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Global Governance Lessons From Europe's Enron

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Last June, members of the Wirecard supervisory board dialing into a hastily convened emergency call could hardly believe what they were hearing. The fast-growing German financial services provider that they were charged with overseeing only recently had been rumored to be in takeover talks with Deutsche Bank. Now, Wirecard board members were being told that €1.9 billion ($2.2 billion) in cash was missing and the company was €3.2 billion ($3.7 billion) in debt. Could Wirecard's vast international business empire really have been based on lies and obfuscation?

Indeed, it appears so.

On June 25, 2020, Wirecard filed for insolvency. Then, on Aug. 25, a court-appointed administrator issued a press release stating that it had been able "to stabilize the ongoing business and create a basis for [Wirecard's] continuation." As part of the stabilization efforts, all members of Wirecard's management board—at least those who had not already resigned or fled Germany—and some 730 employees were let go.

As of mid-December, senior Wirecard executives including ex-CEO Markus Braun and former chief financial officer Burkhard Ley have been criminally charged and are awaiting trial in Germany. Another executive was released from jail as a cooperating witness for the prosecution. Former chief operating officer Jan Marsalek, who also served on the management board, is a fugitive from the country.

Wirecard leadership is accused of having conspired with others to inflate revenues and its balance sheet by faking business with third-party partners, said Anne Leiding, a spokesperson for the Munich State Prosecutor's Office, during a press conference in which she announced the charges. The creation of a false impression of financial strength enabled Wirecard executives to borrow €3.2 billion from banks and investors.

"In reality, it was clear, at the latest by the end of 2015, that Wirecard's real business was losing money," Leiding told reporters in Munich. Wirecard executives are also suspected of harming investors by overpaying for acquisitions and for creating and perpetuating a culture "characterized by an *esprit de corps* and oaths of loyalty" to Braun as their leader.

Braun resigned after Wirecard auditor EY said it could not verify the €1.9 billion supposedly held in escrow on behalf of the third-party partners.

Altogether, the formal charges made against Wirecard's leadership team include organized commercial criminal fraud, breach of trust, false accounting, and market manipulation. All of the former Wirecard executives now awaiting trial have declared their innocence.

Ominous Questions

Wirecard, like Enron until its own spectacular demise in 2001, had been on a wild and aggressive trajectory of growth. When the dot-com bust threatened Wirecard's existence in 2002, Braun was recruited as CEO. With the benefit of hindsight and courageous reporting—notably by the *Financial Times* (FT)—it is clear that the company's lifespan was fueled by hubris and a win-at-all-costs corporate culture. Braun provided Wirecard with a cash infusion, and under his leadership proceeded to allegedly perpetrate an intentional accounting fraud over a period of years that escaped the notice of key stakeholders including regulators, auditors, and Wirecard's own supervisory board.

Now, in the aftermath of Wirecard's insolvency, and as lawsuits add up, regulators and stock exchanges are reevaluating their checks and balances, looking to repair fault lines, and taking aim mostly at the corporate audit function—both internal and external. Many corporate governance observers expect to see regulatory reform in the European Union and in Germany on a scale akin to the Sarbanes-Oxley Act, the US federal law that was passed in 2002 after corporate accounting scandals—including at Enron Corp., Tyco International, and WorldCom—came to light. Sarbanes-Oxley essentially gave board audit committees greater authority and thus increased both the responsibilities and oversight of the committee.

Given the sheer scope, daring, and size of Wirecard's fraud, comparisons to Enron are both inevitable and predictable. The business community and the public began asking two ominous questions: Where was the board? And where were the regulators? After all, the Wirecard fraud was not discovered by these governance stakeholders but instead by a cadre of short sellers and FT journalists, ultimately aided by lower-level whistleblowers who were paying much closer attention than those lawfully entrusted and compensated to do so.

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