

# Law of the Level

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## China's Gold Crop Weathers New Regulations...For Now

Until very recently, virtual currency trading has been widely accepted in China. Billions of RMB in virtual currency have been traded online, and this amount has been increasing by 20% every year. The practice is so common that around the world, "Chinese Gold Farmers" have become a well-known staple of such popular multiplayer online games as World of Warcraft, and in many parts of the world, this is the image most commonly attributed to virtual currency trading. However, with the blossoming popularity of virtual currency trading in China, concerns have arisen that serious problems could stem from mixing virtual world economies with the real world's economy—problems such as inflation, money laundering, and gambling.

In an effort to combat these potential problems, on June 4, 2009, China's Ministry of Culture and Ministry of Commerce jointly released a regulation titled "Notice on Improving the Management of Online Game Virtual Currency" ("the Notice"). The Notice was also approved by China's People's Bank. The Chinese government had four goals in enacting the Notice: (1) to improve the management of virtual-currency-related enterprises by raising the standard for establishing and operating such enterprises; (2) to minimize potential risks arising out of the virtual currency market by regulating issuance of and transactions involving virtual currency; (3) to prevent participants in the virtual economy from committing real-world crimes such as gambling and money laundering using virtual currency; and (4) to regulate the virtual currency market by strengthening law enforcement.

### I. DEFINITION OF VIRTUAL CURRENCY

The Notice defines virtual currency as follows: "Online game virtual currency referred to in this Notice is a virtual exchanging tool that is displayed as specific digital units, issued by online game-operating enterprises, purchased directly or indirectly by game players on a pro rata basis by means of legal tender and out of game programs, and electromagnetically recorded on the servers provided by said enterprises. Online game virtual currency may be used by exchanging the currency for online game services provided by publishing enterprises within the directed scope and time limit. Types of virtual currency include online game rechargeable prepaid cards, prepaid money or points, etc. But game tools acquired in the game shall be excluded."

The definition in the Notice specifically limits "virtual currency" to currency acquired by legal tender and out-of-game programs. Therefore, the definition excludes from "virtual currency" any currency acquired within game programs, such as the gold in World of Warcraft

("WoW"). Typically, in-game gold, coins, weapons, and apparel are considered in the industry to be "virtual tools" rather than currency. The Notice does provide a definition for "virtual tools" but states that a separate regulation regarding virtual tools will be issued by the Ministry of Culture at a later time. However, the Notice also states that "online game virtual currency issued by online game operating enterprises should not have the same name as a virtual tool in the online game." This restriction may prove significant for enterprises like Tencent, which operates a popular instant messenger and game program called QQ. Tencent sells its Q coins for legal tender but also allows Q coins to be earned within the game.

One question that many are waiting the answer to is whether the Notice bans gold farming—a popular practice in games such as WoW. Gold farming is a general term within online games for a player attempting to acquire ("farm") items of value that are then sold in-game to create stocks of in-game currency ("gold"), frequently by exploiting repetitive elements in the game's mechanics such as killing an important creature repeatedly to maximize gains. Sometimes the farmer will use a program to perform these actions automatically (a "bot" or a "macro"). In a broader sense, the term "gold farmer" could refer to a player of any type of game who repeats mundane actions over and over in order to collect in-game currency and items. However, gold farmers may not need to put aside their virtual hoes quite yet. As stated above, the Notice does not regulate the trading of virtual tools, and in-game gold likely falls into this category. Therefore, the Notice most likely does not ban gold farming. Farmers will have to wait until the Ministry of Culture's separate regulation regarding virtual tools to find out how gold farming will be regulated.

Overall, the main purpose of the Notice is to regulate the relationship between virtual and real economies. As the Notice states, "the scope of use for online game virtual currency shall be restricted to the purchase of virtual services offered by the game enterprise that issued said virtual currency. Virtual currency may not be used to purchase any real products sold by the game enterprise that issued said virtual currency, or any products or services offered by any third party game enterprise." The Notice bans the trading of real products by virtual currency. Lately, users of the QQ program have been able to purchase small items through online stores using their Q coins. However, under this new regulation, the use of the Q coins to purchase real-world goods is now prohibited. Further, the Notice appears to ban the use of Q coins to purchase any third-party (non-Tencent) services and goods, whether virtual or real.

