Responsabilidad de las sociedades y de sus directivos

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Las leyes singapurenses emplean una técnica uniforme para atribuir los delitos a las sociedades y a sus directivos. Los delitos del Penal Code los comete la sociedad a través de los actos y estados mentales de quienes la dirigen (su directing mind), mientras que la persona que realizó materialmente el acto responde como autor o como partícipe. Las leyes regulatorias contienen disposiciones expresas según las cuales el directivo que consintió o toleró el delito de la sociedad, o cuya negligencia contribuyó a él, es culpable del mismo delito. Tanto la Payment Services Act (PSA) como la Securities and Futures Act (SFA) contienen disposiciones de este tipo, y la MAS (la autoridad monetaria y supervisora financiera) identifica habitualmente por su nombre al consejero delegado y al responsable de cumplimiento en sus actuaciones sancionadoras.[1]

Para una matriz suiza con una filial singapurense, la exposición va en ambas direcciones. El delito de un directivo singapurense puede constituir el delito subyacente de una acusación suiza por blanqueo cuando el producto llega a una cuenta suiza. A su vez, la matriz suiza puede incurrir en responsabilidad conforme al art. 102 del Código Penal suizo (StGB/CP) si el delito fue posible por un defecto de

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organización (véase la parte H, capítulo I). Una estructura de cumplimiento que trate a ambas entidades como compartimentos estancos invita precisamente a ese resultado.

Notas

1. Payment Services Act 2019, s 99, y Securities and Futures Act 2001, s 331 (offences by bodies corporate and liability of officers), Singapore Statutes Online. ↩

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