ARTICLE

US FINANCIAL HEGEMONY: THE DIGITAL YUAN AND RISKS OF DOLLAR DE-WEAPONIZATION

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As we enter the 2020s, the United States Dollar ("USD") is entrenched as the most important currency—the preeminent global currency. The vast majority of global trade is conducted in USD; sovereign central banks retain USD as their majority reserve holding and crude oil is traded (mostly) in USD. Viewed as stable, freely convertible to other assets, a "safe storehouse" of value and offering an array of investment options, the United States is also viewed as governed by the rule of law with an independent judiciary. The unique status of the USD in the global financial architecture is both reflective and empowering of US global hegemony. Indeed, USD sanctions are so powerful they serve as an effective display of US power extraterritorially without resort to military intervention. Potentially disrupting the USD-led international financial order, an ambitious China wants the Yuan to be the next global currency. In recent years China has masterfully engaged in robust diplomatic-economic cooperation with developing sovereigns, and burgeoning alliances incentivize economic alignment with China. This is similar to the coalition of interests the United States enjoyed in the decades following Bretton-Woods. Significantly, China—and even US allies—are incentivized based upon economic self-interest in evading the extraordinary sanctions power of the USD. A blockchain powered digital Yuan—the currency of the world's second biggest economy (already digitalized to a far greater extent than the United States) might serve as an intriguing pathway towards a Chinese alternative to the USD. A digital Yuan may also expedite internationalization of the Yuan within the massive BRI initiative. To be sure, large and open US capital markets, political stability, and rule of law stand in stark

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contrast to China’s extensive capital controls, a less transparent disclosure architecture, and judicial deference to the ultimate authority—China’s single-party system, the CCP. However, cross-currents of incentives to evade US financial hegemony coupled with a pragmatic reformation of China’s capital markets and courts, should not be discounted. An internationalized digital Yuan would dramatically affect global finance and political-economic governance with transformative implications. Although many Western policy-makers and scholars believe a Yuan-centric model will be a very long march for China—perhaps taking decades—the process may be substantially expedited by China’s drive, innovative technology, and backlash against USD sanctions overuse. Moreover, crucial reforms needed to internationalize the Yuan can be accomplished in a much shorter time span than decades. The digital Yuan—if successful—may dramatically reduce the Long March timeline. If past performance is any guide, China has demonstrated an ability to close gaps expeditiously while simultaneously wielding strategic patience for fulfillment of its strategic objectives.

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If the digital currency is closely associated with the US dollar... there would be in essence one boss, that is the US dollar and the United States. If so, it would bring a series of economic, financial and even international political consequences.¹

As we enter the 2020s, the USD reigns supreme as the principal currency used in trade and held by global central banks, thus firmly entrenching the USD as the indispensable currency cementing the international financial architecture.² The advantages to USD holders are superlative: a safe storehouse of value of a politically stable sovereign with fully open capital and real estate markets; an independent judicial system following the

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rule of law;\(^3\) a freely convertible currency; and a usable payment option both in the United States and globally.

The unique status of the USD in the global financial architecture enables the United States to project power extraterritorially without resorting to military confrontation\(^4\) thus conferring unparalleled advantages to the United States.\(^5\) Imposing USD financial sanctions on foreign entities is an awesomely effective stratagem to promote US policy objectives,\(^6\) and the USD has been aggressively deployed in recent years forcing both friend and foe to adhere to US directives in a variety of geo-strategic and economic contexts: Swiss bank secrecy;\(^7\) Chinese shipping

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3. Demonstrating this judicial independence is the Ralls litigation wherein a Federal Circuit Court found in favor of a Chinese investor challenging CFIUS. See generally Ralls Corp. v. Comm. on Foreign Inv. in U.S., 758 F.3d 296 (D.C. Cir. 2014) (D.C. Circuit rejects Executive Branch attempt to deprive foreign nationals of property rights, asserting that due process requires notice of unclassified evidence in which an official actor relies, even against the compelling interest of National Security.); see also Jeanne Whalen, Federal court issues preliminary injunction halting administration’s ban of Chinese app WeChat, WASH. POST (Sept. 21, 2020), https://www.washingtonpost.com/technology/2020/09/20/wechat-ban-blocked-trump/ [https://perma.cc/YY3P-86CT] (“A federal court has granted a preliminary injunction halting the Trump administration’s planned ban of Chinese app WeChat . . . ”).


6. Khalid Al Ansary, Iraq Could Risk Dollar Access, Oil Marketing if U.S. Troops Out, BLOOMBERG (Jan 12, 2020), https://www.bloomberg.com/news/articles/2020-01-11/iraq-could-risk-dollar-access-oil-marketing-if-u-s-troops-out [https://perma.cc/5WTA-QX99] (“Iraq’s government could lose access to its dollar account at the Federal Reserve if the Trump administration imposes sanctions . . . Iraq could be hampered from getting the cash it needs for its commercial purposes if sanctions were imposed by the U.S. and access to its central bank account restricted, and the country’s creditors could also call in Iraqi debts.”).

entities, banks, and technology companies; Russian oligarchs; the EU-Russian gas pipeline Nord 2; and the targeting of adversarial states. In a USD-centric global financial architecture, being sanctioned and unable to access USD markets risks catastrophic economic consequences and can hobble any nation to such an extent that even the threat of USD sanctions is devastating.

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USD sanctions are not only effective, there is little apparent risk. In contrast to military confrontation, other sovereigns cannot meaningfully respond let alone retaliate. Therefore, preserving USD exceptionality is a vital US national security, simultaneously both reflecting and empowering US geo-strategic hegemony.

Indeed, in response to growing interest in the virtual money/asset Bitcoin, President Trump stated that Bitcoin was no competitor to the USD, tweeting that the USD will forever reign as the world’s most important currency:

It is by far the most dominant currency anywhere in the World, and it will always stay that way. It is called the United States Dollar!

President Trump’s confidence is understandable. Prior challengers touted as potential USD rivals have failed in attempts to unseat the USD. As a further exemplar, Chinese efforts at encouraging Yuan internationalization remain dwarfed by the power of the USD:

The dollar is the gold standard. If the euro couldn’t overtake it, the Chinese renminbi (RMB) sure won’t. Add to the fact that many of the core economies are angry with China for a lack of transparency regarding the new SARS coronavirus and it is

17. To be sure, other prior USD rivals such as the Japanese Yen in the 1980s and the Euro in the 2000s, failed to topple the USD. See Gabriele Galati & Philip Wooldridge, *The Euro as a Reserve Currency: A Challenge to the Pre-Eminence of the US Dollar?* 1, 7 (Bank for Int’l Settlements, Working Paper No. 218, 2006), https://www.bis.org/publ/work218.htm [https://perma.cc/3KAB-2WKA] (“At its peak in the late 1980s, the yen had accounted for over 10% of reserves.”); see also id. at 16. (“[T]he available data suggest that the euro’s share of reserves rose during the first few years after monetary union but then levelled off after 2003. In early 2006, the euro’s share was still well below the US dollar’s share and below even the share of euro legacy currencies in the 1980s and early 1990s. The euro comes closest to challenging the dollar in its role as a store of value. As a unit of account and medium of exchange, the dollar’s role is not as secure as it once was, but the dollar is still pre-eminent.”). Moreover, despite China’s decade long efforts, Yuan usage is still dwarfed by the dominance of the USD. However, as discussed below, emergent technology together with a critical mass of interests might expedite more extensive Yuan usage.
18. See infra notes 86-88 and accompanying text.
even less likely that its key trading partners settle trade in the local yuan post-pandemic.\footnote{19. See Kenneth Rapoza, China is Nowhere Near Replacing the Dollar, Forbes (Apr. 23, 2020), https://www.forbes.com/sites/kenrapoza/2020/04/23/china-is-nowhere-near-replacing-the-dollar/#161d65484dfe [https://perma.cc/SZGU-7MCJ]; see also Gita Gopinath, Opinion, Digital Currencies Will Not Displace the Dominant Dollar, Fin. Times (Jan. 7, 2020), https://www.ft.com/content/e5dd66b8-2ca0-11ea-84be-a54b267b914b [https://perma.cc/R4LU-RB7V] (stating that replacing the USD will take a very long time if even possible).}


Yet, history proves that no global reserve currency lasts forever.\footnote{21. See Stephen Quinn & William Roberds, Death of a Reserve Currency 1, 5 (Fed. Rsrv. Bank of Atlanta, Working Paper No. 2014-17, 2014), [https://perma.cc/3ALY-SCEH]. The demise of the Bank of Amsterdam ushered in a long period of currency dominance for the British pound. The passing of the torch from the florin to the pound in the 1780’s has a number of parallels with the better-known transition from the pound to the dollar in the 1920’s and 1930’s.”) Yet, history proves that no global reserve currency lasts forever.\footnote{22. See Semiannual Report, supra note 20 (admitting the USD will not last forever as the global reserve currency.)} US Federal Reserve Chairman Jerome Powell readily conceded the fact that global reserve currencies such as the USD do not reign forever.\footnote{22. See Semiannual Report, supra note 20 (admitting the USD will not last forever as the global reserve currency.) While the USD has numerous incumbent advantages over the Yuan, and reserve currencies do not easily fall, incipient transformative developments may erode the exceptional role of the USD. This article opines that the supreme confidence in the USD’s hegemonic encasement is misplaced for three principal reasons; motivation, innovation and blowback. As explained immediately below, these factors strongly suggest that claims that the “Yuan threat” to the USD will “take many decades” to unfold may reflect hubris as opposed to an objective evaluation.}
A. Motivation: A Digital Yuan is an Existential National Security Priority for China

The United States and China are locked in a strategic rivalry for global dominance with enormous implications on the international governance architecture in law, trade and finance. Within the context of the United States-China economic and financial market rivalry, the weaponization of finance should be viewed as an emerging national security issue for both superpowers. Illustrative is China’s recent national security law which has triggered substantial US criticism but extensive bipartisan political support for US sanctions:

Chinese banks seen as complicit in Beijing’s clampdown on Hong Kong face being cut off from much of the global financial

23. See Joel Slawotsky, The Clash of Architects: Impending Developments and Transformations in International Law, CHINESE J. OF GLOB. GOVERNANCE 3, 83, 88, 98, 100-01, 104-08 (2017) (discussing the effects of China’s ascendency and how this will affect international law and global governance as well as potentially impacting domestic governance of sovereigns militating towards a Chinese governance model).

24. See Andrew Rennemo, With China Sanctions, America Pushes the Limits of Its Financial Power, DIPLOMAT (June 19, 2020), https://thediplomat.com/2020/06/with-china-sanctions-america-pushes-the-limits-of-its-financial-power/ (U.S. Commerce Department tightened sanctions on iconic Chinese technology firm Huawei. The company and 114 of its international affiliates already faced a U.S. export ban, implemented in May 2019 and followed by months of aggressive diplomacy intended to isolate the firm from Western markets. The new restrictions prohibit companies operating outside the United States from using U.S.-made designs or inputs to produce the semiconductors that Huawei needs for its smart phones and tablets.).

25. See David Lawder & Gabriel Crossley, Mnuchin Says IMF and World Bank Funds Won’t Repay Debts to China, YAHOO FIN. (Mar. 12, 2020), https://finance.yahoo.com/news/mnuchin-says-imf-world-bank-092550135.html (The U.S. Treasury is working with the International Monetary Fund and the World Bank to gain full transparency of countries’ debts from China’s Belt and Road infrastructure initiative and ensure that funds from the institutions are not used to repay China…. Mnuchin told a hearing, “We’re not ever going to be using money from these international organizations to pay back China.”); see also Alan Rappeport, U.S. Objects to World Bank’s Lending Plans for China, N.Y. TIMES (Dec. 5, 2019), https://www.nytimes.com/2019/12/05/business/us-china-world-bank.html (reporting that President Trump urging the World Bank to stop lending money to China).

system under wide-ranging sanctions that are a part of newly enacted U.S. legislation.27

Leveraging USD centrality to limit China’s access to financial markets28 and US banking29 would cause serious damage to China and, if relations deteriorate substantially, may become an important US geo-economic stratagem.

For China, facing a bonafide risk of reduced or eliminated access to USD and/or US capital markets, banking and/or the SWIFT payments messaging system could be disastrous. Given the risks to China and Chinese companies, and with the proverbial sword of Damocles hanging over their heads,30 China is extremely motivated to avoid such a scenario.31 China is therefore existentially incentivized to replace the USD-centric international economic architecture.32

Experts and policy elites argue that the USD will remain the hegemonic currency for “many decades” because, in contrast to the United States, China imposes relatively strict capital controls and limits on foreign investment.33 However, China is already planning
on reforming its capital markets, allowing foreign investors to acquire shares and debt as well as modifying capital controls. Such reform efforts—absolutely critical to China’s ambitions—may not take decades to achieve when directed and encouraged by the single-party led Chinese government unencumbered by divisive debate and political gridlock.

