PROPERTY RIGHTS DEFENSE GROUP

Defending the individual. Defending your rights.
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SUBMISSION ON THE DRAFT CAPITAL FLOW MANAGEMENT REGULATIONS, 2026

Government Notice 7375 in Government Gazette No. 54520, 17 April 2026, made under section 9(1) of the Currency and Exchanges Act 9 of 1933

EXECUTIVE SUMMARY

Before anything else, these regulations should not be passed yet. Two High Courts have just disagreed about whether cryptocurrency is even covered by the existing exchange-control law. That fight is now headed to the Supreme Court of Appeal. Until the SCA rules, Treasury does not actually know what its own current law does. You cannot build new rules on a foundation no one has settled. The consultation should be paused until the SCA has spoken. See Part A.3.

If Treasury proceeds anyway, the Property Rights Defense Group ("PRD") makes two main points.

First, capital controls are the wrong tool for crypto. Bitcoin and other crypto-assets live on global networks. They are not held in local banks. They have no physical location. The 1961 exchange-control framework was built for cash and bank wires. It does not fit this kind of asset. Countries that have dropped exchange controls on residents have grown richer. Countries that have tightened them have driven savings out, not in. PRD's primary request is the withdrawal of these regulations and the publication of a plan to phase out exchange controls on residents.

Second, if Treasury still proceeds, self-custody of crypto by individuals must be excluded. No threshold should apply. Forcing individuals to use custodians, to declare their holdings, to sell to the State on demand, or to accept attachment and forfeiture without a warrant, breaks every

property and privacy right the Constitution protects. It also builds a register that Treasury cannot safely hold. On 20 May 2026 Treasury leaked nearly a thousand submitters' identities through a misconfigured email. The same regime would create a confiscation pipeline that, in a country with South Africa's documented record on corruption, will hand large amounts of citizens' money to dishonest officials.

PRD also objects on process: a comment window that was too short, then shortened, then extended only at the last minute by Media Statement; multiple inconsistent submission email addresses; an undisclosed threshold; and no impact assessment.

The full relief is in Part C.

PART A, PRELIMINARY MATTERS

A.1 Who We Are

The Property Rights Defense Group ("PRD") is a civil-society organisation that protects the property rights of ordinary South Africans. We act for individuals, not banks and not corporations.

A.2 Standing

PRD makes this submission in the public interest under section 38(d) of the Constitution, on behalf of every person whose rights are threatened by the draft regulations. PRD also represents its own members and constituents.

A.3 Preliminary Objection: Wait for the Supreme Court of Appeal

PRD's first and clearest objection is this: the regulations should not be passed yet. The courts are still working out what the existing exchange-control law even covers. Two High Courts have just reached opposite conclusions on whether cryptocurrency is "capital" under those rules:

- In *Standard Bank of South Africa Limited v South African Reserve Bank and Others* (047643/2023) [2025] ZAGPPHC 481, the Pretoria High Court (Motha J, 15 May 2025) said no. Cryptocurrency is not "capital" under the 1961 Exchange Control Regulations. The gap is a matter for Parliament, not the courts.
- In *Square Mangundhla and Another v South African Reserve Bank and Others* (24/37547), the Johannesburg High Court (Wilson J, 1 June 2026) said yes. Bitcoin is "money" and "capital" under the same rules.

The South African Reserve Bank has filed a notice of appeal in *Standard Bank*. Its order is suspended pending appeal under section 18(1) of the Superior Courts Act 10 of 2013. The Supreme Court of Appeal will have to settle the conflict.

PRD takes no position on which judgment is right. The point is that the question is not yet settled. The draft regulations are made under the same statute (section 9(1) of the Currency and Exchanges Act 9 of 1933). Either:

- the SCA backs Motha J, in which case Treasury's claim that the new regulations are needed to "modernise" an exchange-control regime that already covers crypto falls away; or
- the SCA backs Wilson J, in which case the new regulations (especially the still-undisclosed "threshold" left to a future Ministerial notice under Reg. 31) need to be redesigned against a baseline in which crypto is already "money".

