

FACEBOOK CREDITS LAUNCH FACEBOOK INTO  
THE WORLD OF “MONEY TRANSMITTING  
BUSINESSES” AND “FINANCIAL INSTITUTIONS”

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## **I. Introduction**

“The goal is to make Facebook Credits into an international virtual currency.”<sup>1</sup> This quote comes from Deborah Liu (“Liu”) who is Facebook’s Manager of Product Marketing for Facebook Credits. Regardless of Facebook’s goals, the current Facebook Credits (“FB Credits”) system, based on its operation of *electronically transferring or transmitting funds*, establishes Facebook as a “money transmitting business” pursuant to 18 U.S.C. §1960 (“Section 1960”) and 31 U.S.C. §5330 (“Section 5330”), and as a “financial institution” pursuant to 31 U.S.C. § 5313 (“Section 5313”). As a “money transmitting business” and a “financial institution,” Facebook must comply with and adhere to the provisions of these statutes or face criminal penalties.

Like it or not, you cannot ignore it; the world of “digital currencies,” “virtual currencies” and “virtual properties” has arrived. “Effective July 1, 2011, games on Facebook Platform must exclusively process payments through Facebook Credits.”<sup>2</sup> FB Credits pose the first concrete step to a widespread human integration and awareness of “virtual currencies” – if Facebook can and does change the FB Credits system from a “digital currency” to a “virtual currency.”

One only needs to look at the statistics to understand the potential impact Facebook could make on the emerging “virtual currency” industry. The U.S. Census Bureau reports the world population at 6.95 billion.<sup>3</sup> Facebook reports 750 million active users that spend over 700 billion minutes per month on Facebook.<sup>4</sup> Thus, over 10% of the world’s population is an active user on Facebook and is spending a staggering amount of time per month interacting on the site. Furthermore, Facebook reports that about 70% of Facebook users are outside the United States.<sup>5</sup> Clearly, these numbers are menacing. Even scarier is the fact that if Facebook was a country it would be the third largest population in the world next to China and India.<sup>6</sup>

As of January 24, 2011, Liu reported that "Facebook Credits [are] currently used in more than 350 applications from 150 developers, representing more than 70 percent of the virtual goods transactions volume on Facebook."<sup>7</sup> Facebook has yet to report the total U.S. Dollar volume of virtual goods sold on its Platform, but Dan Rose ("Rose"), Facebook's VP of Partnerships and Platform Marketing, has stated the value in dollars is "significant."<sup>8</sup> On July 1, 2011, in response to a question "about extending [FB] Credits to be more like real currency so they can be passed between people, cashed out from the system and used on other platforms [], Rose said *obtaining the banking credentials* to allow such functionality . . . is 'not something we're focused on.'"<sup>9</sup>

Regardless of this statement, as well as taking into account Facebook's previous statement about creating a "global virtual currency," the statistical potentials, and the fact that FB Credits are currently "being used to buy Facebook Deals and a limited selection of movies,"<sup>10</sup> the future of "Facebook Credits," or essentially of a Facebook currency, has the potential to be quite ubiquitous in the global economy. But Facebook is not there yet, as currently FB Credits are only a "digital currency" and not a "virtual currency."

The U.S. Court system has not directly addressed "virtual currencies," but recently has held that an operator of a "digital currency" payment system (the current FB Credits system) is subject to existing U.S. monetary and financial regulations.<sup>11</sup> Moreover, this ruling may provide a basis to hold a "virtual currency" operator subject to U.S. monetary and financial regulations if the "virtual currency" reaches U.S. jurisdiction. Before delving into why and how FB Credits constitute a "digital currency" payment system, which subsequently subjects Facebook to criminal penalties if Facebook fails to comply with Section 1960, Section 5330, and Section 5313, it is vital to first understand what FB Credits are and how FB Credits work.

So, what is a FB Credit? Right now, Facebook provides two definitions for FB Credits. Facebook's "Help Center" states, "Facebook Credits are a *virtual currency* you can use to buy virtual goods in all games on the Facebook platform. You can purchase [FB] Credits using your credit card, PayPal, a mobile phone and many other alternative payment methods."<sup>12</sup> (Emphasis added.) Whereas the "Facebook Developers – Facebook Credits" page states, "[FB] Credits is a *payment system* that offers a safe, easy way to pay for digital and virtual goods in games and apps across Facebook."<sup>13</sup> (Emphasis added.)

