资本市场产品

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

SFA第2(1)条将资本市场产品定义为证券、集体投资计划单位、衍生品合约、用于杠杆外汇交易的即期外汇合约，以及新加坡金融管理局可能规定的其他产品。[1] 每一类别都有各自的测试标准，一个代币可能同时满足多个类别。

证券是指股份、债权证和商业信托单位，以及赋予取得这些权益之权利的工具。代表一家公司股份的代币，无论该公司在新加坡还是在境外注册成立，都属于证券。证明发行人所负债务的代币，无论称为债券、票据还是"收益代币"，都属于债权证，除非适用某项排除规定。ICO时代的典型测试案例，是承诺分享发行人利润但不附带任何股权的代币。如果这种承诺相当于对债务的确认，MAS将此类代币视为债权证。如果持有人的资金被集合起来并为获取回报而加以管理，MAS则将其视为集体投资计划单位。[2]

集体投资计划（CIS）单位是涵盖大多数投资类代币的类别。第2(1)条的定义要求一项安排具备四个特征。参与者对财产的管理没有日常控制权。财产由管理人或代表管理人作为一个整体进行管理。出资和利润被集合在一起。其目的或效果是使参与者能够从财产的取得、持有、管理或处置中获得利润或收入。[3] 以下代币都属于CIS单位：发行所得用于投资由发行人管理的其他代

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币组合的代币、代币化房地产基金、价值追踪受管理资产池的“资金储备代币”，以及指数代币。其后果十分严重。CIS除非获得MAS授权（适用于新加坡计划）或认可（适用于外国计划），否则不得向新加坡零售投资者发售。管理人必须持有基金管理业务的资本市场服务牌照。

衍生品合约是第三类。价值源自某项标的资产、指数或利率并以支付差价方式结算的代币，属于衍生品合约。永续期货、期权以及追踪股票或商品价格的合成代币都属于此类。从事此类合约交易需要持有资本市场服务牌照。《支付服务法》不适用，因为该产品并非交换媒介。

示例

一家新加坡私人有限公司将其普通股代币化，使投资者能够在公共区块链上持有和转让这些股份。这些代币属于证券。向投资者发售这些代币，即属SFA第13部分下的股份要约，除非适用豁免，否则需要招股说明书。公司必须按照《1967年公司法》备存股东名册。因此，区块链至多只是实益权益的记录或股东名册的镜像，即第B部分第V章讨论的“数字孪生”问题。任何供这些代币交易的平台都是在经营市场，需要根据SFA第2部分获得批准或认可。为投资者持有这些代币的托管人，需要持有提供托管服务的资本市场服务牌照。代币存在于区块链上这一事实，并不改变上述任何一点。

注释

1. Securities and Futures Act 2001，第2(1)条，“capital markets products”的定义。 ↩
2. MAS，Guide to Digital Token Offerings（2020），B部分及附录案例研究1至11，将证券、债权证和集体投资计划的定义适用于假设的代币。 ↩
3. SFA，第2(1)条，“collective investment scheme”的定义，(a)项和(b)项，以及同一定义中的排除规定。 ↩

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