

Money-laundering in the Crypto World - the African Perspective



IMPORTANT INVESTIGATION FUNDAMENTALS - WHAT ARE WE DEALING WITH

1. **Who (really) is the subject of the investigation – Company or individual**
2. **Where is the subject resident**
3. **What is the **quickest** and most **effective** way to disrupt the illicit flows of funds – why not cash**
4. **Is there evidence to tax evasion and money-laundering**
5. **Truly Cryptocurrency or Is this a **Ponzi scheme or plain fraud****
6. **What are your jurisdiction's rules and standards **regulating registration** of Cryptocurrencies (lawful trading)**
7. **Is there a legal requirement to declare Cryptocurrency **profits for tax** purposes**
8. **To which **bank account** is Cryptocurrency purchases made via bank transfer or credit/debit card.**
9. ****Where and How** will Cryptocurrency be used or **exchanged back into Fiat currency** – if not in your jurisdiction then where – Establish the jurisdiction where possible**
10. **What is the other means of receiving and making payments are used by the subject – **possibility of seizures****

IF A PONZI SCHEME OR PYRAMID SCHEME OR FRAUD – WHAT THEN

The essential difference between the two frauds is that :

- a **Ponzi scheme** generally only requires investment in something from its victims, with promised returns at a later pay date.
- **Pyramid schemes**, unlike Ponzi schemes, usually offer a victim the opportunity to “make” money by recruiting more people into the scam

Ponzi schemes and Pyramid schemes are illegal because they **involve fraudulent activities**, based on **deception**, the creation of **false documents**, and the taking of money without legitimate investment.

The schemes operate by paying earlier investors with money from newer investors, rather than legitimate profits from a real business. This practice is considered illegal in most jurisdictions.

Although previously the domain of Law Enforcement Agencies, Tax authorities intensified efforts and has taken tougher stance to the architects, owners recruiters and investors in these schemes.

IN ESSENCE : LEGIMATE AND ILLEGIMATE FUNDS ARE MIXED AND EXTRACTED FROM THE LEGAL ECONOMY WHICH RESULT IN FUNDING FINANCIAL CRIME AND IFF

THE SPECTRUM OF FORMAL AND ILLICIT ACTIVITIES AS % OF ANNUAL GROSS DOMESTIC PRODUCT (GDP)



CASH ECONOMY

= approx.
7% to 12% of GDP
and 52% of all
payments in SA

TRANSNATIONAL ORGANISED CRIME

= approx.
10% to ??? of GDP
SMUGGLING

Human
Trafficking

Precious Metals
Coal
Granite Marble

Drugs, narcotics,
illicit/fake
pharmaceuticals

Child
trafficking
and human
organs

Wildlife,
Environmental
and Waste
crimes

Illicit
Firearms,
ammunition
and weapons

**KNOWN TAX
POPULATION :**
**REGISTERED
TAXPAYERS
and Customs**

**GOVERNMENT
SPENDING =**
approx. 34% of
GDP ? Taxes?

FINANCIAL CRIME =

approx.
10% to 19% of
GDP ?

Fraud

Tax
Crimes

Insider
Trading

Identity theft,
cybercrime, and
various fraud
schemes online
fraud, and
exploiting online
marketplaces.



FIAT CURRENCY VS VIRTUAL CURRENCY

Fiat currency

is a national currency whose value is **not derived from a commodity like gold or silver** but is instead declared by the government or central bank as legal tender. It **relies on public faith in the issuer's ability to maintain its value**. Most modern currencies are fiat currencies.

Government decree:

Fiat currency is established as **legal tender by government regulation**. This means it's required to be accepted for payment of debts.

Supply and demand:

The value of fiat currency is determined by supply and demand, influenced by factors like inflation, interest rates, and economic growth.

Historical context:

The move to fiat currency was a shift from the gold standard, where paper money could be exchanged for gold. Many countries, transitioned to fiat currency in the 20th century.

Virtual currency

Like fiat currency, virtual currencies such as Bitcoin and Ether, are **intended as a medium of exchange that enables two parties to transact business**. But aside from this common purpose, there's a world of difference between them.

