payment & Banking as a living document and trusted companion on your entrepreneurial journey, ready for revisits and updates as the industry evolves. Whether evaluating a potential leap into the US market or looking to avoid regulatory pitfalls, this guide will help transform challenges into opportunities.

Thanks to all contributors, especially our interviewees and the Fin-Tech Leaders network. We also thank Peter Mayer for his regulatory expertise and Christina Cassala, editor-in-chief at Payment & Banking, for her editorial role throughout the US program.

The ultimate vision behind this guide is to foster a confident global approach, despite the hurdles many European companies encounter. We are determined to shift our mindset towards viewing the US not as a problem space but as an opportunity filled with potential growth. Through this guide, we hope to simplify your big decisions, avoid regulatory pitfalls, and clear the path for your successful US market expansion.

Embarking on the US market is a journey, one that's rich with both opportunities and challenges. Crafted through the collaborative efforts of the Berlin Finance Initiative and Payment & Banking, this guide seeks to illuminate your path. Here's a brief overview of what awaits:

- **Market Preparation Insights:** Delve into the preparatory steps and set the stage for a successful launch.
- **Go-to-Market Strategy:** Harness actionable strategies for making your mark in the US. Learn about the nuances of market entry and positioning.
- **Opportunities for Berlin's FinTech:** Berlin's FinTech scene is uniquely positioned. Discover what sets it apart and how this translates into a competitive advantage in the US.
- **Growth Phase in the US:** Transition from initial entry to sustained growth. Learn from those who've successfully navigated this phase, understanding the challenges and key factors.
- **Regulatory Landscape:** The US is known for its comprehensive regulatory environment. Equip yourself with knowledge, and understanding the rules that will shape your operations and how to navigate them efficiently.

Each chapter serves as a beacon, guiding you through the complexities of the US market. Let the experiences and insights shared herein be your compass. Dive in and chart your path to success in the US!

And stay engaged! As the landscape evolves and our transatlantic engagement continues, we will update this guide with new insights. Don't forget to follow the Berlin Finance Initiative on LinkedIn and join our transatlantic network, "[Fin-Tech Leaders](#)" at to stay in the loop with the latest updates.

Your ideas and experiences matter to us, so please share them with us at
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Your contributions could help shape the future for the next generation of global FinTech companies in Berlin.

Enjoy exploring!

Alexander Daamen, Co-Initiator and Head of Berlin Finance USA

Featuring



 **MYOS**

Market Preparation & Customer Validation

In the first section, we bring you an insightful interview that takes you behind the scenes of MYOS, a successful FinTech startup in e-commerce lending, as they chart their course for US expansion. This in-depth conversation provides a unique look at the triumphs and challenges faced by MYOS while preparing for new market entry. We delve into their strategic decisions, from selecting an ideal customer profile to navigating complex regulatory frameworks and from leveraging partnership networks to adjusting their marketing approach. This is an excellent foundation to grasp the essentials required for successful market entry. This interview took place in July 2023.

Nikolaus Hilgenfeldt



Nikolaus Hilgenfeldt, Founder of Myos

Nikolaus Hilgenfeldt is an entrepreneur with over 12 years of experience in the digital economy and banking sector. In 2018, he founded Myos, an asset-based and AI-driven provider of working capital financing, with the aim of accelerating the growth of small online retailers worldwide. Previously, he founded Scondoo, Germany's first and largest supermarket cashback platform, assisted Groupon in building its sales organization, and advised commercial banks at Roland Berger.

Who is Myos and how long have you been around?

We launched Myos in 2018. The company was born out of the idea of providing young, dynamic shops with working capital to finance their goods. Classic P&L scoring does not yet work for these companies because they cannot yet provide valid information at such an early stage. As a result, they are unable to obtain loans from banks or are only able to obtain small amounts.

Therefore, we offer loans based on the asset-based model. That means: the products sold on marketplaces already have a value that can be used as collateral for financing. This principle is already known in other industries, such as car financing. However, in our case, we are dealing with small-scale products, which makes financing much more complex.

How big are you in the German market, your home market?

Currently, we still generate over 80 percent of our sales in Germany. We have financed about 150 million euros for about 1,000 borrowers over the past five years. 90 percent of the borrowers are from Germany.

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A year ago, you were in the UK, and now you're expanding into the USA. Does the UK serve as a bridge, or do you see both markets as separate?

They are different markets, especially culturally. Nevertheless, we clearly see the UK as a blueprint for our internationalization in general, despite Brexit. This also has a lot to do with regulation. We knew that the UK, with the FCA, has a very FinTech-friendly oversight, and the FinTech market environment is also much more developed. After all, London is considered the FinTech capital. It's ideal for us to use these experiences and later apply them to the USA.

Despite some adjustments, we now generate around 15 percent of our sales in the UK. However, we had to readjust our business model in some places, as some things work differently in the UK than in Germany. Dealing with the changed legal situation and banking regulations helped us to prepare for the US market because after Brexit - quite clearly - the UK is no longer an EU country and is therefore positioned differently than the member states, e.g., due to a foreign currency.

Could you please describe how?

Both are very startup and FinTech-friendly markets. Of course, the US is much more complex again. The size of the market should not be underestimated, and with it, the cultural and regulatory differences in the individual states. It took us a while to navigate there.

What helped you with this?

The expansion strategy of the companies in the UK and the USA has converged. We have a lot of partners in the UK who also have a foothold in the US, but not in continental Europe. The bridge also works vice versa for many of them. For US companies, the UK is the starting point for expansion into Europe. That's also true for financiers. This has actually been reinforced by Brexit, as the UK has been forced to reorient itself. It had to ask itself who the really important economic partners are. Added to this are the linguistic and cultural similarities.

The UK served as a bridge, so to speak, for Myos.

What was the further approach in the USA expansion strategy?

Our expansion strategy, targeting both the UK and the USA, sets us apart as somewhat unique. With our experiences in the UK, we initially had to ask ourselves what strategic advantage we would have from expanding into the USA. However, since 90 percent of our customers also have a store on Amazon and the USA is the largest Amazon market and thereby providing us with valuable data analytics for our business model this step was logical. This step is less complex for us than, for example, an expansion into Asia, where Amazon is less dominant.

The USA has the advantage that the domestic market is already so large that the average financing needs of the retailers are significantly larger, which ultimately helps us enormously in scaling. Even though our business model still requires some explanation, we see a great need among retailers in the USA. This makes it ultimately interesting for investors. Therefore, there is no "point of no return" for us. Our market research and discussions, and the trip with the BFI, have shown us that there is tremendous interest in our business model in the USA.

How did the market entry go and how are you building the business on the other side of the Atlantic?

Our go-to-market strategy was executed in a series of calculated steps.

As a first step, we used the UK experience as a blueprint and defined the necessary technical and commercial steps for a market entry.

In the second step, we conducted in-depth interviews with online sellers in the US, whom we connected with through our partner network and the German Accelerator's Market Access Program. Through direct conversations with potential customers, we gained a better understanding of US sellers' specific needs, challenges, and objectives when it comes to financing. These interviews provided us with invaluable insights, particularly for understanding the competitive landscape firsthand and validating the novelty of our solution in this market, hence its potential to make a significant contribution to the financing mix. It also helped us grasp the market's success factors, such as the greater importance of speed and convenience to US sellers compared to the European market, whereas price plays less of a direct role in choosing a financier.

Utilizing the information we gathered, we developed a series of customer personas. These "ICPs" (Ideal Customer Profiles) helped us to adopt the perspective of our target customers and pinpoint how best to cater to their needs. They also directed our distribution strategy: social proof is critical, so we primarily focus on partnerships for market entry rather than direct selling, as in Germany.

Next, we designated Miami as our "beachhead market" since it offers a good blend of a strong concentration of potential target customers, favorable regulation, and a Europe-friendly time zone.

The last point was particularly important as we wanted to utilize our UK team for sales instead of immediately establishing a local team. This approach offers many benefits as it saves us substantial costs that would otherwise be necessary, given that even in Germany, interactions with merchants occur almost exclusively remotely. The time difference gives the team a clear window to engage with US customers, allowing them to concentrate on internal tasks during the rest of their working hours.

This is quite an unconventional move for German FinTechs looking to expand into the US. Often, nothing seems more important than having a local team.

I generally agree with this, but it also largely depends on the business model and the stage of the company. I think the larger the customers are, the more sensible it is to have a local team to liaise with partners quickly. However, for Myos, this doesn't apply because our strategy is to work with smaller, younger companies and grow together. Adopting a lean startup approach isn't misguided here, as the learnings at the beginning are incredibly valuable.

