加密資產：從《支付服務法》到Guardian項目：實務影響

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有意在新加坡經營的公司

有意從新加坡提供加密資產服務的公司，首先必須確定適用哪一部法例。向新加坡客戶提供與數碼支付代幣相關的服務，須根據《支付服務法》取得牌照。與代幣化證券或代幣化基金單位相關的服務，受《證券及期貨法》規管；如涉及提供意見，亦受《財務顧問法》規管。只向新加坡境外客戶提供的服務，須根據《2022年金融服務及市場法》第9部分取得牌照，而這類牌照實際上不會批出。發牌程序漫長而嚴格，因為監管機構會審查公司在新加坡的實質營運、其打擊洗錢的監控措施，以及其科技風險管理。

財富管理人及家族辦公室

對私人銀行、外部資產管理人及家族辦公室而言，實際問題是如何為客戶持有及管理加密資產。最穩妥的途徑，是透過銀行或持牌託管人持有；根據2024年10月起生效的規則，這些機構須以信託方式分隔持有客戶資產。*ByBit*案的判決確認，客戶對代幣保留財產權；只要資產妥為分隔，這項權利在託

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管人無力償債時仍然存在。投資加密資產的家族辦公室，必須考慮《所得稅法》第13O條及第13U條稅務優惠的條件（見第E部分第III章），以及根據國際稅務透明度標準申報這類持倉的要求（見第E部分第II章）。

核對清單

- 為每種代幣及每項服務分類：數碼支付代幣、資本市場產品、功能型代幣或治理代幣，抑或屬於新加坡金融管理局（MAS）單一貨幣框架下的穩定幣。
- 確定客戶所在地：向新加坡客戶提供的服務受《支付服務法》或《證券及期貨法》規管；從新加坡只向境外提供的服務，則受《2022年金融服務及市場法》第9部分規管。
- 利用MAS的《金融機構名錄》及其投資者警示名單，核查交易對手是否持有牌照，以及牌照涵蓋哪些活動。
- 核實客戶資產已經分隔並以信託方式持有，並取得有關儲存政策及損失處理的書面披露。
- 對零售客戶，須記錄風險意識評估，並避免提供獎勵、信貸及槓桿。
- 全面執行打擊洗錢計劃，包括在代幣轉帳時傳送匯款人及受益人資料。
- 只有在穩定幣確實獲得「受MAS規管」標籤時，才將其視作如此，並留意2026年9月諮詢的法例修訂的落實情況。
- 就代幣化證券及基金而言，文件須與Guardian框架一致，並核查所用的結算資產。

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