WHAT IS VIRTUAL CURRENCY

VIRTUAL CURRENCY

Introduced in 2009 by an **individual or group known as Satoshi Nakamoto (who may or may not actually exist)**, **Bitcoin** was designed to be “an electronic payment system based on cryptographic proof instead of trust, allowing any **two willing parties** to transact **directly with each other** without the need for a trusted third party. "No physical coins or bills. **Virtual currencies exist only in computer code.** Except for visual representation of Bitcoin and altcoins in advertising and displays, and coin-like tokens that may be produced for marketing purposes, **there are no actual coins or bills.**

Government decree:

Fiat currency is established as **legal tender by government regulation.** This means it's required to be accepted for payment of debts.

Supply and demand:

The value of fiat currency is determined by supply and demand, influenced by factors like inflation, interest rates, and economic growth.

Historical context:

The move to fiat currency was a shift from the gold standard, where paper money could be exchanged for gold. Many countries, transitioned to fiat currency in the 20th century.

FATF MUTUAL EVALUATION REPORT

SOUTH AFRICA

7 OCTOBER 2021

**EVALUATION OF
EFFECTIVENESS IN
COMBATING
MONEY LAUNDERING AND
TERRORIST FINANCING**

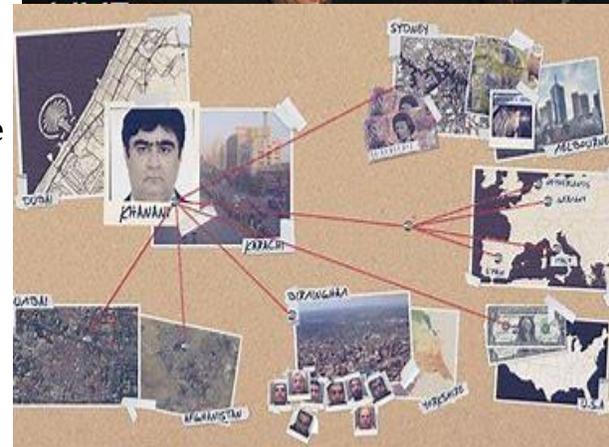


THE MUTUAL EVALUATION PROCESS: IMMEDIATE OUTCOMES & RECOMMENDATIONS

EFFECTIVENESS	TOPIC	RELATED RECs
IO 1	Risk and policy coordination	R. 1, 2, 33, 34
IO 2	International cooperation	R. 36-40
IO 3	Supervision	R. 14, 26-28, 34, 35
IO 4	Preventive measures	R. 9-23
IO 5	Transparency of legal persons and arrangements	R. 24, 25
IO 6	Financial intelligence	R. 29-32
IO 7	Money laundering investigations and prosecutions	R. 3, 30, 31
IO 8	Confiscation	R. 1, 4, 32
IO 9	Terrorist financing investigations and prosecutions	R. 5, 30, 31, 39
IO 10	Terrorist financing targeted financial sanctions and non-profit organizations	R. 1, 4, 6, 8
IO 11	Proliferation financing targeted financial sanctions and domestic coordination	R. 7

Serious key findings against South Africa and individual agencies level of compliance includes :