Either way, Treasury cannot finalise these regulations until it knows which world it is in. PRD asks Treasury to stay the consultation, and not promulgate these regulations, until the SCA has ruled. In the alternative, withdraw the draft and re-issue for fresh consultation once the SCA has ruled.

The cost of waiting is low. The 1961 regulations stay in force in the meantime. The cost of not waiting is high: a 2026 regulatory framework that the SCA may, within months, declare to be built on the wrong premise.

A.4 Process Objections

PRD also objects to the way this consultation has been run.

The comment window. The 17 April 2026 Gazette (Notice 7375 in Gazette 54520) gave the public roughly 31 days. The 15 May 2026 Media Statement extended the window to 30 June 2026, but only three days before the original deadline, and only by Media Statement. The extension was Gazetted (Notice 7489 in Gazette 54697) on Monday 18 May 2026, the very day the original window closed. Submitters working to 18 May, or to 10 June (a third deadline mentioned in other communications), had no chance to plan around the change.

Inconsistent submission addresses. The 17 April 2026 Gazette and the 18 May 2026 Extension Gazette both designate CommentDraftRegulations@treasury.gov.za. The 15 May 2026 Media Statement designates a different address, Commentdraftlegislation@treasury.gov.za. PRD has sent this submission to both. Treasury must confirm a single authoritative channel, and treat as valid every submission sent to any address it has previously advertised.

Undisclosed threshold. The whole regime turns on a "determined threshold" left to a future Ministerial notice under Reg. 31. No threshold has been published. The public is being asked to comment on a regime whose central operative number is unknown. No comment period should be regarded as closed while that figure is still secret.

No Socio-Economic Impact Assessment. None was published with the draft regulations. Without one, Treasury cannot show its proportionality case under section 36 of the Constitution.

This pattern does not meet the standard of meaningful public participation that section 4(1) of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") requires of an organ of state. See *Doctors for Life International v Speaker of the National Assembly* 2006 (6) SA 416 (CC) and *Land Access Movement of South Africa v Chairperson, National Council of Provinces* 2016 (5) SA 635 (CC).

PART B, SUBSTANTIVE OBJECTIONS

B.0 The Wrong Tool for the Job

Before the specific objections, PRD records its overarching point: capital controls are the wrong instrument for crypto, and exchange controls on residents are the wrong instrument for South Africa in 2026. Parts B.1 to B.10 below are made in the alternative.

The architecture does not fit. The 1961 regulations were built for cash, bank wires, paper share certificates, and locally held accounts. They worked on the idea that capital had a physical location and was held through identifiable local banks that could be policed at the border. That premise barely fit 1961. It does not fit 2026 at all.

Crypto has no border. Bitcoin and other crypto-assets are recorded on global networks that exist in every country at once. Ownership is exercised by holding a private key, which can sit in a person's memory or on a small device. Transactions settle directly between people on the network,

without any local bank. There is no domestic intermediary to point a capital-control rule at, and no physical location to attach. The recent High Court disagreement (Part A.3) is a symptom of this mismatch. You can see the courts struggling to fit a categorically new asset into a 1961 framework that was not designed for it.

The historical record is clear. Countries that have removed exchange controls on residents, such as the UK, Australia, New Zealand, Ireland, Sweden, Norway, the Netherlands, Israel, Singapore and Hong Kong, have grown richer. They have deeper markets, more inward investment, and a lower cost of capital. Countries that have tightened controls in response to outflows, such as Argentina, Venezuela and Nigeria at various points, have, without exception, made the problem worse. Capital responds to how it is treated. Where it is welcomed, it accumulates. Where it is treated as a presumptive target, it leaves. What cannot leave is consumed rather than invested.

Relief on this point. PRD asks Treasury and the South African Reserve Bank to:

- Withdraw the draft regulations to the extent they extend the capital-controls regime to crypto-assets held by ordinary people; and
- Publish a roadmap for phasing out exchange controls on residents, with a clear timeline and stated policy goals.

B.1 Self-Custody Must Be Excluded

If Treasury proceeds with the regulations anyway, self-custody of crypto by individuals must be excluded completely. No threshold. No exception.

