反對觀點及其局限

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

對新加坡立場的批評有兩方面值得一提。第一方面由法律委員會及多位學者提出，認為把加密資產稱為據法權產會扭曲這個類別。加密資產並非針對任何人的權利，因此為債項而發展的規則（例如轉讓手續）並不適用。[1] 新加坡的回應是，這個類別向來屬剩餘類別，在規則的理據不存在時，可把不適用的規則擱置一旁。第二方面的批評屬實務性質：把每種代幣都視為財產，會令每宗平台破產都出現專有權申索，令產業分配變得複雜。對此的回應是，財產地位只是門檻。某一客戶能否對某一平台提出專有權申索，仍取決於信託分析。上訴法院在*Quoine*案中裁定在數據庫中分隔並不構成信託，這項裁定仍然是有效的法律。實際上，新加坡承認了這種資產，同時把客戶與平台之間的風險分配交由合約及監管處理。

新加坡視角

您可以倚賴新加坡法院把您的代幣視為財產，並頒發隨之而來的專有權補救。監管機構亦持相同看法，並規定持牌託管人須以信託形式持有客戶資產。您不能倚賴的，是任何關於無牌或境外平台代您持有資產的推定。在新

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加坡居民客戶把重大價值存放於任何平台之前，應要求平台以書面提供託管條款，並詢問平台會如何回答清盤人「這些加密貨幣屬於誰？」的提問。如答案含糊，資產便應存放在別處。

註釋

1. Law Commission，*Digital Assets: Final Report*（2023年6月28日），第3章（論證加密代幣不屬任何現有類別，以設立第三類為佳）。 ↩

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