

Independent Investment Research Focused on Public Company Interactions with the SEC.

No Recent SEC Investigative Records Found

Watch List Status: Removed from Watch List of Companies with Undisclosed SEC Investigations

As of the date of the Freedom of Information Act (FOIA) response in the table below, we received information from the SEC that confirms the absence of recent SEC investigative activity involving Wirecard.

5-Apr-2019	FOIA Response	SEC denies access to records over concern their release, "could reasonably be expected to interfere with enforcement activities."
31-Jul-2019	Appeal Response	Existence of on-going SEC enforcement proceedings officially confirmed on appeal; Access to records remains blocked.
28-Jan-2020	FOIA Response	No SEC investigative records found.
06-May-2020	Appeal Response	Appeal challenging adequacy-of-search is denied. SEC affirms validity of earlier response indicating no recent SEC investigative records found.

As can be seen in the table above, at least once in the past the SEC cited the "law enforcement exemption" of the Freedom of Information Act (FOIA) as basis to deny the public's access to the detailed records we sought on this company. As a matter of law, the SEC is acknowledging some sort of investigative activity with this response. This was confirmed in an appeal response dated 31-Jul-2019. We then wrote a detailed warning and added the company to our Watch List of companies with undisclosed SEC investigations on 19-Aug-2019 (this earlier report is available for clients at our website).

In a more recent response, dated 28-Jan-2020, the SEC indicated no investigative records were found. This was inconsistent with earlier responses we had received on the company in 2019. As such, we suspended the Watch List warning while we waited for the results of an appeal filed to challenge the adequacy of the search that led to this 'no records' response.

In response to that appeal, dated 06-May-2020, the SEC confirmed that no investigative records were found for the prior two years' time that would directly involve the conduct, transactions, and/or disclosures of Wirecard. The appeal response offered no further detail.

Disclosure Insight®

We get it. A lot of people are convinced Wirecard is a scam run by a pack-of-thieves. There is a lot to raise an eyebrow here, for sure. But we can only give you the facts as we get them. In this case the facts say no records. Further, we can bolster these facts by telling you the SEC's latest appeal response is more than just a letter sent to us.

The SEC's appeal response represents a position the US Federal government has now taken, and is willing to defend in front of a judge, should we decide to litigate it. Contact us if you'd like to discuss underwriting that effort.

If you have a continuing interest in Wirecard, follow-up with the company may be helpful. To do so, we recommend you ask Wirecard what contact the company has had with the SEC's Division of Enforcement in the past two years.

Finally, keep in mind that a public company can be involved in more than one SEC investigation at a time. As such, we routinely recommend asking a company if there are any investigations beyond what is disclosed or reported in media stories – or even in our research.

Clients are invited to contact us anytime, in total confidence, to discuss how to better assess the risks we identify here.

– John P. Gavin, CFA

Our research history appears below.

Documents Acquired Under the Freedom of Information Act

At this time, we have no investigative records in our library from closed SEC investigations of this company.

Notable Events and Disclosures

Repeated searches of this company's SEC filings, back to Aug-2017, found no clear disclosure of SEC investigative activity.

Probes Reporter research provides data, commentary, and analysis on public company interactions with investors and with the SEC. Our work is heavily reliant on company disclosures and our expertise in using the Freedom of Information Act.

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Notes: *The SEC reminds us that its assertion of the law enforcement exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security. New SEC investigative activity could theoretically begin or end after the date covered by the latest information in this report, which would not be reflected here. The SEC did not disclose the details on investigations referenced herein. All we know is that they somehow pertain to the conduct, transactions, and/or disclosures of the companies referenced above. Companies with undisclosed SEC investigations are maintained on our Watch List of companies with undisclosed SEC investigations.*

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