Treasury control

Dr Alexander Ressos, TEP
Of Counsel, KGP Legal LLC
Attorney-at-Law (Switzerland and Germany), Solicitor (England & Wales and Hong Kong)

A DAO's treasury is the assets the community governs. It may be held in a smart contract that executes votes automatically, in a multisig controlled by a committee, or by a legal wrapper. Each produces a different legal result.

A treasury in an autonomous contract is held by no one. The tokens are controlled by code that executes approved proposals. No person has power of disposal, which means no custodian, no financial intermediary and no one to sue. It also means no one can respond to a court order, a sanctions designation or an exploit. Treasuries of this kind are rare at scale because the risk is intolerable.

A treasury in a multisig is held by the signers. If five of nine named persons must sign, those nine have joint power of disposal and, in Swiss terms, are a simple partnership holding assets for the community. Each is a potential financial intermediary if the treasury pays third parties on behalf of others, as well as a potential defendant. Signers should be employed or engaged by a legal wrapper that indemnifies them and should sign only in that capacity.

A treasury held by a legal wrapper is the cleanest result. The foundation, association or company owns the tokens, its organs control the keys and its liability is its own. The community's votes direct the wrapper to the extent its constitution provides. The author's recommendation in every DAO engagement is to move the treasury into a wrapper and to keep the on-chain governance as the mechanism by which the wrapper's organs are instructed or informed.

Checklist

Before advising a DAO or a governance token holder, establish and record: - Whether a legal wrapper exists, in which jurisdiction and of what type. - Who holds the treasury: an autonomous contract, a multisig (and who the signers are), or the wrapper. - Whether on-chain votes bind the wrapper's organs in law, or only inform them. - Whether the protocol distributes value to token holders, which affects both the token's classification and the wrapper's permitted purpose. - Whether any person holds an administrator key over the protocol's contracts, and in what capacity. - Whether the DAO or wrapper performs any activity that is a regulated service in Switzerland (AMLA, FinIA) or Singapore (PSA, SFA, FSMA Part 9). - The tax status of the wrapper and the basis on which its treasury is valued. - The residence of the core team and whether their activity creates a permanent establishment or a licensing nexus anywhere.

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