B. Innovation: Emerging Technology and Expediting Yuan Internationalization

Emerging technology may expedite the internationalization of the Yuan. In 2014, the People’s Bank of China (“PBOC”) commenced exploratory research into blockchain and financial technological innovation. In late 2019, and possibly in response to US tech titan Facebook’s endeavors with respect to the Libra Project, Chinese President Xi Jinping stated that China must seize the high ground and become the innovation leader with respect to blockchain technology. China is therefore directing its state-capitalism governance model’s policies to expedite the development of a digital Yuan. Specific details of China’s plan for a digital Yuan are unknown but reports indicate China’s Central Bank Digital Currencies (“CBDC”) will be a blockchain based official currency backed and firmly controlled by the PBOC.

remain the reserve currency for a very long time”); see also The High Stakes of the Coming Digital Currency War, supra note 20 (“America’s deep and liquid markets, its strong institutions, and the rule of law will trump Chinese efforts to achieve currency dominance for a long time to come. . . . [The Yuan is] many decades away from supplanting the dollar.


36. Significantly, Libra is primarily grounded on the USD. See infra note 239 and accompanying text.


38. See Andy Mukherjee, Say Goodbye to Banking as We Know It, BLOOMBERG (Dec. 29, 2019), https://www.bloomberg.com/opinion/articles/2019-12-29/china-has-edge-
CBDCs—or blockchain based official government currencies—will be transformative and play an integral part of the developing digital international monetary system and world economy, revolutionizing financial services, banking and the global financial infrastructure.\(^{39}\) CBDCs are in various stages of development, but China’s progress is the most significant. In comparison with the United States, China’s CBDC is substantially more advanced than a potential digital USD.\(^{40}\) The US Federal Reserve is proceeding slower than China’s PBOC and of course the US governance model is not only procedurally different but must also consider complex substantive issues such as individual privacy and data control issues.\(^{41}\)

By first introducing a CBDC—the digital Yuan—China may earn “first mover advantage” and influence global standards with respect to CBDC definitions and regulations.\(^{42}\) A digital Yuan on a centralized platform will enable faster transactions per second—far in excess of the present capability of the existing USD financial institutional architecture.\(^{43}\) China’s domestic governance permits

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39. See Jesús Fernández-Villaverde et al., *Central Bank Digital Currency: Central Banking for All?* 2 (Fed. Rsvr. Bank of Phila. Working Paper No. WP 20-19, 2020), https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2020/wp20-19.pdf [https://perma.cc/WA8Z-KCRV] (“Little is known about the digital yuan except that it’s been in the works for five years and Beijing is nearly ready to roll. The consensus is that the token will be a private blockchain, a peer-to-peer network for sharing information and validating transactions, with the People’s Bank of China in control of who gets to participate. To begin with, the currency will be supplied via the banking system and replace some part of physical cash. That won’t be hard, given the ubiquitous presence of Chinese QR code-based digital wallets such as Alipay and WeChat Pay.”).

40. Sarah Allen et al., *Design Choices for Central Bank Digital Currency: Policy and Technical Considerations* 82 (Brookings: Glob. Econ. & Dev., Working Paper No. 140, 2020) (“China’s central bank, the People’s Bank of China ("PBOC") has pursued creation of a CBDC more actively than any other global economic power. They are the first major economy to pilot a sovereign digital currency.”).

41. See infra Part IV.C.1.


43. Allen et al., *supra* note 40, at 6 (stating that CBDCs offer the benefit of “increasing the speed of transactions.”).
the fusion of government-business interests\textsuperscript{44} allowing for the rapid development and issuance of a CBDC unencumbered by privacy concerns or partisan political objections. By early 2020, the initial testing of the digital Yuan has already commenced,\textsuperscript{45} including testing in cities\textsuperscript{46} and with commercial enterprises.\textsuperscript{47}

For China, leadership in a blockchain based CBDC would be a natural consequence of its already globally leading digital economy\textsuperscript{48} and would further enhance China’s digital lead. Moreover, the potential to merge AI, digital payments and blockchain, and generate an unprecedented amount of data (crucial for AI leadership) can be utilized to promote China’s economic and strategic interests. A screenshot of the initial digital Yuan e-wallet is available and demonstrates the basics: the ability to store digital cash, request funds, send-and-receive funds, review all transactions, and link accounts (presumably bank and financial) to the e-wallet. Surely the functions will increase and diversify.\textsuperscript{49}

\begin{itemize}
\item \textsuperscript{45} See Paul Muir, \textit{US chains to join digital yuan test scheme}, ASIA TIMES (Apr. 25, 2020), https://asiatimes.com/2020/04/us-chains-to-join-digital-yuan-test-scheme/ [https://perma.cc/4K5V-R356] (“The announcement of that pilot program, which appeared to focus on retail and catering, follows another recent test in Suzhou where the digital yuan was being used to give subsidies to local workers for transport.”).
\item \textsuperscript{46} See Cheng, supra note 35 (“China’s central bank has introduced a homegrown digital currency across four cities as part of a pilot program, marking a milestone on the path toward the first electronic payment system by a major central bank.”).
\item \textsuperscript{47} See Frank Tang, \textit{China includes McDonald’s, Starbucks, Subway on list of foreign firms to test digital currency}, S. CHINA MORNING POST (Apr. 23, 2020), https://www.scmp.com/economy/china-economy/article/3081291/mcdonalds-starbucks-subway-among-foreign-firms-set-test [https://perma.cc/8URW-J5CV] (“American chains Starbucks, McDonald’s and Subway were named on the People’s Bank of China (PBOC)’s list of firms that will test the digital currency in small transactions with 19 local businesses.”).
\end{itemize}
C. Blowback: Backlash against Over-Deployment of USD Sanctions

US strategic adversaries such as China are incentivized to seek a USD alternative, however, there is also increasing interest among US allies. The United States has enormous extraterritorial leverage over any entity that needs to access USD as long as USD clearing is within the legal architecture of US institutions. In recent years and within various contexts, US allies and the neutral Swiss have “folded” in response to US demands: for example Swiss banks violating domestic secrecy laws, banks paying enormous fines for aiding and abetting violations of sanctions and stopping work on the Nord 2 gas pipeline. Whether perceived as interference in internal affairs or eliminating profit, US allies are displeased with the sanctions that have been leveled as well as the prospect of being subject to future US sanctions.

While no US ally would dare to openly defy the United States, should an alternative currency become viable, there may be support among US allies to use it as a payments mechanism and a reserve bank asset. Indeed, despite strong US pressure not to join China’s AIIB or BRI, numerous US allies have embraced China’s development initiatives. US allies are calibrating their relations not wanting to jeopardize relations with either the United States or China. Therefore, the possibility of shared mutual self-interest which could erode USD hegemony, should not be ignored.

This article discusses China’s digital Yuan and the potential effects on the USD’s status as the preeminent global currency.

50. Resentment is not new, but resentment has not previously had a potential outlet. See infra note 75 (referring to USD as “exorbitant privilege” of the United States).
51. See infra Part III.C.2.
52. See infra Part III.C.2.
While scholarly attention has been focused on the ongoing trade war, scant focus has centered on CBDCs in the context of the US-China rivalry and the potential disruptive effect on the global governance architecture. Yet this development arising out of emergent technology has the potential to transform the Yuan into a widely utilized currency challenging USD dominance. Ramifications of a successful Yuan-centric financial architecture dwarfs the impact of the trade war.\(^{56}\) Perhaps the reason for a lack of attention is the conventional wisdom of US policy elites and a majority of academics that dethroning the USD is—even if contemplatable—not realistic until very far off in the future.\(^{57}\)

China has already established international governance mechanisms which can promote Yuan internationalization and usage such as the AIIB (which can serve as a conduit for lending digital Yuan) and the BRI (which can incentivize BRI members to use the digital Yuan).\(^ {58}\) China can therefore offer a viable alternative currency much more expeditiously as technological innovation expedites processes that might historically have occurred over a longer time frame. Furthermore, a digital Yuan is not only a national security priority for China but appeals to sanctioned parties (and entities concerned about being subject to USD sanctions) since a digital Yuan could serve as a conduit for conducting business outside the purview of USD sanctions. Thus,

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\(^{56}\) For example, blockchain powered national currencies have enormous transformative potential as transactions could be tracked, monitored and conceivably controlled. See generally Joshua Baron, Angela O'Mahony, David Manheim, & Cynthia Dion-Schwarz, National Security Implications of Virtual Currencies, RAND CORP. (2015), https://www.rand.org/content/dam/rand/pubs/research_reports/RR1200/RR1231/R AND_RR1231.pdf [https://perma.cc/X92X-8N4C] (discussing national security implications of digital national currencies).

\(^{57}\) See The High Stakes of the Coming Digital Currency War, supra note 20 ("America’s deep and liquid markets, its strong institutions, and the rule of law will trump Chinese efforts to achieve currency dominance for a long time to come. China’s burdensome capital controls, its limits on foreign holdings of bonds and equities, and the general opaqueness of its financial system leave the renminbi many decades away from supplanting the dollar in the legal global economy.") ; see also Gopinath, supra note 19.

\(^{58}\) See Joel Slawotsky, On China’s Long March, LARRY CATÁ BACKER BLOG (June 2, 2019), https://lcbackerblog.blogspot.com/2019/06/joel-slawotsky-on-chinas-long- march.html [https://perma.cc/P8D4-7E39] ("Since the triage of hegemonic power is —economic—technological—military, each of the strategies employed by China must be viewed in the context of the ultimate goal. Just viewing Chinese initiatives - AIIB or BRI or Yuan oil trading - in isolation and not as components of China’s brilliant strategy is a fundamental error.").
usage of a digital Yuan may be an attractive option even with US allies who are already discussing issuing CBDC without US participation.59

The article proceeds as follows: Part II reviews the historical perspective of the USD’s development and its current hegemonic status. Part III discusses the robust imposition of USD sanctions and the increasing interest in seeking an alternative to being subject to sanctions. Part IV provides an overview of China’s digital Yuan and analyzes the political-economic implications of a successful implementation.

II. US DOLLAR 1940s-2020: HISTORICAL CONTEXT AND CURRENT STATUS

Ever since the dollar cemented its role as the world’s dominant currency in the 1950s, it has been clear that America’s position as the sole financial superpower gives it extraordinary influence over other countries’ economic destinies.60

This Part discusses the unique role61 the USD currently plays in the international economic order, describing how the USD developed into an integral fulcrum of global trade, finance and reserve assets, and also highlights the recent increases in Yuan usage.

A. Bretton-Woods

In the aftermath of World War II and the devastation in Europe, the United States spearheaded efforts to rebuild a global


trading system. The centerpiece of the new international economic architecture was the Bretton-Woods agreement which incentivized nations to align their economic and political systems with the US model of open markets and rule of law, thus ensconcing global finance and the “bones of international business” as a US-centric system. The gold-backed USD was viewed as the best option or “as good as gold” to use as a means of exchange, renew global trade, stabilize the global economy and re-build wealth which would promote international peace and security.

Bretton Woods was a pivotal transformation empowering the United States to essentially underwrite the global USD-based monetary system:

As the Bretton Woods System evolved in the 1950s, the US dollar became the primary international reserve asset. The system became a gold-dollar system, reminiscent of the

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62. After World War II, the United States homeland emerged unscathed and America solidified its position as the most powerful economy in the world. Bretton Woods, a large conference held in the United States, underscored American dominance of the international economic architecture. See Steve Schifferes, How Bretton woods reshaped the world, BBC NEWS (Nov. 14, 2008), http://news.bbc.co.uk/2/hi/business/7725157.stm [https://perma.cc/MA9X-P94K] (after WWII Europe was ruined and the U.S. was the sole nation empowered to re-build the global order).


64. See On China’s Long March, supra note 58 (explaining “[t]he U.S. business model, [is] built into the bones of the current framework for global trade.”).

65. See Peter Goodman, The Dollar is Still King. How (in the World) Did That Happen?, N.Y. TIMES (Feb. 22, 2019), https://www.nytimes.com/2019/02/22/business/dollar-currency-value.html [https://perma.cc/42KG-3R6K] (explaining that prior to the turbulence of WW2, gold was used as a means of trade claims along with the use of British Pounds which had become in the years leading up to world war the primary global currency. As the UK had become a large economic power in the 1850s, the Pound became the global reserve currency).


