



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Andrea Enria

Chair of the Supervisory Board

Mr Martin Schirdewan
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 5 August 2020

Re: Your letter (QZ-047)

Honourable Member of the European Parliament, dear Mr Schirdewan,

Thank you for your letter on the supervision of Wirecard Bank AG, which was passed on to me by Ms Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 7 July 2020.

On your first question, I cannot comment on the specific nature and extent of the interactions between the ECB and the German Federal Financial Supervisory Authority (BaFin) regarding Wirecard Bank AG or matters related to the prudential supervision of the bank. I would, however, like to provide some further background on the structure of Wirecard AG and on the cooperation between the ECB and national competent authorities (NCAs) in the Single Supervisory Mechanism (SSM). As you are aware, Wirecard AG is a global company specialising in electronic payments systems and technology. The Wirecard AG group contains a bank, Wirecard Bank AG, which is classified as a less significant institution (LSI). Under the SSM Regulation¹, the NCAs are responsible for the prudential supervision of LSIs on a consolidated basis. This means that BaFin is the competent authority responsible for the prudential supervision on a consolidated basis of LSIs in Germany, such as Wirecard Bank AG.² The ECB is responsible for the oversight of the supervision of euro area LSIs by the NCAs, with the aim of ensuring the effective and consistent functioning of the SSM as a whole.³ In summary, BaFin conducts the day-to-day supervision of Wirecard Bank AG under the supervisory oversight of the ECB.⁴ In order for the ECB to effectively exercise this supervisory oversight, the NCAs provide the ECB with information on material NCA supervisory procedures concerning LSIs.⁵

¹ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

² Article 6(4) and 6(6) of the SSM Regulation.

³ See the ruling of the European Court of Justice of 16 May 2017 in the case *Landeskreditbank Baden-Württemberg v ECB* (T-122/15), concerning policies relating to the prudential supervision of credit institutions and their classification as less significant institutions.

⁴ See the ruling of the European Court of Justice of 16 May 2017, *op cit*.

⁵ Article 97(1) of Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

The NCAs are also responsible for notifying cases of financial deterioration to ECB Banking Supervision, which would then intensify its oversight activities.

On your second question, in line with the SSM Regulation, the ECB has been responsible within the euro area for the authorisation and supervision of credit institutions, as defined in the Capital Requirements Regulation (CRR), since November 2014. Any entity that wishes to carry out banking activities in the euro area, regardless of its business model, must have the ECB's authorisation to do so. This applies equally to entities that use innovative technologies or "fintech". To recall, Wirecard AG did not hold a banking licence as it did not provide banking services. Its subsidiary, Wirecard Bank AG, holds a banking licence in Germany since 4 October 2000.

Regarding the designation of an entity as a financial holding company, within the meaning of the CRR⁶, this is the sole responsibility of the consolidating supervisor.⁷ Given the allocation of responsibilities within the SSM, BaFin is the NCA responsible for the exercise of consolidated supervision in the case of Wirecard AG and therefore responsible for deciding on the aforementioned designation. ECB Banking Supervision did not play a role in assessing whether Wirecard AG was a financial holding company from a prudential perspective, as this is the sole competence of the NCAs. In January 2019, ECB Banking Supervision took a qualifying holding decision on an internal reorganisation of Wirecard group (which was never carried out) in which it refers, as one of the facts on which the decision is based, to BaFin's decision that Wirecard is not a financial holding company.

Furthermore, the various services and entities within the Wirecard group neither qualified as a payment system nor as a payment scheme and thus were not subject to payments oversight (a function separate from banking supervision) by the ECB or the Eurosystem.⁸

Finally, let me turn to your question relating to Deutsche Bank AG's asset management subsidiary DWS. Deutsche Bank AG is a significant institution and is therefore subject to direct prudential supervision by the ECB. While I cannot specifically comment on the relationship between DWS and Wirecard AG, allow me to point out that as part of ongoing supervision, the Joint Supervisory Teams are assessing banks' exposures to financial and non-financial counterparts, as well as potential financial and reputational risks which could arise in the course of their business.

Yours sincerely,

[signed]

Andrea Enria

⁶ Article 4(1)(20) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁷ Article 4(1)(41) of the CRR and Article 111(2) of the Capital Requirements Directive.

⁸ According to the ESCB Statute, promoting the smooth operation of payment systems is a basic task of the ECB. This statutory task is, inter alia, fulfilled through the oversight of financial market infrastructures and payment schemes. The focus lies on ensuring the safety and efficiency of payment systems and payment schemes by assessing their compliance with Eurosystem oversight expectations and requirements.