律师的处境

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新加坡的律师并不豁免于第45条的义务。该义务适用于在执业过程中获得的知悉，法律职业也不例外。不过，CDSA保留了法律职业特权：新加坡执业律师（advocates and solicitors）无须披露受特权保护的信息。[1] 其界限与英国法上熟悉的界限相同。为获取法律意见或与诉讼有关而向律师作出的沟通受特权保护，无须报告。律师在担任交易代理人期间获得的信息，例如在处理资金或设立公司时获得的信息，并不仅因由律师获得而受特权保护。而为推进犯罪目的所作的沟通，从不受特权保护。

《2015年法律职业（防止洗钱及恐怖主义融资）规则》增设了一层监管要求。律师事务所在为客户准备或实施特定交易时，必须进行CDD。特定交易包括：买卖不动产；管理客户资金、证券或其他资产；为设立公司组织出资；以及设立、运营或管理法人或法律安排。[2] 由于CDSA第45条已规定了报告义务，该规则并未另设报告义务，但它要求律师事务所具备能够支持报告的合规架构，并保存记录。新加坡律师如为DAO基金会搭建架构、在客户账户中持有代币销售款项，或为数字资产基金设立VCC，都完全处于该规则的适用范围之内。

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在我的执业中，最常出现的是与法律意见有关的问题。客户前来咨询某笔过往交易是否合法，而事实表明并不合法。这种沟通受特权保护，律师可以提供意见，也无须报告。随后，同一客户请律师代为接收并持有交易所得。律师一旦这样做，就已离开特权保护区，进入交易领域，在业务过程中获得了知悉，因而负有报告义务，并可能因协助他人保留犯罪行为利益而面临第51条下的责任。界限就在于提供意见与采取行动之间。

跨境视角

楚格的瑞士律师与处理同一事务的新加坡律师，所承担的报告义务不同。瑞士律师仅在以金融中介身份行事时才受《瑞士反洗钱法》约束，例如在交易过程中持有客户资金。AMLA第9条规定的瑞士报告义务仅适用于该类活动。截至法律状态基准日，纯粹的法律咨询，包括有关设立公司的咨询，仍不在瑞士报告义务范围之内，有待第F部分第VI章所讨论的2024–2026年改革。新加坡律师则须就在执业过程中获得的、不受特权保护的任何知悉承担CDSA第45条下的义务，并须就特定交易遵守2015年规则。因此，瑞士与新加坡的联合团队必须在一开始就决定由哪位律师处理资金和公司设立事宜，因为该律师承担的义务更重；同时还必须确保受特权保护的沟通留在其特权能够提供保护的那位律师手中。

注释

1. CDSA 1992，第45条，关于律师受特权保护沟通的但书；Evidence Act 1893，第128条及第131条，关于法律职业特权。 ↩
2. Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015，第4–18条，根据Legal Profession Act 1966制定；Law Society of Singapore, Practice Direction on the Rules and Guidance Notes。 ↩

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