So, how do FB Credits work? The FB Credit system functions very similar to PayPal, except that FB Credits are currently limited to use on the Facebook Platform ("FB Platform") only. An individual Facebook account holder ("Facebook User") buys FB Credits from Facebook with traditional currency (U.S. Dollar, Euro, etc.).<sup>14</sup> Then the Facebook User uses those FB Credits to purchase a "virtual good" while playing a game on the FB Platform. When this happens Facebook *transfers the appropriate number of FB Credits* from the Facebook User's balance to the Facebook account of the game's owner ("Developer").<sup>15</sup> The Developer then will redeem or "cash out," from Facebook, the equivalency of U.S. Dollars for the FB Credits it received from the transaction.<sup>16</sup> Just like the PayPal system, the FB Credit system splits the parties into three roles – "currency" user, "currency" operator, and "currency" receiver. Facebook is the "currency operator," the individual Facebook Account user is the "currency user," and the Developer is the "currency receiver."

Two unique characteristics of the FB Credits system is how FB Credits are "cashed out" to US Dollars and how FB Credits are "traded." Unlike PayPal users, Facebook asserts that Facebook Users are unable to trade, sell, or "cash out" their FB Credits for traditional currency or "transfer credits to another user."<sup>17</sup> However, this is not entirely accurate, as Facebook does

indeed have a “cash out” option for FB Credits; and Facebook does indeed allow Facebook Users to transfer FB Credits. FB Credits are “cashed out,” or redeemed for U.S. Dollars, by the Developers who accumulate FB Credits from Facebook Users that made purchases in the Developer’s game or application.<sup>18</sup> Furthermore, Facebook Users are technically “trading” FB Credits for a “virtual good” when the Facebook User makes a purchase from the Developer. A payment is nothing more than a “trade.” Stated accurately, an individual Facebook User is only allowed to “trade” FB Credits with a Facebook Developer and only a Facebook Developer may “cash out” FB Credits for national currency.

By creating a “digital currency” payment system that electronically “transfer[s] funds on behalf of the public,” Facebook falls within the definition of a “money transmitting business” under Section 1960 and Section 5330 as well as the definition of a “financial institution” applied to Section 5313. This makes Facebook subject to the provisions of these statutes.

## **II. FB Credits are a “digital currency” and Facebook is subject to regulatory liabilities.**

In order to comprehend why FB Credits create such liabilities for Facebook, it is essential to (1) define “digital currencies” and “virtual currencies;” (2) demonstrate why the FB Credits system currently constitutes a “digital currency” system; and (3) illustrate how existing case law and monetary statutes apply to FB Credits as a “digital currency.”

### **(1) Defining and clarifying “digital currency” versus “virtual currency:”**

At first glance, “digital currency” and “virtual currency” appear to be essentially the same entity, but this is not the case. Most simply put, “digital currency” is an internet payment system where the “digital currency” represents and is valued by “real cash or currency.”<sup>19</sup> Conversely, a “virtual currency” is an intangible unit of a “virtual currency” system that circulates as a medium of exchange within an online community, who defines the value of the “virtual currency.”<sup>20</sup>

To date, US case law and statute has only defined and really dealt with “digital currency.” The Internal Revenue System (“IRS”) defines “digital currency” as:

Digital cash (also known as e-money, electronic cash, or digital currency) is just like real cash, except it’s not tangible. It’s money, or a money substitute, such as script, that is exchanged only electronically. Electronic Funds Transfer (EFT), direct deposit, PayPal . . . are all examples of electronic money. These digital currencies offer irrevocable online payments, easy online access . . . .<sup>21</sup>

The IRS’ definition comports with the definition of “digital currency” in the *United States v. E-Gold, Ltd., et al.*, 550 F.Supp.2d 82 (D.D.C. 2008) (“*US v. E-Gold*”) case, where the Court described Defendant e-Gold, Ltd. as:

[A]n issuer of digital currency known as “e-gold,” “which function[s] as an alternative payment system” over the Internet. [Citation.] In order for an individual to use e-gold as a currency, he must complete “four primary steps.” [Citation.] First, he must open an account with e-Gold. [Citation.] Second, to fund the account, the account-holder must “convert[ ]” national currency<sup>1</sup> into e-gold. [Citation.] Third, the account holder can then use the e-gold to buy a good or pay for a service, or to transfer funds to someone else. [Citation.] Finally, the account-holder may “exchange” his e-gold back into national currency. [Citation.] For every transfer of e-gold from one e-gold account to another, e-Gold collects a transaction fee. [Citation.]<sup>22</sup>

Furthermore, both of these definitions accord with a recent “industry” definition that states:

Three distinct functions make up a modern digital currency system: (1) issuing, accounting for, and storing the currency; (2) converting the currency to and from fiats; and (3) transferring the currency between end-users. Any entity that issues a digital currency is referred to as a “digital currency operator” or a “digital currency issuer” (DCI or simply “issuer”)<sup>23</sup>

Conversely, “virtual currency” is more difficult to define as there is no case law, nor statutes, nor government regulatory body that has provided such a definition. In general, “virtual currencies” mirror the characteristics of a national currency, with a major distinction being that “virtual currency” denominations are “intangible.” Also, a “virtual currency” exists in an environment defined by an *online community of “users”* who use, exchange and accept the “virtual currency’s” value, rather than being defined by a country’s government and borders.

In the recent case of *Zynga Game Network Inc. v. Williams*, 2010 WL 2077191 (N.D. Cal. May 20, 2010), the Court described Plaintiff Zynga’s “virtual currency” as follows:

When users sign up with Zynga to play the Game, they receive a certain amount of “Virtual Currency” that can be used to compete with other players. Players can increase their total number of “Virtual Currency” either by their play or by purchase from Zynga. Players use this “Virtual Currency” to purchase various virtual, in-Game digital items (“Virtual Goods”).

. . .  
Zynga allows users to use the “Virtual Currency” . . . while playing the Game, but retains sole and exclusive ownership of them and of the source code that allows them to be used in the Game. Zynga has not authorized any third party to sell the “Virtual Currency” . . . . Users are informed in the Terms of Service that they are prohibited from selling “Virtual Currency” or Virtual Goods for real-world money or for exchanging “Virtual Currency” or Virtual Goods for anything of value outside of the Game.<sup>24</sup>

Bitcoin.org operates a non-gaming specific “virtual currency” and describes itself as a “peer-to-peer virtual currency.”<sup>25</sup> Bitcoin.org states that “[p]eer-to-peer means that no central authority issues new money or tracks transactions.”<sup>26</sup> A Bitcoin is an intangible unit of the Bitcoin system.<sup>27</sup> Bitcoins can be acquired by “accept[ing] Bitcoins as payment for goods or services[,] . . . trad[ing] them for traditional currency[,] . . . creat[ing] a new block (how the currency is generated). . . [,] participat[ing] in a mining pool (another way the currency is generated).”<sup>28</sup> Bitcoin currency is created each time an individual or a group of individuals “find a solution to a certain mathematical problem,” rather than a country or some entity printing or issuing more currency.<sup>29</sup> The total number of Bitcoins that can be circulated is capped to be “below 21 million.”<sup>30</sup> A Bitcoin gains its value by those who accept Bitcoins as payment, and in essence is “backed up’ by the price tags of merchants – a price tag is a promise to exchange goods for a specified amount of currency.”<sup>31</sup>

The key commonalities from these descriptions are: an online community, an “intangible” currency, an independent medium of exchange, currency value derived from the

community, and currency volume determined independently of existing national currencies. Thus, the definition of a “virtual currency” becomes an “intangible” currency system that operates in an online community, rather than a country, that values the “virtual currency” as an independent medium of exchange and defines its volume.

Based on these definitions, the definitive elemental difference between a “digital currency” and a “virtual currency” is that a “digital currency” is used as an internet alternative payment system where the “unit” of currency is an intangible representation or substitute of an existing currency. Although, both a “digital currency” and a “virtual currency” *electronically transfer funds*, a “virtual currency” is an independent intangible currency that derives its value from the online community in which it operates and not from an existing national currency.