We're now developing the proof of concept and aim to fundraise with it in the USA. Currently, there's no direct competitor in the market offering our model on a 1:1 basis. Therefore, our strategy is to initially launch in the market in a capital-efficient manner, prove that the business model works, and then, based on this, convince US investors to finance the scaling.

What are your thoughts on marketing, which is notoriously expensive in the US?

You're right. Currently, we're not engaging in any marketing activities in the USA, which will likely remain the case for the next few months. We're taking a proactive approach, reaching out to potential LeadGen partners and customers, and prioritizing merchants based on their product portfolio scoring. We do this based on public data, primarily from Amazon, and feed it into our CRM.

Commissions and word-of-mouth drive our model. We've found this approach to be even more effective in the USA than in Europe!

What other challenges do you primarily anticipate in the USA?

The adjustment in legal matters related to our business model. Especially as a FinTech, you should never underestimate the legal and regulatory framework. For instance, it took us a while to select the so-called "pilot state", initially opting for Florida and New York as metropolitan areas for eCommerce and planning to expand from there on a state-by-state basis. This whole pre-selection became obsolete from a legal point of view when we realized that Delaware is not only suitable as a subsidiary location, which is well known, but also offers a favorable legal framework for lending, which - contrary to what we had originally thought - we can use uniformly for the roll-out across the states. Overall, this makes market entry much easier. In each case, our legal counsel only needs to validate that we can apply Delaware law for a new state, instead of creating a new template for contracts. Of course, there are exceptions, such as California, where the regulation is somewhat more stringent. We'll exclude states like that for now.

Banking law in the US is very challenging and going through the state of Delaware is easier. In your view, is this a universally applicable piece of advice for other FinTechs from Germany?

This, of course, again depends on the business model, but by now every German FinTech should consider this possibility. However, the consequential effects of this choice are also quite complex and should, therefore, always be thoroughly discussed with a local lawyer who is well-versed in these matters.

Let's discuss partners. Which local banking partners are you collaborating with?

For the time being, we are working without US banking partners, because our regulatory approach is similar to that in the U.K. and we do not initially need a bank whose license we have to use for lending. Our European partners will take care of the refinancing for the initial build-up of a loan portfolio. However, we will inevitably need to find local banking and financing partners in the future. This will become important for us in the upcoming year.

On the other hand, partnerships have been crucial for market access from the very beginning. For instance, we're working with Junglescout, the market leader in analytics tools for Amazon sellers.

What specific points did you take away from participating in the trip to Atlanta and New York with BFI?

First of all, I must praise the very good organization. We met great people on site and the spirit in the group was excellent. Throughout our time together, I got to know other founders from Berlin, and the mutual exchange during and after the trip is priceless. As a result, our network has become even stronger.

I was particularly impressed with Atlanta. I only put the city on my radar after the visit with the BFI. The local partners convinced me with strong arguments, making it attractive for young German FinTechs to start their US market entry from there. The cost of living is still manageable, and so is the cost of doing business. Additionally, there's an airport that allows for travel to all international destinations.

After Atlanta, the journey continued to New York. What did you take with you from there?

It was very beneficial for me to further expand our existing network and to have met many investors at the BFI event at Deutsche Bank Americas. Many of them could potentially become relevant for us in the future.

Key learnings & takeaways

5 Do's

1. **Understand US Regulations:** The regulatory landscape for FinTech in the US is complex and multi-layered. Be prepared to navigate federal, state, and sometimes local laws.
2. **Leverage Partnerships:** Seek strategic partnerships with local banks, technology providers, or other ventures in your industry to navigate the unfamiliar terrain. In our case, lead generation partnerships with other e-commerce service providers are a game changer.
3. **Adjust to Market Needs:** US customers may have different needs and expectations than German ones. Be prepared to adjust your product accordingly.
4. **Invest in Customer Service:** US customers expect high-quality service. Even if operating remotely, make sure customer queries are promptly and effectively addressed.
5. **Promote Your Unique Selling Proposition (USP):** What makes your product stand out in a crowded market? Make sure this is clear in your marketing and branding efforts.

Key learnings & takeaways

5 Don'ts

1. **Don't Neglect Cultural Differences:** Business culture in the US can differ significantly from Germany, especially in the credit business. Understand these nuances to avoid missteps.
2. **Don't Underestimate Competition:** The US FinTech market is crowded. Be prepared for aggressive competition and make sure your value proposition is strong.
3. **Don't Shortcut Compliance:** Cutting corners on compliance can lead to serious consequences. Make sure you're fully compliant before launching.
4. **Don't Overlook Localization:** Simply translating your website into English isn't enough. Make sure your messaging resonates with US consumers.
5. **Don't Dismiss Feedback:** US customers are often vocal about their experiences. Use this feedback to continuously improve your offering.

Featuring



FINOA

Market Dynamics & Entry Strategies for Crypto

In this segment, we sit down with Christopher May, the Co-founder and Co-CEO of Finoa. Recognized as a frontrunner in Europe's digital asset custody and financial services, Finoa stands tall in the rapidly evolving world of Web3 and decentralized finance (DeFi). Venture with us into an enlightening discussion about the distinct challenges and prospects Finoa navigated on its journey into the US crypto market. This interview took place in July 2023.

Christopher May



Christopher May, Co-Founder of Finoa

Christopher May is a co-founder and Co-CEO of Finoa, a leading European platform for the custody of digital assets and financial services for institutional investors and companies. Before co-founding Finoa, he worked at McKinsey & Company, where he advised banks and insurance companies on strategy, corporate finance, and digital transformation. Prior to that, he was involved in asset management at BHF-BANK. Christopher holds a degree in Business Administration from WHU - Otto Beisheim School of Management (Vallendar, Germany) and the University of Southern California (Los Angeles, USA). He obtained his MBA from IE Business School (Madrid, Spain).

What does Finoa do?

We're a crypto custodian specializing in institutional investors and institutions, but we also offer other services, including staking and brokerage. Currently, we have around 50 employees and have been following the ups and downs of the crypto scene since our inception in 2019.

What was the market situation like at the time of your launch?

At the time, there was extreme skepticism towards crypto, especially from traditional investors and VC firms, and we felt this hesitation strongly during our discussions with potential investors for our company. The path to our first VC financing was long. There is still a lot of ignorance about topics like blockchain, crypto, and even Bitcoin today.

... and today?

Since 2021, interest in Germany has increased significantly and adoption has become higher. Many have at least heard of crypto or have already invested. Interest in stocks, digital securities, and their organization on the blockchain has risen significantly. Institutions and investors increasingly understand crypto and recognize its advantages. Actors such as Deutsche Telekom or Bertelsmann have been good drivers in Germany to raise awareness of this topic.

Moreover, it's noticeable that engagement with topics around decentralized currency and the discussion around regulation is pushing the whole movement forward. We have a much stronger foundation than a few years ago. However, in Germany, we are still searching for the first use cases.

Is this situation comparable to the USA?

The USA was the first to advance the technology and set the direction. A lot of money from investors flowed into this sector early on, which is why today the largest crypto companies come from the USA. Companies like Coinbase or Robinhood incorporated crypto trading relatively early into their offering and were groundbreaking for adoption. Understandably, topics like Bitcoin and DeFi are much more recognized at banks.

Sounds like a good starting point ...

Yes, but for that, the USA must face entirely different challenges than Europeans, as the USA is currently still operating in a rather unregulated market. The divergence between the industry and regulation has become such a significant problem that the large companies that have outpaced the regulatory system are increasingly moving out of the USA. The political environment and the regulatory view currently make it unattractive to start a crypto FinTech in the USA.

Even US lawyers are currently advising against this step. New products, innovations, and new ideas are, in my estimation, no longer emerging in the USA. Europe has a great opportunity here to be able to serve as a role model.

Europe has legal certainty; the USA has the money - how does that fit together for Berlin FinTechs?

I assume entrepreneurs or developers will leave the USA and pull investor money. I hope that, as a result, US investors will increasingly look at Asia and Europe and invest here.

For a long time, Miami was considered a blockchain hotspot. Is this assumption no longer true?

The market potential of the USA is still extremely high due to its sheer size. Now, there are many other very interesting locations. Many companies no longer have their official headquarters in New York, San Francisco, or Miami, but in states like Wyoming, where regulation through the decentralized regulatory regime in the USA is much more crypto-friendly.

Despite the difficult environment, Finoa is also screening the market - why is that?

Since 2020, we've been watching the US market. We worked with the Near Foundation and were the only crypto custodian that had integrated its protocol. That was our good fortune! We gained access to many investors who had invested in Near. Their contacts helped us win our first US customers. Our name quickly spread around Silicon Valley, which allowed us to expand not only our network but also our reputation. However, for regulatory reasons, we have never actively played the US market; instead, customers gradually approached us.