- a.) Domestic money laundering (ML) crime addressed but **understanding of threats** from **foreign predicates is limited**. Understanding of terrorist financing (TF) risks is **underdeveloped and uneven** and not adequately addressed.
- b) South Africa has suffered from a sustained period of **“State capture”,**¹ which helped to generate substantial **corruption proceeds** and undermined key agencies including by replacing **key staff and increasing resources** at key law enforcement and judicial agencies.
- c) FIC effectively produces operational financial intelligence that **Law Enforcement Agencies (LEAs)** use to help investigate predicate crimes and trace criminal assets, but the LEAs **lack the skills and resources to proactively investigate ML or TF**.
- d) A reasonable number of ML convictions but only partly consistent with South Africa’s risk profile. Few cases of third-party ML and foreign predicate offense are prosecuted. **The proactive identification and investigation of ML networks and professional enablers is not really occurring**.
- e) South Africa has achieved some good results proactively pursuing confiscation of criminal proceeds, particularly using civil forfeiture powers **but has had less success recovering assets from “State capture” and proceeds** which have been **moved to other countries**. Some recent cases suggest that this situation is improving.
- f) **Use of cash is prevalent** in South Africa and it has been assessed as high risk for ML and TF, including cross-border movement. Detecting and recovering cash proceeds of crime remains challenging and efforts to **detect and confiscate falsely or undeclared cross-border movement of currency** needs **substantial improvement**.
- g) South Africa has **convicted one person for TF since the last ME** and was prosecuting one case as of the onsite which is **inconsistent with its significant TF risks**. A conservative approach to classifying politically motivated acts of violence as terrorism negatively impacts the investigation and prosecution of potential terrorist financiers.



FATF MER SA : EXECUTIVE SUMMARY (CONTINUED)

h) Law enforcement faces **challenges to readily obtain accurate and updated beneficial ownership (BO) information** about companies and trusts adequate to enable effective investigation of ML and TF.

i) Smaller Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) are focused on compliance, **not on identifying and understanding risks**. Some high-risk sectors rarely report : **Dealers in Precious Metals and Stone (DPMS) and Company Service Providers (CSPs) Virtual Asset Service Providers (VASPs) are not AML/CFT regulated.**

j) Risk-based AML/CFT regulation and supervision is relatively new. **Inspections** in other sectors are **too infrequent and focus on the presence of basic controls not the soundness of AML/CFT programs**. The FIC is a key coordinator amongst supervisors and provides a wide range of well-regarded guidance. Market entry controls to screen out criminality need fundamental improvements.

k) South Africa provides constructive **mutual legal assistance (MLA)** which has helped to resolve some criminal cases in other countries, but it is sometimes slow. Seeking **international cooperation in investigations is not a priority**, inconsistent with South Africa's risk profile, and following up on requests made needs **major improvement**.

l) Since April 2019, South Africa has implemented **TFS for proliferation financing (PF)** fairly well, most of the time without delay, but some **major improvements** are needed, as the private sector's understanding is uneven, and supervision of PF-related obligations is new.

ML/TF Threats

39. The main domestic **proceeds-generating predicate crimes** in South Africa **are tax crimes, corruption and bribery, fraud**, then trafficking in illicit drugs, and **environmental** and **resource** type crimes which are rated as **medium-high**.

- The authorities highlighted **VAT fraud** as a **main tax-related offense** and also recognized evasion of income taxes as a concern.

ULTIMATE BENEFICIAL OWNERSHIP IN UAE
New Regulation makes Beneficial Ownership Register Necessary

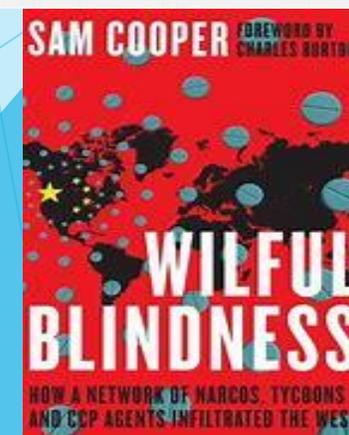


MLAT

means

Mutual Legal Assistance Agreement

by acronymsandslang.com



REGISTRATION PROCESS OF VIRTUAL ASSET PROVIDERS SA : 1 JUNE TO 20 NOVEMBER 2023

South Africa ranked 30 on [Chainalysis' global adoption index](#) in 2023, and is behind other African countries like [Nigeria and Kenya in terms of crypto use](#). But regulators in the country, like those elsewhere, have been trying to supervise the sector, which hit [close to \\$3 trillion in global market capitalization](#) in 2021 before [crashing spectacularly](#) in 2022.

