

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

Confirmed, Undisclosed SEC Investigation

Watch List Status: Added to Watch List of Companies with Undisclosed SEC Investigations

Confirmed, Undisclosed SEC Investigation. The first Freedom of Information Act (FOIA) response indicating an SEC investigation was dated 05-Apr-2019, and later confirmed in an appeal response dated 31-Jul-2019. This was our first time researching this company. With new data reflected in this report, **Wirecard AG is added to our Watch List** of companies with confirmed, undisclosed SEC investigations.

You don't have to look far to find an array of accusations, negative reports, a raid by law enforcement, and overseas investigations involving Wirecard, many occurring in just 2019 alone. The focus has been on allegations of widespread accounting fraud. German authorities, where Wirecard is based, have undertaken actions to both investigate and seemingly protect the company. This included a two-month ban on short sales that ended in Apr-2019.

Wirecard itself has been legally aggressive toward its detractors. Calling its reports both defamatory and misleading, Wirecard brought litigation against The Financial Times this year over "its unethical reporting." Roddy Boyd's Southern Investigative Reporting Foundation (SIRF) wrote that it received demands from a London-based law firm to remove a Singaporean law firm's findings from an article SIRF published about Wirecard on 15-Apr-2019.

Wirecard is seen by some as a fintech favorite, having replaced Commerzbank in Germany's DAX 30 index just last year. In Apr-2019, a \$1 billion partnership was announced with Softbank that would expand Wirecard's capacity in Asia. Though it has securities trading on US exchanges via ADRs, Wirecard does not otherwise make EDGAR filings with the SEC.

Disclosure Insight®

Perhaps one of the biggest risks to Wirecard right now is that the SEC is not German. The fact that Wirecard is a fintech favorite, a DAX 30 component, or even that it just did a large deal with Softbank won't mean as much to US regulators as it does outside the US.

We have no view on the stories, allegations, and even denials circulating on Wirecard. But we are confident that with Wirecard having securities trading in the US, the SEC, and possibly even the Department of Justice, will have noticed the array of negative headlines and denials that came out this year. They pose too big a risk to ignore.

Wirecard is just another ADR here – and foreign companies with ADRs are subject to having SEC enforcement actions brought against them. Recent examples include oil-and-gas company Petrobras (PBR), mining company Rio Tinto (RIO), and aircraft maker Embraer S.A (ERJ).

Even if the SEC takes no action here in the US, it's fair to assume SEC officials are assisting their overseas peers.

Since we know there was at least one SEC investigation in the recent past, we recommend those with an interest ask Wirecard what contact it has had with the SEC's Division of Enforcement in the past two years. The timing of SEC responses to us suggests that Wirecard management may have known about an SEC probe since at least Apr-2019.

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

From the Probes Reporter Database

If we alert you to the existence of an undisclosed SEC investigation – or any response from the SEC – that means we filed a Freedom of Information Act (FOIA) request on the company in question and have a response, in black-and-white on government letterhead, that supports our statement.

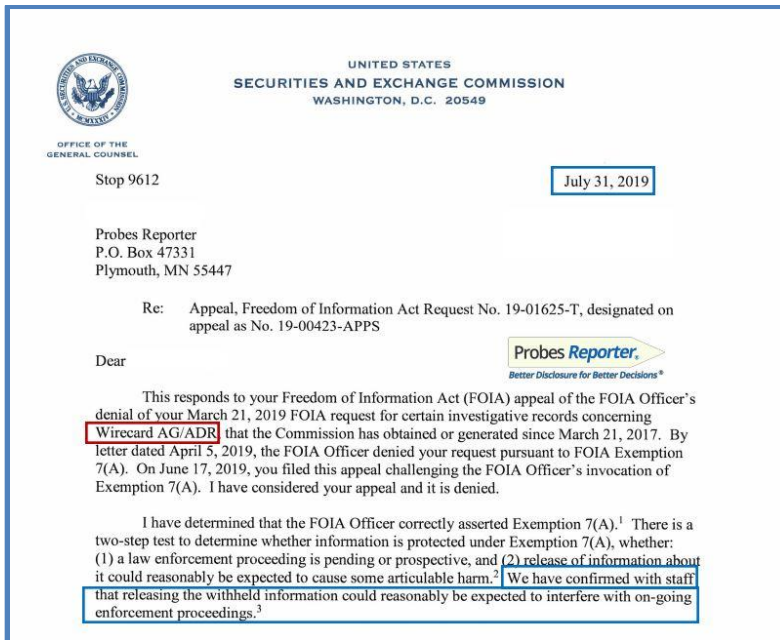
We filed our first FOIA request on this company in **Mar-2019**. Below is the notable SEC response history for this company:

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.

When research history is available in our database, we present it above so you can compare it to company disclosures. Other interpretative guidance and disclosures appear below.