## **(2) Why FB Credits currently constitute a “digital currency:”**

Currently, the FB Credits system operates and is set up to operate as a “digital currency.” The FB Credits system fits the Court’s description, in *US v. E-Gold*, of Defendant e-gold’s “digital currency” system, as well as the “digital currency” definition outlined by the IRS and the “industry.”<sup>32</sup> Moreover, Facebook even states that FB Credits are a payment system.<sup>33</sup>

The FB Credits system mirrors the “four primary steps” required to participate in Defendant e-Gold’s “digital currency” system as outlined by the Court in *US v. E-Gold*.<sup>34</sup> The “first primary step” is for the “user” to open an account with the “digital currency” provider.<sup>35</sup> For Defendant e-Gold, the “user” had to “open an account with e-Gold,” and for Facebook “[t]o buy FB Credits . . . [one must] go to the Payments [tab] in [their] Account Settings,” which requires a person to either open or have an account with Facebook.<sup>36</sup> (Emphasis added.) The “second primary step” is for the “user” “to fund the account” by “converting national currency into” the “digital currency.”<sup>37</sup> In Defendant e-Gold’s system a “user” purchased a unit called “e-

gold” through a “digital currency exchanger” that “takes national currency from the account holders and exchanges it for e-gold.”<sup>38</sup> In Facebook’s system, Facebook itself exchanges national currency for FB Credits when a Facebook account holder purchases FB Credits “using a major credit card, PayPal, [] mobile phone . . . .”<sup>39</sup> The “third primary step” allows “the account holder [to] use the [digital currency] to buy a good or pay for a service, or to transfer funds to someone else.”<sup>40</sup> An e-Gold account holder makes online purchases from third party retailers with e-gold currency being *transferred* from their account by Defendant e-Gold.<sup>41</sup> A Facebook account holder makes a purchase from a Developer, operating on the FB Platform, by using FB Credits that are *transferred* by Facebook from the Facebook account holder’s balance to the account of the Developer.<sup>42</sup> The “fourth primary step” allows the “account-holder [to] ‘exchange’ [the digital currency] back into national currency.”<sup>43</sup> This step is the only place where Defendant e-Gold’s and Facebook’s systems slightly differ. An e-Gold account holder “can [] exchange e-gold back into national currency;”<sup>44</sup> whereas only a Facebook Developer “account holder” can exchange FB Credits into national currency and an individual Facebook account holder cannot.<sup>45</sup>

Additionally, Facebook and Defendant e-Gold make profits off of their respective systems in a similar manner. “For every transfer of e-gold from one e-gold account to another, e-Gold collects a transaction fee.”<sup>46</sup> Similarly, Facebook takes a 30% “service fee . . . per credit redeemed,” when a Facebook Developer redeems FB Credits for US Dollars.<sup>47</sup>

Operating in this manner, the FB Credits system also fits the IRS’s definition of “Digital cash (also known as [] digital currency).”<sup>48</sup> Because FB Credits are intangible, directly tied to the value of the US Dollar and are used to make online payments,<sup>49</sup> FB Credits constitute an

“intangible” currency and a “money substitute [] that is exchanged only electronically”<sup>50</sup> and thus constitutes a “digital cash (also known as [] digital currency)” under the IRS’ definition.

Finally, the FB Credits system contains the “[t]hree distinct functions [that] make up a modern digital currency system.”<sup>51</sup> First, Facebook “issues, accounts for and stores the currency”<sup>52</sup> for the Facebook “user” account holder and the Facebook Developer account holder.<sup>53</sup> Second, Facebook “converts [] currency to and from fiats,”<sup>54</sup> as Facebook exchanges national currencies into FB Credits and allows the redemption (exchange) of FB Credits back into US Dollars for the Developers.<sup>55</sup> Third, Facebook “transfer[s] the currency between end-users;”<sup>56</sup> as previously outlined, Facebook transfers the FB Credits from the Facebook “user” account to the Facebook Developer account.<sup>57</sup>

So, under these three definitions, it is clear that the FB Credits system constitutes a “digital currency” system.