67. Id.

interwar period, when sterling and other currency holdings supplemented official gold holdings.\textsuperscript{69}

Pursuant to the Bretton Woods agreement, "each member country declared its currency’s par value \textit{in terms of US dollars} and had to defend this exchange rate."\textsuperscript{70} The gold standard was still valid but it was the USD that was linked to gold, extensively used and redeemable for gold.

However by the late 1960s, concerns increased regarding the long-term stability of the post WW2 international system proximately caused by large military spending arising from the Vietnam War as well as “Great Society” social spending and the ensuing large US federal deficits. By 1971, in the context of systemic high US inflation and deficits, US allies began questioning the long-term sustainability of the existing Bretton Woods system, increasingly redeeming USD for gold.\textsuperscript{71} West Germany and Switzerland subsequently left the Bretton Woods system and in August 1971 the United States also left Bretton Woods by closing the “gold window,” precluding the exchange of USD for gold.\textsuperscript{72} By closing the gold window, the USD was unlinked to gold\textsuperscript{73} therefore transforming the USD into a truly fiat currency—remaining powerful but increasingly viewed as potentially unstable in the longer-term. In the early 1970s the USD suffered substantial devaluations particularly against the German Mark and Japanese Yen.\textsuperscript{74} The United States was forced to impose wage and price

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\item \textsuperscript{69} Michael D. Bordo & Robert N. McCauley, \textit{Triffin: Dilemma or Myth?} 1, 3 (Bank for Int'l Settlements, Working Paper No. 684, 2017).
\item \textsuperscript{70} \textit{Id}.
\item \textsuperscript{71} See \textsc{David Frum}, \textit{How We Got Here: The 70s: The Decade That Brought You Modern Life (For Better or Worse)} 295-98 (2001).
\item \textsuperscript{73} See Martin Wolf, \textit{Renewing the Rules of Good Behaviour}, FIN. TIMES (July 11, 2019), https://www.ft.com/content/e8a1f48-a185-11e9-a282-2df48f366f7d [https://perma.cc/T5ZU-UYPJ] (explaining “[t]he regime of fixed, but adjustable, exchange rates collapsed in 1971, when the Nixon administration broke the dollar’s link to gold.”).
\item \textsuperscript{74} See generally Susan Strange, \textit{The Dollar Crisis 1971}, 48 INT’L AFFAIRS 191 (1972); see also Henry C. Wallich, \textit{The Monetary Crisis of 1971: Lessons to be Learned}, PER JACOBSSON
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controls with the major US stock market indexes losing approximately fifty percent of value between 1973 and 1974 accompanies by a deep recession.\textsuperscript{75}

In a fascinating development during this difficult time in the US economy, the importance of the USD was cemented through a significant international political-economic deal between the United States and Saudi Arabia.\textsuperscript{76} The Saudis\textsuperscript{77} agreed to maintain the price of Saudi oil exports only in USD and would invest the proceeds of oil sales in the United States, giving rise to what is referred to as the "Petro Dollar."\textsuperscript{78} Pursuant to this understanding, Saudi Arabia could depend upon the US military to defend the Saudi regime and Saudi energy assets. Saudi Arabia would also purchase vast amounts of advanced US military equipment.\textsuperscript{79} The

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    \item \textsuperscript{76} See Simon Has Meeting with Saudi King on Investing in U.S., \textit{N.Y. TIMES}, July 21, 1974, at 3.
    
    
    \item \textsuperscript{78} See Andrea Wong, \textit{The Untold Story Behind Saudi Arabia’s 41-Year U.S. Debt Secret}, \textit{BLOOMBERG} (May 31, 2016), https://www.bloomberg.com/news/features/2016-05-30/the-untold-story-behind-saudi-arabia-s-41-year-u-s-debt-secret [https://perma.cc/6PSS-QEXH] (explaining “[t]he basic framework was strikingly simple. The U.S. would buy oil from Saudi Arabia and provide the kingdom military aid and equipment. In return, the Saudis would plow billions of their petrodollar revenue back into Treasuries and finance America’s spending.”).
    
    \item \textsuperscript{79} See Faisal Islam, \textit{Iraq Nets Handsome Profit by Dumping Dollar for Euro}, \textit{GUARDIAN} (Feb. 15, 2003), https://www.theguardian.com/business/2003/feb/16/iraq.theeuro [https://perma.cc/H56A-K76Y] (explaining the proximate cause of the United States’ Gulf War against Iraq in was the Iraqi threat to Saudi Arabia. Yet a contributing cause may also have been that in the prelude to that conflict, Iraqi leader Saddam Hussein had priced Iraqi oil in Euros); see also Carola Hoyos & Kevin Morrison, \textit{Iraq Returns to International Oil Market}, \textit{FIN. TIMES} (June 5, 2003), https://www.theguardian.com/business/2003/feb/16/iraq.theeuro [https://perma.cc/NCW5-NCGH] (detailing how not surprisingly, after his overthrow, Iraq returned to US Dollar pricing).
\end{itemize}
\end{footnotesize}
US-Saudi partnership has held strong for almost fifty years. Indeed, the first nation President Trump visited upon his election in 2016 was Saudi Arabia. Because numerous countries—including China—rely on oil imports, these sovereigns are forced to maintain large stockpiles of USD in order to import crude oil. In every nation other than China—from London to Dubai—crude oil is priced in USD. The near universal need to pay for oil in USD creates a consistent demand for USDs and supports the USD’s value. Other Persian Gulf nations such as Qatar and the United Arab Emirates similarly maintain their price for crude oil in USD.

80. Attesting to the importance of the US-Saudi strategic partnership—and of the crucial importance that oil continues to be priced in US Dollars—is that all US Presidents regardless of political affiliation have embraced the Kingdom and have limited any criticism of Saudi policy to a minimum. See, e.g., Mark Matthews, White House Issues Rare Critique of Saudi Policy, BALT. SUN (Sept. 16, 2004), https://www.baltimoresun.com/news/bs-xpm-2004-09-16-0409160226-story.html ("The Bush administration delivered an unusual rebuke yesterday to Saudi Arabia, a longtime ally whose rulers have close ties to President Bush’s family, for violating religious freedom."); Nicole Gaouette & Kaitlan Collins, Trump Signals US Won’t Punish Saudi Crown Prince Over Kashoggi Killing, CNN (Nov. 20, 2018), https://edition.cnn.com/2018/11/20/politics/trump-bash-saudi-arabia/index.html ("President Donald Trump signaled Tuesday that he will not take strong action against Saudi Arabia or its Crown Prince Mohammed bin Salman for the murder and dismemberment of Washington Post journalist Jamal Kashoggi.").


83. See Clara Ferreira Marques, Oil War May Revive China’s Yuan Ambitions, BLOOMBERG (Mar. 16, 2020), https://www.bloomberg.com/opinion/articles/2020-03-16/oil-price-war-may-revive-china-s-global-yuan-ambitions [https://perma.cc/SB4E-3XNV] (explaining that in 2018, a contract in Shanghai commenced trading in Chinese Renminbi. This nascent contract has been successful and may potentially serve to replace the USD as the currency accepted for crude oil acquisition. “Then there’s the steady rise of Shanghai’s yuan-denominated oil contract, launched in March 2018. As of late last year, the contract accounted for more than 14% of oil trade on major exchanges, according to Bloomberg Intelligence.”).

B. Current USD Status

In the intervening years since 1974, the USD has only increased its status and remains the exceptional currency “confering an exorbitant privilege on its nation.”

Illustrative is the fact that only the United States was empowered to eviscerate hundreds of years of Swiss banking secrecy by threatening sanctions and the loss of access to US financial markets. The Swiss would not have acquiesced to another nation’s demands.

The USD’s preeminence in global trade remains overwhelming. Notwithstanding inroads from the Yuan, data establishes that the vast majority of global trade is conducted in USD. As the Bank of England Governor noted:

The US accounts for only 10 per cent of global trade and 15 per cent of global GDP but half of trade invoices and two-thirds of global securities issuance . . . As a result, ‘while the world economy is being reordered, the US dollar remains as important as when Bretton Woods collapsed’ in 1971.

USD dominance is even more impressive because China is the world’s largest trading nation and yet the USD is far more dominant than China’s Yuan. The global payments messaging

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85. See John Plender, America’s Dollar Privilege is Not Exactly Exorbitant, FIN. TIMES (Apr. 24, 2019), https://www.ft.com/content/8d47d6d6-659b-11e9-9adcf98bf1d35a056 [https://perma.cc/K8K5-7AJ3].
86. See infra Part III.C.1.
88. See Mayra Rodriguez Valladares, Foreign Exchange Transactions And Over-The-Counter Interest Rate Derivatives Hit Record Highs, FORBES (Sept. 16, 2019), https://www.forbes.com/sites/mayrarodriguezvalladares/2019/09/16/foreign-exchange-transactions-and-over-the-counter-interest-rate-derivatives-hit-record-highs/#6f48a90b3c34 [https://perma.cc/JLY3-PE2D] (explaining in contrast, “[t]urnover in the renminbi, however, grew only slightly faster than the aggregate market, and the renminbi did not climb further in the global rankings. It remained the eighth most traded currency, with a share of 4.3%, ranking just after the Swiss franc.”).
89. Chris Giles, Mark Carney Calls For Global Monetary System to Replace the Dollar, FIN. TIMES (Aug. 23, 2019), https://www.ft.com/content/a775b55a-c5c2-11e9-a8e9-296ca66511c9 [https://perma.cc/SKQ7-KCPP].
platform SWIFT\textsuperscript{90} reports that the overwhelming currency used in international transfers remains USD although the Yuan has in recent years increased.\textsuperscript{91} US influence over SWIFT and access to the vast array of USD transactions,\textsuperscript{92} as well as pressuring the EU to direct Belgian-based SWIFT to comply with US sanctions policy,\textsuperscript{93} is a further manifestation of USD financial hegemony.

Moreover, most central banks of the world maintain their reserves primarily in USD—although that onetime near monopoly is also declining.\textsuperscript{94} Furthermore, the legacy international financial institutions ("IFIs")—namely, the IMF and World Bank—provide USD financing. Doing so is hardly surprising as the IMF and World Bank are headquartered in Washington and constitute vital components of the US-led international financial architecture. While the principal international financial institutions lend in USD,


\textsuperscript{91} See Worldwide Currency Usage and Trades, supra note 87, at 6 (explaining "[t]he Chinese yuan's usage continues to grow significantly, particularly in flows between Europe and Asia-Pacific, which have increased considerably over the last two years, and where the currency is now ranked fifth. The People's Bank of China (PBOC) demonstrates a strong commitment to promoting the Chinese yuan, and the Chinese government has implemented a range of supportive policy measures.").

\textsuperscript{92} See Glenn R. Simpson, Treasury Tracks Financial Data In Secret Program, WALLST. J. (June 23, 2006), https://www.wsj.com/articles/SB115101988281688182?mod=hps_us_pageone [https://perma.cc/U6DN-N4KG] (explaining "[s]ince shortly after the Sept. 11, 2001 terrorist attacks, the U.S. Treasury Department has been secretly tracking suspected terrorist financing through a far-reaching program that gives it access to records from the network that handles nearly all international financial transfers. The information comes from a Belgian firm known by its acronym, Swift, which manages much of the world's financial-message traffic. Under the program, U.S. counter-terrorism analysts query Swift's vast database of billions of financial transactions.").


\textsuperscript{94} See Lee Shin-Hyung, China Pushes Ahead With Making Yuan a Global Currency, ASA TIMES (Dec. 19, 2019), https://www.asiatimes.com/2019/12/article/yuan-globalization-remains-a-long-way-off/ [https://perma.cc/T9SU-HDWV] (explaining "[m]ore than 60 central banks or monetary authorities around the world now include the yuan in their foreign exchange reserves. Even so, the yuan accounts for as little as 1.97% of total global foreign exchange reserves.").

the newer IFIs such as the Chinese-led AIIB have also been lending in USD:

The China-led Asia Infrastructure Investment bank has ruled out lending in currencies other than the dollar, its new president said at the weekend, signalling that Beijing will not use the development bank as a platform to promote renminbi internationalisation.96

The USD is so entrenched, even Chinese borrowers issue USD denominated bonds.97 However, incipient developments and trends indicate the potential for a transformative shift away from USD centrality in the global economic order.

