公司及高管责任

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新加坡法律采用一套一致的技术，将罪行归责于公司及其高管。《刑事法典》规定的罪行，由公司通过其"指挥意志"（directing mind）的行为和心理状态实施，而实际实施行为的人则作为主犯或教唆犯承担责任。监管类法律设有明文规定：高管同意或纵容公司犯罪，或因其疏忽促成公司犯罪的，即犯有同一罪行。《支付服务法》和《证券与期货法》都有此类规定，MAS在执法行动中也经常点名首席执行官和合规官。[1]

对于设有新加坡子公司的瑞士母公司，风险是双向的。当犯罪所得流入瑞士账户时，新加坡高管的罪行可能构成瑞士洗钱指控的上游犯罪。反过来，如果该罪行是因组织缺陷而得以发生，瑞士母公司也可能依《瑞士刑法典》第102条承担责任（参见第H部分第I章）。将两个实体当作互不相通的孤岛来对待的合规架构，恰恰会招致这一结果。

注释

1. Payment Services Act 2019，第99条及Securities and Futures Act 2001，第331条（offences by bodies corporate and liability of officers），Singapore Statutes Online。 ↩

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