**(3) The FB Credits system makes Facebook a “money transmitting business” and a “financial institution” subject to the regulations of Section 1960, Section 5330 and Section 5313 requirements:**

The FB Credits system operates as a “digital currency” system and therefore Facebook constitutes a “money transmitting business” and a “financial institution.” Furthermore, this subjects Facebook to criminal penalties if Facebook (1) does not comply with the provisions of Section 1960, (2) has not completed the registration requirement of Section 5330, and (3) does not comply with the reporting requirements of Section 5313 ( as required under Section 5330).

**(a) Section 1960:**

The Court, in *US v. E-Gold*, outlined how Section 1960 establishes “digital currency” payment system operators as a “money transmitting business,” and therefore subject to criminal penalties for not meeting the requirement of Section 1960, as follows:

[Section 1960] makes it a crime to operate an unlicensed money transmitting business. Section 1960 defines what it means to be unlicensed and what it means to engage in money transmitting. By those definitions, a business can clearly engage in money transmitting without limiting its transactions to cash or currency and would commit a crime if it did so without being licensed.<sup>58</sup>

[Section 1960] imposes criminal penalties on anyone who “knowingly conducts, controls, manages, supervises, directs or owns all or part of an unlicensed money transmitting business.” 18 U.S.C. § 1960(a) (2008).<sup>59</sup>

Section 1960(b)(1) states, “[a]s used in this section—the term ‘unlicensed money transmitting business’ means a money transmitting business which affects interstate or foreign commerce in any manner or degree *and*—” does one of three impermissible acts. 18 U.S.C. § 1960(b)(1) (emphasis added).” Thus, an “unlicensed money transmitting business” is a “money transmitting business” that affects interstate or foreign commerce *and* that either (A) is operated without an appropriate state money transmitting license, *or* (B) fails to comply with the registration requirements under Section 5330 (or the regulations promulgated thereunder), *or* (C) “otherwise” transmits funds originating from or in aid of illegal activities.<sup>60</sup>

[Thus], [i]n order to be guilty of a violation of Section 1960, . . . an entity must *first, as a prerequisite, be a business that engages in “money transmitting” as so defined in Section 1960(b)(2). [I]n addition . . . a defendant must also either operate without a state license, fail to comply with the registration requirements of Section 5330, or otherwise transmit funds that the defendant knows were derived from or intended to support an unlawful activity.*<sup>61</sup> (Emphasis added.)

Section 1960(b)(2) states, “the term ‘money transmitting’ includes *transferring funds on behalf of the public by any and all means* including but not limited to transfers . . . by wire, check, draft, facsimile, or courier . . . .”<sup>62</sup> (Emphasis added.)

By employing the FB Credits system, Facebook is a “business that engages in ‘money transmitting’ as so defined in Section 1960(b)(2).”<sup>63</sup> Facebook “engages in ‘money transmitting’” by “transferring funds on behalf of the public by any and all means” when it *electronically transfers funds* from a Facebook User’s account to a Developer’s account, exchanges national currencies into FB Credits when a Facebook User buys FB Credits, and exchanges FB Credits into U.S. Dollars when the Developer redeems his/her FB Credits.<sup>64</sup>

Thus, as a “money transmitting business” under Section 1960, by way of operating a “digital currency” that *electronically transfers funds*, Facebook is criminally liable if it fails to operate within or meet any of the three requirements outlined by Section 1960(b)(1).<sup>65</sup>

**(b) Section 5330 and Section 5313:**

Facebook’s liabilities under Section 5330 exist because the “term ‘money transmitting business’ as used in Section 5330 includes all financial institutions that fall outside of the conventional financial institutions system (and that are not a “depository institution”).”<sup>66</sup> Also, Section 5313 currently applies to Facebook as, “Section 5313 comes into force and will require a report *if, when, and as the transmitter* does engage in currency transactions.”<sup>67</sup> (Emphasis added.) Simply put, pursuant to Section 5313, “all *money transmitting businesses* must file a [currency transaction report (“CTR”)] with [the] Treasury *whenever* [the money transmitting business] engage[s] in certain kinds of cash transactions.”<sup>68</sup> (Emphasis added.)

