



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

- (1) REPORTABLE: YES
(2) OF INTEREST TO OTHER JUDGES: YES
(3) REVISED.

SIGNATURE

DATE: 1 June 2026

Case No. 2022-029979

In the matter between:

SQUARE MANGUNDHLA

First Applicant

FUNGAI DANGAISO

Second Applicant

and

SOUTH AFRICAN RESERVE BANK

First Respondent

MINISTER OF FINANCE

Second Respondent

**DEPUTY GOVERNOR, SOUTH AFRICAN
RESERVE BANK**

Third Respondent

Summary

Cryptocurrency, at least in the form of Bitcoin, is both “money” and “capital” for the purposes of the Exchange Control Regulations, 1961 and Currency and Exchanges Act 9 of 1933. The contrary decision in *Standard Bank of South Africa v South African Reserve Bank* 2025 (5) SA 289 (GP) is clearly wrong.

JUDGMENT

WILSON J:

1 The central question in this case is whether cryptocurrency (in this instance Bitcoin) constitutes either “money” or “capital” for the purposes of section 10 (1) (c) of the Exchange Control Regulations, 1961. I conclude that it is both. This conclusion arises not only from the plaintext meaning of the Regulations themselves. It is reinforced by any reasonable purposive interpretation of those Regulations. The purpose of the Regulations is three-fold. It is, firstly, “to prevent loss of foreign-currency resources through the transfer abroad of financial capital assets held in South Africa”; secondly “to ensure effective control of the movement of financial and real assets into and out of South Africa”; and thirdly, “to avoid interference with the efficient operations of the commercial, industrial and financial system of the country” (*South African Reserve Bank v Leathern NO 2021 (5) SA 543 (SCA)*, paragraph 36). On any sensible construction of the facts, cryptocurrency is a “financial capital asset” in the sense conveyed here, the unregulated export of which would frustrate each of these purposes. Submissions to the contrary tend to rely on cryptocurrency’s unregulated, intangible, and technological features. They entail a degree of magical thinking which misconstrues the nature of money, underplays the destructive effects of unregulated capital flows, and ignores the fundamental purpose of the Exchange Control Regulations.

The applicants and their use of cryptocurrency

2 The first and second applicants both possess accounts on the Luno platform. Luno is a well-known cryptocurrency trading website. It was accepted before me that the second applicant, Ms. Dangaiso, does not trade in cryptocurrency.

Her involvement in this case arises solely from the fact that the first applicant, Mr. Mangundhla, used her account to circumvent the limit that would ordinarily apply to the trades he could carry out using his account alone. Mr. Mangundhla traded in cryptocurrency quite lawfully for an extended period between April 2015 and December 2017. However, from January 2018, Mr. Mangundhla's behaviour on the accounts changed. Between January 2018 and March 2020, Mr. Mangundhla used the accounts to funnel just under 1680 bitcoin purchased in South Africa, worth just under R182 million, to bitcoin wallets that were only accessible through cryptocurrency exchanges registered outside South Africa.

- 3 The first respondent, the Reserve Bank, takes the view that this conduct amounted to the exportation of the Bitcoin and their rand value, contrary to section 10 (1) (c) of the Regulations. Exercising his delegated powers under Regulation 22B of the Regulations, the third respondent, the Deputy Governor, declared forfeit to the state just under R6 million in Bitcoin assets and money standing to the applicants' credit in their respective Standard Bank accounts and Luno cryptocurrency trading accounts. The basis of the forfeiture order was that this money and cryptocurrency was either the proceeds of Mr. Mangundhla's contravention of the Regulations, or was itself in the process of being unlawfully exported.
- 4 The forfeiture order also relied upon the propositions that the transactions amounted to the removal of "securities or foreign currency" from South Africa without the Treasury's permission, contrary to Regulation 3 (1) (a), and that the transactions resulted in a "payment to, or in favour of, or on behalf of, a

person resident outside” South Africa without the Treasury’s permission, contrary to Regulation 3 (1) (c). The evaluation of these propositions would require me to consider whether cryptocurrency amounts to a “security” or a “foreign currency” or to decide whether crediting a cryptocurrency wallet in an exchange hosted outside South Africa amounted to a “payment” to the holder of the wallet.

- 5 Whatever the proper construction to be placed on the transactions, there was no dispute before me either that the transactions actually took place or that Mr. Mangundhla was behind them, albeit acting in concert with other individuals, who caused him to facilitate the transactions, or co-operated in carrying them out. The parties also agree that Mr Mangundhla did not have the Treasury’s permission to perform these transactions, which he would need if they amounted to the export of capital from South Africa. The main dispute in this case is about whether Mr. Mangundhla needed the Treasury’s permission to perform the transactions.