C. Incipient Yuan Internationalization

In 2016 the IMF added the Yuan to the Special Drawing Right ("SDR") basket,98 demonstrating confidence in China's currency. However, is Yuan usage in fact increasing internationally? Preliminarily, with respect to SWIFT data, the possibility that Yuan usage is underreported exists. For example, China spearheaded a SWIFT alternative—Cross-border Interbank Payment Service ("CIPS"), a payment system which started operating in late 2015.99

96. Gabriel Wildau & Tom Mitchell, China's New Asia Development Bank Will Lend in US Dollars, FIN. TIMES (Jan. 17, 2016), https://www.ft.com/content/762ce968-bcee-11e5-a8c6-deeeb63d6d4b [https://perma.cc/WTL8-4VAF] (explaining "[t]he China-led Asia Infrastructure Investment bank has ruled out lending in currencies other than the dollar, its new president said at the weekend, signalling that Beijing will not use the development bank as a platform to promote renminbi internationalisation.").


CIPS offers clearing and settlement services for its participants in cross-border Yuan payments not included in SWIFT statistics. Thus, taking CIPS into account, Yuan usage is likely higher than SWIFT statistics would indicate.100

In addition, the USD’s onetime virtual monopoly of reserve holdings is declining101 as central banks have increased holdings of Yuan, Euros and Yen.102 For example, the Nigerian Central Bank has included Yuan as a reserve asset and Nigerian deals are being denominated in Yuan.103 In Kenya, economists have promoted the Chinese currency as well.104 Driving the African push towards Yuan usage and reserve currency status is the fact that African nations’ largest trading partner and lender is China.105

Yet it is not only African nations that have seen their central banks hold Yuan as reserves. The ECB,106 as well as the central...

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102. Henny Sender, *China Pauses to Push to Internationalise its Currency*, * Fin Times* (Apr. 3, 2019), https://www.ft.com/content/14279cc6-55e4-11e9-91f9-b6515a54c5b1 [https://perma.cc/E3L8-PFTX] ("[Central bank] holdings of the Chinese currency, though still very small, are slowly picking up — as are other alternatives to the greenback especially gold, that "old economy" store of value. As of the third quarter, only 1.8 per cent of the world’s reserves were in renminbi, according to IMF data. But that was up from 1.1 per cent when the Chinese currency first was included in the data at the end of 2016.").


banks of Germany, the UK and Switzerland have initiated Yuan holdings and Belgium, Spain and others are considering purchasing Yuan. The trend is clear—the Yuan is becoming a currency central banks are interested in holding.

Another aspect of a move away from the USD is the increasingly popular movement towards Yuan denominated debt. Referred to as “Panda bonds”, Yuan denominated debt is generally acquired by “institutional investors, including companies, foreign banks, multilateral institutions and sovereigns, who see them as reliable investment options that could generate steady returns, besides helping boost economic development worldwide through the Belt and Road Initiative, and maintaining global economic stability.” Issuers include Pakistan, Philippines, Pakistan set to issue China’s Panda bond next year, Daily Times: Bus. (Nov. 29, 2019), https://dailytimes.com.pk/509826/pakistan-set-to-issue-chinas-panda-bond-next-year/ [https://perma.cc/G9ZE-JFEX].


Hungary, Poland, South Korea, and Portugal. A French financial institution will be the first EU bank to issue Yuan debt.

Furthermore, the new Chinese-led IFIs are slowly transitioning away from an exclusive USD-lending basis. For example, while the AIIB’s policy has been to lend exclusively in USD, the AIIB will be switching to local currencies thereby initiating a reduction in USD usage:

Using local currency for cross-border financing is a service usually provided by multilateral development organizations to hedge against foreign exchange-rate risks arising from settlement in USD.

The NDB is also endeavoring to expand non-USD lending.

Various commercial deals are being made in Yuan even before the introduction of a digital Yuan:

The world’s top listed miner BHP Group said on Tuesday it had made its first yuan-denominated sale of iron ore to China.
Baoshan Iron & Steel Co Ltd (Baosteel) and would explore using blockchain for such transactions in future.\textsuperscript{119}

Incontrovertibly, China has successfully implemented preliminary steps to promote Yuan internationalization, and Yuan usage is steadily increasing. The Yuan’s long march to internationalization may be expedited via the digital Yuan as discussed in Part IV. Crucially, the digital Yuan’s success will be impacted by the extent to which other nations are willing to utilize it as China will need partners willing to use Yuan. Therefore, before examining the digital Yuan, the next Part discusses the developing blowback against perceived excessive invocation of USD control in international economic governance.

\textbf{III. USD CONTROL IN INTERNATIONAL ECONOMIC GOVERNANCE}

[F]oreign officials have been concerned about the implications for banks of losing access to the U.S. dollar market . . . In his letter, Chancellor Osborne stated that ‘[i]t was the perceived threat of [Standard Chartered Bank]’s loss of access to this market, rather than any potential financial penalty.’\textsuperscript{120}

The United States exercises control over international finance as exemplified by numerous non-US financial institutions have been fined for enabling sanctions evasion.\textsuperscript{121} Most recently, the United States has threatened sanctions against the International Criminal Court (“ICC”) in response to ICC plans to open

\textsuperscript{119}. See Min Zhang & Tom Daly, BHP completes first yuan-based iron ore sale to China’s Baosteel, REUTERS: COMMODITIES (May 12, 2020, 1:51 AM), https://www.reuters.com/article/us-china-baowu-bhp-idUSKBN2200LZ [https://perma.cc/DU2L-VEUB].

\textsuperscript{120}. See Pierre-Hugues Verdier, The New Financial Extraterritoriality, 87 GEO. WASH. L. REV. 239, 288 (2019), https://abila01.s3.amazonaws.com/media/uploads/2019/10/07/verdier-the-new-financial-extraterritoriality.pdf [https://perma.cc/5N8H-PYJ7] (“Beyond the magnitudes of the fines, foreign officials have been concerned about the implications for banks of losing access to the U.S. dollar market . . . In his letter, Chancellor Osborne stated that ‘[i]t was the perceived threat of [Standard Chartered Bank]’s loss of access to this market, rather than any potential financial penalty, that triggered such a significant reaction’ in the markets.’” (emphasis added).

\textsuperscript{121}. Joel Slawotsky, Reining in Recidivist Financial Institutions, 40 DEL. J. OF CORP. L. 282, 316 (2015).
investigations against the US defense operations in Afghanistan.122 This Part provides exemplars of the financial market power wielded by the United States. As discussed below, the United States enforces the US-centric paradigm and promotes US interests by compelling sovereigns to adhere to US policy.

A. Extraterritorial Reach of the United States in Financial Markets

International finance, law, politics, and governance are inextricably intertwined.123 For example, in the aftermath of Nazi Germany’s invasion of Norway in 1940, the US Department of the Treasury established the Office of Foreign Funds Control (“FFC”), whose mission was to block securities and foreign exchange transactions of foreign funds by Germany.124 The FFC’s successor was named the Office of Foreign Assets Control (“OFAC”). The mission of the OFAC is to disable the access to banks through enforcement of sanctions and blocking of assets.125 The OFAC

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123. The connection between money and domestic U.S. law as well as international affairs is long-running. See U.S. Dep’t of the Treasury, Frequently Asked Questions, https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_general.aspx#567 [https://perma.cc/2229-ZC23] (“Dating back prior to the War of 1812, Secretary of the Treasury Gallatin administered sanctions imposed against Great Britain for the harassment of American sailors. During the Civil War, Congress approved a law which prohibited transactions with the Confederacy, called for the forfeiture of goods involved in such transactions, and provided a licensing regime under rules and regulations administered by Treasury.”).

124. See U.S. Dep’t of the Treasury, Basic Information on OFAC and Sanctions, https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1501 [https://perma.cc/9NNU-V2U4] (last visited Oct. 14, 2020) (“The FFC’s initial purpose was to prevent Nazi use of the occupied countries’ holdings of foreign exchange and securities and to prevent forced repatriation of funds belonging to nationals of those countries. These controls were later extended to protect assets of other invaded countries. After the United States formally entered World War II, the FFC played a leading role in economic warfare against the Axis powers by blocking enemy assets and prohibiting foreign trade and financial transactions.”).

125. See id. (“The Office of Foreign Assets Control (OFAC) of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under US jurisdiction. Many of the sanctions are based
maintains a list of Specially Designated Nationals ("SDNs") and Blocked Persons. Being placed on the SDN List means being subject to US sanctions.\(^\text{126}\)

The most significant aspect of being on the SDN List is that assets or property that in some connection become "located" within the United States are subject to sanctions—i.e., will be blocked.\(^\text{127}\) Since the USD plays such a fundamental role in international trade and commerce, SDN designation in essence freezes the party out of USD transactions. Therefore, even totally overseas entities which may use a correspondent US financial institution to clear the funds transfer cannot effectuate the transaction since the US banks are under US jurisdiction and are forbidden from processing the payments.\(^\text{128}\) The importance of the USD and concern of violating US law (and losing access to US markets) translates into most institutions abiding by the SDN List.\(^\text{129}\)

126. Anyone owning fifty percent or more of property (broadly defined including virtually any asset) located in the United States will have that asset blocked—not seized—precluding the use or sale of the property. See U.S. Dep’t of the Treasury, Office of Foreign Assets Control – Sanctions Programs and Information, https://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf [https://perma.cc/N6BM-QZL3] (last visited Oct. 6, 2020); see also Frequently Asked Questions, supra note 123. Any US persons (US citizens or US businesses) is prohibited from providing any service or transacting business with such entities (on the SDN List or who own fifty percent or more of a property located in the US). See id.

127. U.S. Dep’t of the Treasury, Frequently Asked Questions: Specially Designated Nationals (SDNS) and the SDN List, https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1631 [https://perma.cc/CG63-UFEL] (last visited Oct. 6, 2020) ("Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." Their assets are blocked and U.S. persons are generally prohibited from dealing with them.").

128. U.S. Dep’t of the Treasury, Frequently Asked Questions: Blocking and Rejecting Transactions, https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1601 [https://perma.cc/7UVC-L3H3] (last visited Oct. 6, 2020) ("A U.S. financial institution cannot so much as advise a letter of credit if the underlying transaction is in violation of OFAC regulations. In addition, U.S. persons are prohibited from facilitating transactions by foreign persons that would be prohibited if performed by a U.S. person. … A U.S. financial institution, its foreign branches, and—in some cases—its wholly-owned or -controlled foreign subsidiaries, cannot open an account for a person named on OFAC’s List of Specially Designated Nationals and Blocked Persons (SDN List).”).

Crucially, US sanctions are also exercised outside US territory projecting US policy and power extraterritorially.\textsuperscript{130} “Sanctions are among the most important, and most coercive, tools in US foreign policy short of war.”\textsuperscript{131} This demonstration of extraterritorial reach is unmatched and is possible because of the centrality of the USD in global finance:\textsuperscript{132}

It is worthwhile noting that if the Justice Department can overcome 400 years of Swiss bank secrecy it is unlikely that banks located in other tax havens could prevail in a battle against our tax cops.\textsuperscript{133}

In recent years, USD sanctions have promoted US geopolitical interests and defense against strategic adversaries.\textsuperscript{134} USD sanctions constitute critical strategic deployments aiding and

\begin{footnotesize}
\begin{enumerate}
\item See \textit{The High Stakes of the Coming Digital Currency War}, supra note 20 ("US regulators have vast power not only over domestic entities but also over any financial firms that need access to dollar markets.").
\item For example, the position of US government enforcement agencies with respect to the Foreign Corrupt Practices Act ("FCPA") is clear—a non-US person’s use of a correspondent US bank from anywhere in the world to effectuate USD payments constituting the bribe (in whole or in part) brings that defendant within the jurisdiction of the FCPA. \textit{See The FCPA Resource Guide, CRIMINAL DIV. U.S. DEP’T OF JUSTICE ENF’T DIV. U.S. SEC. EXCH. COMM’N} 1, 10 (July 2020), https://www.justice.gov/criminal-fraud/file/1292051/download [https://perma.cc/3R6T-MVLY] (FCPA violations can be prosecuted when the conduct involves “using the U.S. mails or any means or instrumentalities of interstate commerce . . . [including] placing a telephone call or sending an e-mail, text message, or fax from, to, or through the United States involves interstate commerce—as does sending a wire transfer from or to a U.S. bank or otherwise using the U.S. banking system . . . ”)(emphasis added).
\item \textit{Sanctions Programs and Country Information}, supra note 126 (containing detailed information about sanctions and specific sanctions programs and the linkage between national security defense and use of sanctions).
\end{enumerate}
\end{footnotesize}
abetting the extraterritorial reach of US law since large swaths of global transactions and institutions are connected to the US banking sector.\textsuperscript{135} Therefore, a bank or financial institution located outside the United States which either violates United States law or transacts with a sanctioned party will itself be subject to sanctions and prosecution.\textsuperscript{136}

The exceptional role of the USD protects US national security and substantial economic policy latitude to US policymakers both for both domestic economic purposes\textsuperscript{137} and global political-economic interests.\textsuperscript{138} Sanctions are strategically invoked to promote and advance US national interests such as preventing EU dependence on Russian natural gas:

[The Nord 2 gas pipeline is the] Kremlin’s key tools to exploit and expand European dependence on Russian energy supplies, tools that undermine Ukraine by cutting off gas transiting that critical democracy, a tool that ultimately undermines transatlantic security.\textsuperscript{139}

With respect to EU entities collaborating with the Nord 2 Russia-Germany gas pipeline, US Secretary of State Michael


\textsuperscript{136} See 50 U.S.C. § 1705; see also 31 C.F.R. § 560.203; see also 31 C.F.R. § 560.204.