What self-custody is. Someone who self-custodies their crypto holds the private key themselves. There is no custodian, no exchange, no third party between the person and their property. It is the digital equivalent of cash kept at home, except that, unlike cash, it cannot be inflated away.

Why it matters. Bitcoin was invented to let people hold value without a custodian. A custodian is a third party who can be hacked, can go insolvent, can freeze accounts on instruction, or can be coerced. Forcing people to use a custodian reintroduces every one of those risks. The State neither bears those risks nor underwrites them. The draft contains no Treasury undertaking to compensate users if a custodian is hacked or fails. The risk falls entirely on the user, on pain of criminal penalty (Reg. 29: a fine of up to R1 million or five years in prison).

The provisions PRD objects to. Each of the following must be amended to exclude individuals who self-custody:

- **Reg. 3** (restriction on purchase, sale and loan above the threshold). Makes the lawful sale of an individual's own crypto, above a still-unpublished number, conditional on using a licensed intermediary.
- **Reg. 4** (restriction on export). Prohibits taking your own crypto out of the country without Treasury's permission.
- **Reg. 8** (compelled sale to the State). The most direct seizure in the draft. If you hold above the threshold, you must declare your crypto within 30 days, and Treasury (or a dealer it approves) can buy you out. You must sell.
- **Reg. 10** (mandatory declaration). Every person must declare their crypto, including when, how and where it is held. Once declared, you cannot dispose of it without Treasury's permission.
- **Reg. 20** (information powers). See B.2.
- **Regs. 24 and 25** (attachment and forfeiture). See B.3.

- **Reg. 29** (criminal penalties).
- **Reg. 31** (the secret threshold).

The constitutional anchor. Forcing someone to sell their own property to the State, or to use an intermediary to hold it, is a "deprivation of property" under section 25(1) of the Constitution. To be lawful, it must not be arbitrary. The Constitutional Court's test for what counts as arbitrary is in *First National Bank of SA Ltd t/a Wesbank v Commissioner for the South African Revenue Service* 2002 (4) SA 768 (CC) (the "sufficient reason" test, per Ackermann J). The draft regulations cannot pass it. There is no published threshold, no impact assessment, and no offsetting benefit for the holder.

"Regulation, not deprivation" rebutted. Treasury may argue that the rules only regulate how you hold your crypto, and do not take it away, because you remain the beneficial owner. That is not true. Reg. 8 does not regulate how you hold. It forces you to sell. Regs. 24 and 25 do not regulate. They attach and confiscate. Reg. 3 takes exclusive control away from you and gives it to a third party. The whole point of self-custody is that you have exclusive control. Take that away and you have an IOU, not a property right.

B.2 Private Keys Cannot Be Compelled

Reg. 20(1) lets Treasury order any person to give it any information it thinks it needs. On the face of it, that is broad enough to be applied to compel disclosure of private keys, seed phrases and other access credentials to self-custodied crypto.

A private key is both your property and the mechanism by which you hold it. Compelled disclosure offends:

- Section 14 (privacy). Private keys are within the private sphere and not subject to warrantless compulsion.
- The common-law privilege against self-incrimination, and section 35(3)(j) (right not to be compelled to give self-incriminating evidence). Disclosure can expose the holder to criminal liability under Reg. 29.
- Section 25(1) (no arbitrary deprivation). Handing over the key is the same as handing over the asset.
- Section 12(1)(e) (right not to be treated in a cruel, inhuman or degrading way). Where someone genuinely cannot recall a key, a criminal penalty is disproportionate.

The Constitutional Court has confirmed in *amaBhungane Centre for Investigative Journalism NPC v Minister of Justice and Correctional Services* 2021 (3) SA 246 (CC) that any compelled-disclosure regime must be accompanied by prior independent judicial authorisation, strict necessity and proportionality. Reg. 20(1) does not meet that bar.

Relief. Amend Reg. 20(1) to say expressly that it does not authorise an order compelling disclosure of private keys, seed phrases or access credentials. If such a power is to exist, it must be created in primary legislation with the constitutional safeguards in Part B.3.