The review

- 6 The answer to that question depends on whether the Regulations can be read to apply to cryptocurrency transactions at all. The applicants seek to review and set aside the forfeiture orders, principally on the basis that the Regulations have no such application. The applicants’ case is fourfold. First, they say that cryptocurrency is neither capital, nor currency, nor a security under the Regulations, and that its transfer to a wallet registered on a foreign cryptocurrency exchange is not a “payment” to the holder of the wallet. Accordingly, there was no basis on which a forfeiture order could be made,

because the Regulations do not apply to cryptocurrency. Second, they say that, even if cryptocurrency can appropriately be considered “capital”, there is no evidence that the currency was “exported” in the sense required by section 10 (1) (c) of the Regulations. Third, they say that even if the relevant transactions did result in exportation of cryptocurrency in a manner contrary to the Regulations, the investigation that drew that conclusion was procedurally unfair, and the outcome of the investigation ought to be set aside on that ground alone. Fourth, and if all else fails, the applicants say that cryptocurrency is neither “money” nor “goods” for the purposes of sections 22A and 22B of the Regulations. Accordingly, the applicants say, the Bitcoin balances in their Luno accounts are not subject to forfeiture.

7 The Exchange Control Regulations were issued under the Currency and Exchanges Act 9 of 1933. Section 9 (2) (d) (i) of the Act sets out the grounds on which a forfeiture order may be reviewed. They are either “that the person who made [the forfeiture order] did not act in accordance with the relevant provisions of the regulation” or “that such person did not have reasonable grounds to make such decision or to take such action” or “that such grounds for the making of such decision or the taking of such action no longer exist”.

8 The mainstay of applicants’ case is that the forfeiture orders were not issued “in accordance with the relevant provisions of the regulation” authorising them. That case boils down to the argument that the Regulations do not apply to cryptocurrency, which is neither “money”, nor “capital” nor a “security” for the purposes of the Regulations. Nor does its transfer to cryptocurrency wallets hosted on foreign exchanges result in a “payment” to the holder of the wallet

or the “export” of “capital”. If the applicants are right in asserting that the Regulations do not apply, then the forfeiture orders must certainly be set aside.

Do the Exchange Control Regulations apply to cryptocurrency?

- 9 The Reserve Bank’s principal argument is that the transactions were carried out in contravention of Regulation 10 (1) (c). That argument raises the question of whether cryptocurrency is “capital” under the Regulations, and the question of whether its transfer to cryptocurrency wallets on exchanges registered outside South Africa amounts to its “export”. Counsel agreed that, if I concluded that cryptocurrency is “capital” that was “exported” for the purposes of section 10 (1) (c), I need not consider the meaning of Regulations 3 (1) (a) or (c). Given that I consider that the Bitcoin transactions at issue in this case did count as capital exports in breach of Regulation 10 (1) (c), in what follows, I express no view on whether the transactions also breached Regulations 3 (1) (a) or (c).

Cryptocurrency is “capital” under Regulation 10 (1) (c)

- 10 Regulation 10 (1) (c) provides that “[n]o person shall, except with permission granted by the Treasury and in accordance with such conditions as the Treasury may impose enter into any transaction whereby capital or any right to capital is directly or indirectly exported from the Republic”. The applicants admit the transactions and the absence of the Treasury’s permission for them. At issue is whether those transactions amounted to the “export” of “capital”.

- 11 The construction to be given to the word “capital” involves an act of statutory interpretation. The effect of the Regulation must be determined by a consideration of the ordinary grammatical meaning of its text, the context in which the text appears and the purpose of the Regulation read in light of the overall purpose of the legislation in which it appears (*Road Traffic Management Corporation v Waymark Infotech (Pty) Ltd* 2019 (5) SA 29 (CC), paragraph 29). The “inevitable point of departure is the language of the provision itself read in context and having regard to the purpose of the provision” (*Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA), paragraph 18).
- 12 I turn, then, to the ordinary meaning of the word “capital”. Capital is, at its broadest, an asset produced to bear value or which is used to produce other assets of value. It seems clear, though, that Regulation 10 (1) (c) was not intended to apply to literally every capital asset so defined. In *Oilwell (Pty) Ltd v Protec International Ltd* 2011 (4) SA 394 (SCA) (“*Oilwell*”) at paragraphs 9 to 11, the Supreme Court of Appeal found that the Regulations deploy the word “capital” in its financial sense. Immovable property or other tangible goods, while capable of being capital assets that generate value, are not “capital” for the purposes of the Regulations. Neither, the court found, was a trademark (although the Regulations were later amended to define intellectual property rights as “capital”). Capital under the Regulations is instead a financial asset of some sort. It seems clear from *Oilwell* that capital is to be closely identified with “cash for investment” or “money that can be used to produce further wealth” (*Oilwell*, paragraph 9).