- **In November 2020**, South Africa's FSCA proposed **crypto should be treated like financial products**, and that firms offering crypto-related services must apply for a license. Following a consultation on the **drafted legislation**, on **October 19, 2022**, the FSCA published the [final declaration on the licensing requirement](#).
- **Non-registration fine = R10 Million**
- Crypto companies had asked for the application period to be between **8 months to up to 24 month**, but the **FSCA settled allowed 6 months**.
- **As of June 30, 2024**, the total number of licensed CASPs in South Africa **was 138**, up from 75 in April 2024
- The FSCA revealed **30 ongoing investigations into unauthorized crypto financial services**.
- The FSCA has received a **total of 383 CASP license applications** since the process commenced on 1 June 2023.
- The regulator has **declined five applications**, while **80 applicants voluntarily withdrew** following discussions with the FSCA about the **appropriateness of their business models**.
- **The remaining applications are still under consideration by the regulator – 63 new licences were issued**

THE NEXT STEP – DECLARATION AND TAXATION OF CRYPTO PROFITS IN SA

Finance minister Enoch Godongwana has amended the Financial Intelligence Centre Act (FICA) annexure, designating crypto asset service providers as “**accountable institutions**”, effective from 19 December 2022.

- As accountable institutions, service providers will be required “to FICA” customers. Elsewhere in the world, this is called **know “your customer” (KYC)**.

The definition of a crypto asset

Gazetted by the FSCA on Wednesday 19 October 2023, is one that uses **cryptography and distributed ledger technology**, and “**is not issued by a central bank, but is capable of being traded, transferred or stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility.**”

Setting the rules for tax purposes

Although cryptocurrency is not considered as a [currency for the purposes of South African income tax](#), it is regarded as an asset and **SARS applies the normal income tax rules** to it. According to these rules, capital gains tax and estate duty are applicable.

a.) Capital Gains Tax

The onus is on taxpayers to declare all cryptocurrency-related taxable income, including capital gains, in the tax year in which it is received or accrued. **Gains may be regarded as capital in nature**, as spelt out in the Eighth Schedule to the Income Tax Act for taxation under the capital gains tax paradigm. This would also be true on death as you are deemed to have disposed of all your assets at date of death, therefore triggering a capital gains tax event.

b.) Estate Duty

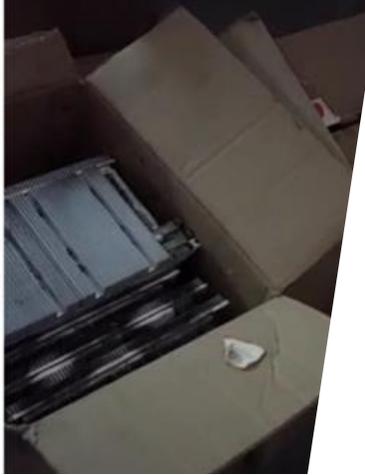
Since SARS does not view cryptocurrency as a currency, such as with the rand, but rather as property, it will be treated as **an asset in your estate for estate duty purposes**. This is only possible, though, **if the executor is aware of the cryptocurrency** which you own, bearing in mind the **anonymous nature of cryptocurrency** and the manner in which you hold ownership of the cryptocurrency.

THE EVOLUTION OF DATA AND COMPARISON OF DATA TO TAX DECLARATIONS

- **SARS issued Section 46 request** in terms of the Tax Administration Act, Act 28 of 2011 **to all registered South African cryptocurrency exchanges** to request information on their customers.
- SARS made it more difficult for taxpayers to get approval on **crypto arbitrage trades using their R10 million a year foreign investment allowance (FIA)**. South Africans are required to purchase crypto assets such as bitcoin on overseas exchanges using either their special discretionary allowance (SDA) of R1 million a year, or their FIA of R10 million a year. Most crypto arbitrage trades are in lots of R100 000 or R200 000, requiring multiple approvals from SARS via a “Pin” number.
- 29 October 2024 – SARS issue notices to over **5.8 million South Africans holding crypto assets one of the highest uptakes of crypto assets globally**.
- SARS has made it a priority to ensure **accurate and complete tax declarations** from those holding crypto. SARS confirmed it has received transaction data from crypto exchanges, revealing undeclared trades by taxpayers who may have omitted to correctly report these on their tax returns.
- **2025 SARS sets up a unit which targets crypto non-compliance**