Section 5330(a)(1) requires “[a]ny person who owns or controls a *money transmitting business* shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury . . . .”<sup>69</sup> (Emphasis added.) Section 5330(d)(1)(A) defines a “money transmitting business” as “[a]ny business other than the United States Postal Service which . . . provides . . . *currency exchange, or money transmitting or remittance services* . . . .”<sup>70</sup> (Emphasis added.) Furthermore, Section 5330(d)(2) defines a “money transmitting service” to “[i]nclude accepting currency or funds denominated in the currency of any country and *transmitting* the currency or funds, *or the value of the currency or funds, by any means* through . . . an electronic funds transfer network.”<sup>71</sup> (Emphasis added.)

Here, pursuant to Section 5330, Facebook is a “money transmitting business” since the FB Credit system operates as a “money transmitting service.” Facebook provides a “money

transmitting service” by “transmitting . . . the value of the currency or funds, by any means” when it electronically transfers FB Credits from the Facebook User’s account to the Developer’s account, accepts national currencies in exchange for FB Credits, and exchanges FB Credits for U.S. Dollars when the Developer redeems his/her FB Credits. “[A] ‘money transmitting service’ includes not only a transmission of actual currency, but also a transmission of the *value* of that currency through some other medium of exchange.”<sup>72</sup> (Emphasis in original.)

However, the Section 5330 inquiry is not complete as Section 5330(d)(1)(B) also conjunctively defines a “money transmitting business” as “any business . . . which- is required to file reports under Section 5313 . . . .”<sup>73</sup> To meet the reporting requirements of Section 5313, a “digital currency” system operator must meet Section 5312(a)(2)’s definition of a “financial institution” and must operate in a manner as defined by Section 5313.

Facebook, as a “digital currency” system operator, is a “financial institution” as stated in Section 5313 and defined by 31 U.S.C. § 5312(a)(2) (“Section 5312(a)(2)”). Section 5312(a)(2)(R) defines a “financial institution” as “a licensed sender of money *or any other person who engages as a business in the transmission of funds.*”<sup>74</sup> (Emphasis added.) Therefore, since a “digital currency” system operator, such as Facebook, *electronically transfers or transmits funds*, it is a “financial institution.”

Once a business constitutes a “financial institution” as defined by Section 5312(a)(2) that business is subject to the reporting requirements of Section 5313. This is because the reporting requirements of Section 5313 are conditional and therefore only required *if and when* a specific set of events occur.<sup>75</sup> “[Section 5313] encompasses ‘financial institutions’ and provides that the obligation to file a CTR is triggered ‘*when* a financial institution is involved in a transaction’ involving coins or currency. [Citation.]” (Emphasis in original.)<sup>76</sup>

Therefore, by operating the FB Credits system, which involves the “transmission of funds,” Facebook is a “financial institution” and, although Section 5313 “imposes no present, affirmative duty” on Facebook, “it applies to them at all times, and in the eventuality that [Facebook] ever [is] involved in a transaction in excess of a prescribed amount of currency, [Facebook] will be required to file a [CTR] under Section 5313.”<sup>77</sup>

Accordingly, since the FB Credits system, as operated by Facebook, establishes Facebook as a “money transmitting business” under Section 5330 and a “financial institution” under Section 5313, Facebook is required to register with the Secretary of the Treasury and file a CTR when and if the conditions arise.<sup>78</sup>

### III. Conclusion

The FB Credits system is and operates as a “digital currency” payment system. Because the FB Credits system, as a “digital currency” system, *electronically transfers or transmits funds*, Facebook is a “money transmitting business” and a “financial institution” subject, accordingly, to criminal penalties for failing to meet the provisions of Section 1960, Section 5330, and Section 5313. Furthermore, although no court has yet to address the issue, a “virtual currency” operator would also be subject to Section 1960, Section 5330, and Section 5313 when it *electronically transfers or transmits funds* to or from a U.S. account holder.

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<sup>1</sup> Dean Takahashi, *Facebook Credits expands reach globally in deal with PlaySpan*, (Oct. 13, 2010), <http://venturebeat.com/2010/10/13/facebook-credits-expands-reach-globally-in-deal-with-playspan/>.

<sup>2</sup> Facebook, *Facebook Developers, Special Incentives*, <http://developers.facebook.com/credits/> (last visited Aug. 9, 2011).