B.3 Get a Warrant

Reg. 20(2) lets an appointed official enter and search any premises. They are supposed to have a warrant, but the regulation also lets them enter without one if they "believe, on reasonable grounds" that a warrant would issue and that delay would defeat the purpose. So the official becomes the judge of whether a warrant would issue. That is not how warrants work.

Reg. 24 lets Treasury (or an authorised person) attach money, crypto and property on suspicion. Reg. 25 lets it forfeit attached property to the State, credited to a State-designated deposit address.

Section 14 of the Constitution protects every person from search of their person, home or property without a warrant. The principles in *amaBhungane* apply with equal force. Review under PAJA, after assets have already been attached or forfeited, is not a substitute for advance judicial authorisation. Reg. 20(2)(b)(ii) (the warrantless-entry exception), and Regs. 24 and 25, must be amended so that no search, seizure, attachment or forfeiture is permitted against an individual's self-custodied crypto except under a warrant or order issued in advance by a court.

B.4 Who Gets Hurt

These regulations, as drafted, will hit specific groups of ordinary South Africans hard:

- **The remittance sender.** Millions of South Africans, and migrants working here, send money home using crypto. The rails are often several times cheaper than banks. Reg. 3 and Reg. 4 would, above the threshold, push them back into slower and far more expensive banking channels that many cannot use anyway. The poor pay the price. That offends section 9 (equality).
- **The small merchant.** Informal traders who take crypto as payment will face declaration and reporting obligations out of all proportion to their turnover. The chilling effect falls hardest on those least able to bear it.
- **The long-term holder.** Someone who has saved in crypto for years, the way a previous generation might have saved in physical gold, faces a compelled sale to the State under Reg. 8 if their holding exceeds an unpublished threshold. That is an arbitrary taking under section 25(1).
- **The political dissenter.** Holding wealth outside the banking system is a check on State power. Section 16 (free expression) and section 19 (political rights) presuppose some financial privacy. Compelled declaration under Reg. 10 and compelled intermediation under Reg. 3 remove it. History, including South African history, has plenty of examples of financial controls used to silence dissent.
- **The estate and heir.** Self-custodied crypto forms part of a person's estate. Compelled sale to the State, or a Reg. 10 restraint on disposition, may destroy the inheritance the holder spent a lifetime building.

B.5 The Confiscation Pipeline

The draft regulations do more than regulate. They contain, on their face, a pipeline that moves citizens' crypto into the hands of the State. Reg. 3 forces holdings above the threshold through intermediaries. Reg. 10 forces declaration. Reg. 8 forces sale. Reg. 24 lets the State attach on suspicion. Reg. 25 lets the State forfeit attached crypto to itself. Self-custodied crypto cannot be expropriated by administrative action. A declared, intermediated or attached balance can.

The Expropriation Act, 2024 risk. The Expropriation Act 13 of 2024 (which replaced Act 63 of 1975) sets out the statutory framework for the State to expropriate property, including in defined cases at nil compensation. PRD does not say that Act presently and clearly authorises uncompensated expropriation of crypto. The concern is foreseeable: the centralisation the draft regulations would create, combined with that Act and any future amendment to it, sets up the legal and practical conditions for such an outcome.

A historical analogy. In 1933, United States Executive Order 6102 required citizens to deliver their privately held gold into central official custody. Once the gold was in, the government revalued it, capturing for the State the very appreciation that private holders had been forced to surrender. The structural pattern, namely a compelled centralisation of a hard, self-custodied store of value followed by its appropriation, is the pattern Regs. 3, 8, 24 and 25 set up for crypto.

Relief. Treasury must disavow expressly, in writing, any intention to use Regs. 8, 24 and 25 as an instrument of centralisation preceding expropriation, and amend those provisions accordingly. The cleanest safeguard is to exclude self-custodial holdings of individuals (Part B.1).

B.6 The Corruption Risk

A regime that creates a register of crypto holdings, and a State-controlled forfeiture address, can only be as honest as the officials who run it. The South African public record on that is not encouraging.

