集團計劃的法律基礎

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兩套制度均要求或預設集團層面的做法，但適用範圍不同。

《PSN02號公告》要求在新加坡註冊成立的支付服務提供者制定集團打擊洗錢及恐怖分子資金籌集（AML/CFT）政策，並將其延伸至其在新加坡及海外的所有分行及附屬公司。[1]集團政策必須確保海外實體在東道國法律容許的範圍內，採取與公告一致的AML/CFT措施。若東道國標準低於新加坡標準，則適用新加坡標準。若東道國法律阻礙新加坡標準的適用，機構必須通知新加坡金融管理局（MAS），並採取額外措施管理由此產生的風險。政策亦須訂明為客戶盡職審查（CDD）及風險管理目的而在集團內共享資訊，並設有保密保障。此規定只適用於新加坡實體為母公司或擁有附屬公司的情況。若新加坡MPI本身是瑞士控股公司的附屬公司，《PSN02號公告》並不要求其對母公司或姊妹公司施加任何要求。

瑞士法律則較為分散。對於由瑞士金融市場監管局（FINMA）直接監管的金融中介機構，即銀行、證券公司、基金經理及第E部分所述的其他持牌機構，適用《FINMA打擊洗錢條例》（GwV-FINMA/AMLO-FINMA）第5及6條。該兩條要求在全球層面監察法律及聲譽風險，並將瑞士原則適用於海外分行及集團公司。[2]至於根據《瑞士打擊洗錢法》（GwG/AMLA）第2條第3

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款加入SRO的中介機構（楚格的加密資產保管人或經紀通常屬於此類），AMLO-FINMA並不直接適用。SRO規例一般並無施加集團層面的義務。[3]瑞士實體的義務僅屬其本身，並以其本身的客戶為限。因此，楚格的SRO成員在瑞士法律下並無運作集團計劃的義務，雖然打擊清洗黑錢財務行動特別組織（FATF）的標準（第18項建議）預設了集團計劃，而管理完善的集團亦會為保障自身而採用。[4]

實際結論是：若新加坡實體為母公司，集團計劃以新加坡法律為依據；若瑞士實體為母公司，集團計劃則屬良好做法及與FATF接軌的問題。無論哪種情況，計劃都應是一份單一文件，包含共同核心及按司法管轄區劃分的附件，並由每個實體的董事會批准，因為每個監管機構都會希望看到其持牌機構的董事會對適用於該機構的政策負責。

註釋

1. MAS Notice PSN02，第15段（集團政策），要求在新加坡註冊成立的支付服務提供者制定集團政策，將其延伸至海外分行及附屬公司，在新加坡與東道國標準不同時適用較嚴格者，並在東道國法律阻礙合規時通知MAS。 ↩
2. FINMA Anti-Money Laundering Ordinance（AMLO-FINMA；GwV-FINMA，SR 955.033.0），第5至6條（在全球層面監察法律及聲譽風險，在集團層面適用各項原則），適用於AMLA第2條第2款所指的金融中介機構。 ↩
3. Anti-Money Laundering Act（AMLA；GwG，SR 955.0），第2條第3款及第24條起（自律組織）；VQF、SO-FIT、PolyReg及其他SRO的規例為其成員訂定盡職審查標準，一般不延伸至海外集團公司。參見第F部分第I章。 ↩
4. FATF Recommendation 18及其Interpretive Note，要求金融集團實施集團層面的AML/CFT計劃，包括集團內資訊共享的政策，適用於所有分行及擁有多數股權的附屬公司。 ↩

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