托管协议：新加坡法下的核心条款

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在新加坡法下，托管协议通过设立信托实现破产隔离。因此，起草时必须满足三项确定性：意图、标的物和受益对象。综合钱包所危及的，正是标的物的确定性。Lehman案和Gatecoin案判决之后采用的解决办法，是将实益权益界定为每一可替代资产池中的按比例份额，使信托附着于资产池，而客户的份额是其中的一部分。[1]对于持牌DPT服务提供者，《支付服务条例》依法施加信托。协议仍应宣告信托，因为无牌托管人的客户只能依赖协议。该宣告还解决了条例留给托管人条款处理的按比例份额问题。

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注释

1. Re Lehman Brothers International (Europe) (2012) UKSC 6及Re Gatecoin Ltd (2023) HKCFI 914，作为具有说服力的判例，参见第J部分第II章的讨论；经2024年修订的Payment Services Regulations 2019要求持牌DPT服务提供者以信托方式持有客户资产。↩
2. 关于Re Zipmex Asia Pte Ltd及Re Hodlnaut Pte Ltd案中客户债权的分析，参见第J部分第V章及第N部分第IV章。↩

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