THE UNEXPECTED FIND

- ▶ Tactical Operation - Abalone Smuggling ring
- ▶ Electrical and Water consumption
- ▶ Nearly two-thirds of dried abalone shipments to Hong Kong are harvested illegally in South Africa, before being shifted via a **complex variety of smuggling routes** that snake northwards up the continent as far as Central and East Africa.
- ▶ The abalone connection: The ties that bind poaching and smuggling with the SA crystal meth industry



THE FSCA REGULATIONS AND WARNING STATEMENTS

- ▶ The Financial Sector Conduct Authority (FSCA) issued a warning against GS Partners, a company linked to Gold Standard Bank – not to be confused with Standard Bank – and the G999 cryptocurrency.
- ▶ “GS Partners is not licensed under any financial sector law to provide financial products or financial services in South Africa,” the regulator stated. The FSCA expressed concern about the unrealistic returns offered by GS Partners, and is conducting a preliminary investigation into its activities in South Africa
- ▶ In a 2021 summons, GSB owner and German millionaire Josip Heit, Tony De Gouveia, Bruce Hughes, Andrew Eaton, and Brendon Earp-Jones sued three South Africans for defamation and loss of income.
- ▶ The three defendants – Louis Nel, Francois Harris, and Gareth Grobler – had a small YouTube channel called G-Crypt on which they discussed various crypto and blockchain-related topics.



The world's biggest crypto scam in 2020 was perpetrated in South Africa by **Mirror Trading International**. Using a Ponzi scheme, hundreds of thousands of victims were swindled out of **US\$588 million in Bitcoin**.

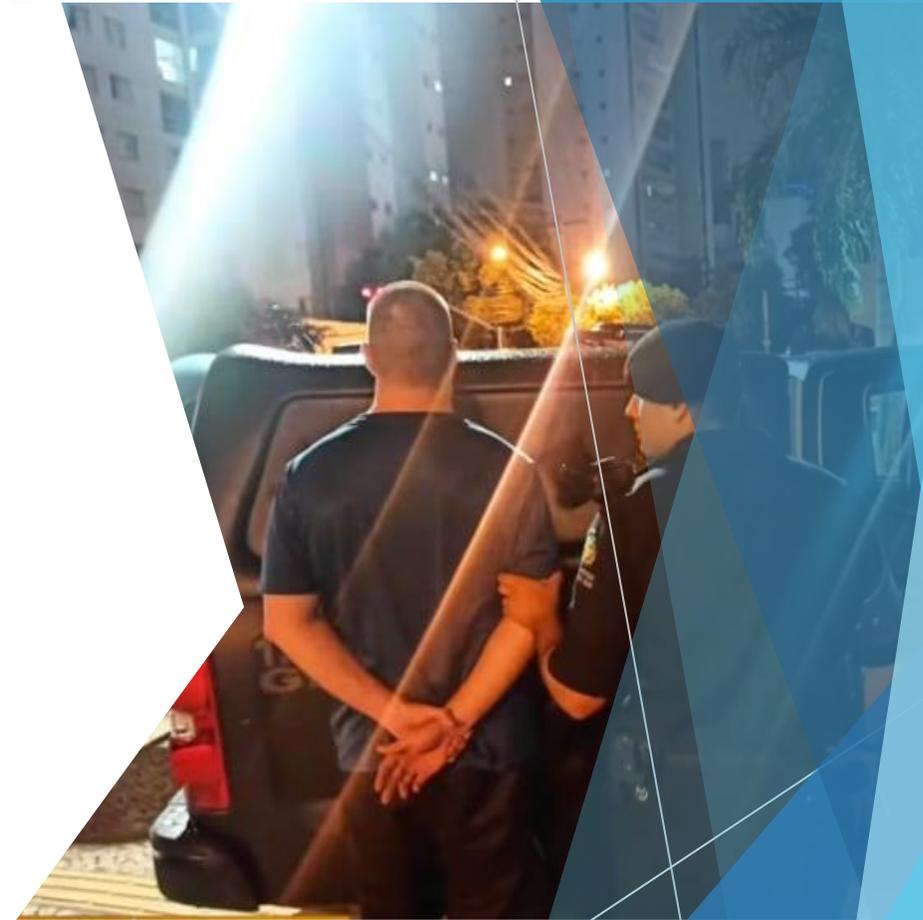
In April 2021, South Africa was again in the news with an even bigger crypto hack – this time by a company called **Africrypt**, whose two founders stole **US\$3.6 billion from investors** in a matter of hours.

