

## FIFA's new Regulations on Working with Intermediaries

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*As of 1 April 2015, FIFA's Players' Agents Regulations will be replaced by the Regulations on Working with Intermediaries (the "Regulations")*

The Regulations will apply to the services provided by intermediaries to players and/or clubs with a view to concluding an employment contract between a player and a club or a player transfer agreement between two clubs. Under such, intermediaries can be natural or legal persons –the first significant difference in respect of the current state of affairs.

Another key change, possibly the main one, is that intermediaries will no longer have to be licensed to carry out their activity (and, therefore, will no longer have to take a written examination in this respect). Once the Regulations come into force, all existing licences shall lose validity with immediate effect and must be returned to the associations that issued them.

There will be compulsory registration of intermediaries in every association, and each time an intermediary is involved in a transaction he must register with the relevant association:

- with regard to employment contracts, the intermediary shall register in the association of the country where the player's contract will be registered;
- with regard to transfer agreements, the intermediary shall use the register of the association of the transferor club.

Clubs and players must act with due diligence and therefore the requirement of impeccable reputation is maintained. However, this requirement is not

based on the criminal record of the intermediary (as was the case with agents), but on the Intermediary Declaration which the intermediary has to sign and submit to the aforementioned register of the association, that confirms his impeccable reputation and also his adherence to the Statutes and regulations of FIFA. If the intermediary is a legal person, its legal representatives must fill in this Declaration.

With regard to any transaction involving an intermediary, it will be mandatory to submit to the association:

- 1) the Intermediary Declaration, duly signed;
- 2) the employment contract or the transfer agreement, duly signed;
- 3) the representation contract (hereinafter, the "Contract"), which must contain the nature of the legal relationship between the intermediary and the player/club.

Regarding payments to the intermediary, there are two important changes:

- As the case may be, the amount of remuneration per transaction due to the intermediary should not exceed 3% of the player's basic gross income for the entire duration of the relevant employment contract, or 3% of the eventual transfer fee paid in connection with the relevant transfer of the player.

- No payments may be made to an intermediary for negotiating an employment contract and/or a transfer agreement if the player concerned is a minor.

Moreover, players and/or clubs are required to disclose to their respective association the full details of any and all agreed remunerations or payments of whatsoever nature that they have made or that are to be made to an intermediary. In addition, Associations shall make publicly available each year the names of all intermediaries they have registered, the single transactions in which they were involved and the total amount of all remunerations or payments actually made to intermediaries by their registered players and by each of their affiliated clubs.

As for conflicts of interest, they are still prohibited, although not unchanged; if prior to the start of the relevant negotiations, the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter and obtains the express written consent of all the other parties involved, no conflict of interest will be deemed to exist (thereby eliminating any obstacle to double-hatting).

Lastly, the imposition of sanctions now falls squarely on the shoulders of associations; the Regulations only serve as minimum standards/requirements that must be implemented by each association at national level, the latter having the possibility of further adding thereto. Associations are required to publish and inform FIFA of any disciplinary sanctions taken against intermediaries: in turn, the FIFA Disciplinary Committee will decide whether the sanction will have worldwide effect in accordance with the FIFA Disciplinary Code and shall monitor the proper implementation of the Regulations by the associations.

Main differences regarding the Players' Agents Regulations:

- 1) the intermediary can be a legal person;
- 2) no more need of a license to carry out the activity of representation;
- 3) no more need of a professional liability insurance or bank guarantee;

- 4) the intermediary's remuneration is capped at a percentage thereof;
- 5) the intermediary cannot be remunerated for services concerning minors;
- 6) no more two-year limit for the term of representation contracts.

Amendments to the Regulations on the Status and Transfer of Players and to the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber have also been approved together with the Regulations:

- 1) Amendments to the Regulations on the Status and Transfer of Players, in force as from 1 April 2015:
  - a. Deletion of the non-exhaustive enumeration of persons subject to the Statutes and regulations of FIFA (article 17(5)).
  - b. Replacement of the term "agent" by the term "intermediary" (article 18(1)).
  - c. Amendment in line with the Regulations, which withdraws FIFA's competence in disputes involving intermediaries (article 23, new paragraph 2);
  - d. No more reference to "agents" (article 3(2) (1) of annex 3).
  - e. No more paragraph 3 since, in accordance with the Regulations, there are no more licenses (article 5(1)(3) of annex 3).
- 2) Amendments to the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber, in force as from 1 April 2015:
  - a. No more reference to "agents" in the list of possible parties (article 3(2)(1) of annex 3).

Therefore, as from 1 April 2015, the Dispute Resolution Chamber will not be competent to hear disputes between players/clubs and intermediaries, or vice versa.

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