13 I do not think, however, that *Oilwell* can be read as authority for treating “capital” as synonymous with “money” or “cash” in the sense of fiat currency – the kind of money issued by a central bank, the value of which depends essentially upon the state’s promise to pay the bearer of a banknote the amount specified on the note, and on its capacity to guarantee the value of bank deposits made in the fiat currency. If that were so, there would be no difference between the terms “capital” and “currency”, both of which are deployed in the Regulations to mean different things. Instead, it seems to me that “capital” means any financial asset that is capable of holding value or being used as a medium of exchange. It obviously includes all fiat currency, but would also include any negotiable instrument, or, indeed, any other document or token that bears a fixed or ascertainable exchange value. In light of the post-*Oilwell* amendment to the Regulations to include intellectual property rights, the meaning of the “capital” may well reach further than that, since the amendment obviously developed the meaning of the term after it was considered in *Oilwell*. However, I need not go that far. It seems to me that even if capital is given the relatively narrow definition of any financial asset that is capable of holding value or being used as a medium of exchange, cryptocurrency is certainly capital.

14 Ms. Eksteen submitted that the unique intangible and technological features of Bitcoin place it beyond any sensible definition of “capital”. But I think that was unrealistic. Bitcoin is a virtual currency. It relies for its value on the blockchain, which is a finite ledger of all the Bitcoin transactions which have ever taken place. As Bitcoin is used and exchanged, the blockchain grows, because more transactions have to be recorded. The ledger requires complex

cryptographic technology to maintain its accuracy, and the trust of the people who use it. That, in turn, requires vast quantities of computing power. Individual users sometimes lend their computer processing power to perform the complex cryptographic functions necessary to add securely and accurately to the blockchain. When they do so, they are paid in Bitcoin, and given a cryptographic key which enables them to alter the record of a credit in their favour on the blockchain. That ledger credit, the Bitcoin, can be ceded or sold to others, who then acquire their own unique cryptographic key to a portion of the blockchain which records a credit in their favour (and a corresponding debit against the person from whom they acquired the Bitcoin).

15 And so the system goes on. The computing power needed to add to the blockchain, together with the fact that there is, according to the complex mathematics which underpin the blockchain, a finite number of Bitcoin that can ever be produced, keeps the currency scarce enough to hold value. But the “mining” of Bitcoin (essentially the lending of the computing power necessary to perform the complex calculations necessary to update the blockchain) ensures that the supply of Bitcoin will continue to increase at a predictable rate until the mathematically set limit is reached. This has the nett effect of expanding the number of people incentivised to use Bitcoin as a store of value and a medium of exchange. In other words, it expands the scope of the market in which Bitcoin can be transacted.

16 In these circumstances, it seems to me that Bitcoin is plainly capital in the sense that it is a financial asset that is capable of holding value and being used as a medium of exchange. Bitcoin can be exchanged for fiat currency. It

is, in other words, possible to buy Bitcoin using South African rand, to hold it in the expectation that its rand price will increase, and then sell the Bitcoin on at a profit. In some places, Bitcoin is also accepted by merchants as a form of currency.

17 What the Reserve Bank says happened in this case is that Mr. Mangundhla used his and Ms. Dangaiso's Luno accounts to purchase Bitcoin on behalf of, and using South African rand provided by, third parties. He then credited the Bitcoin so purchased to wallets held on cryptocurrency exchanges registered outside South Africa. In this way, the ordinary rules applicable to the export of capital were avoided, because the Bitcoin transferred to the foreign cryptocurrency exchanges could only be kept in a cryptocurrency account outside South Africa. The nett effect was that the rand value of the Bitcoin transferred to the foreign exchanges (around R182 million) left the country. It was, the Reserve Bank says, exported.

18 If that is correct, then the regulation of Bitcoin as capital is essential to maintain the effectiveness of the capital controls embodied in the Currency and Exchanges Act, and in the Exchange Control Regulations. Were it otherwise, those controls would be virtually worthless, as anyone of any means who wished to take their money abroad could do so without Treasury oversight, simply by converting it into cryptocurrency and transferring it to a foreign cryptocurrency exchange. This would be completely at odds with the underlying purposes of the exchange control regime: to regulate, and, where necessary to curb, the outflow of capital (*South African Reserve Bank v Shuttleworth* 2015 (5) SA 146 (CC), paragraph 53).