Is this a stroke of luck, or can we derive some tips for other Web3 FinTechs?

The advantage is that the Web3 space is decentralized and the technology works across borders. Nevertheless, even in crypto, you can only score and win against a US competitor with the right product and a USP (Unique Selling Proposition). Every company should also be able to answer questions about the relevance of the product, the possible market size, and the attractiveness of the market. Regulation is becoming increasingly important, but it currently does not play as big a role in the crypto space as for FinTech with already heavily regulated products. Expansion into the USA requires a clear strategy. Otherwise, the project is too expensive without a clear outcome. We are clearly taking the path of only actively working a market if we can manage to be among the top 3 providers here. Of course, a lot of market research and exchange with the respective market participants is necessary to fully understand the market.

Do the rules of the game apply to Web3 FinTechs in the USA as they do here? Or what do I have to watch out for?

The advantage in the Web3 space is that the product often does not have to be adapted so much, but the GTM strategy does - depending on which market, retail vs. B2B, is to be played. In addition, there's the culture, which is quite different in the USA. Different salaries are paid, organizations are structured differently, etc. The bottom line is that European FinTechs must not make the mistake of copying 1:1 what works in Germany.

A solution could be to start directly in the USA. For example, there is Kaia Health from the healthcare sector, a good example, which started simultaneously in New York and Munich.

How much did you have to adapt and how far along are you in your expansion?

As of today, we are not permitted to have a presence in the US due to regulatory reasons. However, we are currently screening the market very closely. Our expansion is currently dependent on a potential new regulation in the US (the Qualified Custodian Regulation for crypto), but of course, it also depends on our capital resources.

This would enable us to be more active in the market. Regardless, we show a lot of presence on-site, for example, by attending conferences or meetings with VCs and capital providers, i.e., our customers. Despite its decentralization, the crypto community often meets and enjoys doing so, including at large conferences in Austin and Miami. There are also many other smaller events in Europe, such as EthCC in Paris or traditional FinTech events like Money 20/20 or WebSummit.

If we Germans were to focus solely on the European market, we would completely lose our innovative power. The crypto market is focused on capital in the US and Asia. If we had only focused on the European market, we wouldn't exist today because we wouldn't have had sufficient access to capital.

Without access to capital and an exclusive focus, it is impossible to be competitive against a US competitor in the long term. Despite strict regulation, large companies like Coinbase are pushing into our market and rolling out their products.

How do you assess the innovative power from Berlin?

There are indeed a few good companies from Berlin that are not yet well-known in the US. Nonetheless, the crypto scene in the capital is quite large. The Ethereum Foundation and the number of developers building blockchain protocols from Berlin make the city a hotspot for the scene like San Francisco and New York. Early on, Berlin had many programmers who worked around the Ethereum network and a FinTech scene that adapted quickly. Both worlds mutually enriched each other.

Key learnings & takeaways

1. **Prominence of Crypto Culture:** Although Berlin doesn't need to shy away from comparison with Miami regarding the crypto scene, topics like crypto, Bitcoin, and NFTs are much more embedded within American society, particularly in Miami.
2. **Embrace of Innovation and Creativity:** The adoption of innovation and the drive for creativity is far more pronounced in the US than in Germany (although Berlin is better positioned than the rest of Germany). This results in a significantly higher willingness to take risks.
3. **Attracting Capital and Creativity:** The United States draws in creative minds, entrepreneurs, and a substantial amount of capital. Hence, the availability of venture capital in the US is more substantial.
4. **Attractive Market, Challenging Expansion:** These factors make the US market attractive for European companies. Still, on the flip side, they also make the expansion extremely challenging and cost-intensive.
5. **Go Big or Go Home:** An expansion should only be planned and executed if there's a clear ambition and opportunity to become one of the top players in the US and the product-market fit is established. As discussed, this is generally easier in crypto than in other FinTech areas since the product requirements are similar.

Featuring



SDFM STAIRS
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FINLEY MAYER

Legal Aspects of Doing Business in the United States

In this chapter, we have the privilege of presenting insights directly from the esteemed Dr. Peter Mayer. As a Partner at Stairs Dillenbeck Finley Mayer in New York City, Peter offers an unparalleled depth of knowledge in US business law. Given our own limitations in legal matters, his contribution is invaluable, allowing readers an authentic and precise understanding of the American legal landscape. His words provide essential guidance for German companies aiming to venture into the US market. Whether you're a startup or an established player, this chapter offers crucial insights into navigating the US legal framework. For more specific guidance or questions, we encourage you to reach out directly to Peter Mayer via [email](#).

Dr. Peter Mayer



Dr. Peter Mayer, Partner at Stairs Dillenbeck Finley

Peter is a transatlanticist and works with many European clients, primarily from Germany, Austria and Switzerland, that are investing in the US. Peter advises emerging growth technology companies and investors on venture capital, private equity, M&A and strategic transactions. He also advises companies in connection with establishing subsidiaries, joint ventures, and distribution networks in the US as well as in a broad array of cross-border commercial matters, including agency, franchise, distribution, and service agreements. He is an advisor and mentor to business accelerator programs in Germany and the US.

Avoiding Legal Mistakes when Entering the US Market

The United States remains “the land of opportunity” for those who come properly prepared to engage in a competitive marketplace.

Among other advantages for business, the US has a free market economy with a deep culture of innovation and entrepreneurship and minimal government intervention. There is a huge internal market and many centers of dynamic innovation. Funding is abundant. There is a highly qualified workforce and a flexible labor market, and many potential business partners who welcome dealing with non-US companies.

Perhaps most importantly, the United States has a comprehensive, transparent, business-friendly legal system.

However, many aspects of the US business environment and legal system may differ significantly from those of a foreign investor’s home country. A non-US company entering the US market must understand those differences and be prepared to engage with the US legal, regulatory, and commercial environment before commencing operations in the United States. Among the most significant differences are the following.

Federal System of Government.

The US has a federal system of government and therefore at least two separate legal, governmental and tax systems (federal and state) with which businesses must comply. Some local government institutions (e.g., municipal and county governments) may also regulate and tax commercial activities. Moreover, local practices and business methods often vary from one area of the country to another.

Common Law Versus Civil Law.

The US legal system is founded on English Common Law. Many non-US companies come from Civil Law jurisdictions in which codes and regulations provide significant background structure and detail for business relationships. Although the US does have a model Uniform Commercial Code and other model laws, some of which have been adopted by many of the 50 states, company law and tax law can differ substantially from state to state. Moreover, judicial decisions, which in many cases can override statutory law and regulations and therefore comprise much of the legal environment in which companies' operate at both the state and federal level, often differ substantially between jurisdictions.

Role of Lawyers.

Lawyers in the US have traditionally played a very active role in advising companies, and are often involved with senior management in a company's strategic planning and business decision-making process at a very early stage. That degree of involvement may not be customary in Civil Law jurisdictions. Consequently, foreign companies entering the US market may not involve lawyers sufficiently early in planning a market entry or when dealing with substantive commercial, governmental, and tax planning matters. The failure to engage counsel at the appropriate time may damage a company's commercial relations as well as its reputation and brand or lead to violations of law. Remedying an initial mistake is often costly, and sometimes impossible.

The Form and Substance of Contracts.

Another significant difference between the US legal system and the legal systems of many other countries – especially those countries having a Civil Law system – relates to the form and content of commercial contracts. In Civil Law jurisdictions lengthy written contracts are usually neither necessary nor customary. That is not the case in the United States, where the absence of a system of comprehensive codes and regulations requires parties to document business relationships in detailed and precise written agreements that are given critical weight in determining the duties and obligations of the parties. After complaining about the length or detail of a proposed contract, most non-US companies which have competent local advisors quickly proceed to dealing with the particulars.

Practical Tips

- Get legal advice from the start.
- Get accounting advice from the start.
- Be aware that legal expenses in the United States will be most likely significantly higher compared to continental Europe.
- Get it right from the start. Fixing mistakes can be costly and time-consuming.
- Don't rely on your previously gained knowledge in your home country.

Asking the Right Questions (1 / 2)

When setting up a US subsidiary (which is the most common approach for entering the US market) and deciding on the right type of legal entity ask yourself questions such as:

- Do we anticipate having new investors in the US subsidiary in the future? Do we plan to seek venture capital funding? Do we want to issue equity compensation to the employees and executives of the US subsidiary? How can we minimize the exposure of the foreign company and its executives and shareholders to personal liability in the US?
- What are the right criteria for selecting our local partners and leadership team in the US to execute the market entry strategy? Keep in mind that one of the most important decisions a company will make when establishing an operation in the US is hiring the right leadership team or engaging the appropriate partner.
- If there will be more than one shareholder in the US subsidiary: How do we formalize relationships and responsibilities among the company's shareholders? What is the decision-making process in the company? How do we address a shareholder's potential exit from the company?

