IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC 31

Originating Claim No 609 of 2023 (Assessment of Damages No 5 of 2025)

Between

Kalen, Alexandru

… *Representative Claimant*

And

World Exchange Services Pte Ltd

… *Defendant*

JUDGMENT

[Damages – Assessment]
[Contract – Remedies – Damages]

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v
World Exchange Services Pte Ltd

[2026] SGHC 31

General Division of the High Court — Originating Claim No 609 of 2023
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Lee Seiu Kin SJ
30 September, 1–2 October 2025

9 February 2026 Judgment reserved.

Lee Seiu Kin SJ:

1 This is my decision on the assessment of damages in the Claimants' representative claim.

2 The Claimants are 85 individuals who own digital tokens and monies which are "stored" with the Defendant.[1] They are represented by one Mr Alexandru Kalen, a Romanian citizen.[2] Although there were 86 Claimants when the present proceedings were first commenced, Mr Andrei Vasilevich Podogov

[1] Statement of Claim (Amendment No. 2) ("SOC") at [1].
[2] SOC at [2].

(*ie*, the 18th Claimant) has settled with the Defendant and has since withdrawn from the action.[3]

3 The Defendant is a Singapore-incorporated company with its registered address at 1004 Toa Payoh North, #04-14.[4]

Background

4 The Claimants claim that the Defendant operated an online trading platform for digital tokens, including cryptocurrencies, known as wex.nz ("WEX").[5]

5 Each of the Claimants had maintained an account on the WEX platform and entered into a user agreement with the Defendant ("User Agreement").[6] The User Agreement provides, *inter alia*, that:[7]

> 1.1 User Relationship
>
> WEX acts as a facilitator to help customers accept payments and to help customers make payments. WEX has independent relationships with the sender and the receiver of payments. We act based upon your direction and your requests to use our Services that require us to perform tasks on your behalf. WEX will at all times hold your funds separate from its corporate funds, will not use your funds for its operating expenses or any other corporate purposes, and will not voluntarily make funds available to its creditors in the event of bankruptcy or for any other purpose. You acknowledge that (a) WEX is not a bank and the Service is a payment processing service rather than a banking service, and (b) WEX is not acting as a trustee, fiduciary or escrow with respect to your funds, but is acting only as an agent and custodian.
>
> …

[3] Vladimir Zalanskii's AEIC ("VZ-1") at [6].
[4] Defence (Amendment No.1) at [3].
[5] SOC at [4]; VZ-1 at [17].
[6] SOC at [5]; VZ-1 at [19].

> 3.1 If you hold a balance, WEX will hold your funds in Pooled Accounts separate from its corporate funds, and it will not use your funds for its operating expenses or for any other corporate purposes. WEX will not voluntarily make your funds available to its creditors in the event of bankruptcy.
>
> …

6 In addition to the User Agreement, the Defendant, by way of published statements on 19 September 2017 and 31 October 2017, entered into a further agreement with all users of the WEX platform. Under this agreement, the Defendant was obliged to, within two years thereof, purchase or redeem from users the WEX tokens it had previously issued to the users in exchange for digital tokens or fiat currency monies which the users had deposited with the WEX platform, at a consideration equivalent to the digital token or fiat currency monies which the WEX tokens represent ("Buyback Contract").[8]

7 The Claimants claim that the Defendant breached the User Agreement by causing the Claimants to be unable to control, transfer or withdraw digital tokens and monies in the Claimants' accounts on the WEX platform since 12 July 2018.[9] In or around November 2018, the WEX platform was not accessible at the Uniform Resource Locator ("URL") "https://wex.nz/" but continued to be accessible at other URLs as stated in the Defendant's Twitter posts.[10] By around December 2018, the WEX platform was entirely inaccessible from any URL.[11]

[8] SOC at [13]; VZ-1 at [22].
[9] SOC at [14]; VZ-1 at [24].
[10] SOC at [15]; VZ-1 at [25].
[11] SOC at [16]; VZ-1 at [25].

