私隱與打擊洗錢責任

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

實務中最尖銳的衝突，一方是保留限制及目的限制責任，另一方是打擊洗錢責任。新加坡金融管理局（MAS）第PSN02號通告要求數碼支付代幣服務提供者在業務關係結束後保留客戶盡職審查紀錄至少5年，並按制裁名單及負面新聞篩查客戶。服務提供者必須在價值轉移時一併傳送匯款人及受益人資料，並在不通知客戶的情況下舉報可疑交易。[1]上述每一項都是對個人資料的使用或披露。《2012年個人資料保護法》（PDPA）透過法律規定的使用及披露例外，以及承認為法律目的所需時可保留資料，容納了這些責任。[2]該法不容許的，是未經另行同意而將打擊洗錢資料用於無關的商業目的，例如根據交易模式進行市場推廣。該法亦不容許在集團內分享可疑交易報告，超出禁止洩密（tipping-off）規則所容許的範圍。在這一點上，私隱分析與打擊洗錢分析的結論一致。

旅遊規則（travel rule）值得另作說明。向瑞士服務提供者發出轉賬的新加坡服務提供者，必須傳送匯款人的姓名、戶口號碼，以及地址或身份證明號碼。瑞士服務提供者則必須核實受益人。[3]將這些資料從新加坡轉移至瑞士，屬於該法第26條下的跨境轉移。其基礎是法律規定，但傳送資料的服務提供者仍須確信接收方會保護有關資料。業界已透過旅遊規則訊息傳遞協議中的資料保護條款處理這個問題。

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註釋

1. MAS Notice PSN02 on Prevention of Money Laundering and Countering the Financing of Terrorism – Digital Payment Token Service（經修訂）。第L部分第II至IV章論述有關責任。 ↩
2. Personal Data Protection Act 2012，第25條（保留限制，受法律或業務目的規限）及附表一的例外。 ↩
3. MAS Notice PSN02的價值轉移要求，以及瑞士方面的Art. 10 AMLO-FINMA。第F部分第IV章及第L部分第III章論述旅遊規則。 ↩

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com

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