逃稅作為洗錢的上游罪行

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自2013年7月1日起，根據《1992年貪污、販毒及其他嚴重罪行（沒收利益）法》（CDSA），嚴重稅務罪行已成為洗錢的上游罪行。被指定的罪行為《1947年所得稅法》第96條及第96A條、《商品及服務稅法》第62條及第63條下的故意逃稅及嚴重欺詐性逃稅；透過雙重犯罪原則，相應的外國稅務罪行亦包括在內。[1] 結果是，逃稅所得屬刑事財產，處理這些財產即屬CDSA第50條至第54條下的洗錢。金融機構或數碼支付代幣（DPT）服務提供者如懷疑客戶的資金源自逃稅，必須提交可疑交易報告（參見第L部分第IV章）。

對數碼資產客戶而言，上游罪行規則有兩方面的影響。第一，客戶本身未申報的交易利潤，如已達故意逃稅的程度，在他手中即屬刑事財產；他把這些財產轉移至新錢包或新交易所，便構成洗錢行為。自願披露計劃以罪行和解方式解決稅務罪行，實際上亦消除了洗錢風險，因為新加坡國內稅務局（IRAS）不會把已和解的個案轉介商業事務局（CAD）。第二方面的影響落在服務提供者身上。新加坡交易所如接納一名財富來源為海外加密貨幣交易的客戶，必須考慮該等交易是否已經課稅。因此，瑞士或德國客戶在外國的稅務狀況，亦屬新加坡交易所打擊洗錢檔案的一部分。瑞士方面亦有相同

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規則，即《瑞士刑法典》（StGB/SCC）第305bis條第1bis款的合資格稅務罪行（參見第G部分第VIII章及第F部分第V章）。因此，在任何一個樞紐逃稅的客戶，都會同時面對兩地的打擊洗錢制度。

跨境視角

一名德國客戶在德國買賣加密貨幣但沒有申報，現在希望在新加坡交易所開戶。對交易所而言，這可能涉及以外國稅務罪行為上游罪行的問題。交易所的合規主任會要求證據，證明有關收益已經申報，或德國法律不就其課稅。根據《德國稅務通則》（Abgabenordnung）第371條作出的德國自願披露，往往是開戶的先決條件。同一客戶如向楚格的交易所申請開戶，則須面對瑞士的合資格稅務罪行測試：每個課稅期間的逃稅額須至少達300,000瑞士法郎，才會構成上游罪行。門檻雖然不同，問題卻是一樣的。解決方法是在開戶之前把稅務狀況正規化。

註釋

1. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (2020 Rev. Ed.)，第二附表，有關Income Tax Act第96條及第96A條以及Goods and Services Tax Act第62條及第63條的項目，自2013年7月1日起被指定為嚴重罪行。 ↩

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