8 The Claimants further claim that the Defendant also breached the Buyback Agreement as they have to date failed to purchase the WEX tokens from the Claimants as required by the Buyback Agreement.[12]

9 The Claimants commenced the present suit on 13 September 2023.

Liability Proceedings

10 The Claimants applied for summary judgment and the matter was heard by Assistant Registrar Rajaram Vikram Raja ("AR"). The AR entered interlocutory judgment against the Defendant for breach of both the User Agreement and Buyback Agreement.[13] Specifically, the AR found that the Claimants had adduced sufficient evidence to show a *prima facie* case that:

(a) The Claimants maintained accounts with the Defendant under the User Agreement.[14]

(b) The Defendant made a unilateral offer to purchase the Claimants' WEX tokens under the Buyback Agreement.[15]

(c) The Defendant breached both the User Agreement and the Buyback Agreement by failing to allow the Claimants to access their stored digital tokens and monies or to have purchased the Claimants' WEX tokens.[16]

[12] SOC at [20] and [22]; VZ-1 at [30].
[13] AR Rajaram Vikram Raja's decision ("SUM 455 decision") at [27].
[14] SUM 455 decision at [15].
[15] SUM 455 decision at [16].
[16] SUM 455 decision at [17].

(d) Each of the Claimants suffered loss as evidenced by screenshots of the WEX platform which set out the digital tokens and monies held by the Claimants.[17]

11 However, the AR left the issue of damages to be assessed as the Claimants had not shown a *prima facie* case that they were entitled to the specific quantum of damages that they had prayed for.[18]

12 The AR's decision was upheld on appeal by Justice Dedar Singh Gill. The matter now comes before me for the assessment of damages.

Issues

13 The Defendant raises various arguments contending that the Court should investigate into the relationship between BTC-e, a platform which was shut down by the US authorities for criminal activities, and the WEX platform.[19] They also argue that the Claimants should have recourse to a victim compensation fund which is now being distributed following a Russian criminal proceeding against the founders of BTC-e.[20] However, the Defendant has been found to be liable for breach of the User Agreement and the Buyback Agreement

[17] SUM 455 decision at [18].
[18] SUM 455 decision at [20].
[19] Defendant's Opening Statement for Assessment of Damages ("DOS") at [10.2]; Defendant's Closing Submissions ("DCS") at [10.2]–[10.7].
[20] DOS at [10.3]; DCS at [12.4].

in the summary judgment.[21] These arguments are therefore not relevant for the present purposes.

14 The issues for the Court to decide at the stage of assessment of damages are:

(a) What is the quantity of digital tokens and monies that were held in the Claimants' user accounts as of 12 July 2018 ("Quantity Issue");

(b) What is the appropriate date of valuation for the Claimants' losses ("Valuation Date Issue"); and

(c) What is the value of the said tokens and monies at the date of valuation ("Valuation Issue").

Quantity Issue

15 The Claimants submitted screenshots of their user accounts on various dates to establish the quantity of digital tokens and monies which they own on the WEX platform.[22] They also submitted statements confirming that these screenshots have not been altered or edited and that to their knowledge, there

[21] SUM 455 decision at [17].
[22] VZ-1 at Tab 4.

has not been any unauthorised transactions in their accounts after the screenshots were taken.[23]

16 The Defendant's expert, Mr Aleksandr Podobnykh, suggests that the Claimants' screenshots lack credibility.[24] He divides the screenshots using three approaches to assess their reliability.[25]

17 Under the first approach, he classifies the screenshots into "green" and "orange" groups based on his assessment of their authenticity. Screenshots are classified into the "green" group if they capture the entire screen, indicate the web address of the user account and contain complete information of the username, balances, server date and time, information in the user account, the system date and time.[26] In contrast, they are classified into the "orange" group if there are defects in the aforementioned aspects.[27] Mr Podobnykh concludes that 25 Claimants fall into the "green" group and 60 Claimants fall into the "orange" group.[28]

18 Under the second approach, Claimants fall into the "green" group if they have minor cryptocurrencies and tokens, and the "orange" group if they have

[23] VZ-1 at Tab 26.
[24] Aleksandr Podobnykh's Expert Report ("AP-1") at II(2).
[25] AP-1 at II(1).
[26] AP-1 at II(3)(b).
[27] AP-1 at II(3)(d).
[28] AP-1 at II(3)(f).

main cryptocurrencies and high potential for trading activities.[29] Applying this approach, only ten out of 85 Claimants are classified into the "green" group.[30]

