訟費、資助與現實考量

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在新加坡申請臨時濟助所費不菲。就我的經驗而言，一宗全面抗辯的專有權及Mareva濟助申請，連同針對兩家交易所的披露，直至回覆聆訊日期為止的律師費及代墊費用約為8萬至20萬新加坡元，分析報告的費用尚未計算在內。申索人須作出損害賠償承諾，並可能被要求加強該承諾的保證。訟費可按標準基準向被告人討回，在新加坡即部分彌償，但實務上只有在被告人擁有被盜資產以外的資產時才能做到。自2021年放寬一般禁止包攬訴訟的規定後，新加坡容許第三方資助國際仲裁及新加坡國際商業法庭（SICC）的訴訟中的這類申索。不過，資助者對欺詐追討案件仍然有所揀選。[1]

對客戶作出的現實評估如下。如資產在數次轉移內已進入受監管的交易所，而申索人在數日內採取行動，在新加坡的追討成功率很高。如資產經過混幣器、位於不合作司法管轄區的不合作交易所，或沒有可識別營運者的去中心化協議，新加坡法院仍可作出命令，但結果只會是一份判決，卻沒有可供強制執行的對象。是否提起訴訟，應在第一個星期內根據分析報告作出決定。

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楚格視角

楚格創辦人的協議庫房被掏空時，本能反應是致電楚格警方。如分析顯示資金存入了在新加坡設有業務的交易所，他亦應在同一日致電新加坡律師。楚格檢察官會立案，並可能發出扣押令，但該命令只在瑞士有效，只能透過需時數月的司法互助才可觸及交易所。新加坡的專有權禁制令則可在翌日送達交易所。兩條途徑相輔相成。新加坡的披露令會識別帳戶持有人，楚格檢察官可據此請求針對該人的協助。瑞士刑事案件反過來亦會提供新加坡法院在簡易判決階段所需的欺詐證據。

註釋

1. Civil Law Act 1909，第5A至5B條，以及Civil Law (Third-Party Funding) Regulations 2017（經2021年修訂），Singapore Statutes Online。 ↩

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