- 19 Accordingly, text, context and purpose all point in the same direction: Bitcoin is “capital” for the purposes of Regulation 10 (1) (c). Strictly speaking, I need not decide whether all cryptocurrency is subject to Regulation 10 (1) (c). However, to the extent that any cryptocurrency is a financial asset capable of holding value or being used as a medium of exchange, it seems to me that it must also be “capital” under section 10 (1) (c).
- 20 Ms. Eksteen advanced two further arguments to the contrary. The first entailed reliance on various reports and issue papers published by entities controlled by or closely associated with the Reserve Bank. These documents tended to treat cryptocurrency as a phenomenon which might not be adequately regulated by the Exchange Control Regulations as they currently stand. I was urged to interpret section 10 (1) (c) in light of them, and in light of the fact that cryptocurrency could not have been in the contemplation of the drafters of the Act and the Regulations at the time they were promulgated in 1933 and 1961.
- 21 However, I do not think either of these propositions affects a straightforward purposive interpretation of the relevant provisions. In the first place, what one or other consultant thinks the regulatory framework covers when they write a report for the government, a parastatal or a think-tank makes very little difference to the interpretive exercise. This material might not always be entirely irrelevant, but its impact must be marginal at best. Moreover, although a legislator or drafter in the early 1930s and early 1960s may not have foreseen the possibility of cryptocurrency, they certainly knew all about the nature of financial assets, negotiable instruments, and fiat currency. The Act was drafted during the Great Depression, which was brought on in part by a

collapse of confidence in the financial markets. Its drafters would have been keenly aware of just how fungible financial assets can be. If, as I have found, Bitcoin is a kind of financial asset, it would not have been difficult for a reasonably well-informed legislator in the early 1930s to understand its essentials.

22 Secondly, I was referred to this court’s decision in *Standard Bank of South Africa v South African Reserve Bank* 2025 (5) SA 289 (GP) (“*Standard Bank*”), in which my brother Motha J found that cryptocurrency is neither “money” nor “capital” for the purposes of the exchange control regime. Ms. Eksteen submitted that I should not depart from that decision unless I conclude that it is clearly wrong.

23 I respectfully so conclude. The bite of *Standard Bank* appears at paragraphs 64 and 65, in which Motha J holds that cryptocurrency is not “considered legal tender in many countries”; is “nothing more than codes on a digital ledger”; that it “exist[s] anywhere and everywhere and [has] a global nature”; and that a restrictive interpretation of the Regulations is to be preferred because of the punitive nature of the Reserve Bank’s powers to order forfeiture.

24 It seems to me, however, that the point in issue has less to do with the inherent nature of cryptocurrency than with the purposes to which it can be put. To the extent that cryptocurrency is a financial asset that holds value and is used as a medium of exchange through which capital can be taken from within South Africa and placed beyond its borders, it does not matter that it may not be legal tender (in other words fiat currency), or that it exists as an entry on a digital ledger. Motha J’s emphasis on the intangible and technological characteristics

of cryptocurrency overlooks the real world consequences of its use. In my view, courts should be careful not to ascribe unusual or irreducibly exotic properties to phenomena which, though novel and perhaps unique in some respects, exhibit precisely the attributes an enactment is intended to regulate. And while I agree with Motha J that punitive statutes should generally be interpreted restrictively, the overriding function of a court in construing a statute is to give it the appropriate meaning in light of the words it uses, the context in which they appear and the purpose for which the legislation is enacted. An excessively punitive meaning might implicate a statute's constitutional validity. However, where the only reasonable interpretation of a statute is that it intends to attach harsh consequences to defined conduct, the statute must, absent a challenge to its validity, be applied as it is found.

The capital was exported

25 I think it follows from the undisputed facts that the capital at issue in this case was “exported” within the meaning of Regulation 10 (1) (c). Export takes place when the thing exported leaves the country. The mere fact that the Bitcoin was credited to cryptocurrency wallets on foreign exchanges is enough to conclude that capital was exported. Ms. Eksteen argued that export could not have taken place unless the holders of those wallets could be identified as resident in a foreign jurisdiction or it could be established that the Bitcoin was converted to foreign currency in a foreign jurisdiction. I do not agree. Plainly, once the Bitcoin was placed beyond the Reserve Bank's jurisdiction, it was exported.

26 Ms. Eksteen also emphasised the fact that the relevant Bitcoin wallets could be accessed from anywhere in the world, including from within South Africa.

But that does not matter either. The starting point is location of the account, not the location of the account holder. A person who goes to an ATM in Johannesburg and draws cash from a bank account held in the United Kingdom clearly imports the money they draw. Conversely, a person who draws money from a South African bank account at an ATM in London clearly exports the money from South Africa.