Most foreigners use a Delaware corporation or limited liability company when setting-up a US subsidiary. Delaware company law is well developed, flexible, favorable to management, prestigious, and most frequently used. It is important that the US subsidiary maintain its independent status and observe the customary corporate formalities to insulate the non-US parent company from liability to creditors of the subsidiary.

Asking the Right Questions (2 / 2)

Flipping a foreign business to the US is occasionally done when a foreign company is seeking access to US venture capital funding because venture capital investors prefer to invest in US corporations. Flipping can be accomplished when the existing shareholders of the foreign company contribute their shares to a newly incorporated US corporation (NewCo) in exchange for shares in NewCo so that the foreign company becomes a subsidiary of NewCo. This process is more time-consuming and costly than setting up a US subsidiary and there are tax and valuation issues to be considered.

Privacy & Data Protection

The United States does not have a national privacy law or data protection authority. Instead, there is a variety of federal, state, and local laws and agencies that regulate privacy and data protection. These laws and regulations are generally sector- and industry-specific. Companies doing business in the United States should apply great care to determine which laws apply, based upon the industry in which they operate, the type of information concerned, and the geographic location of their activities. Each of the 50 states, as well as local jurisdictions, have laws applying to data collection, data protection, and privacy. Government agencies have also developed guidelines and industry groups have undertaken self-regulatory efforts that do not have the force of law but are considered best practices. These self-regulatory programs often have accountability components that regulators increasingly use as enforcement tools.

The growth in interstate and cross-border data flow, together with new privacy and data security-related statutes and regulations, heightens the risk of privacy violations and creates a significant compliance challenge.

Practical Tips

It is important to analyze the kind of information that is collected, the way the information is used and to be aware of industry and jurisdiction specific requirements. Based on the specifics of your business consider

- Appointing a qualified chief information security officer (CISO) and employing other qualified cybersecurity personnel
- Maintaining policies and procedures to protect NPI and information systems that house NPI
- Implementing organizational and technical security controls
- Continuously monitoring and testing your cybersecurity program's effectiveness

Familiarize yourself with applicable state data breach notification laws and federal cyber incident and data breach notification laws and have an action plan ready in the event of cyber incidents and data breaches.

Importantly, if your organization discovers data protection and cyber vulnerabilities, you should immediately investigate, ring-fence, and resolve the identified weaknesses according to risk levels.

Federal Laws and Regulations

There are numerous federal laws that regulate privacy and the collection, use, processing, and disclosure of personal information. The Federal Trade Commission Act (FTCA) and the Gramm-Leach-Bliley Act (GLBA) are only two out of many.

- **Consumer Protection:** There are broad federal consumer protection laws, such as the FTCA, that are not specifically privacy and data security laws, but are used to prohibit unfair or deceptive practices in the collection, use, processing, protection, and disclosure of personal information. Companies that are primarily regulated by other federal agencies, such as certain transportation, telecommunications, and financial companies, are not subject to the FTCA.

The Federal Trade Commission (FTC) has issued Behavioral Advertising Principles (<https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-staff-report-self-regulatory-principles-online-behavioral-advertising/p085400behavadreport.pdf>) that apply to online service providers, including website operators and mobile app developers, that engage in contextual or targeted advertising. Compliance with these principles is voluntary, although many companies adopt them as best practices.

The FTCA does not expressly require companies to have or disclose a privacy policy. However, if a company discloses a privacy policy, it must comply with it. It is a violation of the FTCA for a company to make material changes to its privacy policy without providing consumers with notice of those changes; and the opportunity to opt out.

Inadequate data security practices can form the basis for deceptive practices claims where a privacy policy states that the business has implemented reasonable and appropriate security measures. The FTCA does not expressly prohibit sharing personal information with third parties but if a company's privacy policy includes statements regarding the company's information sharing practices, it must comply with them.

- **Financial Personal Information:** The GLBA applies to personally identifiable nonpublic financial information (PINFI) held by banks, securities firms, insurers, and other financial institutions. The GLBA requires that financial institutions notify customers about their information sharing practices, provide customers with a right to opt out if they do not want their information shared with certain unaffiliated third parties, implement a written information security program, including specific safeguards to protect PINFI from unauthorized disclosure, as detailed in the GLBA Safeguards Rule (<https://www.ftc.gov/business-guidance/privacy-security/gramm-leach-bliley-act>).

State Laws

In addition to federal laws, there are hundreds of privacy and data security laws governing the collection, use, protection, and disclosure of personal information at the state level. From a practical perspective, it may often be easier to simply apply the standards of the most stringent jurisdiction. For instance, California's data protection laws are very strict and adhering to those standards across all jurisdictions may often be sufficient.

Cross-Border Issues

There are few limits on the transfer of personal information to countries outside the US. While several US states have enacted laws that limit or discourage outsourcing of data processing beyond US borders, these laws typically apply only to state government agencies and their private contractors. The position of the FTC and other US regulators is that:

- US laws and regulations still apply to personal information after it leaves the United States. For example, see the FTC's enforcement action against GMR Transcription Services, Inc., where a medical and legal transcription company outsourced services to independent typists in India without adequately checking to make sure they could implement reasonable security measures (<https://www.ftc.gov/news-events/news/press-releases/2014/01/provider-medical-transcript-services-settles-ftc-charges-it-failed-adequately-protect-consumers>).
- Entities should use the same protections, such as security safeguards, protocols, audits, and contractual provisions, whether the regulated data is located in the US or elsewhere.

Data Breach Notifications

In most jurisdictions, the state's attorney general or consumer protection agency is authorized to enforce the data breach notification statutes, usually by suing for civil or injunctive relief. Some data breach notification laws cross-reference other consumer protection statutes and penalties, while other statutes provide for specific remedies.

Some states (including California, Illinois, and New Jersey) include a private right of action that allows individuals to sue for actual damages resulting from an entity's failure to provide timely notice of a breach.

Asking the Right Questions

Some questions for organizations to consider include:

- Did the organization run risk assessments and if so, do they need to be updated?
- What risks did these assessments identify? Were they appropriately classified according to risk levels?
- How does the organization determine whether a given remediation effort is on track? Are remediation timelines too long in light of the risk?
- Has the organization mapped or cross-walked its controls against applicable legal requirements?
- When were the organization's information security policies last updated? Have they been updated to align with new risks and threats to the company?
- When new employees acclimate to the organization, do they tend to have the same concerns that may indicate a gap in policies or procedures, such as "isn't [x] public information?" or "why isn't [x] done?"

FinTech Regulation in the United States

The developments in the FinTech sector are presenting significant legal, compliance, and practical challenges for FinTech companies, traditional banks and their regulatory agencies. FinTech encounters various legal and regulatory obstacles from the banking sector, depending on the services provided and whether they compete or collaborate with traditionally regulated banks and financial institutions.

State regulators are responsible for licensing and overseeing many FinTech companies. Additionally, numerous FinTech companies are subject to specific federal regulations, particularly those concerning consumer protection, the Bank Secrecy Act, and anti-money laundering requirements. The Office of the Comptroller of the Currency (OCC), which regulates national banks, plays a leading role in developing a tailored regulatory response to FinTech. The OCC has published a manual (<https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/considering-charter-apps-from-fin-tech-companies.html>) that provides guidance for applicants.

Obtaining a national bank charter (<https://www.occ.gov/publications-and-resources/publications/banker-education/files/exploring-special-purpose-national-bank-charters-FinTech-companies.html>) may offer advantages to FinTech companies. An OCC-chartered FinTech bank would enjoy the same federal law preemption privileges as other national banks. This means that certain state laws requiring FinTech banks to obtain licenses for specific business activities would be overridden. However, chartering as a special purpose national bank also subjects the FinTech bank to extensive federal laws and regulations.

When applying for a special charter, applicants are expected to address essential items such as a business plan, governance structure, capital, liquidity, compliance risk management, and financial inclusion. The application process can be complex and time-consuming, often posing challenges for startup companies. Despite being proposed in 2016, there has been limited interest in applying for FinTech charters, possibly due to legal uncertainties arising from state challenges to the OCC's authority to issue such charters.

As a global leader in innovative financial services, the United States offers ample opportunities for new entrants in the financial sector. Several states, including Arizona, Florida, Nevada, and West Virginia, allow FinTech companies to operate in a sandbox framework, offering new products and services without the need for state licenses.

