法律选择

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合同

新加坡适用普通法上的合同自体法（proper law of the contract）原则。明示的法律选择会获得承认，除非该选择并非善意、不合法或违反公共政策。如无法律选择，法院会根据合同条款和相关情况推断当事人的选择，或适用与合同有最密切、最真实联系的法律。[1]平台条款几乎总会选择准据法，通常是平台所在司法管辖区的法律，或英格兰、新加坡等中立司法管辖区的法律。这一选择会获得尊重，但对于居住在新加坡的消费者，须受《不公平合同条款法》第27条的优先适用规定限制（第III章）。在瑞士—新加坡架构中，代币购买协议和未来代币简单协议通常在发行人为楚格基金会时选择瑞士法，在发行人为新加坡公司时选择新加坡法。两者都是稳妥的选择。陷阱在于完全没有法律选择的协议。对于面向四十个国家的购买者在线进行的代币销售，这会使准据法只能根据发行人所在地推断，而这通常也是最终的答案。

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侵权

对于在境外实施的侵权行为，新加坡保留双重可诉规则。该不法行为必须依据新加坡法律以及行为实施地法律均可起诉，但有一项灵活例外：若另一法律与事件及当事人有最重要的联系，则可适用该法律。[2]在区块链上实施的侵权行为，其发生地本身就不确定。一个身处某国的人，利用位于第三国的基础设施，对一个从另一国控制的钱包实施黑客攻击，这种行为并无明显的发生地。法院将损失发生地视为最实际的答案。对于加密资产盗窃而言，依*Cheong Jun Yoong*案的逻辑，损失发生地即为作为受害人的私钥持有人的居住地。因此，遭受黑客攻击的新加坡受害人通常可以满足新加坡法这一要件，并需要证明该行为依攻击者所在地的法律属于不法行为，而在盗窃案件中，这很少会有困难。

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信托受委托人所选择的法律管辖；如无选择，则受与信托联系最密切的法律管辖。新加坡依普通法适用这一规则。瑞士则依据《海牙信托公约》适用同一规则（第II章）。代币的继承，依新加坡的普通法规则受死者住所地法管辖；对于住所在瑞士的死者，则依PILA第90条受瑞士法管辖（第VII章）。

注释

1. *Pacific Recreation Pte Ltd v S Y Technology Inc* [2008] SGCA 1，第[36]–[48]段，关于确定合同自体法的三阶段方法。↩
2. *Rickshaw Investments* [2007] SGCA 10，第[53]–[64]段，确认新加坡适用附灵活例外的双重可诉规则。↩
3. 该一般原则见于*Cammell v Sewell* (1860) 5 H & N 728，并在新加坡得到适用。其对代币的适用尚无判例。↩

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