27 It follows both that the Exchange Control Regulations apply to the transactions at issue in this case, and that the Regulations were breached when the transactions took place. When the Reserve Bank ordered forfeiture, it was acting in accordance with the applicable Regulations.

Procedural Fairness

28 I turn now to the applicants' complaint under PAJA. The complaint is hard to pin down. There is reference in the papers to the forfeiture orders constituting a "material error of law" under PAJA, but that seems to be no more than a regurgitation of the argument that the forfeiture orders were not made in accordance with the Regulations, because the Regulations do not apply to cryptocurrency.

29 Rather, the applicants' true complaint under PAJA appears to be that the applicants were given so little time to respond to the outcome of the Reserve Bank's investigation that the forfeiture orders made on the strength of it were vitiated by procedural unfairness.

30 I find that claim impossible to credit. In the first place, the applicants became aware of the Reserve Bank's investigation, at the latest, on 19 July 2019. They

were interviewed as part of the investigation on 13 January 2022 in Mr. Mangundhla's case, and on 15 March 2022 in Ms. Dangaiso's case. The outcome of the investigation was made known to the applicants on 30 May 2022, and the forfeiture orders were made on 4 July 2022 (against Mr. Mangundhla) and on 7 July 2022 (against Ms. Dangasio). The applicants' papers do not explain why the three years they had to engage with the investigation and the 5 weeks they had to be heard in relation to the Reserve Bank's intention to issue the forfeiture orders was insufficient to make whatever representations they wished.

31 Moreover, neither of the applicants disputes the contents of the Reserve Bank's investigation report. Nor do they dispute any of the material facts alleged in the Reserve Bank's answering affidavit. As Ms. Eksteen confirmed in argument, this case raises purely legal issues about whether the Regulations apply to the relevant Bitcoin transactions – not whether the conduct alleged by the Reserve Bank actually took place. In those circumstances, it is hard to appreciate why the apparently ample opportunity to engage with the investigation or the report was insufficient. Their factual conclusions have never been placed in issue.

32 Accordingly, I reject the PAJA complaint.

Forfeiture

33 Finally, it was argued that, even if the forfeiture orders were good against the money held in the applicants' bank accounts, they could not lawfully apply to the Bitcoin in the applicants' respective Luno wallets. The argument was that

the Regulations only authorise the forfeiture of “goods” or “money”. Bitcoin, Ms. Eksteen submitted, is neither.

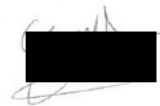
34 The force of this contention depends in large part in my accepting that Bitcoin is something other than I have found it to be. “Money” under the Regulations is defined to include “any bill of exchange or other negotiable instrument”. The qualities I have attributed to Bitcoin are plainly sufficient to bring it within the definition of a “negotiable instrument” in that it is no more than a right to be credited a specified sum of Bitcoin, which is itself exchangeable for fiat currency and other things of value. But even if I am wrong, Bitcoin’s general characteristics bring it well within any sensible conception of money. It can be converted into fiat currency. It can also be used directly to purchase goods and services from merchants who accept it. It is both a medium of exchange and a store of value. In my view, Bitcoin is clearly money. The Bitcoin was correctly subject to forfeiture.

Order

35 It follows that the review application must fail. I have some hesitation in endorsing the forfeiture order made against the money in Ms. Dangaiso’s bank account. I am left to wonder whether, given Ms. Dangaiso’s apparently limited involvement in Mr. Mangundhla’s activities, an order for forfeiture against her might be disproportionate. No such case was made out, however. In the absence of such a case I am required to accept that the money in Ms. Dangaiso’s account was linked to the illegal transactions closely enough to justify a forfeiture order.

36 The parties were agreed that the importance and complexity of this case justify an order that counsel's costs be taxed on the "C" scale. I accept that submission. Although the Reserve Bank asked for the costs of three counsel, I am satisfied that the costs of two counsel will suffice. The papers are not particularly lengthy. The case turned out to raise relatively narrow legal issues, which, though important, only really justified the involvement of two counsel. However, I do not mean to suggest that any of the counsel employed in this case were anything less than competent and diligent. I derived considerable assistance from counsel's work, which was of obvious quality. I am grateful for it.

37 The application is dismissed with costs, including the costs of two counsel, which may be taxed on the "C" scale.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 1 June 2026.

HEARD ON: 11 May 2026

DECIDED ON: 1 June 2026

For the Applicants: E Eksteen SC
A Roestorf
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For the First Respondent: KW Lüderitz SC
E Kromhout
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