19 The third approach is based on the Claimants' ability to dispose of the cryptocurrencies.[31] A total of 18 Claimants whose screenshots were dated before 12 July 2018 are classified into the "green" group and the rest into the "orange" group.[32]

20 Mr Podobnykh notes that no Claimant falls into the "green" group if all three approaches are applied together.[33]

21 The Claimants argue that as Mr Podobnykh only has a diploma in cybersecurity, he does not possess the requisite expertise to opine on the authenticity of the Claimants' screenshots.[34] Further, the approaches he adopts are illogical and inconclusive.[35]

22 I am of the view that by providing the screenshots and the statements confirming that there has not been any alteration to the screenshots or transactions in their accounts, the Claimants have discharged their evidentiary burden of proving the quantity of their digital tokens and monies. The evidentiary burden then shifts to the Defendant to rebut that evidence. On a fundamental level, critically, Mr Podobnykh concludes that it is "impossible to establish whether [the screenshots] were subject to editing or other modification" and that the screenshots "do not allow us to establish that the

[29] AP-1 at II(4)(d).
[30] AP-1 at II(4)(f).
[31] AP-1 at II(4)(k).
[32] AP-1 at II(4)(n).
[33] AP-1 at II(4)(o).
[34] Claimant's Closing Submissions ("CCS") at [21].
[35] CCS at [22]–[45].

Claimants … did not withdraw funds from their personal accounts after the dates indicated in the screenshots".[36] Therefore, even taken at its highest, Mr Podobnykh's evidence cannot positively rebut the Claimants' evidence by establishing any alteration to the screenshots or any transactions in the Claimants' accounts after their screenshots were taken. Furthermore, Mr Podobnykh's conclusions proceed on the assumption that it was possible for the Claimants to transact on the WEX platform even after 12 July 2018, for which he has no supporting evidence other than inadmissible hearsay that he knows of a client who managed to withdraw her assets after losing access to her account.[37]

23 On a closer examination of its substance, Mr Podobnykh's report suffers from several flaws and weaknesses. On the first approach, as the Claimants' counsel point out, Mr Podobnykh's report does not appear to contain analyses of every Claimant's screenshots.[38] Hence, there is insufficient basis for the Court to accept that only 25 out of 85 Claimants have provided screenshots of satisfactory quality. On his second approach, Mr Podobnykh seems to have equated liquidity of the Claimants' assets with unreliability, suggesting that if a Claimant holds main cryptocurrencies, their screenshots are to be trusted less.[39] I consider this suggestion unconvincing as it is purely speculative and insufficient to discharge the Defendant's evidentiary burden. Lastly, on the third approach, Mr Podobnykh posits that the fact that some of the screenshots were taken after 12 July 2018 is inconsistent with the Claimants' evidence that they could no longer access the WEX platform after that day.[40] However, this fact is

[36] AP-1 at II(2)(c) and (f).
[37] Hearing Transcript at Day 2, page 42, lines 7-31.
[38] Hearing Transcript at Day 2, page 34, lines 1-3.
[39] AP-1 at II(4)(d).
[40] Hearing Transcript at Day 2, page 43, lines 14-16.

consistent with the Claimants' explanation that although they could no longer transact, they could still view their accounts from other URLs.[41]

24 In light of the Defendant's failure to discharge their evidentiary burden, I find that the quantity of digital tokens and monies owned by the Claimants on the WEX platform as of 12 July 2018 is as stated in their screenshots.

Valuation Date Issue

25 The Claimants argue that the date of valuation should be the present date, namely the date of trial.[42] They cite *Southgate v Graham* [2024] EWHC 1692 (Ch) ("*Southgate*") and *Fantom Foundation Ltd v Multichain Foundation Ltd and another* [2024] SGHC 173 ("*Fantom*") for the proposition that the Court is free to fix the date of valuation on a date other than the date of breach if the latter fails to adequately compensate the claimant.[43] The Claimants argue, *inter alia*, that valuing the cryptocurrencies at the date of breach (*ie*, 12 July 2018) would be tantamount to forcing them to liquidate their cryptocurrencies on that date at a loss, as they would not be able to purchase the same quantity of cryptocurrencies at the current market price.[44] Further, the Claimants contend that valuing their losses on the present date is appropriate as the Defendant's