Practical Tips

Understanding and complying with all regulatory obligations is crucial to avoid regulatory sanctions. It is critical to consult with a specialized attorney in your jurisdiction well in advance to fully grasp the regulatory requirements for your financial product. Ongoing compliance efforts are of utmost importance, and sufficient resources should be allocated to this task. Adequate systems must be in place to identify, assess, manage, and monitor the compliance process effectively.

Banks are increasingly partnering with FinTech companies to access innovative products and partnering with traditional banks offers new opportunities for FinTech companies. Although the federal banking agencies support responsible innovation that provides banks access to new technologies, they are also concerned with ensuring bank safety and soundness and consumer protection. The federal banking agencies have published guidelines, including a due diligence guide pursuant to which banks should collect and analyze information to determine whether the prospective third-party relationship supports its strategic and financial goals and can be implemented in a safe and sound manner.

The Due Diligence Guide (<https://www.fdic.gov/news/press-releases/2021/pr21075a.pdf>) addresses six common areas where due diligence on a potential FinTech partner may be appropriate: (i) business experience and qualifications, (ii) financial condition, (iii) legal and regulatory compliance, (iv) risk management and controls, (v) information security, and (vi) operational resilience.

Asking the Right Questions

- Is there a demand for our product and how and where do we bring our product to market?
- Should we partner with a local bank and if so, what do we need to do if we want to provide a service to, or partner with, a bank?
- What approval requirements and procedures apply?
- Do we need to incorporate a company in the United States or are foreign institutions permitted to provide FinTech services in the relevant state?
- How do we protect our IP rights?

Compliance with US Employment Laws

Labor relations in the US are most frequently controlled by state law. US jurisdictions typically do not have laws that grant employees the right of continued employment. Employees are employed “at will” unless otherwise provided in an employment contract between the employer and employee. Under “at-will” employment an employee generally can be terminated for any reason or no reason by either party (subject to certain restrictions, e.g., a termination for discriminatory reasons of employees in “protected classes” - for example, termination because of an employee’s race, age, or gender - is not permissible).

It is therefore advisable for the company to specify in written offer letters, employment agreements, or workplace policies that the employment relationship is “at-will”. There are exceptions to “at will” employment. For example, some managerial employees and key technical employees may demand an employment contract or written terms of employment giving them rights to severance or other benefits if the employment is terminated “without cause”. Moreover, it is customary to require executive level employees (so-called “C” level employees and senior managers) to enter into comprehensive written employment agreements that address such matters as compensation and bonus payments, noncompetition and non-solicitation of employees upon leaving the company, intellectual property rights, protection of confidential information, and termination rights.

There is a wide range of potentially applicable federal, state, and local laws that govern the employer/employee relationship. Even if an employer is operating under “at-will” employment principles, applicable federal, state and local laws may protect individuals from discriminatory, harassing, or retaliatory actions in the employment context. In addition, there are laws that (i) protect the interests of employees under employee benefit, welfare, pension and health care plans; (ii) establish minimum wages; (iii) require that men and women in the same establishment receive equal pay for equal work on jobs that require equal skill, effort and responsibility and that are performed under similar working conditions; and (iv) require employers to provide employees with a workplace free from recognized hazards.

Practical Tips

When hiring their initial employees, all businesses are required to adhere to numerous filing, reporting, and insurance obligations. Besides federal requirements, many states mandate businesses to report employee information. Most states also require employee registration for tracking child support obligations, state taxes, workers' compensation, and unemployment insurance.

Most employees are hired without formal employment contracts. While federal and most state laws do not require specific contract terms to be in writing, there are exceptions in some states. Additionally, many states now mandate employers to disclose the rate of pay and regular pay day to employees upon hiring. Although this information does not need to be included in an offer letter or contract, incorporating it into these documents generally satisfies statutory requirements.

Even when not legally obligated, companies should establish the employment relationship through a simple offer letter that outlines the key terms and conditions of employment, including:

- Title or position
- Reporting relationship
- Start date
- Term of employment, if applicable
- Rate and frequency of pay
- Method of pay (salary, wage, commission), including exempt or nonexempt status from federal minimum wage and overtime requirements
- Hours of work, such as full-time or part-time
- Work location, including remote work possibilities
- Eligibility for benefits
- Employment conditions (e.g., immigration status, background checks)
- Confirmation of at-will employment

Formal employment contracts, if used, are typically reserved for senior executives and management personnel.

Setting reasonable salary expectations is crucial and salaries in states such as New York or California may be higher than in many European countries. Compensation decisions can significantly impact a startup's ability to attract employees and investors.

Wage and hour issues can pose particular challenges for startups. In the startup environment, employees often work long hours, exceeding 40 hours per week. They may also perform multiple roles without clearly defined job descriptions or traditional titles, which makes compensation primarily composed of stock or equity grants with limited available cash for base wages. Many startups mistakenly believe that overtime laws do not apply to them and never consider paying overtime to their employees.

Valuation and vesting issues should be considered when issuing stock. Companies should determine the fair market value of shares using reasonable valuation methods. Failure to accurately value company shares can lead to adverse tax consequences and potential penalties for the corporation and individuals involved.

To protect intellectual property and goodwill, employers should consider various mechanisms, including requiring employees to sign agreements related to:

- Confidentiality of trade secrets and protection of proprietary rights
- Non-solicitation of employees
- Non-solicitation of customers
- Non-competition by employees

These agreements should ideally be signed at the start of employment.

Employers often require employees to sign confidentiality and proprietary rights agreements to safeguard confidential information and intellectual property (IP) assets, such as trade secrets, from disclosure or misuse. Non-compete agreements can be valuable for protecting corporate assets like trade secrets and goodwill, but their appropriateness depends on the specific circumstances. The enforceability of these agreements is generally determined by state law, although there are federal efforts to restrict non-compete agreements. State laws vary significantly by jurisdiction and industry. For instance, in California, non-compete agreements with employees are generally illegal except in limited circumstances related to the sale of a business.

Asking the Right Questions

At the start of the employment relationship, employers must determine the terms and conditions of hiring and employing individuals. This includes decisions on:

- Whether an individual is hired as an employee or engaged as an independent contractor
- Whether the employment is at-will or based on a fixed term with an employment agreement
- The types of screening methods to be used
- How employees will be compensated
- The agreements employees need to sign to safeguard the employer's intellectual property
- Whether employees will be required to sign arbitration agreements

Taxation of US Operations

The US federal tax system is designed to permit the country with the closest relationship to a revenue-generating activity to tax that activity preferentially. The system also seeks to minimize the possibility of taxation by multiple countries of a single income stream.

While there are many exceptions, the US federal taxation scheme is intended to be economically neutral (so as not to favor one type of company over another) and to create a “level playing field”, where all participants are subject to the same general taxation burden.

Within the United States, individual states and local jurisdictions also separately impose their own taxes, and state Departments of Revenue, and similar local agencies generally enforce such taxes at the state level. Many state and local taxes deviate varying degrees from federal tax calculations or simply do not have a comparable federal counterpart, so specific attention needs to be paid to the state and local taxes applicable in the jurisdictions in which a company conducts business and into which it sells or delivers products and services.

Tax planning is based on the facts and circumstances of each situation. Accordingly, any non-US company doing business in the United States should discuss with professional tax advisors, early in the planning process, the most tax efficient structure for its US operations. Further, even if carefully designed for US purposes, that structure will may not be efficient if it is not coordinated with tax planning in the non-US company’s home country.

Practical Tips

Companies often find that it is less complicated and more cost efficient (and presents less liability exposure) to operate in the United States through a subsidiary corporation, rather than directly through a branch. The subsidiary's income, no matter where earned (inside or outside the United States), generally will fall within the US taxing jurisdiction as a result of the subsidiary being organized in the United States.

Sales Taxes: Most states impose sales and use taxes. The following states do not: Alaska (local municipalities, however, are allowed to levy sales taxes), Delaware, Montana, New Hampshire, Oregon.

Sales tax is collected on all transfers of tangible personal property for consideration, which generally includes all physical personal property that can be moved, touched, or felt, excluding exempted property. In some states, sales tax is also imposed on sales of certain services.

Sales taxes are ultimately imposed on the buyer but collected by the seller. Use tax is paid by and collected from the purchaser. States, however, are increasingly requiring remote sellers to collect and remit the tax, given the difficulty of collecting from each individual buyer.

An out-of-state seller can be required to collect and remit sales and use tax if it has sufficient nexus with the state.

The most important practical tip is to obtain assistance from knowledgeable and experienced tax advisors early on.

