Osborne Clarke's 2022 Future of Financial Services week

Stronger regulation – lessons learned from Wirecard

26 January – 3 February 2022





Speaking with you today



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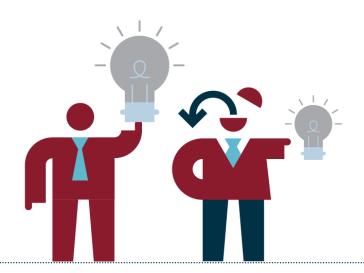


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Agenda

01	Introduction	4
02	Early stages – crisis management	8
03	Insolvency considerations and implementing the strategy	10
04	Migration	14
05	Concluding remarks	17



Introduction



Where the story started...

BUSINESS NEWS JANUARY 30, 2019 / 3:45 PM / UPDATED 3 YEARS AGO

Wirecard denies FT report alleging financial wrongdoing

Wirecard: Former boss arrested over €1.9bn scandal

(3) 23 June 2020

Wirecard: Scandal-hit firm files for insolvency

(§ 25 June 2020

BANKS JUNE 26, 2020 / 10:21 AM / UPDATED 2 YEARS AGO

EU investigating German watchdog over Wirecard collapse



'The Enron of Germany': Wirecard scandal casts a shadow on corporate governance

PUBLISHED MON, JUN 29 2020-4:37 AM EDT | UPDATED MON, JUN 29 2020-5:22 AM EDT

Repercussions of the German Wirecard scandal

Impact on BaFin

- Reputational damage
- •Head and deputy stepped down (Jan 2021)
- Criminal investigation into how BaFin oversaw Wirecard, potential insider dealing

Impact on EY

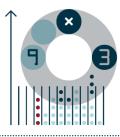
- Reputational damage
- •Head of EY Germany stepped down (Feb 2021)
- Investing billions of dollars to improve quality of audits

Wider impact

- Damage to confidence in auditors and regulators more broadly
- •Negative impact on reputation and perceived trustworthiness of payments and fintech
- •Germany has introduced new requirements for corporate governance and audits of listed companies
- •EU seeking more independence for financial regulators

Investigations and prosecutions continue

- •Investors' claims against BaFin dismissed (Jan 2022)
- •Money laundering charges brought against individual associated with Wirecard (Dec 2021)
- Former COO Jan Marsalek remains missing







Introduction to Wirecard and its solvent wind-down

Wirecard Card Solutions Limited (WDCS) - May 2020

- UK entity, FCA authorised EMI, part of the Wirecard group
- Established in 2016, on acquisition of Newcastle Building Society's prepaid cards business
- Grown to one of the largest prepaid card issuers in Europe:
 - o over 500 live programmes
 - around 5 million cards in active circulation
 - o over £550 million in safeguarded funds
 - o revenue for FY19 just shy of £90 million
- Also had an acquiring business

WDCS - Solvent wind-down

- Events affecting Wirecard group caused irreparable damage affecting WDCS's long term viability
- Solvent wind-down successfully achieved in under six months, with a combination of:
 - o programme migrations
 - sale of part of business to Railsbank/PayrNet
 - closure of a very small number of mostly legacy programmes
- All credit to management team led by Tom Jennings and Andrea Farace, supported by Paul Newman (and Osborne Clarke)
- ... and to FCA supervisory team
- No loss of any safeguarded funds
- FCA permissions cancelled with effect 3 November 2021
- Less than 30 FOS cases ongoing
- No redundancies

Early stages – crisis management



Early stages – crisis management

Lack of information from group.
 Belief that group wide insolvency not imminent.
 PCA concerned about immediate insolvency at group level and withdrawal of outsourced services.
 Liquidity demand.
 Need for wind-down plan and dependencies EUR 1.9 billion.

20 June

2020

- All German Wirecard companies including AG would go into preliminary administration – not Wirecard Bank, issuing and acquiring services can continue without interruption.
- Rush to communicate with stakeholders that WDCS can still operate.

