

Trump Administration Imposes Sanctions Targeting Controversial Venezuelan Digital Currency

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The Trump Administration has officially banned U.S. transactions in Venezuela's controversial "petro" digital currency. On March 19, 2018, the Trump Administration issued a new [Executive Order](#), "Taking Additional Steps to Address the Situation in Venezuela" (the "**Digital Currency E.O.**"), which prohibits U.S. persons and others subject to U.S. jurisdiction from engaging in all transactions related to, provision of financing for, and other dealings in any digital currency, digital coin, or digital token that was issued by, for, or on behalf of the Government of Venezuela after January 9, 2018. The Digital Currency E.O. went into effect at 12:15 p.m. eastern daylight time on March 19, 2018.

Specifically, the Digital Currency E.O. prohibits:

- all transactions related to, provision of financing for, and other dealings in, by a U.S. person or within the U.S., any digital currency, digital coin, or digital token, that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018; and
- any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order.

The U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**") issued guidance earlier this year advising U.S. persons that they could be exposed to U.S. sanctions risk under [E.O. 13808](#) for engaging in transactions involving digital currencies issued by the Government of Venezuela, depending on the characteristics of the digital currency. This guidance was removed from OFAC's website following the issuance of the Digital Currency E.O. and replaced by three new [Venezuela-related Frequently Asked Questions](#) ("**FAQs**"). Among other things, the FAQs:

- make clear that the "petro" and "petro-gold" are considered a "digital currency, digital coin, or digital token" that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018 under the Digital Currency E.O. (FAQ #564), but Venezuela's traditional fiat currency, *bolivar fuerte*, is not considered such a currency; (FAQ #565) and
- note that absent authorization from OFAC, U.S. persons are prohibited from engaging in transactions related to, providing financing for, and otherwise dealing in any digital currency, digital coin, or digital token that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018, even if the U.S. person participated in the pre-sale for such currency before the effective date of the Digital Currency E.O. (FAQ #566)

Separately, OFAC issued five new [Digital Currency-related FAQs](#). Among other things, the FAQs:

- define the terms "virtual currency," "digital currency," "digital currency wallet," and "digital currency address"; (FAQ #559)
- clarify that the OFAC compliance obligations for U.S. persons (and persons otherwise subject to OFAC jurisdiction) are the same, regardless of whether a transaction is denominated in digital currency or traditional fiat currency; (FAQ #560)

- state that OFAC will use sanctions in the fight against criminal and other malicious actors abusing digital currencies and emerging payment systems as a complement to existing U.S. government tools, including diplomatic outreach and law enforcement authorities; (FAQ #561)
- explain that OFAC may add digital currency addresses to the Specially Designated Nationals and Blocked Persons List (the “**SDN List**”) to alert the public of specific digital currency identifiers associated with a blocked person, but that OFAC’s digital currency address listings are not likely to be exhaustive; (FAQ #562) and
- note that the digital currency address field on the SDN List provides the unique alphanumeric identifiers (up to 256 characters) for digital currency addresses and identifies the digital currency to which the address corresponds. (FAQ #563)

Background on the Petro

As discussed in the most recent edition of the [Davis Polk Blockchain Bulletin](#), on February 20, 2018, the government of Venezuela reportedly began a private presale of the “Petro,” a purported national cryptocurrency, with a public offering planned to start on March 20, 2018. Venezuela plans to issue 100 million Petro tokens in total, valued at over \$6 billion. It has established VIBE, a governmental cryptocurrency advisory group, and appointed minister Carlos Vargas as “Superintendent of Cryptocurrencies.” According to a [whitepaper](#) released by the Venezuelan government, the Petro is a “sovereign crypto asset backed by oil,” such that its value will be set by the international market price for a barrel of crude oil (though [several commentators](#) have [questioned](#) this claim). Venezuelan President Nicolas Maduro claims that the Venezuelan government will accept Petro tokens as payment for taxes and has promised that the government will “set up cryptocurrency mining farms in every state and municipality in the country.” It is as-of-yet [unclear](#) whether the Petro will be on the Ethereum or NEM blockchain, or on a separate proprietary Venezuelan blockchain.

Additional Sanctions Designations

Also on March 19, 2018, OFAC [designated](#) four current or former officials of the Government of Venezuela pursuant to E.O. 13962, which according to the Treasury Department’s [press release](#), was part of Treasury’s ongoing efforts to “highlight the economic mismanagement and endemic corruption that have been the defining features of the Maduro regime.”

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If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

John B. Reynolds III

+1 202 962 7143

john.reynolds@davispolk.com

Will Schisa

+1 202 962 7129

will.schisa@davispolk.com

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