Asking the Right Questions

- What form of legal entity should we use?
- In what state should we incorporate?
- How will the US subsidiary be funded?
- In what states will the US subsidiary do business?
- Will appreciated assets be transferred from the foreign parent company to the US subsidiary?
- Will there be dividend and interest payments to the foreign parent company?
- Consider transfer pricing regulations.
- Keep in mind that states do not necessarily follow federal tax treaties so that protections provided at the federal level by a treaty will not necessarily apply to some state and income and business taxes.

Intellectual Property Protection in the United States

Obtaining patent, trademark, and copyright protection in the United States requires compliance with the laws of the United States as well as each other country that has, or may have, a connection to the intellectual property.

Patent

If a company is doing business or has licensed intellectual property for use in the United States, the protection obtained in other countries will be of little, if any, help in the United States. Additional steps must be taken in the United States to achieve comparable protection. Patent applications are filed in the US Patent and Trademark Office (USPTO). For an invention to be patentable in the United States, it must e all of the following:

- Patentable subject matter, including being useful and not one of the recognized exceptions
- Novel
- Non-obvious

Evaluating whether to seek patent protection in the United States is time consuming and potentially expensive. However, it can be one of the most important steps that a non-US company can take in establishing operations in the United States. When granted, a US patent typically has a life that extends 20 years from the effective date of filing of the patent application for utility patents.

The world is not completely disorganized when it comes to patent protection. There are a number of treaties that attempt to bring some uniformity and fairness to the process, one of which is the Patent Cooperation Treaty (PCT), which provides standardized procedures for filing patent applications in countries that are parties to the PCT.

Trademarks and Service Marks

In the United States, a trademark can be any identifier that indicates the origin of goods and distinguishes them from the goods of others. Similarly, a service mark can be any identifier that indicates the origin of services and distinguishes them from the services of others. The identifiers may be, for example, words, names, phrases, logos, symbols, designs, images, and even sounds, smells, and colors.

In the United States, both trademark rights and service mark rights arise through the actual use of the mark in connection with a particular good or service. Registration is not necessary, although it is beneficial, because registration will confer certain presumptive rights to the owner of the registered mark and provide notice of the existence of the trademark or service mark.

Copyrights

A copyright protects against copying published and unpublished original works of authorship or artistry (e.g., literary, films, photographs, and computer programs) that are fixed in a tangible medium of expression. Computer memory can qualify as tangible medium for software works. A copyright exists as soon as the original work is fixed in tangible medium. Registration with the US Copyright Office is not required to obtain a copyright. However, before an action for copyright infringement can be brought against an infringer, the copyright must be registered with the US Copyright Office.

Trade Secrets

A trade secret is information that is not generally known or readily ascertainable and that provides a business-related, competitive advantage to the owner of the trade secret. A trade secret can take the form of a formula, a pattern, a manufacturing process, a method of doing business, or technical know-how. The most critical feature of a trade secret is that it cannot be generally known to the public. Once it becomes known to the public, it is no longer entitled to trade secret protection.

Licensing

While licensing intellectual property for the use in the United States may provide a quick and relatively easy income source, there are numerous potential pitfalls. It is important that any license be documented in a written agreement that clearly sets forth the rights and responsibilities of the licensor and the licensee.

Practical Tips

Creation of IP by Employees and Consultants: Employees and external consultants may create IP in the course of employment or engagement. It is generally advisable for an employer to require each employee to execute a written agreement that:

- Specifies that all work product created by the employee within the scope of employment or using the employer's resources that may relate to the employer's business is owned by the employer.
- Provides that all copyrightable work product created by the employee is a work made for hire under the Copyright Act.
- Assigns to the employer all work product that does not qualify as a work made for hire, including all inventions or discoveries made by the employee.
- Ensures the employee must cooperate to secure and protect the employer's IP rights.

Similarly, a written agreement should be executed with any external consultant or independent contractor that both:

- States that any copyrightable work product created by the consultant or contractor that satisfies the definition of work made for hire under Section 101 of the Copyright Act will be considered a work made for hire.
- Assigns to the company all work product that does not qualify as a work made for hire, including all inventions and discoveries made by the consultant in the course of the engagement.

In drafting IP provisions for employee and contractor agreements, companies must also consider applicable state law requirements and limitations. For example, several states restrict the scope of employee invention assignment agreements, and work made for hire statements in independent contractor agreements have implications under California workers' compensation and unemployment insurance law.

General compensation requirements do not exist regarding the assignment of IP rights in the US other than the requirement for some consideration for the assignment. What constitutes sufficient consideration varies by state.

Asking the Right Questions

If you consider licensing your IP rights, ask yourself the following questions:

- What rights will be granted to the licensee (e.g., selling, making, using a product)?
- Right to sublicense?
- Who will own any improvements to the intellectual property made by the licensee?
- What territorial restrictions should apply?
- Should the licensee be exclusive or non-exclusive?
- What is the duration of the license and under what circumstances may it be terminated?
- What marketing and quality control requirements are needed?
- What warranties and indemnification rights will be provided to the licensee?
- What consideration is to be paid for the license and when will it be paid (e.g., in advance, in periodic intervals or contingent on profitability)?
- How can the non-US company enforce its rights against the licensee (injunctive relief, dispute resolution mechanisms and alternatives)?

Featuring



Ecolytic™

Go-to-Market Strategy & Opportunities for ESG

Join us for a comprehensive conversation with Friedrich Hubel, Co-Founder and Managing Director of Berlin's leading impact FinTech, ecolytiq. Throughout this discussion, we journey through their experiences of establishing and expanding their FinTech business within the United States. By examining ESG business cases, discerning cultural nuances, navigating regulatory hurdles, and consolidating key takeaways, this chapter unveils the multifaceted challenges and opportunities that European FinTechs encounter when stepping onto US soil.

Friedrich Hubel



Friedrich Hubel, Founder of ecolytiq

An affinity for finance and technology, coupled with a passion for solving complex problems led Friedrich Hubel to embark on a career as an entrepreneur in banking and FinTech. Friedrich has spent the last 15 years founding and growing companies that have left a mark on the industry, such as Rocket Internet, Payleven (today SumUp), Zalando, and Lendico (today part of ING Bank).

Following the exit of his last venture to ING Bank, he gained valuable experience into the evolving needs of banks in the digital age. By co-founding ecolytiq, Friedrich chose to continue following innovation by guiding these financial institutions in taking meaningful action on climate change and respond to increasing customer demand.

What Friedrich finds truly captivating about being an entrepreneur in the climate tech space is the allure of the unknown and its untapped potential to change our world. He thrives on encountering new challenges and meeting new people, and it is this driving force that propels his work forward.

What is the idea behind ecolytiq?

We are a B2B2C FinTech and see ourselves as a technology provider with a sustainable impact. With our technology, we help consumers understand the impact of their personal consumption on the world based on their payment transaction data. We assist banks and financial institutions in meeting the interest in sustainability and creating efficient consumer education based on industry data. This form of engagement ties customers to the bank and helps to position products that are part of the sustainable transformation (Green Loans, solar systems, heat pumps, etc.). At the same time, education enables consumers to take efficient climate actions, thus making each consumer a climate protector. Ultimately, the consumer, the bank, and all of us win by protecting the environment.

What is your basic idea based on?

Firstly, from a personal concern to make CO2 and individual behavior visible, measurable, and understandable. We've been asking for some time how such a product should look to be attractive to banks. In 2020, we implemented the idea and promptly gained Visa as a partner. We launched our product with Tomorrow in 2021 and are now gradually rolling it out to other banks in Germany and beyond.

We are also supported by the new taxonomy regulation, which obliges banks to classify sustainable economic activities, but not yet on the retail side. A lot is currently being discussed at the European level. It will certainly take a few years before we reach a fixed regulation. But we don't want to wait for that because today, 78% of Germans say that sustainability is important or very important, and 67% want more information on this topic from their bank (see EGC customer study 2021: Green Banking). European banks increasingly recognize this potential, reflected in our product's interest.

The same applies to the USA. Even if the political balance of power in the US should change again in the next few years, I am convinced that banks in North America and beyond cannot ignore the potential for banks from a communication perspective and an economic consideration - in terms of customer acquisition and retention. However, a stronger focus here will be on customer segmentation. But we can confirm today: On a very individual level, simple education results in a lot of positive feedback and empowers consumers to actively practice climate protection. This positively affects the relationships between the bank and its customers and generates more sales for our customers. Those who don't follow the trend probably didn't believe in online banking and smartphones back then.

There is currently a lot of hype surrounding the topic of ESG. But you see yourselves first and foremost as technology providers.

How does that fit together?