[41] Hearing Transcripts at Day 2, page 41, lines 18-31.
[42] Claimant's Opening Statement ("COS") at [23]; CCS at [49].
[43] COS at [29]; CCS at [55]–[56].
[44] COS at [33(a)]; CCS at [67].

breach was not a one-off breach on 12 July 2018, but a continuing breach of the User Agreement and the Buyback Agreement until the present day.[45]

26 The Defendant argues that the Claimants' tokens and monies should be valued at the date of breach, as there is no reason to depart from the general rule.[46]

The Law on Valuation Date

27 I first proceed with an examination of the legal authorities. Both parties cited the Court of Appeal authority of *iVenture Card Ltd v Big Bus Singapore* [2022] 1 SLR 302 ("*iVenture*") as the starting point.[47] In that case, the Court of Appeal opined at [133]:

> 133 In assessing damages for breach of contract, there is also the "breach-date" rule which states that damages are assessed as at the date of the breach of contract (see *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2012) at para 22.002 and *Chitty on Contracts* (H G Beale gen ed) (Sweet & Maxwell, 33rd Ed, 2018) at para 26-096)… The assumption is that the innocent party would go out to the market on the date of the breach to obtain substitute performance and damages are assessed accordingly without regard to subsequent price movements. However, the "breach-date" rule "is not an absolute rule: if to follow it would give rise to injustice, the court has power to fix such other date as may be appropriate in the circumstances": see *Johnson v Agnew* [1980] AC 367 at 401… On some occasions, the court takes the date of the trial as the relevant date to assess damages: see *Yeo Yoke Mui v Kong Hoo (Private) Ltd and another* [2001] SGHC 28.

28 Albeit not explicitly discussed, the link between valuation date and mitigation is implicit in the Court of Appeal's reference to *Hooper v Oates*

[45] COS at [28]; CCS at [69].
[46] DCS at [13.4].
[47] CCS at [50]; DCS at [13.2].

[2014] Ch 287 ("*Hooper"*). The Court of Appeal in *iVenture* at [133] cited Lloyd LJ's observations at [38] of *Hooper*:

> It seems to me that the breach date is the right date for assessment of damages only where there is an immediately available market for sale of the relevant asset or, in the converse case, for the purchase of an equivalent asset.

The proposition that the appropriate valuation date depends on the availability of "an immediately available market" alludes to the possibility and reasonableness of mitigation.

29 In the recent case of *POP Holdings Pte Ltd v Teo Ban Lim and others* [2025] SGCA 51 ("*POP Holdings*"), the Court of Appeal clarified the link between valuation date and mitigation:

> 63 The contract cases usefully draw the link between the "breach date rule" and the law of mitigation. Seen in perspective, the true reason why damages are assessed at the breach date is that, if the claimant has the opportunity to acquire substitute performance at the breach date but chooses not to do so, it is assumed by the law of mitigation to have done so and damages would be assessed on that basis regardless of how it has actually acted (*Thai Airways International Public Co Ltd v KI Holdings Co Ltd (formerly known as Koito Industries Ltd) and another* [2016] 1 All ER (Comm) 675 at [34]; *Stanford International Bank Ltd (in liquidation) v HSBC Bank plc* [2023] AC 761 at [42]–[43]). …

30 Turning to the cryptocurrency context, Judicial Commissioner Mohamed Faizal made *obiter dicta* remarks on the date of valuation in *Fantom*. I note that *Fantom* was decided before *POP Holdings*. After a survey of relevant authorities, including *iVenture*, Faizal JC opined at [42]:

> 42 Given the volatility of cryptocurrencies, the breach date rule may not *always* represent the best assessment methodology to value cryptocurrencies in all circumstances. There is the question of whether the facts are exceptional enough for the court to measure the quantum of compensatory damages by reference to the defendant's gains or profits rather

> than the claimant's own loss: see *MFM Restaurants Pte Ltd and another v Fish & Co Restaurants Pte Ltd and another appeal* [2011] 1 SLR 150 ("*MFM Restaurants*") at [66].