<sup>3</sup> See *U.S. & World Population Clocks*, <http://www.census.gov/main/www/popclock.html> (last visited Aug. 9, 2011).

<sup>4</sup> Facebook, *Facebook Statistics*, <http://www.facebook.com/press/info.php?statistics> (last visited Aug. 11, 2011).

<sup>5</sup> *Id.*

<sup>6</sup> See *The World Fact Book*, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.html>.

<sup>7</sup> Deborah Liu, *Facebook Developers – Developers Blog*, (Jan. 24, 2011, 11:40 AM) <http://developers.facebook.com/blog/post/451/>.

<sup>8</sup> Liz Gannes, *Even as It Makes Credits Mandatory for Games, Facebook Downplays Its Payment Ambitions*, (Jul. 1, 2011), <http://allthingsd.com/20110701/even-as-it-makes-credits-mandatory-for-games-facebook-downplays-its-payment-ambitions/>.

<sup>9</sup> *Id.*

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- <sup>10</sup> *Id.*
- <sup>11</sup> See *United States v. E-Gold, Ltd.*, 550 F. Supp. 2d 82 (D.D.C. 2008).
- <sup>12</sup> Facebook, *Help Center – Facebook Credits >>About Facebook Credits – What are Facebook Credits*, <http://www.facebook.com/help/?page=1038> (last visited Aug. 9, 2011).
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- <sup>18</sup> Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.
- <sup>19</sup> Internal Revenue Service, *Cash Intensive Businesses Audit Techniques Guide – Chapter 7*, (Jan. 24, 2011), <http://www.irs.gov/businesses/small/article/0,,id=210735,00.html>.
- <sup>20</sup> En.Bitcoin.it, *FAQ – What are Bitcoins*, [https://en.bitcoin.it/wiki/FAQ#What\\_are\\_bitcoins.3f](https://en.bitcoin.it/wiki/FAQ#What_are_bitcoins.3f).
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- <sup>22</sup> *E-Gold*, 550 F.Supp.2d at 83.
- <sup>23</sup> Peter C. Tucker, *The Digital Currency Doppelganger: Regulatory Challenge or Harbinger of the New Economy?*, 17 Cardozo J. Int'l & Comp. L. 589, 595 (2009), citing E-mail Interview with Mark Herpel, Editor, Digital Currency Magazine (May 12, 2008).
- <sup>24</sup> *Zynga Game Network Inc. v. Williams*, 2010 WL 2077191 (N.D. Cal. May 20, 2010)
- <sup>25</sup> Bitcoin.org, <http://www.bitcoin.org> (last visited Aug. 11, 2011).
- <sup>26</sup> *Id.*
- <sup>27</sup> En.Bitcoin.it, *FAQ – What are Bitcoins*, [https://en.bitcoin.it/wiki/FAQ#What\\_are\\_bitcoins.3f](https://en.bitcoin.it/wiki/FAQ#What_are_bitcoins.3f) (last visited Aug. 9, 2011.)
- <sup>28</sup> *Id.*
- <sup>29</sup> *Id.*
- <sup>30</sup> *Id.*
- <sup>31</sup> *Id.*
- <sup>32</sup> *E-Gold*, 550 F.Supp.2d at 83; Internal Revenue Service, *Cash Intensive Businesses Audit Techniques Guide – Chapter 7*, (Jan. 24, 2011), <http://www.irs.gov/businesses/small/article/0,,id=210735,00.html>.
- <sup>33</sup> Facebook, *Facebook Developers – Facebook Credits*, <http://developers.facebook.com/credits/> (last visited Aug. 9, 2011).
- <sup>34</sup> *E-Gold*, 550 F.Supp.2d at 83.
- <sup>35</sup> *Id.*
- <sup>36</sup> Facebook, *Help Center – Facebook Credits >>About Facebook Credits – How Can I Buy Facebook Credits*, <http://www.facebook.com/help/?page=1038> (last visited Aug. 9, 2011).
- <sup>37</sup> *E-Gold*, 550 F.Supp.2d at 83.
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- <sup>39</sup> Facebook, *Help Center – Facebook Credits >>About Facebook Credits – How Can I Buy Facebook Credits*, <http://www.facebook.com/help/?page=1038> (last visited Aug. 9, 2011).
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- <sup>41</sup> e-Gold, *About e-Gold*, [http://blog.e-gold.com/press\\_releases/](http://blog.e-gold.com/press_releases/).
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<sup>44</sup> *Id.* at 85.

