# Key management for transmission

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

## The options

Four arrangements are used to make keys available after death, each with a trade-off between security during life and accessibility after it.

The first is a sealed physical record of the seed phrase, deposited with a notary, a lawyer or in a bank safe deposit box, with instructions in the will for its release to the executor. It is simple, cheap and vulnerable. During life the depositary is a single point of failure if dishonest or burgled. After death the record is a single point of failure if lost or if the depositary cannot be found.

The second is a split secret. The seed phrase is divided using a threshold scheme (Shamir's secret sharing, or a hardware wallet's native split) into, say, five shares, of which any three reconstruct the key. The shares are distributed among the executor, a lawyer, a bank and two family members. No single holder can access the assets during life, and after death the executor collects the shares. The weakness is operational: the holders must keep their shares safe for decades and the reconstruction requires technical competence.

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The third is a multisignature wallet in which the owner holds two of three keys during life and the third is held by a professional, with the arrangement reconfigured on death so that the professional and the executor hold a majority. The owner retains sole control during life, because the professional's single key cannot move funds, while the professional can prove the arrangement to the executor. Multisignature arrangements exist natively on bitcoin and through smart contracts on ethereum and other chains, and several Swiss providers offer them as a service.

The fourth is custody with a regulated custodian, which converts the key problem into the familiar problem of a bank account. The executor presents the certificate of inheritance or grant to the custodian, which releases the assets to the heirs or to a wallet the executor controls. The cost is the custodian's fee and the counterparty risk, which in Switzerland is mitigated by the segregation rules of Art. 242a DEBA and Art. 16 BankA and in Singapore by the trust-based segregation for licensed custodians.[1]

| Arrangement | Security during life | Accessibility after death | Cost | Suitable for |
|---|---|---|---|---|
| Sealed seed record with depositary | Low to medium | Medium | Low | Small positions |
| Split secret (threshold shares) | High | Medium (requires competence) | Low to medium | Technically confident families |
| Multisignature with professional co-signer | High | High | Medium (annual fee) | Large self-custodied positions |
| Regulated custodian | Depends on custodian; segregated in insolvency | High | Medium to high | Positions where convenience outweighs counterparty risk |

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## The legal status of the key holder

Whoever holds a key or a key share holds power over the asset without necessarily holding any right to it. Under Swiss law the holder of the key has factual power of disposal, which Part D, Chapter I, explains is the only fact that matters for transfer. A key holder who moves the assets after death has disposed of estate property. They are liable to the heirs under the rules on unjust enrichment and, if the appropriation was dishonest, under Art. 138 or Art. 141bis SCC.[2] Under Singapore law the position is the same in substance. The key holder who takes the assets is a constructive trustee for the estate and liable in equity. Criminal breach of trust under s. 405 of the Penal Code is available where the holder was entrusted with the key.[3] The planning point is that the arrangement should give no single person the ability to take the assets, and should document who is entitled to what, so that the executor can identify a breach and the heirs can enforce.

## Notes

1. DEBA, SR 281.1, Art. 242a; Banking Act, SR 952.0, Art. 16 no. 1bis; Payment Services Act 2019, s. 23A and the Payment Services (Safeguarding of Customers' Assets) Regulations. Part D, Chapter IV, and Part K, Chapter II. ↩
2. CO, SR 220, Art. 62 ff. (unjust enrichment); SCC, SR 311.0, Art. 138 (misappropriation) and Art. 141bis (unlawful use of financial assets). Part D, Chapters I and II, and Part H, Chapter I. ↩
3. Penal Code 1871 (2020 Rev. Ed.), s. 405 (criminal breach of trust) and s. 406; ByBit Fintech Ltd v Ho Kai Xin [2023] SGHC 199 (constructive trust over misappropriated USDT). Part J, Chapter IV, and Part N, Chapter I. ↩

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com