

REFORM OF FIFA'S PLAYERS' AGENTS SYSTEM NEW REGULATIONS ON WORKING WITH INTERMEDIARIES

Introduction

FIFA has been regulating the activity of players' agents since 1991. At that time anyone wishing to become an agent was required to have a personal interview at his or her relevant football association before FIFA would issue the licence. In addition, a bank guarantee of 200,000 Swiss Francs was required to be lodged with FIFA by the successful applicant.

Since then there have been various minor adaptations during the 1990's and in 2000, when FIFA introduced more stringent regulations and requirements in relation to the players' agents licence, for example, a written examination for all prospective agents and the need for professional liability insurance to be in place before an agent could operate. Furthermore, FIFA shifted the responsibility to the respective national Associations to issue the players' agents licence.

The current FIFA Players' Agents Regulations (the "Regulations") were approved and came into force in 2008 and the main aim of these regulations was to enable FIFA to further control the activity of players' agents by means of provisions which were binding at national level and more severe sanctions in case of non-compliance by the player's agent.

Issues

The Regulations in place today have tried to define the requirements to become a players' agent and monitor relevant professional competence. FIFA has also limited the period of validity of the players' agents licence and has attempted to promote reasonable players' agents' fees whilst trying to restrict the activities of unlicensed players' agents.

However, it is on this last point – the activities of unlicensed players' agents, that FIFA has faced increasing difficulties. Today, only 25 to 30 percent of international transfers are now conducted through licensed agents and FIFA has found that there has been difficulty in implementing the regulations throughout all of the member associations. In some instances there have been conflicts between the Regulations and national laws as well as the existence of parallel mechanisms for non-licensed agents.

Reforms

In June 2009, FIFA decided on an in-depth reform of the players' agents system through a new approach based on intermediaries and a thorough discussion with club and player representatives. From this discussion, a working group of the FIFA Committee for Club Football was created to deal with the reforms which are looking at a completely new approach. This would involve the regulation of conduct of clubs on one hand and the players on the other hand, and extending the scope of the regulations to all kinds of intermediaries.

To Regulate or Deregulate

FIFA is at pains to stress that the purpose of the reforms is not to "deregulate" the present players' agents profession; on the contrary, it is seeking a broader control over the intermediaries. The working group has drafted a paper of the possible future, "*Regulations on working with intermediaries*", which incorporates the concept of intermediaries.

Principles

Included in this paper are principles on the following:

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- Application of regulations to players and clubs that engage the services of intermediaries;
- Intermediaries will have no link to FIFA;
- Written contract between intermediaries and clubs/players;
- Conflict of interests;
- Registration system of intermediaries (implemented by the member associations and through information provided by their affiliate clubs and/or registered players);
- Disclosure and publication of remunerations made to intermediaries;
- Non payment of commission to intermediary if involved player is a minor; and
- Invalidation of current FIFA Players' Agents Regulations.

Timeline

The proposed date for the implementation of the new regulations is October 2012 at the earliest following approval by FIFA's Executive Committee and approval of possible amendments to the FIFA Statutes by the FIFA Congress.

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Comment

The new regulations proposed by FIFA will place the onus firmly upon the players and clubs who involve intermediaries in negotiating an employment contract or negotiating the conclusion of a transfer to ensure that these intermediaries comply with all the relevant provisions contained in the various Statutes and Regulations of Associations, Confederations and FIFA. In addition, the players and clubs must ensure that these intermediaries comply with all mandatory provisions of applicable law.

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In this regard, FIFA has placed responsibility upon for the players and clubs coming under its own jurisdiction, thereby allowing it to sanction those in breach; something it is unable to do at present with unlicensed agents.

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Any sanctions imposed for breach of the new regulations will be imposed by the relevant association for domestic transactions and the FIFA Disciplinary Committee in international transactions.

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