<sup>45</sup> Facebook, *Help Center – Can I transfer these credits to a friend before they expire*, <http://www.facebook.com/help/?faq=204485386253308> (last visited Aug. 9, 2011); Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.

<sup>46</sup> *United States v. E-Gold, Ltd., et al.*, 550 F.Supp.2d 82, 83 (D.D.C. 2008)

<sup>47</sup> Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.

<sup>48</sup> Internal Revenue Service, *Cash Intensive Businesses Audit Techniques Guide – Chapter 7*, (Jan. 24, 2011), <http://www.irs.gov/businesses/small/article/0,,id=210735,00.html>.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Peter C. Tucker, *The Digital Currency Doppelganger: Regulatory Challenge or Harbinger of the New Economy?*, 17 *Cardozo J. Int'l & Comp. L.* 589, 595 (2009), *citing* E-mail Interview with Mark Herpel, Editor, *Digital Currency Magazine* (May 12, 2008).

<sup>52</sup> *Id.*

<sup>53</sup> Facebook, *Facebook Developers – Facebook Credits API*, <http://developers.facebook.com/docs/creditsapi/> (last visited Aug. 9, 2011); Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.

<sup>54</sup> Peter C. Tucker, *The Digital Currency Doppelganger: Regulatory Challenge or Harbinger of the New Economy?*, 17 *Cardozo J. Int'l & Comp. L.* 589, 595 (2009), *citing* E-mail Interview with Mark Herpel, Editor, *Digital Currency Magazine* (May 12, 2008).

<sup>55</sup> Facebook, *Facebook Developers – Facebook Credits API*, <http://developers.facebook.com/docs/creditsapi/> (last visited Aug. 9, 2011); Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.

<sup>56</sup> Peter C. Tucker, *The Digital Currency Doppelganger: Regulatory Challenge or Harbinger of the New Economy?*, 17 *Cardozo J. Int'l & Comp. L.* 589, 595 (2009), *citing* E-mail Interview with Mark Herpel, Editor, *Digital Currency Magazine* (May 12, 2008).

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<sup>58</sup> *E-Gold*, 550 F. Supp. 2d at 84.

<sup>59</sup> *E-Gold*, 550 F.Supp.2d at 86.

<sup>60</sup> *E-Gold*, 550 F.Supp.2d at 90.

<sup>61</sup> *Id.*

<sup>62</sup> 18 U.S.C. 1960(b)(2) (West 2011).

<sup>63</sup> *E-Gold*, 550 F.Supp.2d at 90.

<sup>64</sup> Facebook, *Facebook Developers – Facebook Credits API*, <http://developers.facebook.com/docs/creditsapi/>, (last visited Aug. 9, 2011); Facebook, *Facebook Developers – Facebook Credits Term*, (Jul. 1, 2011), <http://developers.facebook.com/policy/credits/>.

<sup>65</sup> *E-Gold*, 550 F.Supp.2d at 90.

<sup>66</sup> *E-Gold*, 550 F.Supp.2d at 90.

<sup>67</sup> *Id.* at 95.

<sup>68</sup> *Id.*

<sup>69</sup> 31 U.S.C. § 5330 (West 2011).

<sup>70</sup> 31 U.S.C. § 5330 (West 2011).

<sup>71</sup> 31 U.S.C. § 5330 (West 2011).

<sup>72</sup> *E-Gold*, 550 F.Supp.2d at 94.

<sup>73</sup> 31 U.S.C. § 5330 (West 2011); *E-Gold*, 550 F.Supp.2d at 94.

<sup>74</sup> 31 U.S.C. § 5312(a)(2)(R) (West 2011); *E-Gold*, 550 F.Supp.2d at 94.

<sup>75</sup> *E-Gold*, 550 F.Supp.2d at 96.

<sup>76</sup> *E-Gold*, 550 F.Supp.2d at 95

<sup>77</sup> *E-Gold*, 550 F.Supp.2d at 94-95

<sup>78</sup> 31 U.S.C. § 5330 (West)