\textsuperscript{137} See generally Sovereign Wealth Funds as Emerging Financial Superstars: How U.S. Regulators Should Respond, supra note 5. US consumers benefit disproportionately from the dollar’s strength, since foreigners are essentially subsidizing Americans’ habit of importing more than they export. Id. Also, global demand for dollar-denominated assets helps keep interest rates low on things like Treasury bonds despite a US federal budget deficit of more than $1 trillion USD a year. Id. That dynamic encourages governments, businesses and households to take on ever-growing amounts of debt, which might be difficult to pay back if borrowing costs suddenly jumped. Id.

\textsuperscript{138} See Nord Stream 2: Germany and Russia decry US sanctions, BBC NEWS (Dec. 21, 2019), https://www.bbc.com/news/world-europe-50879435 [https://perma.cc/LGD4-4GTG] (“The Trump administration fears the pipeline will tighten Russia’s grip over Europe’s energy supply and reduce its own share of the lucrative European market for American liquefied natural gas. President Trump has said the 1,225km (760-mile) pipeline, owned by Russia’s state-owned gas company, Gazprom, could turn Germany into a ‘hostage of Russia’.”) (emphasis added).

Pompeo was blunt in his message regarding the imposition of USD sanctions:

Get out now or risk the consequences.¹⁴⁰

US Treasury Secretary Mnuchin concedes that sanctions are used as a means to enforce the US order thus eliminating the need for military intervention:

‘The reason why we’re using sanctions is because they are an important alternative for world military conflicts. And I believe it’s worked . . . So whether it’s North Korea, whether it’s Iran or other places in world, we take the responsibility very seriously.’¹⁴¹

Sanctions offer an attractive alternative to costly military ventures or the time and compromises associated with diplomatic negotiations compelling foreign sovereigns to advance US national security interests, cost-effectively:

The U.S. State Department warned Iraq this week that it risks losing access to a government bank account at the New York Federal Reserve Bank if American forces are kicked out.¹⁴²

The mere hint of sanctions can deter sovereigns from opposing US policy.¹⁴³ For example, in response to the Iraqi parliament’s resolution aimed at asking US troops to leave, President Trump tweeted:

If they do ask us to leave, if we don’t do it in a very friendly basis, we will charge them sanctions like they’ve never seen before ever . . . It’ll make Iranian sanctions look somewhat tame.¹⁴⁴

Yet another avenue for USD power is through compliance by SWIFT of US policy. Founded in 1973, SWIFT is a global banking gatekeeper of financial messages, indispensable to most international transfers of USD.¹⁴⁵ The United States has substantial

¹⁴⁰ Id.
¹⁴¹ Turak, supra note 4.
¹⁴² Ansary, supra note 6.
¹⁴³ Id. (“If they do ask us to leave, if we don’t do it in a very friendly basis, we will charge them sanctions like they’ve never seen before ever” . . . “It’ll make Iranian sanctions look somewhat tame.”)
¹⁴⁴ Id. (emphasis added).
¹⁴⁵ SWIFT History, supra note 90.
influence over SWIFT and complies with US sanctions policy particularly when implemented by the EU. An entity that loses SWIFT access is no longer able to send or receive cross-border USD payments, which constitutes a severe impediment to participation in global commerce.

The ability of the United States to essentially override domestic laws of foreign nations because of the USD-led international financial architecture is exemplified by the folding of Swiss banks to US demands. As recently as 2005 Swiss bank secrecy was legendary and considered the ultimate place to store money with absolute confidentiality. However, the United States was able to force Swiss banks to disclose the identities of depositors or risk access to the USD.

A further exemplar of the sweeping power arising from US financial hegemony is the US FATCA (“FATCA”). Under FATCA, foreign banks and financial institutions outside the territory of the United States are compelled into handing over to the US IRS information regarding accounts held by US citizens overseas. The ability of the United States to essentially override domestic laws of foreign nations is stunning. Fearing loss of access to US financial markets and USD clearing, every nation has “folded” and


149. McKenzie, supra note 133 (noting Swiss banking secrecy was effective for hundreds of years).


despite conflict with domestic privacy laws or other objections, has "signed onto" FATCA, prioritizing US law over their domestic law:\footnote{Id.}

America’s global tax law. And it’s finally here after a four-year ramp up. It requires foreign banks to reveal American accounts holding over $50,000. Bank secrecy? Forget it. Non-compliant institutions could be frozen out of U.S. markets, so everyone is complying.\footnote{Id.}

Thus, even hegemonic rival, and frequent critic of US interference into the internal affairs of other nations, China, signed onto the US FATCA, ostensibly compelling Chinese banks to reveal private details of their US customers’ accounts.\footnote{Id.}

B. Examples of Sanctioned Entities: US Adversaries

1. Russia


Most U.S. designations of Russian persons subject to sanctions are in response to Russia’s 2014 invasion and occupation of Ukraine’s Crimea region and areas of eastern Ukraine, as well as its maritime aggression near the Sea of Azov. To date, the United States has imposed Ukraine related sanctions on more than 665 persons.\footnote{See U.S. Sanctions on Russia: An Overview, CONGRESSIONAL RESEARCH SERV. (Mar. 23, 2020) https://fas.org/sgp/crs/row/IF10779.pdf [https://perma.cc/3KSC-P7WS].}

The United States has also leveled sanctions against Russian entities relating to cyber-hacking in the United States and human rights abuses.\footnote{Id.} In December 2019, the United States imposed sanctions on a multi-billion dollar undersea gas pipeline construction “Nord 2” between Russia and Germany which if

2. Venezuela


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158. See Nord Stream 2: Germany and Russia Decry US Sanctions, supra note 138.
alternative to the USD to evade the sanctions, establishing the virtual currency “Petro” in late 2017, claiming it would be valued against a basket of commodities including crude oil, natural gas and gold. The inherent danger such a sovereign-backed currency poses to the USD is abundantly clear:

Unlike traditional state-issued currencies, Venezuela’s petro could be obtained and spent on goods around the world as easily as bitcoin or any other cryptocurrency. Imagine buying a loaf of bread from a bakery in Lincoln, Nebraska, and being able to pay for it with Venezuela’s petro as easily as downloading a mobile app.

The power of the USD sanctions would be sharply curtailed as “the Petro would allow Venezuela to circumvent US financial sanctions.” The Petro was quickly targeted by the United States through an Executive Order banning US persons from buying, selling, trading or holding this virtual currency.

Venezuela had banked on the Petro evidenced by discussions in early 2018 whereby Russia would supply trucks and accept the Petro.

("All individuals involved in the scheme spent their portions of the resulting profits on properties in the United States as well as through maintaining significant accounts in U.S. banks, and purchasing boats and planes that were registered in the United States.”).

167. Marco Dell’Erba, Stablecoins in Cryptoeconomics: From Initial Coin Offerings to Central Bank Digital Currencies, 22 N.Y.U. J. Legis. & Pub. Pol’y 1, 40-41 (2019) (”Petro, the cryptocurrency backed by Venezuelan oil and launched in 2018, can probably be considered part of this list as a first attempt to create a fully backed and public cryptocurrency.”).


171. del Castillo, supra note 169 (”executive order signed by U.S. president Donald Trump last year that banned U.S. citizens, permanent residents and organizations from buying, holding, trading or spending petro, the cryptocurrency created by the Venezuelan government and purportedly backed by the nation’s vast oil reserves.”).
Petro as payment. However, Venezuela has failed to convince other sovereigns to accept the Petro as payment. For example, Russia will not accept Petros in exchange for trucks. Similarly, offers to India to sell crude oil at a substantial discount in return for Petro payment was rejected by the Indian government. Overtures to Turkey were also conducted with initially a warm reception but the Turkish interest has apparently not generated any Petro transactions.

3. Iran

For approximately forty years—going back to the 1979 US hostages and the 1983 massacre of US Marines in a Beirut suicide bombing by Iranian backed terrorists—the relationship between the United States and Iran has been strained. The United States has levied sanctions on Iran and Iran has made numerous attempts at sanctions evasion.

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177. Jonathan Schanzer, The Biggest Sanctions-Evasion Scheme in Recent History: And the swashbuckling gold trader at its center, ATLANTIC (Jan. 4, 2018),
for aiding and abetting Iranian evasion. China has aided Iranian sanctions evasion, principally by buying crude oil from Iran. But sanctions have impacted China, and the risk of sanctions on Chinese businesses is having the desired effect. Recently, reports have surfaced of a deal wherein China will purchase large volumes of Iranian energy payable in non-USD currencies. Iran attempted to evade US sanctions by utilizing virtual assets in 2017. A blockchain company, Brave New Investments, was established with the goal of enabling EU direct investment into Iran via Bitcoin. The idea was to send Bitcoin to Bitcoin wallets the


182. Nasser Karimi & Jon Gambrell, Iran says Chinese State Oil Firm Withdraws from $5B Deal, AP NEWS (Oct. 6, 2019), https://apnews.com/b11873fcb1ed49cf9ad2d0bf9dc38798c [https://perma.cc/AC7L-3U3W] (“China’s state oil company has pulled out of a $5 billion deal to develop a portion of Iran’s massive offshore natural gas field, the Islamic Republic’s oil minister said Sunday, an agreement from which France’s total SA earlier withdrew over U.S. sanctions.”).


company owned and the company would then send the Bitcoin to Iranian buyers in return for Iranian fiat currency to use to acquire shares on the Tehran Stock Exchange.  

C. Examples of Sanctioned Entities: Foreign Banks and US Allies

1. Non-US Financial Institutions

Not all sanctions adversely affect US strategic adversaries. For hundreds of years, Swiss banks were bastions of financial secrecy. Swiss banking secrecy was sacrosanct and inviolable—considered a safe place to store assets anonymously. As recently as 2006, Swiss banks were hailed in John Grisham’s “The Broker” as being absolutely trustworthy not to divulge information to anyone—not even the US government—regarding US citizen depositors. Notwithstanding the laws of Switzerland, the United States overrode Swiss domestic law. The US Justice Department eviscerated Swiss bank secrecy—a feat no other nation was capable of doing—by threatening the Swiss banks with

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188. McKenzie, supra note 133 (“It is worthwhile noting that if the Justice Department can overcome 400 years of Swiss bank secrecy it is unlikely that banks located in other tax havens could prevail in a battle against our tax cops.”).

189. See JOHN GRISHAM, THE BROKER 366 (2005) (the protagonist Joel Blackman reassures himself that the Swiss banker would not disclose the account to the United States even with pressure, he remarks, “the Swiss were immune to pressure from foreign governments…they were the Swiss!”). Yet, only a few years later, the ability of the United States to enforce its taxation system on foreign financial institutions and pressuring the Swiss banks to disclose the names of account holders eliminated this anonymity. See Press Release, U.S. Dept of Justice, Justice Department Announces Four Banks Reach Resolutions Under Swiss Bank Program (Dec. 23, 2015), https://www.justice.gov/opa/pr/justice-department-announces-four-banks-reach-resolutions-under-swiss-bank-program-0 [https://perma.cc/E7KE-8JRF] (noting additional banks cooperating with the U.S. Justice Department).
sanctions. Faced with the prospect of losing access to US financial markets, even the Swiss banks folded.

In another exemplar, foreign financial institutions have been subject to prosecution and enforcement proceedings as financial enablers of sanctioned states and individuals. Foreign banks including HSBC, BNP, Standard Chartered, Deutsche and others have paid fines for violating US sanctions. Sudan, Iran, Cuba are among the states the banks aided to conduct transactions with US financial architecture.

190. Emma Thomasson, *Swiss Court Says was Right to Give U.S. Bank Data*, REUTERS (July 15, 2011), https://www.reuters.com/article/us-ubs/swiss-court-says-was-right-to-give-u-s-bank-data-idUSTRE76E3R920110715 [failure to cooperate with the US Department of Justice would lead to indictments and "would have seriously impaired Switzerland's financial markets and have led to serious repercussions for the Swiss economy"].

191. See *id.* ("Since FINMA had compelling reasons to believe that not relinquishing the customer data to the U.S. Department of Justice would have seriously impaired Switzerland's financial markets and have led to serious repercussions for the Swiss economy, the action taken by it was shown to be lawful").


