新加坡之六：执法、破产与争议解决

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前五个新加坡部分阐述了数字资产如何被拥有、获发牌照、课税以及保持清洁合规。本部分阐述出现问题时会发生什么。创始人虚报库存，托管机构的热钱包被盗空，交易所暂停提款，楚格的交易对手拒绝履约，或者监管机构认定某种已容忍三年的商业模式变得无法容忍。在上述每一种情形下，读者都必须知道：哪个机构会找上门，哪个法院会审理案件，有哪些临时救济，以及新加坡的命令如何在瑞士执行、瑞士的命令又如何在新加坡执行。

新加坡的执法体系有三个特点，大陆法系的读者应从一开始就牢记。第一是集中。一个单一的检控机关，即总检察署，掌控所有刑事检控；一个单一的综合监管机构，即新加坡金融管理局（MAS），掌控所有金融领域的制裁。第二是速度。高等法院普通庭可在数日内针对交易所发出所有权禁令、全球冻结令和披露令，往往仅凭书面材料、无需通知对方，这是任何瑞士法院都无法比拟的。第三是普通法的衡平法工具：推定信托、追踪、Bankers Trust救济和Norwich Pharmacal救济。它们为受骗的代币持有人提供的救济措施，在瑞士律师看来颇为奇特，但在新加坡却属常规。

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破产一章具有特殊地位。2022年7月至2023年11月间，新加坡法院接连处理了Vauld和Zipmex的延期偿付令申请，以及Hodlnaut的临时司法管理和后来的清算。同一时期，新加坡法院承认了Three Arrows Capital在英属维尔京群岛的清算程序，并向Babel Finance授予了延期偿付令。在美国以外，没有任何其他法院体系在如此短的时间内产生了如此多的数字资产破产法。这些判决汇集于此，因为设计托管安排或向平台放贷的读者，必须了解这些案件最终对客户意味着什么。

各章按照争议通常展开的顺序编排：罪行、调查、临时救济与追踪、破产、民事审判、仲裁，最后是监管机构自身的制裁。比较表将新加坡的立场与第H部分所述的瑞士立场并列。交叉引用指向第J部分（基础财产法和信托法）、第K部分（牌照监管范围）以及第L部分（反洗钱义务）。反洗钱义务在此仅在刑事罪行有赖于它们的范围内作概述。

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