31 Faizal JC then reviewed the approaches taken by other jurisdictions to the issue of valuation date (*Fantom* at [44]–[47]). In the UK Supreme Court decision of *Stanford International Bank Ltd (in liquidation) v HSBC Bank plc* [2023] AC 761 ("*Stanford International Bank*"), Lord Leggatt JSC in a concurring opinion rejected the idea that there is a default valuation date and conceptualised the issue as one of mitigation. Faizal JC cited His Lordship's opinion at [43] of *Stanford International Bank* (*Fantom* at [46]):

> … This rule is that, *where there is an available market in which an adequate substitute can be obtained for goods or services of which the defendant's breach of duty deprived the claimant, damages are to be assessed* ***as if the claimant entered the market and obtained such a substitute at the earliest reasonable opportunity*** *whether or not the claimant in fact did so.* …

32 Similarly, in *Radford v De Froberville* [1977] 1 WLR 1262, the court opined at 1285 that the question is "at what date could the [claimant] reasonably have been expected to mitigate the damages by seeking an alternative to performance of the contractual obligation" (*Fantom* at [47]).

33 The leading English decision on the valuation date for cryptocurrencies, *Southgate*, was released at around the same time as *Fantom*. In *Southgate*, the parties had an oral agreement for the claimant to advance Ethereum tokens ("ETH") in the value of £50,000 to the defendant (*ie*, 144 ETHs at the time of transfer). The parties disputed over whether the defendant was to repay 144 ETHs with a premium of ten per cent or £50,000 with a premium of ten per cent, ETHs being only a mechanism of repayment. Justice Trower opined that the question of valuation date is one of mitigation, depending on "whenever there is an available market for whatever has been lost and its explanation is that the

injured party should ordinarily go out into that market to make a substitute contract to mitigate (and generally thereby crystallise) his loss" (*Southgate* at [51], citing Lord Brown in *Golden Strait Corpn v Nippon Yusen Kubishika Kaisha* [2007] 2 AC 353 at [79]–[80]).

34 The leading US decision on this point of law is *Diamond Fortress Technologies Inc v EverID Inc* 274 A.3d 287 ("*Diamond Fortress*") at 306. There, the claimants gave the defendant an exclusive licence to use the former's proprietary biometric software. The defendant agreed to compensate the claimants via cryptocurrency token distributions. In calculating the damages for a claim for breach of contract, the Delaware Supreme Court applied a rule known as the "New York rule" that measures damages by the "the highest intermediate value reached by the stock between the time of the wrongful act complained of and a reasonable time thereafter" ("New York rule") (at 306). This rule softens an old English rule, which valued damages by the "highest value of the stock on or before the day of trial", to address the hugely fluctuating values of securities (at 306). The court opined that "[t]wo or three months has been accepted as a reasonable period of time to replace an asset on the open market" (at 308). As Faizal JC noted, this rule is widely applied by New York courts in stock and securities cases, such as in *Gallagher v Jones* 9 S.Ct. 335 at 338 (*Fantom* at [44]).

35 In leading academic commentaries, the question of the valuation date has been described as "closely linked" to the doctrine of mitigation (*Chitty on Contracts* vol 1 (Hugh G Beale gen ed) (Sweet & Maxwell, 34th Ed, 2021) at [29-105]).

36 The learned author of *Treitel on Contract Law* (Edwin Peel, *Treitel on The Law of Contract* (Sweet & Maxwell, 15th Ed, 2020)) opines at [20-076]

that the principle that damages are assessed by reference to the time of breach is based on two assumptions:

> The theory behind the principle [that damages are assessed by reference to the time of breach] is that any loss suffered by reason of market movements after the time of breach is not caused by the breach, but rather by the injured party's failure to mitigate by making a substitute contract.
>
> …
>
> The principle of assessment by reference to the time of breach is based on *two assumptions*: that the *injured party knows of the breach as soon as it is committed*, and that *he can at that time take steps to mitigate the loss which is likely to flow from it.* Where the facts falsify these assumptions, the courts will depart from the principle, and assess the damages by reference to "such other date as may be appropriate in the circumstances". In particular they will have regard to the time when the breach was, or could have been discovered; and to the question whether it was possible or reasonable for the injured party to make a substitute contract immediately on such discovery.
>
> [emphasis added]

37 On the first assumption of knowledge of the breach, the learned author states at [20-077]:

> The injured party may not have known of the breach when it was committed and may have been unable, acting with reasonable diligence, to discover it at that time. The damages will then prima facie be assessed by reference (at the earliest) to the time when that party, so acting, could have made the discovery. …