2. EU Nord 2

The sanctions on the Nord 2 gas pipeline from Russia to Germany\textsuperscript{194} have generated criticism within the EU, particularly from Germany. The United States opposes the pipeline based upon the expected massive increased reliance on Russian gas and the significantly increased Russian political and economic leverage over the EU.\textsuperscript{195} Germany and other US allies object to USD sanctions. US sanctions are also relevant to virtual currency exchanges and banks which process fiat payments with the exchanges:\textsuperscript{196}

We’re talking about direct and grave interference in Germany and Europe’s sovereignty and energy policy . . . . Berlin is pushing for a European response. The bloc’s foreign policy chief . . . said the European Commission was “preparing the ground” for counter-sanctions. Critics are sceptical the EU will

\textsuperscript{194} Secretary Michael R. Pompeo at a Press Availability, supra note 139 (“This action puts investments or other activities that are related to these Russian energy export pipelines at risk of U.S. sanctions.”).

\textsuperscript{195} Vanessa Dezem, U.S. Escalates Pressure Over Nord Stream 2, Welt am Sonntag Says, BLOOMBERG (July 25, 2020), https://www.bloomberg.com/news/articles/2020-07-25/u-s-escalates-pressure-over-nord-stream-2-welt-am-sonntag-says [https://perma.cc/3LL2-C8KV] (“The U.S. is increasing diplomatic pressure on European contractors to drop out of the Nord Stream 2 pipeline project . . . . A dozen U.S. officials from three government departments held one-on-one video conferences in recent days with European contractors to underline their aim to stop the pipeline from Russia to Germany.”).

\textsuperscript{196} Exec. Order No. 13,902, 85 Fed. Reg. 2003, 2005 (Jan. 10, 2020), https://www.treasury.gov/resource-center/sanctions/Programs/Documents/08062018_iran_eo.pdf [https://perma.cc/B6HC-9AAY] (stating that Foreign financial institutions include “any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes, but is not limited to, depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing.”).
reach consensus, citing its failure to act against the previous sanctions.197

US allies allege the US sanctions constitute interference with EU sovereignty and are therefore an exercise of extraterritorial power.198 US sanctions are also relevant to virtual currency exchanges and banks which process fiat payments with the exchanges.199

3. ICC

The United States is now considering USD sanctions on employees of the ICC—viewed by some as “an extraordinary escalation of USD sanctions200—on the grounds that the ICC’s investigation of US troops runs strongly counter to US national interests.201 The prospect of US sanctions has raised additional objections from US allies principally in the EU.202 While the ICC is

197. Erika Solomon et al., Germany warns new US sanctions endanger Nord Stream 2 pipeline, FIN. TIMES (July 1, 2020), https://www.ft.com/content/81a1d823-730f-4412-a698-670e4fcf46f1 [https://perma.cc/YX23-9L7N] ("German officials warned that proposed new US sanctions against the controversial Nord Stream 2 gas pipeline threaten the project’s survival, calling it serious interference in German and European sovereignty.") (emphasis added).


200. Berschinski, supra note 131 ("Yet even given its arguable overreliance on sanctions, the administration’s issuance of the ICC E.O. can rightfully be viewed as an extraordinary escalation. Simply put, personally targeting the staff of an human rights accountability body established by a widely ratified international treaty in the same manner as targeting the leadership of North Korea is the foreign policy equivalent of jumping the shark. Other than the United States and Turkey, the Rome Statute has been ratified by every NATO ally.").


by no means a “US ally”, the threat to target the ICC demonstrates the degree to which sanctions are being activated, leading to criticism by numerous nations including many US allies.

D. China

Sanctions against China present unique considerations. One, unlike sanctions against other US adversaries, China's economy is the second largest and is extensively integrated with dozens of large trading partners. Two, in the context of the strategic rivalry, China is well-aware of the potential threat, thereby turbo-charging China's attempts at toppling USD financial control. Indeed, Chinese entities, including Chinese banks and shipping corporations, have increasingly come under sanctions.

China-bound investors are facing risks beyond trade tariffs. Sanctions are now part of the process, with major shipping

203. See Berschinski, supra note 131 (“No matter what one thinks of the legitimacy of the ICC's investigations, threatening the use of the most severe tool in the U.S. diplomatic arsenal against ICC officials plays to the advantage of every critic of unilateral U.S. action.”).


206. Rennemo, supra note 2, https://thediplomat.com/2020/06/with-china-sanctions-america-pushes-the-limits-of-its-financial-power/ [https://perma.cc/X4N6-KA2E] (“U.S. Commerce Department tightened sanctions on iconic Chinese technology firm Huawei... Days later, Washington added a further 33 Chinese entities to an export control blacklist for alleged complicity in human rights violations or ties to the Chinese military. Concurrently, U.S. legislators tabled bills that would restrict a federal pension fund from investing in Chinese stocks, limit the ability of Chinese companies to raise capital in the U.S., and sanction Chinese officials responsible for repressing the Uyghur Muslim minority. President Donald Trump subsequently ordered his administration on May 29 to revoke Hong Kong's preferential treatment as a separate customs and travel territory from mainland China in response to Chinese legislation that undercuts Hong Kong's system of self-governance.”).
company COSCO getting sanctioned on September 25 as part of Washington’s anti-Iran policies.\footnote{207}

The interplay between economic rivalry and sanctions is exemplified with respect to Huawei.\footnote{208} Huawei has become a target for US authorities as the business is alleged to have aided evasion of US sanctions.\footnote{209} Reports suggest that drastic measures have been considered, including blocking Huawei from the USD financial system.\footnote{210} Therefore, as China is in a vulnerable position with respect to USD access and subject to USD sanctions, China is substantially incentivized to internationalize the Yuan.\footnote{211}

E. Digital Currencies and USD Sanctions

US authorities are aware that digital currencies offer an attractive means to evade sanctions and have developed strategies at combating the national security threat posed by deployment of sanctions evasion.\footnote{212} OFAC defines virtual currency as a “digital representation of value that functions as (i) a medium of exchange; (ii) a unit of account; and/or (iii) a store of value; [it] is neither

\footnotesize{\begin{itemize}
  \item \footnote{208} Trump administration says Huawei, Hikvision backed by Chinese military, \textit{Reuters} (June 25, 2020), https://www.cnbc.com/2020/06/25/trump-administration-says-huawei-hikvision-backed-by-chinese-military.html [https://perma.cc/9ES3-HMJV] ("The Trump administration has determined that top Chinese firms, including telecoms equipment giant Huawei Technologies and video surveillance company Hikvision, are owned or controlled by the Chinese military, laying the groundwork for new U.S. financial sanctions.").
  \item \footnote{211} China Renews Push for Increased Global Role for the Yuan, \textit{Microsoft News} (July 13, 2020) https://www.msn.com/en-us/money/news/china-renews-push-for-increased-global-role-for-the-yuan/ar-BB16E1x8#image=1 [https://perma.cc/84JM-JUH3] ("The increasing spillover of Sino-American tensions into the financial sphere has ignited a fresh push by China to promote the global use of the yuan.").
\end{itemize}}
issued nor guaranteed by any jurisdiction; and [it] does not have legal tender status in any jurisdiction.” OFAC defines digital currency to include “sovereign cryptocurrency, virtual currency (non-fiat), and a digital representation of fiat currency.”

For example, Iranian nationals were sanctioned in late 2018—as well as the virtual wallet addresses—for exchanging Bitcoin into Iranian fiat. By identifying and cross-referencing wallets with individuals connected to them, OFAC levied sanctions. The United States has also forbidden US persons from buying or selling Venezuela’s Petro on the basis that the cryptocurrency is designed to evade US sanctions:

What the special purpose vehicle aimed at facilitating legitimate business with Iran. They are also working to open INSTEX to economic operators from third countries.

In 2019, the Iranian government stated that it was planning a national virtual currency. Media reports suggest that various nations are interested in possibly utilizing such an Iranian currency as a means to evade US sanctions. There is scant

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213. See Frequently Asked Questions, supra note 123.
verifiable information nor confirmation about these other sovereigns’ intent on accepting an Iranian virtual currency.

US sanctions are relevant to virtual currency exchanges and banks which process fiat payments with the exchanges.\textsuperscript{220} The 2014 amendments to the Proceeds of Crime and Terrorist Financing Act mandate that all crypto currency operators register as money services businesses, thus forcing strict AML-KYC and reporting of suspicious transactions obligations.\textsuperscript{221} US law requires that virtual asset exchanges maintain records and cooperate with US enforcement and regulatory authorities.\textsuperscript{222} The United States is endeavoring to reduce the chances of sanctions evasion by obligating exchanges to maintain records, report and cooperate with investigations, or risk being sanctioned or prosecuted.\textsuperscript{223}

As detailed above, US sanctions are devastating and increasingly viewed by numerous states as overreach. Simultaneously, digital currencies are attractive to a growing
number of parties wishing to avoid US sanctions. As discussed in the next Part, of all the virtual digital currency “wannabees” it is China that is the most likely to successfully wield a virtual national currency.

IV. The Digital Yuan

We could be . . . at a juncture where changes in technology – namely, the introduction of digital currencies – may justify a fundamental shift in the architecture of a financial system, a central bank “open to all.”

China has demonstrated innovative leadership, and it is quite possible that a digital Yuan will be the first official digital currency introduced. This Part discusses the digital Yuan and implications of its introduction.

A. Central Bank Digital Currencies

The digitalization of national currencies in the near future is likely:

Earlier this month, the Bank of England announced that the central banks of the United Kingdom, Canada, European Union, Japan, Sweden and Switzerland are in collaboration with the Bank of International Settlements for joint research on central bank digital currencies (CBDC). While the vast majority of money in circulation is already digital (as opposed to paper cash and coins) CBDCs will convert all money into digital form. Doing so will have numerous ramifications: the ability to transact precise payments; eliminating intermediaries and lowering costs; efficient divisibility; interchangeability with other digital currencies; and a treasure of

224. Fernández-Villaverde et al., supra note 39.
227. COMMITTEE ON PAYMENTS & MARKET INFRASTRUCTURES, CENTRAL BANK DIGITAL CURRENCIES 1 (2006), https://www.bis.org/cpmi/publ/d174.pdf [https://perma.cc/6KPZ-V37Y] (describing how CBDCs will work and noting “cash is rapidly disappearing” and “central banks are analysing a CBDC that could be made widely available to the general public and serve as an alternative safe, robust and convenient payment instrument”).
data collection. CBDCs are “expected to offer benefits in terms of transactional efficiencies, central bank oversight, technological innovation, and financial inclusion.”

Ever since the advent of the 17th-century goldsmith-banker in London, the most crucial thing in banking has been the ledger, a repository of irrefutable records to establish trust in situations where it doesn’t exist... Blockchain’s distributed ledgers make trust irrelevant... A cumbersome and expensive network of correspondent banks becomes redundant, especially when it comes to the $124 trillion businesses move across borders annually. Imagine the productivity boost; picture the threat to lenders.

Replacing cash will also translate into the ability of governments to gauge the economy in “real time” as data flows on money supply. Thus, spending and transactions will be immediate and easily aggregated. Analyzing economic trends will also become easier. Data collection also raises various privacy and government surveillance issues since digital currencies can be monitored.

**B. China’s Digital Yuan**

The PBOC has been developing a digital currency strategy since at least 2014. Subsequent to receiving approval from the State Council, the PBOC has been diligently and vigorously collaborating with Chinese financial institutions on establishing

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228. Id. at 9 (“In addition to more efficient and safer payments and settlement systems, CBDC could come with additional benefits. Given that a CBDC can allow for digital records and traces, it could improve the application of rules aimed at anti-money laundering and countering the financing of terrorism (AML/CFT), and possibly help reduce informal economic activities”); see also Allen et al., supra note 40, at 1 (discussing the ability to transact micropayments, data generation and financial innovation likely to develop from CBDCs).