- The Zondo Commission (2018 to 2022) implicated more than 1,400 individuals on the evidence, and documented systematic capture of State institutions. Prosecutorial follow-through has been limited.
- The 2025 Transparency International Corruption Perceptions Index placed South Africa at 41/100 (81st of 182), below the global average.
- For 2024/25, irregular, fruitless and wasteful expenditure reached roughly R268 billion at municipal level and R42.5 billion nationally and at State-owned entities.
- Home Affairs has, on its own account, dismissed and prosecuted scores of officials for fraudulent registration of births and deaths and irregular Smart ID issuance.
- In December 2024 a McKinsey subsidiary paid over USD 122 million to settle a US bribery case arising from payments between 2012 and 2016 to senior officials at Transnet and Eskom, in exchange for "sensitive confidential and non-public information".
- The Madlanga Commission (established July 2025) is investigating sworn allegations of criminal infiltration of politicians, senior police, prosecutors, intelligence operatives and judicial figures.

In that environment, a forfeiture address holding seized crypto cannot reasonably be expected to stay honest. Crypto is censorship-resistant. Once a private key passes into the hands of a dishonest official, the asset is, as a practical matter, gone forever. There is no intermediary to reverse the transfer.

A regime that foreseeably creates the conditions for irreversible theft by the very officials who would administer it cannot pass the proportionality test under section 36. The only safeguard that fully addresses the risk is to never create the pool of seizable assets in the first place (Part B.1).

B.7 The Power Does Not Stretch That Far

The draft regulations are subordinate legislation. They are made under section 9(1) of the Currency and Exchanges Act 9 of 1933, and they are valid only to the extent that section 9(1) authorises them.

A power to regulate the movement of capital across borders does not, without express words, extend to:

- Forcing individuals to sell their privately held assets to the State (Reg. 8);
- Attaching and forfeiting those assets (Regs. 24 and 25);

- Compelling broad disclosure that may include private keys (Reg. 20); or
- Criminalising self-custody (Reg. 29).

To the extent section 9(1) does not in express terms authorise these measures, the corresponding regulations are ultra vires and invalid.

Separately, Reg. 31 leaves the threshold, the central operative number in the entire regime, to be set later by Ministerial notice. A limitation of constitutional rights must be in a law of general application. The essential content of that limitation cannot be left to a Ministerial notice published later.

Relief. Treasury must satisfy itself, and place on the record, that each provision of the draft regulations falls within section 9(1) of the 1933 Act, and withdraw any provision that does not, or that sub-delegates the essential legislative choice.

B.8 Already Regulated, So Why This?

Crypto-asset service providers in South Africa are already comprehensively regulated:

- They are accountable institutions under the Financial Intelligence Centre Act 38 of 2001;
- They are licensed and supervised by the Financial Sector Conduct Authority under the existing crypto-asset licensing regime;
- They fall under the Financial Advisory and Intermediary Services Act 37 of 2002; and
- Cross-border movement of value is already reported to the South African Reserve Bank.

The draft regulations do not fill a regulatory gap. They duplicate and extend a framework that already addresses what Treasury has publicly said it is worried about. The predictable result is not more compliance. It is capital flight and a larger black market. A measure that is, on its own terms, counter-productive cannot be a proportionate limitation of rights under section 36.

B.9 The Treasury Data Breach

On 20 May 2026, Treasury distributed an email to nearly a thousand individuals who had submitted comments on the draft regulations. The recipients' email addresses were placed in the visible "To" field instead of "BCC", disclosing the identities of named crypto holders, professional advisers and other members of the public to every other recipient.

This is not a hypothetical risk. It is a completed breach, by the very organ of state that is now asking to centrally collect crypto holdings, wallet addresses, transaction histories, and (on the broad reading of Reg. 20(1)) potentially private keys. The breach is, on its face, a contravention of the Protection of Personal Information Act 4 of 2013, in particular the conditions of accountability, security safeguards and processing limitation. A complaint to the Information Regulator is contemplated.

