CDSA下的洗钱罪

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

罪行

CDSA第6部分规定了洗钱罪行。第51条规定，被告知道或有合理理由相信他人从事犯罪行为，却协助该人保留犯罪行为所得利益的，构成犯罪。第54条将取得、持有、使用、隐瞒或转移犯罪行为所得利益（包括自己的犯罪所得）的行为定为犯罪。第55条规定，持有或使用有合理理由怀疑属于犯罪行为所得利益的财产，而被告无法作出令人满意的解释的，构成犯罪。2019年增加的第55A条涵盖有合理理由怀疑但并不知情而协助洗钱的人。主要罪行对个人的最高刑罚为50万新元罚款或十年监禁，或两者并处。公司则面临100万新元或涉案财产价值两倍（以较高者为准）的罚款。[1]

由于主观要件的设计，这一结构对数字资产企业十分重要。第51条和第54条涵盖明知资金来自诈骗仍处理提款的交易所员工。第51(1A)条和第54(3A)条规定的过失层级，最高可处25万新元罚款或五年监禁，涵盖有合理理由相信或怀疑却无所作为的员工。第55条在实际上倒置了举证负担：一旦检控方证明有合理理由怀疑财产属于犯罪所得，被告就必须对此作出令人满意的解释。在自己的交易所账户中收到USDT并转出的“钱骡”，不能以“我没有问钱从哪里来”为由脱罪。

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上游犯罪与境外因素

“犯罪行为”是指实施构成附表二所列严重罪行的行为，或实施若在新加坡发生即构成严重罪行的外国严重罪行。该附表很长，包括欺骗、刑事背信、滥用电脑、《支付服务法》的牌照罪行以及逃税。自2019年起，该法规定，一旦证明存在表面证据，即推定在境外实施的、在新加坡构成严重罪行的行为，在其实施地也构成罪行。这一推定使检控方无需在每一宗钱骡案件中证明外国法律。[2]

对瑞士执业者而言，与《瑞士刑法典》第305bis条的比较颇具启发。瑞士要求存在作为上游犯罪的重罪或合格税务罪行，并惩罚阻挠没收的行为。新加坡惩罚的处理行为范围更广，包括在合理怀疑下的单纯持有，并涵盖过失协助。一名新加坡员工可能因某种行为被定罪，而同样的行为在苏黎世至多构成违反《瑞士反洗钱法》义务、由SRO予以制裁（参见第F部分第V章和第H部分第I章）。

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特点	新加坡（CDSA第6部分）	瑞士（《瑞士刑法典》第305bis条）
上游犯罪	附表二所列严重罪行或外国同等罪行	重罪或合格税务罪行
自身犯罪所得	涵盖（第54条）	涵盖（自洗钱可罚）

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特点	新加坡（CDSA第6部分）	瑞士（《瑞士刑法典》第305bis条）
过失形态	有，第51(1A)条、第54(3A)条、第55A条	无（须有故意，包括间接故意）
在怀疑下持有	举证责任倒置的罪行（第55条）	无对应规定
公司罚款	最高100万新元或财产价值的两倍	依《瑞士刑法典》第102条最高500万瑞士法郎
泄密	第57条，最长3年	AMLA第10a条禁止，依AMLA制裁

注释

1. CDSA 1992，第51(1)条、第54(1)–(3)条、第55条、第55A条及第57条，Singapore Statutes Online（2026年6月查阅）：所述刑罚，包括第51(1A)条和第54(3A)条对过失形态规定的较低层级。 ↩
2. CDSA 1992，第2(1)条中“criminal conduct”、“serious offence”和“foreign serious offence”的定义及附表二，Singapore Statutes Online。 ↩
3. CDSA 1992，第57条（tipping-off），Singapore Statutes Online（2026年6月查阅）；第45条（duty to disclose）引自同一法律，其现行刑罚未经另行核实。 ↩

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

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