230. Mukherjee, supra note 38 (We could be... at a juncture where changes in technology—namely, the introduction of digital currencies—may justify a fundamental shift in the architecture of a financial system, a central bank “open to all.”).

the world's first CBDC, vesting China with a technological-financial innovation lead.\textsuperscript{232} A substantial investment and academic partnership has been working on the digital Yuan.\textsuperscript{233} China does not envision using or duplicating independent cryptocurrencies like Bitcoin or having a decentralized currency.\textsuperscript{234} In fact, the digital Yuan will be centralized and controlled to ensure compliance with national economic policy and political stability which includes a governance framework of control of the internet and censorship.\textsuperscript{235} Undoubtedly, concerns over Facebook's Libra project have spurred development of the digital Yuan as China does not want to be subjected to a US corporation's digital initiative.\textsuperscript{236} The fact that Libra is planned to be backed at least fifty percent by the USD as well as other non-Yuan currencies undoubtedly alarmed China.\textsuperscript{237}

A successful launch of a CBDC would provide unique “first-mover” advantage to China, potentially ensconcing China as the leader of global digital payments.\textsuperscript{238} The digital Yuan could initially
be used for domestic usage; achieving widespread domestic adoption of a digital Yuan will be aided by the fact that digital payments are pervasive in China. Effective use of a digital Yuan in China could aid internationalizing China’s mobile payments system, and the main players such as WeChat and Alipay have ambitions to grow globally. UnionPay, the world’s largest payments entity and a Chinese SOE, is already present internationally in dozens of nations such as Brazil, Israel, and Japan, and millions of vendors outside of China accept UnionPay mobile payments:

The Chinese government has taken extraordinary steps to both protect it from competition in China and to help it expand across the globe, to the point where almost every credit card user on the planet has access to a China UnionPay card. In the near future it will expand to offer its services to consumers in the United States as well, it appears.

Digital Yuan usage within China would ostensibly be followed by the Yuan CBDC being used in cross-border trade and economic activity particularly within the BRI.

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242. Brannon, supra note 239.

243. He Huifeng, China to revive international yuan drive along belt and road countries, S. CHINA MORNING POST (Sept. 13, 2020), https://www.scmp.com/economy/china-economy/article/3101345/china-revive-international-yuan-drive-along-belt-and-road [https://perma.cc/B7PF-9WBN] (“China aims to use the yuan ‘as much as possible’ in its Belt and Road Initiative to try to expand its use as a reserve currency, a senior Chinese government adviser said on the weekend.”). This also will incentivize use of China’s CIPS along the BRI further increasing Yuan usage and lessening dependence on SWIFT. Koji Okuda, China’s global yuan push makes inroads in Asia and Africa. Okuda, supra note 100 (“The [CIPS] system has a
loans to be denominated in digital Yuan. Should the digital Yuan be utilized in transactions coupled with an ability to invest the proceeds from such transactions into other forms of assets subsequent and conditional on reform of China’s capital markets, this would substantially contribute to “de-dollarization” and serve to further create a “Yuan-centric” zone. Additional benefits would be the ability to promote the digital Yuan as a store of value and of course evasion of USD sanctions.

One might ask what is the difference between a paper-Yuan and a digital-Yuan with respect to China’s efforts at promoting an international Yuan-centric global financial architecture? First, being the first to move to a digital format would provide an opportunity for China to set the rules, and as the saying goes . . . “He who makes the rules, owns the gold.”244 The world is on the precipice of immense changes in money and banking.245 First mover status would confer the benefit of standard setting with respect to currency and e-wallets including: privacy; security; transparency; central bank monitoring; coordination among central banks; tax disclosure; and the degree of state-control and other manifestations of monetary and fiscal policy-setting. Doing so would inevitably help China set technological rules in other venues of emergent technology that will shape global governance. Therefore, a digital Yuan should be viewed in the context of the hegemonic rivalry—as a stratagem to eviscerate not merely USD power but to a wider extent, to re-shape global financial governance and trade. In contrast to the current US model of global governance, a digital Yuan affords China the opportunity to create a China-centric order.

Second, a digital Yuan is not merely some “cryptocurrency” (or a corporate currency such as Facebook’s Libra backed by a

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245. BANK FOR INTERNATIONAL SETTLEMENTS, CENTRAL BANKS AND PAYMENTS IN THE DIGITAL ERA (2020), https://www.bis.org/publ/arpdf/ar2020e3.htm [https://perma.cc/GT69-8WJP] (“Digital innovation is radically reshaping the provision of payment services. Central banks are embracing this innovation. They promote interoperability, support competition and innovation, and operate public infrastructures—all essential for easily accessible, low-cost and high-quality payment services.”).
basket of currencies), but is planned as an essentially “risk-free” government backed currency which can function in all capacities as “real spendable, investable money.”246 As such, a digital Yuan would be able to be interchangeable seamlessly with commercial bank accounts and central bank reserves. The digital Yuan e-wallet could potentially enable an easy transfer of currencies. Buyers and sellers could conduct transactions without the need for a SWIFT-linked bank, thus removing the dangers of US sanctions. The benefits of digital money would be instantaneous transfers that would lead to transformative changes in finance and economics. A successful digital Yuan would in effect also expedite alignment with China as nations and businesses would gravitate toward a currency which could be transferred and converted easily. Undoubtedly, digital Yuan payments may become popular along the BRI where members can transact business between themselves and/or China without the need for USD.

Third, using the digital Yuan may enable payments connected to the future IoT since digital currencies can allow tiny micropayments. CBDCs may also reduce or eliminate tax evasion, money laundering and counterfeiting. Digital currencies visible to a sovereign will yield tremendous amounts of data that can be utilized to advance AI. Governments would be able to monitor economic activity as well as spending habits. If available to credit providers, the data would substantially impact credit evaluation. Any governmental social monitoring (i.e., China’s SCS) would also glean a treasure of data.

C. Discussion and Ramifications of the Digital Yuan

As the PBOC’s Wang Xin noted with respect to Libra:

If the digital currency is closely associated with the US dollar, it could create a scenario under which sovereign currencies would coexist with US dollar-centric digital currencies. But there would be in essence one boss, that is the US dollar and the United States. If so, it would bring a series of economic, financial and even international political consequences.247

246. Allen et al., supra note 40, at 82 (“The PBoC envisions the DC/EP as a replacement for cash and with equal status as a legal tender.”).

247. Frank Tang, supra note 1 (emphasis added).
Clearly, China would prefer that the digital Yuan be “the boss” and bring favorable economic, financial and political implications to China.248 This is not a criticism of China; as Tears for Fears correctly claimed: “Everybody Wants to Rule the World”.249 China understands that the status of the USD confers substantial power to the United States.250 China, naturally, would prefer that other nations be subject to Yuan sanctions and leverage a Yuan-centric order to promote China’s national interests as the United States has masterfully accomplished. A digital Yuan may offer first-mover advantage to China, and given the substantial advantages to a digital CBDC251 could serve to promote the Yuan as an alternative to the USD. Therefore, the digital Yuan is a national security priority for China252 to further internationalize the Yuan.253

China’s goal of Yuan internationalization is not new, and China has endeavored for at least a decade to promote the Yuan as a USD alternative. In the aftermath of the sub-prime financial crisis, China asserted the need to “de-dollarize” and promoted a diversification of currencies away from the USD.254 Chinese companies have taken preliminary steps in support of this state-directed policy.255

248. See The High Stakes of the Coming Digital Currency War, supra note 20 (“and over the US government’s ability to use the dollar’s global role to advance its international policy aims.”).


250. See Jamil Anderlini, China calls for new reserve currency, FT. TIMES (Mar. 23, 2009), www.ft.com/content/7851925a-17a2-11de-8c9d-0000779fd2ac [https://perma.cc/LA75-KZN9].


252. Rennemo, supra note 24 (“After years of weaponizing its currency and economy for foreign policy influence, Washington is pushing the limits of America’s financial power.”).

253. See Orange Wang, supra note 32 (“The China Foreign Exchange Trade System (CFETS), a unit of the Chinese central bank, trimmed the weighting of the US dollar on Wednesday to 21.59 per cent from 22.40 per cent in a key yuan exchange index…. The move, which comes amid heightened trade tensions between China and the United States, will help Beijing’s long-term efforts to create an alternative international payments system.”).


China’s efforts, while productive,\textsuperscript{256} have not yet constituted a serious challenge to the USD. The digital Yuan may provide a more positive opportunity for the Yuan to truly “go global”:

It may start small, but the digital yuan can disrupt both traditional banking and the post-Bretton Woods system of floating exchange rates that the world has lived with since 1973. No wonder that for China, “blockchain and the yuan digital currency are a national strategic priority — almost at the level of the internet”\textsuperscript{257}

However, China’s ambitions, alone, will not catapult the currency to star status. China needs to “sell” the Yuan to the world as its ultimate success will depend on the extent persons, businesses and nations are willing to use or hold it. Lower transactional cost as well as more immediate closing and payment enabled by blockchain will offer alluring advantages.

In particular, nations directly subject to US sanctions—or states that are compelled to follow US policy—are particularly incentivized to find an alternative. Resentment over the USD’s “exorbitant privilege” and inability to utilize local currencies contributes to nations seeking an alternative to the current USD-order.\textsuperscript{258} As USD sanctions have been increasingly invoked, the interests of states and corporations—including US allies negatively affected—have coalesced into an interest in digital currencies:

America has used its powers routinely and to their full extent, by engaging in financial warfare. The results have been awe-

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257. Mukherjee, supra note 38.

258. John O. McGinnis & Kyle Roche, Note, \textit{Bitcoin: Order Without Law In The Digital Age}, 94 \textit{Ind. L.J.} 1497, 1527-28 (2017) (“In developing countries, domestic currency typically derives its value directly from its exchange rate with the U.S. dollar—a rate often set directly by the central bank of that nation. However, central banks in these regimes are often incapable of making the precommitments necessary to encourage individuals to transact in their currency.”) (footnote omitted).
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inspiring and shocking. They have in turn prompted other countries to seek to break free of American financial hegemony.259

The increased deployment of sanctions and perceived interference in the commercial potential of allies has introduced heightened interest in alternatives.260

Blowback is evident by the fact that some sovereigns are looking for an alternative to SWIFT. Iran and North Korea have been subject to being blocked, leading some nations not aligned with the United States such as China and Russia to consider a non-SWIFT alternative. As noted above, there is now a SWIFT alternative engineered by China, CIPS.261 CIPS will enable international Yuan transfers by allowing messages between institutions similar to SWIFT’s ability to authorize USD payments.262 CIPS has had a successful start and is facilitating Yuan-based transactions.263

In 2019, several EU nations and the UK established the INSTEX special purpose vehicle to circumvent SWIFT and conduct non-USD trade with Iran.264 However, to date only one deal has


260. See Geir Moulson, Germany’s Merkel criticizes US gas pipeline sanctions threat, AP NEWS (Dec. 18, 2019), https://apnews.com/dbf6498cb716796ba9b38fa177713a1b [https://perma.cc/56VP-W3AB] (“German Chancellor Angela Merkel on Wednesday criticized a U.S. move to impose sanctions related to a new Russian-German gas pipeline, signaling that she wants discussions with Washington but declining to threaten retaliation. Russian President Vladimir Putin’s spokesman said that the U.S. government’s move violates international law and that the project will be completed regardless of the sanctions. The U.S. has been an outspoken opponent of the Nord Stream 2 pipeline, which will transport natural gas about 1,200 kilometers (750 miles) under the Baltic Sea from Russia to Germany. Along with eastern European countries that also oppose the project, the U.S. government argues that it will increase Europe’s dependence on Russia for energy.”).


263. Rise of the yuan: China-based payment settlements jump 80%, supra note 100 (discussing strong increase in Yuan transactions).

been successfully implemented, and INSTEX has failed to create a vehicle to evade US sanctions.\textsuperscript{265} The EU effort has not prevented plunging oil exports, a deep recession, and a severe economic crisis in Iran.\textsuperscript{266} Based on the current statistics, the EU evasion effort has failed and US sanctions have almost completely cut-off Iran from the international financial architecture\textsuperscript{267} following US threats to sanction SWIFT for transacting with Iranian financial institutions.\textsuperscript{268} Iranian economic output has been severely limited, and Iran has experienced an inability to market its oil and gas.\textsuperscript{269}

1. The Path Forward for the United States

Notwithstanding initial hostility to digital currencies as witnessed in the lukewarm reception for Facebook’s Libra,\textsuperscript{270} the United States’ national security imperative is creating the digital USD:


\textsuperscript{267} Arshad Mohommed, SWIFT says suspending some Iranian banks’ access to messaging system, REUTERS (Nov. 5, 2018), https://www.reuters.com/article/us-usa-iran-sanctions-swift/swift-says-suspending-some-iranian-banks-access-to-messaging-systemidUSKCN1NA1PN [https://perma.cc/82SP-QN32].

\textsuperscript{268} Michael R. Pompeo, Secretary of State & Steven T. Mnuchin, Secretary of the Treasury, Briefing on Iran Sanctions, (Nov. 2, 2018), https://www.state.gov/briefing-on-iran-sanctions/ [https://perma.cc/HDX3-ML7R].