24 & 25

June 2020

- Plan A: prioritise meeting FCA conditions to lift restrictions.
- Plan B: prepare for appointment of administrators on Monday.
- · Repatriate money.
- Group CEO speaks to FCA re: availability of group services.
- Focus on safeguarding and contingency planning.

27 - 29

June 2020



19 June

2020

- Primary concern is to stop assets being diminished.
- VREQ negotiated.

- Daily calls with FCA.
- · Increasing MI demands.

21 June

2020

22 June

2020

Privilege concerns.

 Prospective administrators lined up as part of contingency plan

23 June

2020

- Priorities: liquidity, safeguarding, operational dependencies, winddown plan.
- Notice served that WDCS must cease regulated activity and not dispose of any funds or assets.

26 June

2020

• End customers (including vulnerable people) left without access to funds.

Restrictions lifted

30 June

2020

Disputes

- Disputes with PMs business disruption, refusal to pay fees. £60m+ claim
- 65 FOS claims

18 June

2020

Insolvency issues and implementing strategy



Insolvency issues and implementing strategy

- Current status WDCS in members' voluntary liquidation since November 2021
- Directors' duties
 - Wrongful trading
 - Preference
 - Financial status
 - Directors' & Officers' Liability Insurance
- Skilled Person Monitoring Reports compliance with FCA's Requirement Notice of June 2020
- Safeguarded Monies / Statutory Trust Berkley Applegate

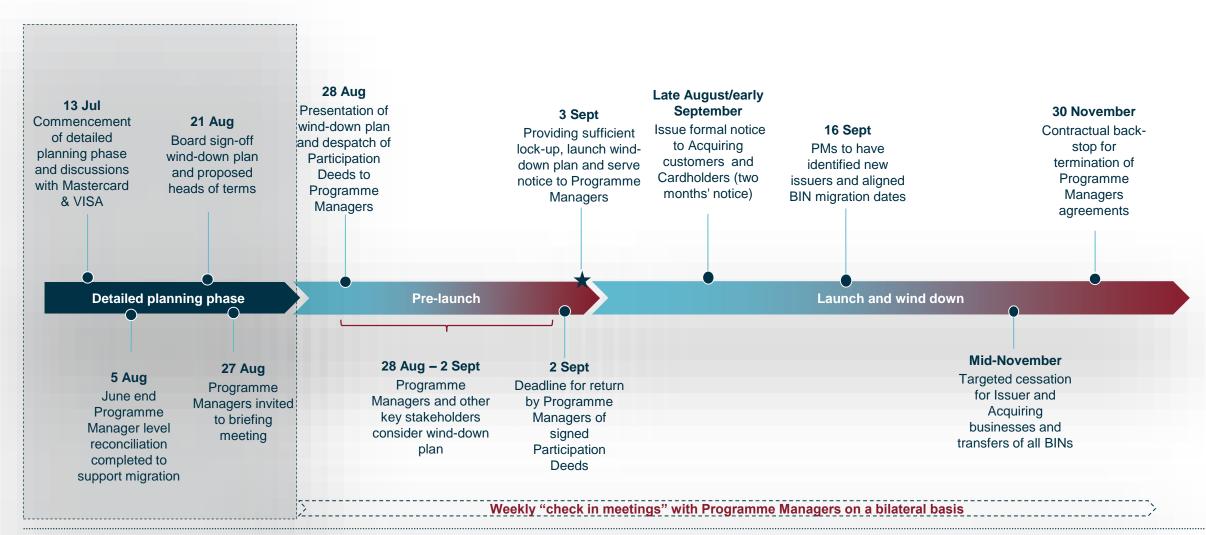


Insolvency issues and implementing strategy

- Contingency planning
 - Administration
 - Special Administration Banking Act 2009
 - Compulsory Liquidation and Special Managers
 - Compulsory Liquidation with no Special Managers
- Solvent wind-down