That's right, first and foremost, we are a technology provider, but with a sustainable approach that largely focuses on the E (Environment) in data analysis. This is our central promise when selling our technology and expertise to banks. Banks can thus create forward-looking products and increase their long-term profitability. The positive side effect is that a contribution to climate protection is made in parallel. We also plan to expand our spectrum to include the S and G components when the corresponding data situation improves.

Do the S and G also have an economic added value for the banks?

Absolutely, yes! If there is an awareness of the importance of these topics in society and a debate takes place, a bank must deal with it and incorporate it into its value proposition, as this automatically increases the value for a bank. The letters S and G are not as deeply rooted in the societal debate as the E, but the social aspect and corporate governance (S and G) are increasingly being discussed and become relevant for banks.

How can you narrow down your market?

Our market is defined by three factors: How many consumers there are, how many are aware of ESG topics, and the use of digital banking. Currently, in Germany, about 50 percent use digital banking. The numbers for Southern European countries are similar, while the Nordics are significantly ahead regarding online banking usage.

We have deliberately built our core market in Europe, knowing each market has its challenges. The discrepancy in the use of mobile banking is still quite large, even within this continent.

**Many factors speak for the local market:
awareness of ESG issues, the penetration
of mobile banking usage, regulation, etc.
So why take the step to North America?**

We have always defined ourselves as an international company, and our goal has always been to expand from Germany. In addition, demand for our technology in the USA and Canada has risen significantly. Therefore, we are currently analyzing the market carefully and identifying the relevant banks and their potential. Only when it makes strategic and commercial sense, the market becomes interesting for us. In North America, we have answered these questions and have entered the market with this economic approach.

This process is quite time-consuming, but it has the advantage of understanding and penetrating the market in depth. With our ESG approach, we can currently afford this pace, as the banking market is not traditionally known for its speed. Also, one must always keep an eye on the competitive situation. I have been involved in several foreign expansion processes, so this somewhat opportunistic approach is unsuitable for every business model.

Expanding into the North American market less than two years after the product launch sounds ambitious. How are you preparing for this?

We see ourselves as an international player; after all, climate change affects us all, and the transaction data necessary for our product are also internationally available. Now that we have tested and expanded our solution in Europe for several years, we are facing the challenge of transforming the existing successful partnerships into a scalable and reproducible structure so that they can also work in other parts of the world.

The foundation for this is our go-to-market strategy, which answers the questions of "why" and "how" one enters a market. One question is particularly important: Who is the target customer, and what need or problem does this customer have.

We are currently in talks with many potential customers, as we want to understand their biggest difficulties. A deep understanding of the customer and the problem for which our company has a solution (and the associated communication) will be a key factor for our expansion strategy into the USA and beyond.

The go-to-market strategy should serve as a guide at the respective stages in the customer acquisition process – from the customer's perspective. This strategy is continuously updated and improved. To better understand the process, let's break down an exemplary process into the respective stages:

1. Initially, it is necessary to work out the most important things for the respective stage, which excite the customer.
2. In the next step, we identify the blockers in the respective stage that can block the customer or slow further progress. These can be, for example, budgets, product features, or even implementation processes.
3. Subsequently, processes and steps are defined, which can be automated (but do not rush here, as it is sometimes helpful to first test the processes manually to automate them afterward).
4. Next, we create a customized plan for the target customers with an urgent need/problem. Here, it usually makes sense not to use the same plan for multiple personas and use cases; however, there may be overlaps.
5. Then, it is important to ensure cross-functional alignment between sales, Business Development or partner sales, marketing, and product.
6. Finally, the GTM strategy requires KPIs that allow cross-functional and cross-departmental control. Here, it is important to ensure that the selected metrics are not too strongly structured by function but are more strongly focused on the customer and on the entire process (for our business model, for example, these are "Net Net ARR (NNARR)" for growth, or "NNARR/Burn" for the efficiency of growth).

In our case, this process is still ongoing for the North American market. That's why we are currently still reluctant to establish significant operations, as we are still in the setup phase and can control the processes from Europe.

To define the priorities for further geographical expansion, we consider the previously mentioned factors, such as the structure and fragmentation of the banking market (are there many small or few large banks), the digitization of end customers (retail / micro-SME) with a view to online or mobile banking, and the acceptance of the ESG or sustainability issue.

We support this process by working with various strategic partners to find solutions to the previously mentioned questions and challenges.

Why is the ESG segment particularly promising for German and European FinTechs in the USA?

Traditionally, Europe has taken a leading role in this area, making these topics particularly well-received here. This credibility and deep knowledge and the necessary talent provide ideal conditions for developing successful business models in Europe and beyond. The ESG topic has now also arrived in the US but still lags behind. Of course, there are also CO2 calculators, but a transaction-based model like ours or that of other European providers who understand the subject in this depth, we currently do not see yet. Even banks that have already tried to build such a solution themselves ultimately returned to an external partner because the dynamics of the subject often go beyond the traditional capabilities of a bank, and it's simply more economical to find a professional partner with a proven product. Surely, the political situation in the US in recent years has also contributed to European startups in this field being able to develop as market leaders.

What cultural differences between the German and American markets surprised you and how did you deal with them?

The American market, with its 330 million inhabitants, is just huge. However, one should not make the mistake of believing in a homogeneous market because the differences on the coasts and everything in between are immense. This is a major challenge for large national banks as well. This means that in the large national banks in the USA, one must ensure that the user's personal preferences are reflected in the product. Currently, our product is still a "nice-to-have" solution. Our task is now to make it a "must-have" solution.

The targeted approach of the target segment in the banking landscape is, therefore, critical so that resources are used purposefully. The advantages of large banks are clear: a higher number of customers and, thus, the opportunity to reach more people. Challenges exist in the area of necessary product adaptation to the corresponding needs. These can be technical but also conceptual. In contrast, smaller banks are generally quicker in decision-making and implementation processes, albeit with the disadvantage of smaller reach. Of course, macro topics such as recent turbulence in the banking market, for example, the collapse of the Silicon Valley Bank, should not be forgotten.

The market dynamic is different. Consumers have different perceptions of the topic and are used to different products. For instance, in terms of customer loyalty, the market functions differently. All these things must be considered.

How attractive are ESG business cases for investors, including in the US?

We now see that the corporate side has come under pressure due to regulations, which is an aggregator for new business models. It is noticeable that newly established funds are explicitly looking for ESG cases because the need for action is seen. Unfortunately, the market for young startups in the sustainability sector, and thus these funds, still lacks a corresponding history. In the coming years, we must prove that ESG models are scalable. I am convinced this is not a question of "if" but "when". US investors have kept their feet still so far and behave similarly. But as the topic of ESG is becoming increasingly relevant there, their interest is also high.

What regulatory challenges does ecolytiq face in the USA?

We see regulation in the area of ESG and reporting as positive because it gives banks another incentive to work with us. The regulatory environment in Europe is challenging, but the US will certainly develop in the same direction with a delay.

In addition to the regulatory environment for banks, there are other aspects that we had to consider in the North American market: Therefore, we consciously chose to establish our subsidiary on-site so that we can serve customers legally on-site. The different legal system also plays a role here. This, in turn, involves legal and tax questions for which we have obtained appropriate expertise.

What are the key learnings from 2.5 years of ecolytiq and the associated expansion into the US?

Like everything in a startup, it's a marathon, not a sprint. Even though we started internationally as a company, the path to other geographies is always a path of learning and adaptation. This includes taking the time to speak to potential customers to understand their needs and only then move on to selling. Establish the legal and tax structures early on to execute quickly when necessary. Don't wait until you run into a challenge and spend time fixing it. But as with many other things, in the end, the people you work with are the most important.

ecolytiq was part of the delegation trips to Atlanta, New York, and San Francisco organized by Berlin Finance Initiative. What did you specifically take away from them?

Speaking with people on the ground and learning about the challenges there was very important for us. At the same time, we could speak to local investors at the events, who not only enrich our network but could become relevant for us in the future. Specifically, we also found great supporters with whom we will continue to develop and expand our go-to-market strategy.

The exchange with the other founders of Berlin FinTechs was also invaluable. The network and mutual support have become even stronger through the trips.

Featuring



 **raisin.**

**Perfect
Market Timing
& Growing
in the US**

In previous chapters, we delved deep into the dynamics, intricacies, and nuances of expanding a FinTech operation across the Atlantic. Each narrative underscored the unique challenges and opportunities inherent in the global FinTech ecosystem. In this concluding chapter, we zoom into Raisin's expedition to the US market. Their story, replete with challenges, triumphs, and invaluable insights, serves as a lighthouse for FinTechs aiming to make a mark in foreign territories. From understanding local nuances to leveraging international investments, join us in unpacking the lessons from Raisin's timely and successful US journey.

