



TO: NATIONAL TREASURY OF SOUTH AFRICA

VIA EMAIL: [commentdraftregulations@treasury.gov.za](mailto:commentdraftregulations@treasury.gov.za);  
[commentdraftlegislation@treasury.gov.za](mailto:commentdraftlegislation@treasury.gov.za)

17 JUNE 2026

RE: WRITTEN COMMENTS ON DRAFT CAPITAL FLOW MANAGEMENT REGULATIONS,  
2026 (FORMERLY KNOWN AS THE EXCHANGE CONTROL REGULATIONS, 1961)

FROM: THEUNS DU BUISSON ON BEHALF OF SOLIDARITY

VIA EMAIL: [THEUNS@SOLIDARITEIT.CO.ZA](mailto:THEUNS@SOLIDARITEIT.CO.ZA)

To whom it may concern

We submit these comments on behalf of our members in terms of Section 200 of the Labour Relations Act, as well as the broader South African public who has a direct interest in the proposed changes to capital flow management regulations.

We specifically write on behalf of our members who hold gold and cryptocurrency assets for various means.

It must be clear from the outset that these comments are not intended to be exhaustive of all matters, issues or rights of our members, and we reserve the right to address same at an appropriate time and in an appropriate forum, should it become necessary to do so.

## **Submission**

### **Introduction and background**

Solidarity notes with concern the proposed capital flow management regulations. It is specifically concerning when keeping in mind that current international trends are to liberalise capital regulation and do away with exchange controls. Should these regulations be enforced, South Africa would stand almost alone in its aversion to the free flow of capital and currency, especially cryptocurrency.



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In the broader context, harsher, or even any, controls would make South Africa a less favourable investment destination. Enforcing stricter controls, or expanding controls to cover other assets is therefore the opposite of what needs to be done in order to make South Africa an attractive investment destination.

When the Currency and Exchanges Act was introduced in 1933, the world economy was much less integrated and South Africa faced serious threats that no longer exist, or has become much less of a concern. Similarly, when the act was allowed to remain in effect in the pre democratic era, South Africa faced sanctions, which may have required currency controls to remain in place. This reality also no longer exists.

Therefore, keeping currency controls and capital flow regulations active holds little to no benefit, whilst artificially restricting trade and investment. There is then no trade-off, as only the restrictive aspect remains to have any effect.

### **The unique nature of cryptocurrency**

Many cryptocurrencies exist, each serving a unique purpose. Although most cryptocurrencies seem to exist purely for speculation, it is not necessarily the case that this will remain true for many, as the mature and become used in their respective niche environments. Many legitimate businesses already accept payment and facilitate transactions in cryptocurrencies, with Bitcoin being the foremost example.

As Bitcoin is not bound to any country or nation, and therefore does not enter and cross borders as gold or physical cash does, no nation can claim to have control over it, or over how it is to be held and used by citizens. The decentralized nature of Bitcoin is exactly what makes it attractive, as it is not linked to the prosperity or political whims of any particular state or country. When uncertainty exists in the world, Bitcoin may be a safe haven for those who wish to remain as unaffected by uncertainty as possible. Any attempt to regulate Bitcoin would therefore offend the very purpose of the currency.

Other cryptocurrencies such as stablecoins are used specifically for international trade. As they are meant to protect both parties against exchange rate volatility in international transactions, they serve a legitimate and important role. Introducing administrative delays into using such currencies would erode much of the functionality thereof, and may once again force users of stablecoins to be at the



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mercy of unpredictable market volatility. With the South African Rand being one of the most volatile currencies in the world, this should be especially concerning to international investors that frequently transact with South Africans.

Cryptocurrencies are therefore unique assets, that resemble other currencies, but that are often designed to strengthen their role, rather than to replace them.

Attempting to apply specific regulations to cryptocurrencies would therefore erode the role thereof in the economy.

### **Overreach in proposed regulations**

The extended powers granted to treasury and the reserve bank also seems to offend multiple constitutional rights, as well as the current legal framework. In South Africa, one is deemed innocent until proven guilty. This is one of the fundamental legal principles in our great country. These regulations, however, seem to skip over all judicial proceedings and could then force holders of cryptocurrency to forfeit their assets without any process whatsoever.

This would deprive holders of cryptocurrency of their assets without due process, which is a clear violation of Section 25 of the constitution.

Section 14 of the constitution also guards all within South Africa against violations of their privacy. This right to privacy is infringed upon if treasury officials are granted the power to force holders of cryptocurrency to surrender their passcodes and crypto holdings.

Having to declare holdings in itself is a clear violation of privacy. Adding the subjection to search and seizure proceedings is a further assault on fundamental rights and freedoms.

Being forced to surrender such information as cryptocurrency holdings not only exposes the owner thereof to certain risks, but may also offend the right to be protected from self-incrimination – section 35 of the constitution.

Section 21 allows all citizens and people who are legally present in the country to leave it. One should therefore be allowed to leave with ones assets, as any other conclusion would infringe the right of citizens to leave.



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Overall, the extensive powers of search and seizure offends the very purpose and spirit of the constitution.

### **Recommendation**

Solidarity recommends that:

- the draft capital management regulations be withdrawn in its entirety.
- Cryptocurrencies be recognised as a legitimate asset with the same protections as for other assets and property granted to holders thereof
- The process of phasing out all exchange control and capital flow laws and regulations be embarked upon.

We trust that our comments will be favourably received. We remain willing to engage in a constructive manner.

Respectfully submitted



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Theuns du Buisson

On behalf of

Solidarity



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