An institution that cannot configure a mailing list cannot be entrusted with a register of crypto holders. Such a register, once compromised, and on the evidence of 20 May 2026 it will be compromised, exposes every holder on it to targeted home invasion, extortion and, as recent events in France have shown, kidnapping and torture aimed at forcing the surrender of private keys. The rights to life (section 11), bodily and psychological integrity (section 12) and privacy (section 14) cannot be reconciled with a regime that compels centralised collection of exactly the information criminal organisations most want, in the hands of an administrator that has just demonstrated it cannot safeguard that information.

Relief. Treasury must (i) publish the full circumstances of the 20 May 2026 incident and the remedial steps taken; (ii) suspend any provision compelling disclosure of crypto-asset holdings, wallet addresses or access credentials, pending independent certification by the Information Regulator; and (iii) treat the breach as direct and decisive evidence, on the section 36 proportionality enquiry, that less restrictive means must be preferred.

B.10 Capital Flight Is a Symptom, Not the Disease

Treasury has said it is worried about capital flight. PRD accepts that capital flight is happening. PRD disputes the diagnosis.

Capital does not leave South Africa because South Africans are insufficiently policed. It leaves because the policy environment created by the State has, over years, become hostile to private capital. The draft regulations are themselves a paradigm of that environment: a regime that treats every holder of a private key as a presumptive offender, that hands officials sweeping search, seizure and forfeiture powers without prior judicial authorisation, and that does so on the back of a Department that has just shown it cannot keep its own mailing list private.

The remedy for capital flight is not a higher wall around ordinary people's savings. It is a policy environment in which capital is welcome, in which property rights are respected, in which the State treats its citizens as principals rather than suspects, and in which the existing exchange-control regime is phased out rather than extended. Build that environment, and capital will not flee. Build the regime in the draft regulations, and capital flight will accelerate, because every South African with the means to act will rationally conclude that the State has declared their savings to be a target.

A measure that is foreseeably counter-productive (Part B.8), administered by an institution that has just demonstrated it cannot safeguard the data it would compel (Part B.9), and that misdiagnoses the very phenomenon it claims to address (this Part), cannot, on the section 36 proportionality test, be justified as a reasonable limitation of rights in an open and democratic society.

PART C, RELIEF SOUGHT

C.1 Process

PRD asks Treasury to:

- Stay the consultation, and not promulgate the draft regulations, until the Supreme Court of Appeal has ruled on whether crypto is within the existing exchange-control framework (Part A.3);
- In the alternative, grant a further extension of at least 90 days from the date everything outstanding is published, including the Reg. 31 thresholds and the cross-border crypto manual referred to in the 15 May 2026 Extension Statement;
- Publish reasons for the truncated original window, the late extension, and the inconsistency between Gazette and Media Statement submission addresses;
- Confirm a single authoritative submission channel, and treat as valid every submission sent to any previously advertised address;
- Publish all Reg. 31 thresholds before the comment period closes;
- Publish a Socio-Economic Impact Assessment before the comment period closes;

- Confirm, on the record, that the draft regulations fall within the power conferred by section 9(1) of the Currency and Exchanges Act 9 of 1933; and
- Publish the full circumstances of the 20 May 2026 data breach and the remedial steps, and undertake to comply with the directions of the Information Regulator.

C.2 Substance

PRD's primary relief, on the antecedent submission (Part B.0):

- Withdraw the draft regulations to the extent they extend the capital-controls regime to crypto held by individuals; and
- Publish a roadmap, by National Treasury and the South African Reserve Bank, for phasing out exchange controls on residents, including a timeline for removing those controls on individuals holding crypto.

If Treasury proceeds despite the above, PRD's alternative relief:

- Exclude self-custodial holdings of individuals from Regs. 3, 4, 8, 10, 24, 25 and 29;
- Amend Reg. 20(1) to say expressly that it does not authorise an order compelling disclosure of private keys, seed phrases or access credentials;
- Amend Regs. 20(2) and 24 to require prior court authorisation before any search, attachment or forfeiture against an individual's self-custodied crypto, and remove the warrantless-entry exception in Reg. 20(2)(b)(ii);
- Remove Reg. 8 to the extent it forces an individual to sell self-custodied crypto to the State;
- Set any thresholds in primary legislation subject to parliamentary scrutiny, not Ministerial notice under Reg. 31;
- A written undertaking by Treasury that Regs. 8, 24 and 25 are not intended to operate, and will not be permitted to operate, as an instrument of centralisation preceding expropriation (Part B.5);
- Withdraw any provision that exceeds section 9(1) of the Currency and Exchanges Act 9 of 1933, or that impermissibly sub-delegates the essential legislative choice (Part B.7);
- Suspend any provision compelling disclosure of crypto-asset holdings, wallet addresses, transaction histories or access credentials, pending independent certification of Treasury's information-security capacity by the Information Regulator (Part B.9); and
- Withdraw the draft regulations to the extent they duplicate the existing FIC, FSCA and FAIS framework (Part B.8).

