

China Update

September 9, 2009

China Strengthens Administration of Virtual Currency

On June 4, 2009, the Ministry of Culture ("MOC") and the Ministry of Commerce ("MOFCOM") jointly issued a Circular on Strengthening the Administration of Virtual Currency for On-line Gaming (the "Circular"). The Circular is intended to regulate the issuance and trading of on-line game virtual currency and indicates the government's strong desire to strengthen supervision of the rapidly growing on-line gaming market in China.

Pursuant to the Circular, virtual currency is a virtual exchange tool created by the on-line game operator and sold to game players to be used to exchange for on-line game services provided by the operator. It may be presented in the form of prepaid amount or points but does not encompass virtual items earned within the game world.

An operator proposing to issue on-line game virtual currency (an "Issuing Operator") or to operate a platform facilitating trades of on-line game virtual currency (a "Trading Operator") must first qualify as an operational Internet culture entity and obtain approval from MOC. A Trading Operator should also satisfy MOFCOM's requirements on the provision of e-commerce platform services. No entity may operate as both an Issuing Operator and a Trading Operator simultaneously. Operators that are already engaged in the on-line game issuing or trading services must, within three months upon the promulgation of the Circular, apply to the relevant culture administrative authority for approval. Those that fail to apply by the deadline will be investigated and penalized.

The Circular also provides that virtual currency may be used to purchase services from the issuer only and must not be used to purchase real goods or exchange for products or services from any company other than the original issuer. Current industry practice where large game operators handle payment issues for games operated by smaller companies but require customers of such smaller companies to use virtual currency issued by the large operators appears to have been rendered illegal by the Circular.

Following the issuance of the Circular, MOC also promulgated guidelines on July 23, 2009 setting forth application documents and procedures for Issuing Operators and Trading Operators (the "Guidelines"). According to the Guidelines, operators wishing to issue or trade virtual currency must now indicate such intent in the application form for Internet culture units formulated by MOC,



BEIJING

Unit 3601, Fortune Plaza Office
Tower A
No. 7 Dong Sanhuan Zhonglu
Chao Yang District, Beijing 100020
People's Republic of China
+86 10 5828 6300

HONG KONG

Hong Kong Club Building, 12th Floor
3A Chater Road, Central
Hong Kong
+852 2846 0300

TOKYO

Fukoku Seimei Building, 2nd Floor
2-2 Uchisaiwaicho 2-chome
Chiyoda-ku, Tokyo 100-0011
Japan
+81 3 3597-8101

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and include in the feasibility study report information relating to the issuance of virtual currency or the operation of platform services, together with details of purchase methods, measures for safeguarding user rights and technology security measures.

Written by: Jeanette Chan, partner
Stella Jiang, associate

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This article is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content. Questions concerning issues addressed in this article should be directed to any member of the Paul, Weiss China Practice Group, including:

Jeanette K. Chan	jchan@paulweiss.com	(852) 2846-0388/ (8610) 5828-6388
Jack Lange	jlange@paulweiss.com	(852) 2846-0333
Greg Liu	gliu@paulweiss.com	(8610) 5828-6302
Hans-Günther Herrmann	hherrmann@paulweiss.com	(852) 2846-0331
Corinna Yu	cyu@paulweiss.com	(852) 2846-0383