## II. RELEVANT ENTERPRISES

The Notice identifies two virtual-currency-related services: (1) the service of issuing virtual currency; and (2) the service of facilitating virtual currency transactions. The Notice states, "the same enterprise may not operate both services identified above" and separates enterprises into two groups based on these categories: Enterprises Issuing Virtual Currency and Enterprises Facilitating Virtual Currency Transactions.

Enterprises Issuing Virtual Currency are those online game-operating enterprises that create and distribute their own virtual currency and provide services based on the use of that virtual currency. Tencent would be a typical example of Enterprises Issuing Virtual Currency. Enterprises Facilitating Virtual Currency Transactions are entities that provide a

platform to users for trading their virtual currency. Chinese auction websites such as [www.taobao.com](http://www.taobao.com), [www.alibaba.com](http://www.alibaba.com) fall into this category. The Notice requires both of these types of enterprises to operate in accordance with the Notice, register with their provincial ministry of culture, and be approved by China's Ministry of Culture. Registration must take place within three months of the date of Notice, which means before September 4, 2009.

During the registration process, Enterprises Issuing Virtual Currency must provide information on methods of purchasing virtual currency (including cash and online payment methods), the exchange rate for virtual currency, measures taken to protect users' rights, and security measures to safeguard users' information. Enterprises Facilitating Virtual Currency Transactions must provide information on methods of purchasing virtual currency (including cash and online payment methods), measures to protect users' rights, measures to ensure that its users register accounts with real names and real bank accounts, and security measures to safeguard users' information, etc.

The Notice aims at providing safeguards to end users in virtual currency transactions. In the past, victims of virtual currency transaction disputes often had no recourse because sellers used fake names and fake bank accounts during the transaction. Without identification information, it was impossible for the Public Security Bureau (a.k.a. police) to track the theft. The Notice now places the burden of ensuring accurate end-user account information on the currency issuing and trading enterprises.

While the Notice may not prohibit the selling of in-game currency within online games, it does seek to prohibit some of the unwanted behavior that can grow out of the gold farming industry. For example, the Notice requests that online game operating enterprises employ measures to attack account theft, private servers, and robot plug-ins.

### III. MINORS' PROTECTION

In an attempt to better protect minors who are playing online games, the Notice stipulates that Enterprises Facilitating Virtual Currency Transactions should not provide transaction services to people under 18 years of age. This requirement has two possible implications. The Notice clearly bans selling virtual currency to minors. In addition, it seems likely that a further implication of this prohibition is that Enterprises Facilitating Virtual Currency Transactions are forbidden from allowing minors to register as virtual currency sellers.

### IV. ONLINE GAME GAMBLING

Finally, the Notice regulates gambling that uses virtual currency, stating, "Online game enterprises must not allow users to use cash or virtual currency to enter into lottery, betting, or games of chance to obtain virtual tools or virtual currency." This provision has caused concern in the gaming industry because games of chance are often used to distribute virtual currency or virtual tools. For example, online games provided by NetEase, ZTGame, and SNDA have run a type of service called "Open Box," which allows users to pay for an unopened box containing an unknown virtual tool. In order to get high-quality items in the games, some users have spent large sums of money on Open Box. After the announcement of the Notice, the above-mentioned

companies have begun to modify or suspend these types of services.

Overall, the Notice's rules are addressed to enterprises rather than end users. However, in the world of online games, the line between these two categories can sometimes be blurred. It remains to be seen how the Notice will be applied to activities such as gold farming or an individual's auctions of in-game currency or items. The Notice does not provide specific penalties for violations but gives power to provincial ministries "to investigate and punish ... in accordance with certain laws and regulations." To some extent, the full impact of the Notice may not be seen until it begins to be enforced against particular activities. There is no question, however, that the Notice will be a key development in the regulation of virtual currency in China.

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