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. We filed an appeal with the SEC’s Office of the General Counsel to challenge that response. In response to our latest appeal(s), the date(s) of which is/are also shown in the table above, the SEC stated, “We have confirmed with staff that releasing the withheld information could reasonably be expected to interfere with on-going enforcement proceedings.”

Below is an excerpt from the appeal response of 31-Jul-2019, in which the SEC confirmed enforcement proceedings of Wirecard were on-going –



While the SEC as a matter of course tells the public that an on-going investigation should not be construed as a finding of any wrongdoing, the public interest is understandably high in tracking these investigations and their outcome. In this case, our research shows these SEC proceedings are undisclosed by **Wirecard AG**.

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

A search of this company's US filings for the past two years found no clear disclosure of SEC investigative activity. However, beyond the Form F-6 Registration Statements for the ADS/ADRs, Wirecard made no regular EDGAR filings in the US.

A search of the [Wirecard 2018 Annual Report, posted to the Wirecard website on 25-Apr-2019](#), and the [Wirecard Half-Year Financial Report 2019, posted on 07-Aug-2019](#), also found no clear disclosure of SEC investigative activity.

However, we do note the excerpt below, from the 2018 annual report posted on 25-Apr-2019. As you read through it, keep in mind, our first indication of an SEC investigation at Wirecard was dated 05-Apr-2019.

At the meeting on 24 April 2019, the Supervisory Board intensively discussed and examined the consolidated financial statements and the Group management report, the Group non-financial declaration prepared in accordance with Section 315b of the HGB, the financial statements and management report for the company, the auditor's report and the Management Board's planned proposal for the appropriation of profit. The required documents were submitted to the members of the Supervisory Board in good time before the meeting so that they had sufficient opportunity to examine them. The auditor participated at this meeting of the Supervisory Board, reported on key audit results and was available to the members of the Supervisory Board to provide supplementary information. The auditor addressed in particular key audit matters which included allegations by a whistle-blower in Singapore. The auditor also explained his findings on the company's control and risk management system relating to the financial accounting process. The Supervisory Board will participate in the further strengthening of these systems in the course of the continuing growth of the company (cf. 2.5 of the Risk Report). The auditor stated his independence and provided information about services that had been rendered in addition to the auditing services in the 2018 fiscal year.

We note discussion of a meeting with the Supervisory Board on 24-Apr-2019. Nothing in the disclosure speaks of the existence of an SEC investigation. This opens the question of whether management shared it with its Supervisory Board. If so, the company made the affirmative choice to not tell you or potential shareholders about it.

The following are unedited excerpts from notable company statements made in early 2019 –

08-Feb-2019: [Wirecard Statement](#)

Wirecard notes yesterday's article in the Financial Times. This is the third time that the same highly confidential documents from a compliance audit have been used as the basis for a defamatory media coverage. These documents date from the beginning of May 2018 when an internal investigation was initiated and list the allegations of one employee against another employee (as described in both Wirecard's statement and conference call on Monday, February 4, 2019).

Since then, these allegations have been investigated in a robust compliance process both by our internal compliance team and by an independent investigation conducted by a law firm specializing in compliance (Rajah & Tann). Neither the internal investigation by our Compliance Department has found any confirmation for the allegations made, nor has the external investigation by Rajah & Tann to date produced any conclusive findings regarding criminal misconduct by employees or managers (we refer to the statement by Rajah & Tann at ir.wirecard.com). The investigation by Rajah & Tann is about to be completed and we will announce the results in due course. In the article published yesterday, Wirecard employees are slanderously prejudged with unproven and false allegations. We will use all available legal

means to protect the company and in particular our employees and their personal rights. Wirecard is taking legal actions against FT and its unethical reporting.

Also, that same day ...

08-Feb-2019: [Wirecard Statement \(2\)](#)

After such negative media coverage, the initiation of an investigation is a normal procedure. We maintain that we will properly complete our internal compliance investigations and disclose these findings to the public. This morning, Wirecard met with Singapore law enforcement at Wirecard's headquarter in Singapore and provided the police with comprehensive supporting material in regards to their enquiry into the defamatory allegations in the FT series of articles. We would like to reconfirm that the accusations against employees of Wirecard are unfounded. We are working closely with the Singapore police to clear all allegations.

07-Feb-2019: [Wirecard Statement 7 February 2019](#)

Wirecard firmly rejects the media coverage of FT. We once again confirm our statement of Monday, February 04, 2019. Neither did our internal compliance team, which conducted an investigation into the matter, find any confirmation of the allegations made, nor did the law firm Rajah & Tann, which was commissioned to conduct an independent investigation and specializes in compliance law, to date made any conclusive findings of any misconduct of any officer or employee of the company. We will make the results of the external investigation available to the public and we call to respect the personal rights of our employees. Nothing about the article published today is true.