\textsuperscript{270} This position might change going forward as sovereign monitoring and control of financial markets may become more important in the context of the U.S-China rivalry. Cote-Munoz & Silbert, supra note 229 ("A state-backed digital currency would allow China to not only reap the benefits of digital transactions, but also potentially gain a glimpse at where money is being spent, and by whom, limiting money laundering and following a growing environment of surveillance. It will allow the government to retain control of the money supply, and serve as a barrier against international cryptocurrencies.").
A US-regulated digital currency could in principle be required to be traceable by US authorities, so that if North Korea were to use it to hire Russian nuclear scientists, or Iran were to use it to finance terrorist activity, they would run a high risk of being caught, and potentially even blocked. If, however, the digital currency were run out of China, the US would have far fewer levers to pull. Western regulators could ultimately ban the use of China’s digital currency, but that wouldn’t stop it from being used in large parts of Africa, Latin America, and Asia, which in turn could engender some underground demand even in the US and Europe.271

The US Federal Reserve told Congress in November 2019 that while there were no current plans to introduce a digital dollar, the potential digital dollar was being evaluated.272 However the apparent delay in forming a digital USD may be a significant enabler of a successful digital Yuan.273 Indeed, some in Congress are concerned that USD power may be at risk based upon “fast moving developments in other countries that may put our economy at a competitive disadvantage and threaten the primacy of the US dollar.”274 Facebook’s CEO openly warned that abandoning Libra risks handing over the space to China.275

271. See The High Stakes of the Coming Digital Currency War, supra note 20.
275. Shannon Bond, Mark Zuckerberg Offers A Choice: The Facebook Way Or The China Way, NPR (Oct. 23, 2019, 12:02 AM ET), https://www.npr.org/2019/10/23/772075523/mark-zuckerberg-offers-a-choice-the-facebook-way-or-the-china-way [https://perma.cc/YT2J-2XF8] (“Facebook’s CEO claims that if his creation doesn’t have the ability to achieve their goals of deploying at scale, China’s alternatives will take their place.”).
Hesitation for a digital USD because of privacy concerns and data collection are understandable. Spending can reveal truths and relationships between different people. Spending might also expose inner ideology (books, donations, affiliations). But for the United States, falling behind the technological advances in CBDCs risks serious damage to US interests.

For the United States, a digital Yuan must be challenged by a digital USD. From every logical vantage point, it would appear that it is a matter of time before US authorities comprehend that failure to expeditiously introduce a digital USD will provide—by default—first-mover advantage to China. Indeed, calls are increasing and there is a growing movement to establish a digital USD.

The advantages of a digital USD are clear: maintaining sanctions power; blocking money laundering; obtaining huge amounts of data which could benefit AI in the United States; and retaining the US-led international financial architecture. To be sure, development is probably hindered over privacy concerns which do not encumber the digital Yuan. Privacy issues as well as legal or other political considerations may require a longer process for a digital USD. However, delaying introducing a US CBDC may expedite Yuan internationalization which plainly, from the United States’ vantage point, is a serious national security concern.

In addition to developing a digital USD, the United States will also likely need to re-calibrate the frequency of resorting to sanctions as objection to imposition intensifies. While offering a

276. See Fed Chair Jerome Powell: U.S. looking into digital currency, supra note 274 (A digital USD "would raise legal and operational issues.").

277. See Derby, supra note 272 ("Federal Reserve Chairman Jerome Powell said in a letter to a congressman . . . that the U.S. central bank doesn’t currently have plans to launch a digital currency and sees the adoption of something like it difficult in the U.S.").


279. Tatiana Koffman, U.S. Moves Closer To Digital Dollar, FORBES (July 1, 2020), https://www.forbes.com/sites/tatianakoffman/2020/07/01/senate-moves-closer-to-digital-dollar/#231461577279 [https://perma.cc/3Y6C-P7HQ] ("On June 30th, 2020, the Senate Banking Committee held a hearing on the future of the digital dollar. The pressures to create a digital USD are mounting as China recently began testing its own digital currency - the DCEP, which will be included in popular applications like WeChat and Alipay. Of particular concern is widespread adoption of a digital yuan in emerging markets and in international trade.").
seamless and cost-effective replacement for more expensive alternatives, blowback against sanctions among allies should not be underestimated. The problem arises because China has astutely become an important economic actor, and self-interest could motivate US allies to pull into China’s orbit of influence. This tension is already evident in the realm of 5G where the United States has urged allies to block Huawei. The time between a prospective digital Yuan and a future introduction of a digital USD will present China a strategic opportunity to advance the Yuan.

2. The Path Forward for China

China is the first sovereign that has the vision to offer a real competitive alternative to the USD. China has the incentive, ambition, resources, political capital—and the will—to introduce the Yuan nationally, regionally and globally. However, introduction alone will not fully internationalize the Yuan or propel China towards hegemonic status. The unmatched freedom of investment inherent in USD ownership is a compelling argument to resist a Yuan-centric order. The USD wields substantial incumbent advantage that China will need to address:

The renminbi is not fully convertible, and China’s capital controls make it difficult for foreigners to hold the onshore version. A bigger problem is that as yet China does not have a tradable renminbi-denominated “safe asset.” Central banks typically hold reserves in the form of safe assets denominated in the currency of their choice. But if no tradable safe asset is available, then they must hold currency, which does not bear interest and may be less convenient. While this remains the case, the renminbi’s share of global FX reserves may continue

280. See Verdier, supra note 120 (“In other areas, such as sanctions evasion, allies have raised diplomatic protests, which may grow louder as U.S. and European policies on sanctioned countries like Iran diverge. As banks from China and other emerging jurisdictions gain ground in global markets, the United States may also face a choice between sparing them—thus limiting the effectiveness of its policies—or risking dangerous clashes.”).

to be low, and Asian countries may continue to rely more on
the yen and the dollar than the renminbi. 282

To achieve the status of a true competitor currency, substantial reforms are needed in the areas of capital markets, real estate and foreign exchange. China’s capital markets are not adequately opened-up, and China will need to continue to reform its economy to allow foreigners to invest Yuan in China’s domestic investment options. The ability to freely invest and liquidate Chinese assets and transfer proceeds both domestically and globally as well as freely convert foreign exchange are fundamental requirements for a Yuan-centric model. Even with respect to individuals, China imposes restrictions on foreigners who are forbidden to own income producing property. 283 Indeed, even foreigners who reside and work in China are prohibited from owning more than one primary-residential property and cannot collect rent from Chinese tenants. 284 Such draconian restrictions disincentivize holding Yuan as a store of value and substantially limit the incentive of foreigners to invest and own assets in China. Whether the CCP is willing to liberalize domestic investments to foreigners and to permit the direct opening of financial institutional accounts for nonresident foreigners is an important question. Doing so is crucial if China wants the Yuan to be a serious global contender.

China will also need to convince foreign investors that their rights will be judicially enforced by an independent court system. An important attraction of the USD is that the United States is considered a nation with a fair and impartial judiciary, independent of governmental influence. Foreigners perceive that the US judicial

282. Frances Coppola, Could the Dollar be Replaced as the World Reserve Currency?, AMERICAN EXPRESS, https://www.americanexpress.com/us/foreign-exchange/articles/could-dollar-be-replaced-as-world-reserve-currency/ [https://perma.cc/YT25-GBRE] (last visited Oct. 6, 2020); see also Marques, supra note 83 ("China has sought for over a decade to encourage international use of the yuan . . . For a number of reasons, including capital controls, that has faltered. China accounts for roughly a fifth of global GDP, but the yuan accounted for barely 1% of international payments.") (emphasis added).


284. See id.
system is independent and fair, and is available to redress wrongful conduct.\textsuperscript{285} For example, many Chinese admired the US federal courts with respect to their fairness in Ralls Corp. v. Committee on Foreign Investment.\textsuperscript{286} The perception of fairness offers a strong incentive for investing in the United States, creating a huge demand for USD. \textsuperscript{287} In contrast, statements from several Chinese Judges and officials are not in sync with US judicial values:\textsuperscript{288}

China's constitution says the people's courts have the right to adjudicate, but the Chinese Communist party is formally above the constitution under the country's Leninist system of governance established in the 1950s.\textsuperscript{289}

Whether these concerns are correct or not is irrelevant as perception matters. China should strive to provide legal assurances to investors of equal treatment and a judiciary that will make independent rulings and not be beholden to the CCP. A digital Yuan is an essential component of China's ascendancy and an existential national security priority given the potential of Chinese entities being sanctioned and cut-off from the USD-centric financial system. China is particularly incentivized to make the digital Yuan a successful alternative, competitor, and ultimate replacement to the USD. While being subject to USD sanctions is clearly unacceptaable to China, just as being subject to Yuan sanctions in a Yuan-centric world would constitute an anathema to the United States, the real incentive for China is eroding US influence in the international economic governance architecture. The introduction of the digital Yuan has important potential political-economic implications. The possibility of

\textsuperscript{285} See, e.g., Ralls Corp. v. Comm. on Foreign Inv., 758 F.3d 296 (D.C. Cir. 2014).

\textsuperscript{286} Gerry Shih, In China, many are impressed that, yes, you can sue the U.S. government, WASH. POST (Mar. 8, 2019), https://www.washingtonpost.com/world/2019/03/08/china-many-are-impressed-that-yes-you-can-sue-us-government/ [https://perma.cc/4VNM-FFVV] ("The idea that a foreign company can take on the government in its own courts is all but moot in today's China . . . [Chinese] marveled that the legal case was being waged at all. As in: you can really sue the American government — in America?").

\textsuperscript{287} Id.

\textsuperscript{288} Lucy Hornby, China's top judge denounces judicial independence, FIN. TIMES (Jan. 17, 2017), https://www.ft.com/content/60dd5466-d374-11e6-9d7c-be108f1c1dce [https://perma.cc/8RB4-P6F7] (reporting that the Supreme People's Court President criticizes "false Wester ideals" such as judicial independence).

\textsuperscript{289} Id.
significant global trade—whether at the BRI level or globally—taking place outside the reach of the US financial architecture would represent a pivotal development. Doing so would not only eviscerate the sanctions power of the United States, but would undercut the USD’s global role and substantially degrade the United States’ ability to make and enforce “the rules” of international law and governance. Should the USD be de-weaponized, the hegemonic status of the United States would be at-risk.

V. CONCLUSION

A successful digital Yuan may serve as an alternative to the USD-centric international financial order and would not only re-shape cross border trade but would likely be leveraged to shape norms of CBDCs and global governance. The political-economic implications of a successful digital Yuan are enormous. China’s digital Yuan presents therefore unique threats to the USD’s hegemony over the international financial system. While most observers believe a USD replacement is “many decades away”, China’s drive, emergent technology, as well as blowback over USD sanctions may expedite the process.

Historically, hegemonic currencies rise and fall—no reserve currency lasts forever. The UK’s pound had replaced the Dutch Guilder and enjoyed the role of global currency during the 19th century, coinciding and both reflecting and empowering the British Empire. The pound served a similar role to the USD—it was the bones of global commerce. For the last 80 years this role has been played by the USD as it is the premier global currency. Inroads by several other currencies such as the Japanese Yen and the Euro have not come close to toppling the USD. China is ambitious and has assembled an architecture to advance its objectives. Hubris

290. In the context of China’s BRI, the use of a digital Yuan would further bolster its prospects. See Heng Wang, China’s Approach to the Belt and Road Initiative: Scope, Character and Sustainability, 22 J. INT’L ECON. L. 29, 34 (2019) (“The internationalization of China’s RMB works hand in hand with the BRI, AIIB, and other development banks of China. RMB internationalization is related to the BRI concerning trade payment, investment, and finance, and therefore falls within the actual scope of the BRI.”) (footnote omitted).

291. The Golden Rule is “He who makes the rules owns the gold.” See He Who Makes the Rules Owns the Gold, supra note 244, at 412.
with respect to the USD as the “forever currency” is misplaced and China’s leadership has been consistently under-estimated by the United States. In recent years China has masterfully engaged in robust diplomatic-economic cooperation with developing sovereigns. The burgeoning alliances impact economic interests and incentivize economic alignment with China. This is similar to the coalition of interests the United States enjoyed in the decades following Bretton-Woods.

A blockchain powered Yuan, the currency of the world’s second biggest economy already digitalized to a far greater extent than the United States, might serve as an intriguing alternative to the USD. The digital Yuan will also facilitate trade with Chinese companies involved in the immense BRI initiative. Notwithstanding a widely-held belief that a Yuan challenge to the USD will require decades, needed reforms to internationalize the Yuan can be accomplished in a much shorter time span. The successful introduction and use of the digital Yuan may dramatically reduce the Long March timeline of Yuan internationalization. If past performance is any guide, China has demonstrated an ability to close gaps expeditiously while simultaneously wielding strategic patience for fulfillment of its political-economic ambitions.