

Committee on Economic and Monetary Affairs
Committee on Legal Affairs
The Chairs

Mr Valdis Dombrovskis
Executive Vice-President
Ms Margrethe Vestager
Executive Vice-President
European Commission
Rue de la Loi 200
B – 1049 Bruxelles

D 307779 23.07.2020

Subject: Wirecard

Dear Executive Vice-President Dombrovskis,
Dear Executive Vice-President Vestager,

We are writing to you on behalf of the Coordinators of the ECON Committee and the JURI Committee in relation to the scandal involving the German payment service provider Wirecard, a DAX30 company that is subject to accounting irregularities of significant proportions and has subsequently filed for insolvency on 25 June 2020.

We welcome that the Commission requested ESMA to pursue a preliminary investigation to analyse shortcomings in German supervisor BaFin's upholding of EU rules on financial reporting and possibly market abuse rules.

We would kindly ask you to provide us with answers to the following questions, and engage in, and report back to us the results of, the following measures:

Regarding an investigation of the events:

1. Please enlarge the scope of probe to assess
 - the risk of money laundering and possible violations of customer due diligences procedures, given the lack of information regarding the disappearance or “nonexistence” of EUR 1.9 billion;
 - the role of the Wirecard's Dublin subsidiary in the fraud.
2. According to the Commission's understanding, how did the fraudulent scheme at Wirecard unfold and why did it go unnoticed?

Regarding the role of the supervisors:

3. How do you view the role that the German supervisor BaFin and European supervisors have played in this matter in light of the fact that initial evidence of accounting irregularities - as reported by the Financial Times - has emerged more than a year ago?
4. In this context, please assess in more detail whether supervisory control was exercised effectively and appropriately by all authorities involved, in particular by BaFin, at the national level, and ESMA and the EBA at the European one. This analysis should include the lessons drawn from the Danske Bank scandal.
5. Is there a consistent regulatory approach in the EU regarding the classification of FinTech companies engaging in payment services and other activities? What consequences does this entail for their effective supervision?
6. Do you think that national and European supervisors are sufficiently equipped to effectively supervise large cross-border financial entities with complex business models that involve multiple third-country jurisdictions as well as multiple corporate layers?
7. What does the Wirecard scandal tell us about deficits regarding the cooperation and working arrangements with third-country supervisors?

Regarding the supervisory framework:

8. What conclusions do you draw from this case in relation to the further development of the European regulatory and supervisory framework in order to ensure an effective functioning of the supervisory system? Also with a view on the upcoming Capital Markets Union action plan, this conclusion should address whether
 - direct supervision at European level in specific areas could have prevented this failure;
 - an ambitious reform of the governance of the ESAs, with a stronger role in reducing the existing obstacles to cross-border financial operations would be warranted.
9. What conclusion does the Commission draw on the effectiveness of and the need for a further development of the supervisory framework for payment service providers? According to your assessment, are large international payment service providers subject to adequate supervision under the current rules?

Regarding the role of audit and the respective framework:

10. To what extent can the Wirecard scandal be attributed to deficiencies in the European regulatory framework in the area of audit and/or its supervision? The Commission should monitor and assess in this context whether there exists wrong incentives and a lack of competition in the audit market hampering the effective exercise of control. Does the Commission intend to reconsider a rotation system for auditing firms? If appropriate, the Commission should consider to propose a revision of the Statutory Audit directive.

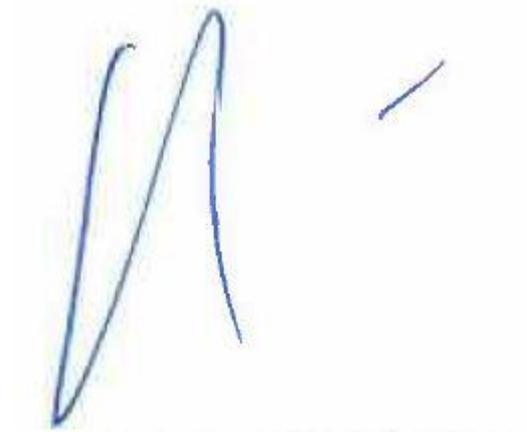
In conclusion, we call on you to act decisively with a view to upholding European Law by pursuing “breach of union law” proceedings if shortcomings are discovered.

We would invite you to liaise closely with the responsible European authorities, provide us with your insights at your earliest convenience, and keep us informed about the further follow-up.

Yours sincerely,



Irene Tinagli
Chair
Committee on Economic and Monetary Affairs



Adrián Vázquez Lázara
Chair
Committee on Legal Affairs