04-Feb-2019: [Wirecard Statement 4 February 2019](#)

The issuer is solely responsible for the content of this announcement.

-Wirecard rebuts FT articles

-According to law firm Rajah & Tann "no conclusive findings"

With regard to the misleading coverage of the Financial Times, the Management Board makes the following correction:

Wirecard has strong governance procedures and controls, which are subject to continuous reviews and improvement in line with the company's governance guidelines and regulatory requirements. Wirecard continuously conducts stringent internal and external audits. Any concerns resulting from audits or raised by individuals are always thoroughly and appropriately investigated. Wirecard's corporate governance and compliance unit operates and conducts its investigations confidentially and independently of the executive and supervisory board and provides reports to both boards on relevant findings.

In April 2018, a member of Wirecard's team in Singapore raised concerns to our local legal and compliance department about alleged actions of a member of Wirecard's finance team in Singapore. The allegations related to potential compliance breaches in the area of accounting for the period 2015-2018 totalling (sic) revenues of EUR 6.9m and costs of EUR 4.1m as well as an internal transfer of software intellectual property valued at EUR 2.6m.

As is standard practice, Wirecard's compliance team, which has independent and comprehensive rights to conduct investigations, started an internal investigation of the allegations. This internal investigation found no evidence to support the allegations and concluded that they were unfounded. Furthermore, there were indications that the allegations could be related to personal animosity between the employees involved. In line with our internal compliance guidelines, the compliance team still decided to undertake an independent investigation by the reputable Singaporean compliance law firm Rajah & Tann.

Based on interviews with the employee making the allegations, Rajah & Tann documented the allegations and reviewed submitted documents. Subsequently, Rajah & Tann was mandated on 18 May 2018 to perform a full investigation. The audit is about to be completed. To date neither Wirecard's internal compliance department nor Rajah & Tann (see also the statement of Rajah & Tann at ir.wirecard.com) have made any conclusive findings of criminal misconduct on the part of any officer or employee of the company.

We fundamentally contradict the reporting of Dan McCrum.

04-Feb-2019: [Wirecard Conference Call - Transcript from Company's Website: February 4, 2019](#)

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.

**Clients may visit www.probesreporter.com
to get access to our full research archive.**

**Email: clients@probesreporter.com
Telephone: 763-595-0900 (USA)**

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.*

To learn more about our research process, including how to best use this information in your own decision-making, [click here](#).

Our Terms of Service, relevant disclosures, and other legal notices [can be found here](#).

Copyright Warning and Notice

The works of authorship contained in the accompanying material, including but not limited to all data, design, text, images, charts and other data compilations or collective works are owned by Probes Reporter, LLC or one of its affiliates and may not be copied, reproduced, transmitted, displayed, performed, distributed, rented, sublicensed, altered, or stored for subsequent use, in whole or in part in any manner, without the prior written consent of Probes Reporter, LLC.

Photocopying or electronic distribution of any of the accompanying material or contents without the prior written consent of Probes Reporter, LLC violates U.S. copyright law, and may be punishable by statutory damages of up to \$150,000 per infringement, plus attorneys' fees (17 USC 504 et. seq.). Without advance permission, illegal copying includes regular

photocopying, faxing, excerpting, forwarding electronically, and sharing of online access.

Intellectual Property

© 2019 Probes Reporter, LLC. All rights reserved. Probes Reporter®; They Know it. Now You Know It.®; Better Disclosure for Better Decisions®; Disclosure Insight®; and Disclosure Games® are trademarks of Probes Reporter, LLC and are proprietary.

DISCLAIMER

Probes Reporter, LLC is not an investment adviser and does not offer or provide personalized investment advice. The information in our reports and appearing on ProbesReporter.com is not a solicitation connected to any security. The information we provide is obtained from company submissions and our own Freedom of Information requests made to the Securities and Exchange Commission. No representation or warranty is made as to the timeliness or completeness of any information found in our reports or on ProbesReporter.com.

Probes Reporter does not adopt the truth or falsity of the contents of any of the documents or filings referred to on this website, and no conclusion of wrongdoing should be inferred from the fact that an investigation has been initiated by the SEC. Probes Reporter is not the guarantor of any investment and cannot be held liable for any losses or expenses incurred as a result of reliance upon any information contained herein, and ProbesReporter.com is not a substitute for your own due diligence, which may include advice from an investment professional.

With few exceptions, Probes Reporter, LLC prohibits its employees and principals from trading of any kind in any individual public company securities, or derivatives thereof, on any company on which production of any new research report has commenced. Such prohibitions shall remain in place until either 5 days after the individual research report has been published or its production otherwise ceases.

Probes Reporter, LLC does not engage in investment banking activities or take any security positions, except those necessary for routine corporate treasury functions

Our full trading policy, along with our Terms of Service, relevant disclosures, and other legal notices [can be found here](#).
