加密资产请求权的估值与转换

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在新加坡清盘程序中，债权人的请求权以清盘开始之日为估值时点，并为债权证明和分配之目的以新元计值。[1]对于加密资产请求权，这一规则会产生美国FTX程序中人们熟知的"美元化"问题。一名客户在清盘开始时被欠一个比特币，当时价格为2万美元；即使在支付分配款项时价格已升至6万美元，该客户也只能按2万美元的请求权获得分配。客户自破产之日起承担市场风险。债务偿还安排可以通过规定实物分配来避免这一问题，Zipmex的安排就对交易钱包资产作出了这样的规定。清盘人有权酌情选择变现加密资产的时机，而无论此后市场如何变动，都可能受到批评。清盘人为确定破产财产的价值而在下跌的市场中出售资产，是在履行变现资产的通常职责；而为期待价格回升而继续持有，则是在用债权人的钱进行投机。在*Hodlnaut*案中，法院认可估值属于证据问题，并将估值方法留待清盘程序中确定。[2]

注释

1. Insolvency, Restructuring and Dissolution Act 2018中关于债权证明及外币请求权转换的条款，结合Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020。 ↩

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2. *Loh Cheng Lee Aaron v Hodlnaut* [2023] SGHC 323 第[11]段。 ↩

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