Cyber criminals prefer using cryptos over fiat currencies to launder their illegally obtained funds. Crypto laundering – **basically money laundering in cyberspace** – **is much cheaper**, costing about 15% of the proceeds compared to around 50% using traditional money laundering methods.

HOW DID IT END MIRROR TRADING INTERNATIONAL (2020)

Johann Steynberg - MTI

- ▶ Mirror Trading International (MTI), masterminded by Johann Steynberg, was a big pyramid scheme that lured investors with promises of high monthly returns on Bitcoin investments. Steynberg abruptly disappeared to Brazil in December 2020, leaving investors in the lurch. Brazilian authorities eventually located Steynberg and arrested him for using false identification.
- ▶ He was convicted but received a relatively lenient sentence and even enjoyed a comfortable lifestyle under house arrest. He had been living a lavish life in Brazil, including using a helicopter for travel.
- ▶ Court documents also showed he had purchased properties under false names and received assistance acquiring cocaine.
- ▶ However, his story came to an abrupt end when Steynberg reportedly died in May 2024 while under house arrest in Goiás.
- ▶ **SARS claims R931m in tax and penalties from Mirror Trading International (2019 and 2020 Income Tax returns)**
- ▶ **MTI liquidators have recovered 1 281 Bitcoin from a Caribbean broker used by the company for forex trading, and sold this for the equivalent of R1.1 billion.**
- ▶ The liquidators can object to the SARS assessment, but may not disburse any recovered proceeds until such time as the SARS claim was settled. In May 2023 the liquidators of bitcoin Ponzi scheme Mirror Trading International reached a **R283-million settlement with the SARS**



HOW DID IT END - AFRICRYPT (2021)

Raees and Ameer Cajee, the brothers who founded Africrypt

- ▶ South Africa's Bitcoin brothers "stole from the wrong guy"
- ▶ Juan Meyer, a former business associate of Czech gangster Radovan Krejcir, described as "a West Rand gold smuggler and illegal refinery owner". He filed the application on behalf of his company, Badaspex (Pty) Ltd, for R41 million.
- ▶ Raees Cajee told The Wall Street Journal that they had fled because their lives were threatened. His father held for more than 12 hours in Dubai.
- ▶ According to the attorney who represents Meyer and a group of other investors, the current claims against Africrypt total around R140 million (\$9.9 million), but this may go up to as high as R500 million (\$35 million) when all the claims are in. Court documents also showed he had purchased properties under false names and received assistance acquiring cocaine.
- ▶ Forensic records also show that Ameer Cajee obtained a second Vanuatu passport in March 2022 – while under a Swiss travel ban imposed in May 2021.
- ▶ **Ameer Cajee was subsequently placed under supervised release at a hotel in Zurich.** The Swiss prosecutor confirmed that Ameer had **been released on bail to a "designated residence"**. Access logs from the hotel, show more than 40 badge entries linked to his digital ID, and photographs geolocated and timestamped confirm his presence on the premises.
- ▶ Ameer tried to access Trezor devices – hardware wallets – suspected of containing Africrypt's missing bitcoin.
- ▶ **The Zurich Prosecutor's Office also confirmed that "items related to a South African fraud case" were seized in Zurich. Though they declined to specify which items, investigators believe they included hardware wallets.**
- ▶ Cajees' attorney, he had written to the National Prosecuting Authority (NPA) in 2024 saying that his clients were willing to co-operate with investigators. The NPA responded saying that the Specialised Commercial Crime Unit would be in touch.