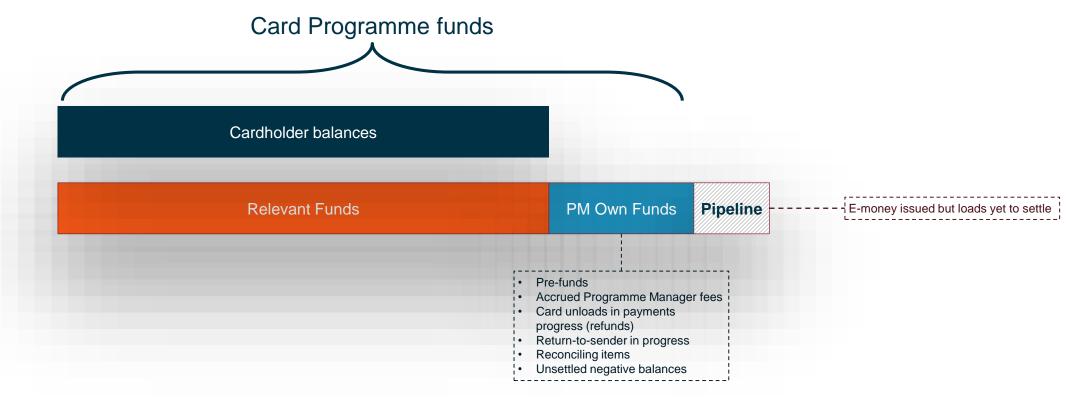
Key phases to the solvent wind-down



Migration



Migration - Card Programme funds



Migration – Process and timeline

- Cardholder notifications
- BIN transfers
- Full PM reconciliation Relevant Funds and PM Own Funds
- Transfer of safeguarded Relevant Funds initial and balancing transfers
- Ongoing reconciliations
- Settlement of net amounts due to PM or WDCS

BIN migration date (T)

- Instruct balancing transfer of Relevant Funds
- Safeguarding obligation and scheme settlements switch to incoming card issuer (intraday timing of settlements moving may not be known)

Completion of solvent wind-down of WDCS

 Transfer of any residual funds retained under the Participation Deed

Five business days before migration (T-5)

- · Indicative "Migration Settlement Monies" calculated
- Incoming card issuer provides safeguarded account details and confirmation

One business day before migration (T-1)

 Instruct initial transfer of 90% of Relevant Funds

One business day after migration (T+1)

 Resumption of return-to-source payments, indemnities, chargebacks and refunds by incoming card issuer

Two business days before migration (T-2)

- Final "Migration Settlement Monies" calculated
- PM provides pre-migration statement setting out Relevant Funds at T-2
- WDCS confirm intraday migration timing (if available)

Five business days after migration (T+5)

PM provides post-migration statement setting out Relevant Funds at T

20 business days after migration (T+20)

- WDCS handovers any outstanding return-to-sender payments or card refunds to new EMI
- Closure of client bank account (if applicable)
- Final card programme reconciliation agreed (target)

Ten business days before migration (T-10)

- Outstanding WDCS invoices should be settled
- Processing of return-to-source payments, indemnities, chargebacks and card refunds processing paused

Ongoing reconciliation and funds release

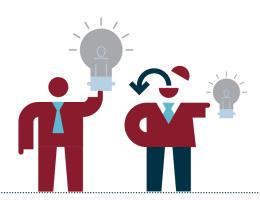
Post-migration pipeline transferred to incoming card issuer

Concluding remarks



Concluding remarks – UK FCA perspective

- Stronger regulation and challenge to FinTechs
- Clear tension between encouraging innovation and consumer protection
- Ambiguities remain in safeguarding rules and insolvency legislation
- Clear FCA focus on:
 - the right consumer outcomes
 - the specific regulated entity and what's within its control (e.g. group-wide resources)
 - o (immediate) access to and delivery up of documentation (systems)
 - o wind-down plans
 - o operational resilience



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Any questions?