38 On the second assumption of the possibility and reasonableness of mitigation, the learned author explains at [20-078]–[20-079]:

> Even if the injured party knows of the breach, it may be impossible for him to act on that knowledge by making a substitute contract so as to reduce the loss. … In such a case the damages would be assessed by reference to the time at which the seller could reasonably resell …
>
> Even where it is possible for the injured party to make a substitute contract on discovering the breach, it may not be

> reasonable to expect him to do so because at that time there is still a reasonable probability that the defendant will make good his default. In such cases damages are prima facie assessed by reference to the time when that probability ceased to exist. …

39 In view of the foregoing discussion, it is clear that the issue of valuation date is closely intertwined with the doctrine of mitigation. Applying well-established contract law principles, the date of valuation should be at the time when a claimant is reasonably expected to mitigate their losses. Whether the claimant is reasonably expected to mitigate their losses depends on, *inter alia*, when the claimant has knowledge of the breach and whether it is possible and reasonable to mitigate their losses. Conceptually, the date of valuation of losses arising from a breach of contract may be the date of the breach itself if the claimant has knowledge of the breach and it is possible and reasonable to mitigate their losses. Alternatively, if valuing losses at the date of breach "would give rise to injustice" in the sense that doing so would not appropriately compensate the claimant (*Johnson v Agnew* [1980] AC 367 at 401), then losses should be valued within a reasonable time after the date of breach itself. This is because although the claimant has knowledge of the breach, it is not possible or reasonable to take steps to mitigate their losses on the date of breach.

40 In my view, this formulation better coheres with the doctrine of mitigation and legal authorities than the New York rule of measuring damages by the "highest value within a reasonable time" (*Diamond Fortress* at 306). As mentioned earlier, the New York rule was formulated to soften the earlier English rule, bearing in mind the fluctuating prices of securities (*Diamond Fortress* at 306). In fairness, the New York rule does reflect the idea of mitigation, notably through the concept of "a reasonable time". This period is assessed by "how long it would have taken the [claimant] to replace the securities on the open market" and only starts after the claimant has discovered

the breach (*Diamond Fortress* at 307–308). However, the choice of "highest intermediate value" does not bear any inherent relation with the possibility or reasonableness of the claimant's mitigation. In my respectful view, it gives the claimant the benefit of perfect hindsight and therefore risks unfairly giving him a windfall. In contrast, our formulation directly ties the inquiry of valuation date with the possibility and reasonableness of the claimant's mitigation and assumes reasonable rather than best mitigation.

Application to the Present Facts

41 The Claimants first discovered their inability to control, transfer or withdraw digital tokens and monies on 12 July 2018.[48] The WEX administrators explained this as a "technical" issue and stated that the users' ability to withdraw their digital tokens and monies would resume in due course.[49] Subsequently, in or around November 2018, the WEX platform could no longer be accessed at the URL "https://wex.nz/".[50] While the platform could still be accessed at other URLs stated in the Defendant's posts,[51] the Claimants had "heard rumours about the possible closure of the WEX exchange" before the platform became completely inaccessible from any URL by around December 2018.[52]

42 I consider the appropriate date of valuation to be a reasonable time after 12 July 2018, around October or November 2018. Although the Claimants first discovered the Defendant's breach on 12 July 2018, it was not reasonable to require the Claimants to take mitigating steps on the day itself or

[48] SOC at [14].
[49] VZ-1 at [24].
[50] VZ-1 at [25].
[51] Alexandru Kalen's 1st affidavit at [24].
[52] VZ-1 at [25] and [37(a)].

shortly thereafter, as the Claimants might reasonably have thought that their inability to operate on the WEX platform was temporary and expected the platform to resume service soon. Since the Claimants, on their own evidence, could only view their accounts through other URLs stated in the Defendant's Twitter posts and had heard rumours about the WEX platform's possible closure in the months after 12 July 2018, it was reasonable for them to mitigate their losses during those months.

