隐私与反洗钱义务

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实践中最尖锐的冲突，一方面是保留限制和目的限制义务，另一方面是AML义务。MAS第PSN02号通知要求数字支付代币服务提供商在业务关系结束后至少保留客户尽职调查记录五年，并对客户进行制裁名单和负面新闻筛查。服务提供商必须在价值转移时传送汇款人和收款人信息，并在不告知客户的情况下报告可疑交易。[1]上述每一项都属于对个人资料的使用或披露。《个人资料保护法》通过法律要求的使用和披露例外，以及承认为法律目的所需时允许保留资料，对这些义务作出了安排。[2]该法不允许的是，在未另行取得同意的情况下，将反洗钱数据用于无关的商业目的，例如基于交易模式开展营销。该法也不允许在集团内部共享可疑交易报告，超出泄密（tipping-off）规则所允许的范围。在这一点上，隐私分析与反洗钱分析的结论一致。

旅行规则值得单独一提。新加坡服务提供商向瑞士服务提供商发送转账时，必须传送汇款人的姓名、账号以及地址或身份证号码。瑞士服务提供商必须核实收款人。[3]将这些数据从新加坡传输至瑞士，属于该法第26条所指的跨境传输。其依据是法律要求，但发送方服务提供商仍须确信接收方会保护这些数据。业界已通过旅行规则信息传递协议中的数据保护条款解决了这一问题。

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注释

1. MAS Notice PSN02 on Prevention of Money Laundering and Countering the Financing of Terrorism – Digital Payment Token Service，经修订。第L部分第II至IV章介绍了相关义务。↩
2. Personal Data Protection Act 2012，s 25（保留限制，以法律或业务目的为前提）及First Schedule中的例外。↩
3. MAS Notice PSN02中的价值转移要求，瑞士方面为AMLO-FINMA第10条。第F部分第IV章及第L部分第III章论述旅行规则。↩

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