陷阱与反对观点

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有三种反复出现的错误值得警惕。第一种是认为把一项安排称为“托管”就使其成为信托。事实并非如此。这个词描述的是一项服务。服务究竟是以受托人身份还是以债务人身份提供，由条款决定。第二种是认为信托可以防范运营损失。事实并非如此。信托可以防范托管人破产和托管人的债权人，但综合钱包遭黑客攻击造成的损失须由受益人共同承担。第三种是认为MAS的规则已使私法分析变得多余。事实并非如此。以信托方式持有的监管义务，由MAS对持牌机构强制执行。客户的财产性请求权则由客户对清盘人主张，并取决于信托是否已被有效宣告和管理。

一些破产从业者持反对观点，认为强制性客户信托使挽救更加困难。信托资产不能用于为重组提供资金。在数以万计的客户之间按比例分摊短缺，会以行政成本耗尽破产财产。这两点都是事实。监管机构给出的回答是：客户资产从来就不是平台可以使用的，以客户资产资助的重组，等于把财富从客户转移给股东和债权人。我认为这一回答是正确的。Zipmex和Hodlnaut已经展示了另一种选择的后果（第V章）。

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