

Press Release

Warburg Group ensures full protection against risks from cum-ex transactions

Hamburg, February 4, 2020 – **The Warburg Group has ensured full protection against the financial risks from the securities transactions executed around dividend dates (“cum-ex transactions”) in the period between 2007 and 2011, and the associated tax claims or recoveries in issue. This is guaranteed by the financial standing of its majority shareholders, Dr. Christian Olearius and Max Warburg.**

The main hearing in the criminal proceedings resulting from the cum/ex transactions that were brought against two London-based traders has been ongoing before the Bonn Regional Court since the fall of 2019. The Warburg Group and Warburg Invest are being treated as “potential persons with an interest in the confiscation of gains” (*Einziehungsbeteiligte*) in these proceedings; this means that the court can order the recovery of proceeds of crime from them even if they did not perpetrate or participate in the criminal act themselves. The court has announced that it will give its opinion on the question of recovery shortly.

Counsel for the Warburg Group declared in the hearing before the Bonn Regional Court on December 11, 2019, that at no point was there any intention of performing or encouraging share transactions contravening tax law. In particular, there was never any intention of making incorrect declarations to the tax authorities or of asserting unjustified claims for tax refunds.

The facts of the case in detail:

- Between 2007 and 2011, Warburg Bank executed share transactions over the dividend date for which a domestic custodian bank acted on behalf of the sellers. The aggregate profit from these transactions, for which investment income tax of EUR 169 million was credited, was approximately EUR 68 million for this period (EUR 46 million after taxes). The largest portion of the difference between the amounts given above was received by other market participants, some of whom are the subject of investigations.
- In 2009 and 2010, Warburg Invest managed two funds that executed transactions involving German shares over the dividend date for which a domestic custodian bank acted on behalf of the sellers. The total management fee received by Warburg Invest was EUR 0.78 million. Investment income tax totaling EUR 109 million was credited to the funds, which were beneficially owned by the investors, for this period.



The reporting on the securities transactions in issue since 2016 has left its mark on politicians, public authorities, the judicial system, and clients. Although the final report of the German Parliament's committee of inquiry on the cum-ex transactions, which was published in June 2017, demanded clarification of the role played by the domestic custodian banks – who have been responsible since the *Jahressteuergesetz 2007* (German Annual Tax Act 2007) for remitting the investment income tax – it is still unclear whether and how these will be held liable. However, the Warburg Group and Warburg Invest may now be faced with an order for recovery even though the trial will not decide the question of whether the Warburg Group acted culpably.

Quite apart from questions of substantive criminal law, it is important to the Warburg Group that it should not benefit in any way from share transactions that the criminal chamber considers to have been in breach of tax law. An explicit declaration to this effect was also made to the Bonn Regional Court. However, the willingness to repay profits from share transactions must not be taken as any admission of guilt.

The Warburg Group's shareholders also unreservedly support the Warburg Group above and beyond this, and will ensure it is in a financial position to meet all potential claims for tax credits to be repaid and recovery amounts associated with the securities transactions.

The Warburg Group is continuing to cooperate in full with the authorities in the ongoing proceedings relating to the transactions. However, it rejects premature public judgments and hasty, excessive steps.

This is a non-binding translation from the original [German version](#). In the event of any doubt, the German text shall prevail.

Press contacts:

Martin Wehrle, Head of Communications
Phone: +49 40 3282-2263

Thies Jonas, Communications
Phone: +49 40 3282-2165

E-mail: presse@mmwarburg.com