《1967年受託人法》與受託人的責任

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投資與標準投資準則

新加坡法律下信託的受託人享有《1967年受託人法》（Trustees Act 1967）第4條賦予的一般投資權力，在信託文書的規限下，可作出絕對擁有人可作出的任何投資。受託人必須顧及標準投資準則，即投資是否適合該信託，以及分散投資的需要；除非受託人合理地斷定無須徵詢意見，否則必須取得並考慮適當的意見。[1] 該法並無禁止受託人持有加密資產。問題在於，在個別情況下持有加密資產是否符合法定的謹慎責任。這項責任要求受託人在有關情況下運用合理的謹慎及技能，並顧及受託人具有或自稱具有的任何專門知識或經驗。[2]

對專業受託人而言，實際的答案是：加密資產投資必須經授權、控制規模並以文件記錄。授權應載於信託文書，或載於受託人已考慮的意願書。規模控制源於分散投資準則：一個90%資產集中於單一代幣的信託，一旦該代幣崩潰，便會面對違反信託的申索，不論財產授予人的意願多麼清晰。文件記錄是指書面投資理據、合資格顧問的書面意見，以及一項達到審慎受託人對經

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中介機構持有的任何其他無形資產所要求標準的託管安排。受託人如親自把私鑰保存在書桌抽屜內的硬件裝置上，便承擔了任何專業彌償保險人都不會歡迎的營運風險。一旦裝置遺失，受益人會指稱這是違反謹慎責任。

轉授與託管

《受託人法》准許受託人委任代名人及託管人，並轉授投資管理職能，但須訂立書面政策聲明並定期檢討。[3] 新加坡受託人把代幣交予持牌數碼支付代幣託管人，即屬行使這項權力。託管協議應承認受託人的身份，指明信託為實益擁有人，並禁止託管人在未有受託人書面指示的情況下借出、質押（staking）或再抵押有關資產。質押是一個特別的陷阱。託管人的標準條款經常准許其質押客戶資產並保留部分獎勵，這對受託人而言會引起未經授權獲利及承受罰沒（slashing）風險的問題。希望賺取質押獎勵的受託人應明確授權，並應知道已質押的代幣在協議的解除綁定期內會被鎖定，在市場下跌時無法出售。

核對清單

新加坡受託人如被要求把數碼資產納入信託，應在接受轉移前逐一確認以下各項。- 信託文書或變更契據授權持有該資產類別，以及（如有意如此）質押或借出。- 書面投資理據已處理適合性、集中程度及流動性問題。- 已向具有可證明數碼資產專業知識的顧問徵詢意見，或受託人已記錄無須徵詢意見的理由。- 託管人是MAS持牌數碼支付代幣服務提供者，其條款宣告以受託人為受益人的信託，並分隔資產。- 密鑰管理已有文件記錄，任何個人均不能單獨轉移資產，並設有經測試的恢復程序。- 已議定帳目及分派所用的估值方法，包括定價來源及時間點。- 意願書已處理財產授予人希望在代幣急跌、硬分叉或空投時如何處理代幣。- 已考慮共同匯報標準及（自2027年起）加密資產申報框架（Crypto-Asset Reporting Framework）下的稅務申報（第M部分第VII章）。

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註釋

1. Trustees Act 1967，第4條（一般投資權力）、第5條（標準投資準則）及第6條（意見）。這些條文由Trustees (Amendment) Act 2004引入，與英國Trustee Act 2000第3–5條相若。 ↩
2. Trustees Act 1967，法定謹慎責任條文連同其附表一併理解。 ↩
3. Trustees Act 1967，第IVA部（轉授投資管理職能及委任代名人及託管人），尤其是須訂立書面協議及政策聲明的規定。 ↩

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