Katharina Lüth



Katharina Lüth, Chief Client Officer & Managing Director

As Raisin Chief Client Officer & Managing Director, Katharina Lüth is responsible for Raisin's customer service and partner operations as well as the company's communications. Prior to joining Raisin, Katharina spent seven years at McKinsey & Co. as a senior project manager, where she advised large European universal and private banks. She has worked primarily in Europe but also in Latin America and Africa and holds an MBA from IESE Business School as well as a US-German international business degree.

What exactly is Raisin?

Raisin is a savings and investment platform that was launched and went live in Berlin in 2013. However, it is now also active within the EU, UK, and the USA. The core product is savings products, namely daily and fixed-term deposit accounts. Customers get access to offers from many different European banks. In our core market of Germany, we also offer investment products, including, among other things, private equity, a crypto product, and pension products in Germany.

With this offer, we address people dealing with savings products for wealth accumulation. The average Raisin customer is over 50 years old.

In what order did Raisin expand from Germany to other countries?

First to Austria, then almost to the entire EU with Raisin's website in English. The expansion to the USA took place in 2020 and was thus the last country in the strategy. Locally, we are known under the brand Raisin or Weltsparen.

How did this decision come about to expand into the USA?

The USA, with over 70 trillion US dollars, is by far the largest single market when it comes to private savings and investment assets – 16 trillion US dollars in deposits alone. Considering the size and potential of the US market, we had thought about entering it quite early on. About two years ago, Raisin acquired a former competitor in the market, Deposit Solutions. At that time, both teams were simultaneously preparing for entry into the US market.

How significant is the USA compared to Europe regarding traction, number of customers, etc.?

The American market is extremely important for us. Compared with the figures in the European market, these are still relatively small, but the US is a major growth driver for us. We believe it has the potential to grow to the size of the domestic market. Across all markets, we currently manage over 40 billion Euros in savings deposits.

For companies, there are two ways to think about the USA: Either look across the Atlantic right from the start or first conquer the European market and only then move to the USA. What was your approach and how did you screen the US market?

Raisin, with its brand Weltsparen, has always thought in European terms from the very beginning, as our product was conceived from the ground up as a cross-border offering. The UK, post-Brexit, is naturally a special case, but it was very instructive for our expansion strategy into the USA. It served a bit as a blueprint for us, being the first market outside the regulatory framework of the European Union. While we had always grown organically from Berlin to other EU countries, in the UK, we had a dedicated team on the ground and our own entity.

Why did it make sense to have your own entity and a dedicated team for the UK early on?

When we were considering the UK, Brexit had already been decided, so it made a lot of sense for us because the UK would have a different regulatory environment. Additionally, we expanded into the UK through an acquisition. This meant that we suddenly had an experienced and talented team on the ground who knew the market, and therefore it worked well right from the start.

So, the idea was: If we can make it in the UK (as a pilot), can we then succeed in the USA? Can you draw parallels between the UK and the US?

Drawing direct comparisons is always a challenge. However, it became evident quickly that the vast deposit market in the USA was appealing and significant. We require two things: customers looking to save and banks providing relevant products. Given the country's expansive size and numerous states, many of which have highly localized banks, both are readily available to us. Moreover, Americans have a distinct affinity for the capital market. The pivotal question for us in the US is: Despite their pronounced leanings toward the capital market, are customers keen on optimizing their interest rates?

How much need is there to explain the concept of saving and diversification in investment in the USA?

For customers, the difference is often not noticeable because things happen in the background, like payment mechanisms or regulations. A 1:1 adaptation from the European to the US market is not feasible, which is why FinTechs need to carefully assess which processes from their home market can be used and which ones need adjustments.

Products often function differently from one market to another. In our case, the perception and naming of our product differ between regions due to cultural nuances. For example, in the USA, due to the relatively higher average wealth, there's a greater emphasis on distributing deposits across multiple institutions. This is the case even though the FDIC insures deposits up to 250,000 US dollars, compared to Europe's 100,000 Euros limit. Identification methods also vary. In Germany, we have mail or video identification, while in the USA, a data match suffices, which is considerably faster. Another difference is the popularity of “No-Penalty CDs” in the US. These allow for an early, fee-free termination of the fixed deposit.

The first bank Raisin collaborated with in the USA was based in Texas. Did regulatory considerations influence this choice?

Regulations didn't drive our choice. It was more about which bank first recognize the benefits of our product. Getting the first bank onboard is always the most challenging part. Once several banks have completed the compliance process with us, it becomes much easier to partner with others.

What challenges did Raisin face when expanding to the US, and what lessons can other FinTechs learn from your experience?

One thing we correctly identified from the start, which I've noticed other companies overlook, is the pitfalls of trying to break into the US market using German products and teams. Again, drawing a parallel to our UK experience, we emphasized the importance of having a local team right from the start. This team should be well-acquainted with the industry and, ideally, come equipped with a strong network and domain-specific expertise. For FinTechs eyeing US expansion, it's essential to realize that the salary expectations in the US are generally higher than in Germany.

The USA is a vast country. A lot is happening not only on both coasts but also in between. How do you assess the market for German FinTechs in the USA? Do newcomers or copycats even stand a chance against the already existing competitors?

Entering the US market at a time when it's not yet dominated by large, well-known domestic players can be advantageous. Otherwise, it obviously becomes much more challenging. However, this doesn't mean newcomers don't stand a chance.

How did Raisin position itself legally in the USA?

Did you establish a subsidiary?

Absolutely! We set up a local subsidiary from the start and had a local team. I believe that's incredibly important – if only for the time difference. Managing the US market from Germany without a dedicated team is challenging, and I think it's extremely difficult. That's why we immediately established an entity in New York, where our US team is also located.

Let's talk about the costs involved in entering the US market. What did it specifically mean for Raisin?

The costs are immense. More critical than worrying about set-up costs for a young FinTech is the topic of Customer Acquisition Cost (CAC). Those who are used to customer acquisition costs from Europe will find that they are significantly higher in the US. While it does depend on the product, for some FinTechs without the necessary financial cushion, it can be challenging, and one must question whether the model works under these conditions.

At the time of market entry, Raisin already had Ribbit, a US investor, onboard. Is such an investor essential for crossing the Atlantic?

Having a US investor directly onboard isn't essential, but it undeniably simplifies the market entry. Furthermore, investors from Germany and Europe, with portfolio companies in the US, can step into this role, facilitating connections to more financiers and helping navigate the market landscape.

In the end, the origin of the investors is somewhat irrelevant. The venture capital business is international, and financiers always focus on numbers. In the current climate, the emphasis is less on growth and more on operational profitability. I no longer see cultural differences between US investors and European ones. However, to be fair, US investors typically have deeper pockets, making it easier to fund entry into the US market.

What's next for Raisin in the US?

The costs are immense. More critical than worrying about set-up costs for a young FinTech is the topic of Customer Acquisition Cost (CAC). Those who are used to customer acquisition costs from Europe will find that they are significantly higher in the US. While it does depend on the product, for some FinTechs without the necessary financial cushion, it can be challenging, and one must question whether the model works under these conditions.



Conclusion

Each entrepreneur's journey in the vast FinTech world is unique. While there isn't a one-size-fits-all approach, the experiences and stories shared in this guide give us some clear lessons:

- **Adaptation**

Thinking globally is good, but when entering a new market, it's essential to adjust to local needs. This includes your team, products, and how you do business

- **Validation**

There's a lot of competition out there. However, if customers love what you offer, the location becomes less important

- **Regulatory Awareness**

Rules and regulations can be tricky, but they're manageable with the right help. Having experts on your side makes a big difference and avoids costly mistakes

- **Resources**

Having US investors can help, but they aren't a must-have. What's more important is having enough money and a strong commitment from your leadership team

With these insights as your guide, we wish you all the best as you explore the exciting opportunities in the US FinTech space. Safe journey ahead!



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Fin-Tech Leaders, launched in 2022 by Berlin Finance USA, is the transatlantic initiative from the Berlin Finance Initiative. It's funded by the Berlin Senate Department for Economics, Energy and Public Enterprises, alongside the European Regional Development Fund (ERDF). The funding for this project was specially allocated as part of the Union's response to the Covid-19 pandemic.

Our mission is clear: Guide Berlin's Fin & Tech startups into the expansive US market. We've carefully crafted a community of key Fin & Tech executives and leaders from both Berlin and the US. Through this, we're not just fostering business collaborations but also bolstering the attractiveness of Berlin's Fin & Tech startup scene within the US.

If you're interested in expanding to the US, please reach out to us. Sign up here (Link: <https://berlinfinance-usa.com/>) to our "Fin-Tech Leaders" network to receive the latest news on the US FinTech Market, events, and activities by us or our partners.