Mistaken and fraudulent transfers: Comparison with Switzerland

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Switzerland's civil remedies are weaker and its criminal remedies stronger. A Swiss civil attachment (Arrest) under Art. 271 ff. DEBA requires assets located in Switzerland. The location of a token is as uncertain under Swiss law as it was under Singapore law before *Cheong Jun Yoong*. Swiss courts have no Mareva jurisdiction in the English sense and no established practice of disclosure orders against exchanges in aid of civil claims. Swiss prosecutors, by contrast, routinely seize crypto assets under Art. 263 of the Criminal Procedure Code (CrimPC, StPO) within days of a complaint. Swiss exchanges comply. The practical pattern for a cross-border fraud with Swiss and Singapore elements is a criminal complaint in Switzerland and civil proceedings in Singapore. The two are co-ordinated so that the Swiss seizure protects assets in Swiss custody while the Singapore orders reach the exchanges and the defendants. Part H, Chapters III, V and VI set out the Swiss side.

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Cross-border perspective

You can use Singapore as the civil hub of a multi-jurisdictional recovery even where the victim and the fraudster have no connection with Singapore, provided the stolen assets have passed through an exchange with a Singapore presence. The Singapore court will grant proprietary and freezing relief against persons unknown, order the exchange to disclose the account holder, and permit service by whatever electronic means will reach the defendant. What Singapore cannot do is reach assets held by an exchange with no Singapore presence or compel a foreign fraudster to appear. For those steps the Singapore judgment must be exported. The enforcement rules of Chapter VIII decide how.

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