PART D, CONSTITUTIONAL RIGHTS ENGAGED

Section	Right	Where it bites
9	Equality	Disproportionate burden on unbanked and migrant remitters (B.4)
10	Dignity	Stripping the individual of independent wealth-holding (B.1)
11	Life	Risk from leaked crypto-holder registers (B.9)

Section	Right	Where it bites
12(1)	Bodily and psychological integrity	Risk from leaked registers; penalty for genuine inability to disclose a key (B.2, B.9)
14	Privacy	Information compulsion; warrantless search; demonstrated data-handling incapacity (B.2, B.3, B.9)
16	Freedom of expression	Financial privacy underpins expressive freedom (B.4)
19	Political rights	Compelled declaration as a tool of political control (B.4)
22	Freedom of trade	Compelled intermediation of personal asset-holding (B.1)
25(1)	Property: no arbitrary deprivation	Compelled sale and forfeiture to the State (B.1, B.5)
33	Just administrative action	PAJA s.4(1) compliance; truncated comment window (A.4)
35(1) / 35(3)(j)	Self-incrimination, fair trial	Compelled key disclosure (B.2)
36	Limitation clause	Proportionality across B.6, B.8, B.9, B.10
38	Standing	PRD's standing under s.38(d) (A.2)
195	Public administration	Accountability and transparency of the Treasury process

PART E, PRINCIPAL AUTHORITIES

Standard Bank of South Africa Limited v South African Reserve Bank and Others (047643/2023) [2025] ZAGPPHC 481; 2025 (5) SA 289 (GP). Pretoria High Court (Motha J, 15 May 2025). Crypto not "capital" under the 1961 Exchange Control Regulations. SARB notice of appeal lodged 3 June 2025; order suspended pending appeal.

Square Mangundhla and Another v South African Reserve Bank and Others (24/37547). Johannesburg High Court (Wilson J, 1 June 2026). Bitcoin is "money" and "capital" under regulation 10(1)(c) of the 1961 Exchange Control Regulations.

First National Bank of SA Ltd t/a Wesbank v Commissioner for the South African Revenue Service 2002 (4) SA 768 (CC). Per Ackermann J. The "sufficient reason" test for arbitrary deprivation under section 25(1); property in section 25 is not limited to corporeal things.

amaBhungane Centre for Investigative Journalism NPC v Minister of Justice and Correctional Services 2021 (3) SA 246 (CC). Compelled-disclosure regimes require prior independent judicial authorisation; section 14 (privacy); self-incrimination.

Doctors for Life International v Speaker of the National Assembly 2006 (6) SA 416 (CC); *Land Access Movement of South Africa v Chairperson, National Council of Provinces* 2016 (5) SA 635 (CC). Meaningful public participation. Cited as analogous to PAJA s.4(1) in the administrative-action context.

Statutes: the Currency and Exchanges Act 9 of 1933 (the empowering Act); the Superior Courts Act 10 of 2013; the Promotion of Administrative Justice Act 3 of 2000; the Financial Intelligence Centre Act 38 of 2001; the Financial Advisory and Intermediary Services Act 37 of 2002; the Protection of Personal Information Act 4 of 2013; and the Expropriation Act 13 of 2024 (which replaced Act 63 of 1975).

SIGN-OFF

This submission is made in good faith on behalf of every South African whose property rights, privacy rights and constitutional rights are threatened by the draft Capital Flow Management Regulations, 2026.

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Property Rights Defense Group

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