# 新加坡法院的司法管轄權

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## 境外送達及管轄門檻

身在新加坡或接受其司法管轄的被告，可在新加坡被起訴。身在海外的被告，則須根據《2021年法院規則》（Rules of Court 2021）第8號命令第1條規則，經法院准許後在司法管轄區外送達。申請人必須提出具充分理據的論點，證明案件與新加坡有足夠聯繫、新加坡是適當的審理地，以及案件在實質問題上有嚴重爭議有待審訊。聯繫須透過《2021年最高法院實務指引》（Supreme Court Practice Directions 2021）第63段所列的管轄門檻確立。[1]加密資產案件最常用的門檻有四個：申索旨在主張、宣告或確定位於新加坡的財產的所有權；申索所依據的訴因在新加坡產生；被告在新加坡擁有資產；或申索涉及在新加坡訂立、受新加坡法律管轄或在新加坡被違反的合約。

適當審理地（forum conveniens）按新加坡所採納的*Spiliada*原則評估。法院會考慮當事人、證人及證據的所在地、準據法，以及其他地方是否有相關法律程序，從而判斷哪個審理地明顯更適合審理該訴訟。[2]在*CLM v CLN*案中，新加坡是適當審理地，因為持有被盜資產的交易所在新加坡設有業務，而針對

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這些交易所的申索，是對該等資產的申索。[3]在*Janesh*案中，法院裁定具有管轄權，主要因為申索人身在新加坡並在當地經營業務，同時承認區塊鏈的去中心化性質在其他案件中可能為司法管轄權「帶來困難」。[4]

## 代幣的所在地：Cheong Jun Yoong案

位於新加坡的財產這一門檻，要求法院判斷代幣身在何處。蔡利民法官（Chua Lee Ming J）於2024年1月在*Cheong Jun Yoong v Three Arrows Capital*案中作出了判斷。申索人主張，在Three Arrows內構成獨立基金的加密資產，是以信託形式為他及其投資者持有。他需要法院准許，才能在司法管轄區外向英屬維爾京群島（BVI）的清盤人送達。法官的推理是：加密資產沒有實體形態，其所在地因此必須按控制權決定。控制權屬於持有私鑰的人。資產的所在地（situs）因此是該人的居住地。[5]他選擇居住地而非住所，因為居住地更能顯示控制權在何處行使，以及該人可在何處被起訴。[6]就案情而言，申索人及其經營業務所用的公司均控制私鑰，兩者均居於新加坡，因此存在具充分理據的論點，證明資產位於新加坡。[7]法官指出，*ByBit*案無須就所在地作出裁決。無論如何，將代幣視為據法權產，同樣會指向控制私鑰的人。[8]

英屬維爾京群島法院在審理清盤人的平行申索時，側重點有所不同，採用了私鑰控制人即為擁有人的推定。上訴分庭拒絕批准清盤人上訴，裁定這並不構成真正偏離新加坡的做法，而且無論如何，訴因門檻已獨立地獲得滿足。[9]因此，新加坡的規則是：代幣位於其私鑰持有人的居住地。這帶來三個後果。第一，居於新加坡並持有爭議資產私鑰的申索人，可根據財產門檻，在新加坡向外國被告提出所有權申索。第二，取得被盜代幣控制權的詐騙者，已將代幣的所在地移至其居住地，而該地不為人知，受害人因此必須改為依賴訴因門檻或資產門檻。第三，保管人的居住地決定受保管資產的所在地，令新加坡持牌保管人的客戶可就該等資產在新加坡提出申索。

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## 新加坡視角

對於由居於新加坡的保管人或交易對手持有的代幣，即使合約在海外訂立、被告身在別處，你仍可在新加坡提出申索，因為這些代幣被視為位於新加坡。與新加坡保管人發生糾紛的瑞士申索人，應以此為出發點。相應地，居於新加坡的私鑰持有人會把其代幣的所在地隨身帶走。遷往楚格的新加坡創辦人，會將其自行保管代幣的所在地移至瑞士。瑞士法律並無相應規則，這個問題仍未有定論（第D部分第IX章）。

## 註釋

1. Rules of Court 2021，第8號命令第1條規則，以及Supreme Court Practice Directions 2021，第63段，摘要見*Three Arrows Capital Ltd and others v Cheong Jun Yoong* [2024] SGHC(A) 10，第[18]段。 ↩
2. *Rickshaw Investments Ltd v Nicolai Baron von Uexkull* [2007] SGCA 10，第[14]–[16]段，引用*Spiliada Maritime Corp v Cansulex Ltd* [1987] AC 460。 ↩
3. *CLM v CLN and others* [2022] SGHC 46，第[69]–[75]段。 ↩
4. *Janesh s/o Rajkumar v Unknown Person ("CHEFPIERRE")* [2022] SGHC 264，第[27]–[30]段。 ↩
5. *Cheong Jun Yoong v Three Arrows Capital Ltd and others* [2024] SGHC 21，第[59]–[62]段。 ↩
6. *Cheong Jun Yoong* [2024] SGHC 21，第[63]段。 ↩
7. *Cheong Jun Yoong* [2024] SGHC 21，第[57]段。 ↩
8. *Cheong Jun Yoong* [2024] SGHC 21，第[64]段。 ↩
9. *Three Arrows Capital Ltd v Cheong Jun Yoong* [2024] SGHC(A) 10，第[23]–[32]段。 ↩

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