塑造法律的十八个月

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2022年7月至2023年底，高等法院普通庭处理了五宗数字资产破产案件，几乎每宗都由Aedit Abdullah法官审理。这些案件涉及一家加密借贷机构（Vauld，通过其新加坡实体Defi Payments Pte Ltd）、一个加密交易所集团（Zipmex）、一个收益平台（Hodlnaut）、一家对冲基金（Three Arrows Capital），以及一个加密借贷和资产管理集团（Babel Finance）。这些案件源于同一个原因：2022年5月Terra生态系统崩溃以及随后的连锁倒闭。它们共同检验了《2018年破产、重组与解散法》（IRDA）中的每一项工具：第64条下的安排计划延期偿付令、司法管理、清盘、依《联合国国际贸易法委员会跨境破产示范法》承认外国程序，以及债务偿还安排计划本身。本章把这些案件作为一个整体来解读，并探讨它们对新加坡平台的客户、平台的董事，以及卷入程序的瑞士债权人或瑞士集团公司意味着什么。

与瑞士的比较贯穿全章。瑞士在2021年以立法方式回答了客户资产问题。《瑞士债务执行与破产法》第242a条赋予客户对破产托管人为其持有的加密资产的取回权，前提是这些资产或已单独分配，或以集合方式持有但可随时归属（参见第D部分第IV章和第H部分第VII章）。新加坡没有这样的规定。

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客户的地位取决于服务条款、一般信托法，以及自2023年起MAS对持牌数字支付代币服务提供商施加的资产隔离义务（参见第K部分第II章）。因此，新加坡案件在很大程度上取决于合同解释，而瑞士案件则不然。

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