43 The Claimants, citing the reference to "an immediately available market" in *Hooper* at [38] (see [28] above), contend that mitigation was not possible after 12 July 2018 as they were unable to transact on the WEX platform.[53] They further assert that they did not have the financial means to purchase the equivalent quantity and types of digital tokens from the market.[54] I do not understand the reference in *Hooper* to mean that the Claimants could only mitigate their losses by entering the market. The doctrine of mitigation requires the innocent party to take "all reasonable steps" so long as they are not "too difficult" (*The "Asia Star"* [2010] SGCA 12 at [24] and [31]). It would not be onerous to require the Claimants to, for example, have formally demanded that the Defendant return them their digital tokens and monies or commenced legal actions in October or November 2018. In addition, the Claimants could have purchased at least some digital tokens on other cryptocurrency exchanges, especially given the fall in prices from 12 July 2018 to 1 December 2018.[55]

[53] COS at [26]; CCS at [64].
[54] COS at [67]; CCS at [113].
[55] VZ-1 at Schedule 1.

44 The Claimants attempt to analogise the present case to *Fantom*.[56] In that case, the first defendant operated a platform which "bridged" different blockchains by locking users' cryptocurrencies on one blockchain (*ie*, the source assets) and releasing to them assets of equivalent value on another blockchain, which could be traded as wrapped assets. The claimant deposited source assets on the platform. Subsequently, more than US$127 million worth of assets (including source assets) were siphoned off the platform, thereby severely compromising the value of the claimant's wrapped assets.[57] Faizal JC accepted the claimant's submission that it was "unable to mitigate its losses" (at [22]). As I am not privy to the evidence and submissions in that case, I do not venture to second-guess whether mitigation was possible in those circumstances. However, it suffices to note that unlike the Claimants in the present case, the claimant in *Fantom* commenced legal proceedings on 18 September 2023, shortly after the siphoning of assets on 7 July 2023 (at [15]-[16]).

45 The Claimants further argue that what they lost includes the "ability to deal with their assets as they deem fit" and it was impossible to obtain substitute performance.[58] I do not accept this argument. The Claimants themselves cited my decision in *CLM v CLN and others* [2022] 5 SLR 273 at [48] for the proposition that "losses arising from a party's inability to deal with its cryptocurrency assets for a period of time could be compensated by way of damages".[59] Even assuming *arguendo* that it was indeed impossible to obtain substitute performance, the Claimants are not relieved of their duty to mitigate by reason of their inability to obtain the exact same goods or services. In *C*

[56] COS at [68]; CCS at [114].
[57] COS at [68]; CCS at [114].
[58] COS at [27(a)]; CCS at [66].
[59] COS at [29]; CCS at [52].

Sharpe & Co Ltd v Nosawa [1917] 2 KB 814, the parties contracted for a certain quantity of Japanese peas to be shipped to London. The peas were not shipped. Although Japanese peas of the contract specifications could not be obtained, the court held that it would be reasonable for the buyers to purchase similar peas on the spot (at 820). In the present case, if the Claimants were keen on restoring their "ability to deal with their assets as they deem fit", they should have purchased at least some substitute digital tokens on the market. Alternatively, they could have demanded that the Defendant restore their access to their accounts or commenced legal actions for specific performance in late 2018. They have not done so.

46 Overall, the Claimants' position that the valuation date should be the present date, namely the date of trial, is unsustainable.[60] The Claimants only brought the present suit on 13 September 2023. I am not convinced that there was nothing that they could have done or that they were prevented from commencing legal actions or purchasing substitute digital tokens throughout the nearly five-year period. The Claimants argue that they will not be able to purchase the quantity of digital tokens they own on the WEX platform if losses are not valued at the present date.[61] However, this is the consequence of them not having promptly taken mitigating measures.

47 I also reject the Claimants' argument that losses should be valued at the present date because the Defendant is in continuing breach.[62] The Claimants are in any event subject to a duty to take steps to mitigate their losses, which they have failed to do.

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[60] COS at [23]; CCS at [49].
[61] COS at [31]; CCS at [65]–[67].
[62] COS at [28]; CCS at [69].

48 The Defendant cites *iVenture* for the proposition that the Court should consider supervening events after the date of breach, such as the Covid-19 pandemic, in arriving at the damages to be awarded.[63] The Court of Appeal in *iVenture* made clear that such events may be considered if they "would have falsified some basic assumptions common to both sides or it would have affronted common sense or a sense of justice if the court had failed to take cognizance of them" (at [152]). As I conclude that the Claimants' losses are to be valued in October or November 2018, there is no need to consider the effect of the Covid-19 pandemic or other supervening events after November 2018 on valuation.

Value Issue

49 The Claimants obtained the historical market trading price data for the relevant digital tokens by taking the average of their daily closing prices provided on two cryptocurrency data aggregators known as CoinMarketCap and CoinGecko.[64] These two aggregators calculate prices of cryptocurrencies based on the volume weighted average of all market pair prices reported for the relevant cryptocurrencies.[65] For fiat currency monies, the Claimants obtained data from the websites of the European Central Bank and the Central Bank of Russia ("CBR") on various dates.[66] The aggregate values of the Claimants' digital tokens and monies (*ie*, excluding the 18th Claimant's portion) on the milestone dates are as follows:[67]

(a) US$10,677,066.86 on 12 July 2018;

[63] DOS at [10.3.5] and [10.3.10]–[10.3.11].
[64] VZ-1 at [50]–[59].
[65] VZ-1 at [49].
[66] VZ-1 at 1272-1285.
[67] VZ-1 at Schedule 1.

(b) US$11,972,775.07 as the highest value within three months of 12 July 2018;

(c) US$7,728,633.36 on 1 December 2018;

(d) US$17,754,040.02 on 13 September 2023;

(e) US$63,281,192.17 as all-time high since 12 July 2018; and

(f) US$46,303,260.55 on 1 June 2025.

50 The Defendant argues that as the Claimants do not possess technical skills or knowledge in cryptocurrencies, the Court should give little weight to their computation of the value of the digital tokens.[68]

51 I consider the figures which the Claimants arrived at to be credible. I accept their evidence that the two aggregators calculate the prices of cryptocurrencies based on real-time prices from various websites and that they have been referred to by a number of foreign and Singapore authorities.[69] Further, the Claimants are able to demonstrate that the prices which they obtained in relation to Bitcoin are similar to the prices published on leading cryptocurrency exchanges.[70] The Defendant's expert, Mr Podobnykh, candidly agreed in cross-examination that CoinMarketCap "is a reliable source" for prices of cryptocurrencies.[71]

52 Mr Podobnykh, however, observes that the prices obtained by the Claimants for various digital tokens "partially differ" from those he obtained on

[68] DCS at [11.3].
[69] VZ-1 at [50]–[59].
[70] COS at [57]–[59]; CCS at [103].
[71] Hearing Transcripts at Day 2, page 44, lines 17–18.

the CoinMarketCap website.[72] The Claimants have provided the daily opening and closing prices for these digital tokens on CoinMarketCap in their evidence.[73] As the prices Mr Podobnykh obtained appear to be the daily opening prices rather than closing prices,[74] I do not attach weight to the difference in their final figures. For fiat currency monies, Mr Podobnykh appears to be in agreement with the Claimants for the RUR/USD exchange rate and has not provided evidence to support a different EUR/USD exchange rate.[75]

53 The Claimants have provided the aggregate value of their digital tokens and monies on 12 July 2018, the highest value within three months thereafter and the value on 1 December 2018, but not other values from October to November 2018.[76] I therefore direct that the damages be calculated by taking the average of the three values, with the highest value within three months after 12 July 2018 being taken as a proxy for the value in October. This average value is US$10,126,158.43.

Conclusion

54 I therefore assess damages to be US$10,126,158.43 and order the Defendant to pay the Claimants this amount in damages. I also order the Defendant to pay interest on this sum. However, as the damages are denominated in US dollars, I will hear submissions from the parties on the appropriate interest rate. As for costs, unless there is any reason to order

[72] AP-1 at II(10.2)–(10.3).
[73] VZ-1 at 1347–1356.
[74] AP-1 at II(10.3).
[75] AP-1 at II(10.2)(e) and 30.
[76] VZ-1 at Schedule 1.

otherwise, for which the parties have liberty to apply, I order the Defendant to pay costs to the Claimants on the standard scale, to be taxed unless agreed.

Lee Seiu Kin
Senior Judge of the High Court

Ronald Wong Jian Jie (Huang Jianjie), Stuart Andrew Peter and Tan Jia Jun, James (Covenant Chambers LLC) for the claimant;
Anand Kumar s/o Toofani Beldar (Pathway Law Practice LLC) for the defendant.