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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Financial Services Attachés Working Party on Financial Services and the Banking Union (AML)
Subject:	AMLR: Commission services non-paper on the football sector and its exposure to money laundering and crime abuse

Non-paper on the football sector and its exposure to money laundering and crime abuse

1. Introduction and scope

At the second political trilogue, the co-legislators requested the Commission to draft a non-paper on risks associated with football, potential mitigation measures and the possible inclusion of the football sector in the list of obliged entities. This non-paper aims to deliver on this request.

The sporting industry is one of the sectors prone to abuse by criminals for the purposes of generating and laundering criminal proceeds. Sports that are indicated as being vulnerable to crime are football, tennis, cricket, rugby, horse racing, ice hockey, basketball, and volleyball.¹

According to Europol, due to its popularity and the very rich betting market attached to it, football is the most targeted sport by international organised crime groups (OCGs) in the EU.² In particular, Europol's analysis of financial and economic crime highlights that illicit proceeds may be laundered through football clubs.³ However, compared to football, the magnitude of financial movements in other sports is smaller, which has an impact on the risks of criminal.

Why football?

Its popularity, size and economic returns make football a key area of focus when it comes to examining money laundering risks in relation to sport. Football is one of the biggest sports in the world, with nearly 130,000 professional players and more than 4,400 professional clubs identified around the world in 2021 by FIFA.⁴

Moreover, football has seen extraordinary growth since the early 1990s, a result of increased television rights and sponsorships. While there are no comprehensive figures of the overall size of the football market in the world and its finances, according to the Deloitte Annual Review of Football Finance (the leading yearly overview of the finances of football in Europe) the total size of the European football market has grown by 10% to an estimated EUR 27.6 billion in 2020/21.

League	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21
'Big five' European leagues ⁵	9.3	9.8	11.3	12.0	13.4	14.7	15.6	17.0	15.1	15.6
Non 'big five' top leagues	4.3	4.8	4.5	4.6	4.8	4.9	5.3	5.6	5.0	5.1

¹ Financial Action Task Force, 'Money Laundering through the Football Sector', available at: <https://www.fatf-gafi.org/en/publications/Methodsand Trends/Moneylaunderingthroughthefootballsector.html>.

² Europol, 'The involvement of organised crime groups in sports corruption: Situation report', 5 August 2020, available at: <https://www.europol.europa.eu/publications-events/publications/involvement-of-organised-crime-groups-in-sports-corruption>. Other professional sports explicitly highlighted by Europol include tennis. Europol note that sports corruption in tennis (especially low-tier competitions) is an area of increasing concern.

³ Europol, The other side of the coin: An Analysis of Financial and Economic Crime, available at: <https://www.europol.europa.eu/cms/sites/default/files/documents/The%20Other%20Side%20of%20the%20Coin%20-%20Analysis%20of%20Financial%20and%20Economic%20Crime%20%28EN%29.pdf>.

⁴ For more information: <https://publications.fifa.com/en/annual-report-2021/around-fifa/professional-football-2021/>.

⁵ The 'Big Five' European leagues include the English 'Premier League'; the Italian 'Seria A'; the German 'Bundesliga'; the French 'Ligue 1' and the Spanish 'LaLiga'.

'Big five' countries' other leagues	2.1	2.0	2.2	2.4	2.6	2.8	2.6	2.9	2.6	2.6
FIFA, UEFA and National Associations	3.1	2.6	2.8	2.2	3.1	2.4	4.2	2.7	1.9	3.7
Non 'big five' other leagues	0.6	0.5	0.5	0.6	0.7	0.7	0.7	0.7	0.6	0.6
Total	19.4	19.7	21.3	21.8	24.6	25.5	28.4	28.9	25.2	27.6

Table 1: Size of the European football market – 2011/12 to 2020/21 (EUR billion). Source: Deloitte

As noted by the Financial Action Task Force (FATF), the global AML/CFT standard-setter, partly due to the industry's growth, football appears to be confronted with various forms of crime and corruption, including money laundering. There are connections between criminal organisations and football – ranging from internationally operating OCGs infiltrating top football to locally operating criminals with connections in local lower leagues.⁶

Given its social and cultural impact, the large number of transactions and individuals involved, football merits a closer examination from an anti-money laundering and countering the financing of terrorism (AML/CFT) point of view.

2. Football governance, main actors and sources of revenue

a. Football governance

The international governing body of the football industry is the Fédération Internationale de Football Association (FIFA). FIFA's primary purpose is to promote and develop the sport across the world; it is also the 'guardian' of the regulations of the game. FIFA is made of six confederations: AFC, CAF, CONCACAF, CONMEBOL, OFC and UEFA⁷ which are the umbrella organisations of the national football associations. The national associations must be members of both FIFA and the confederation in which their region is geographically resident⁸. Professional and amateur football clubs are members of their national football associations and are the basic cells at the foundation of the football pyramid.

b. Main actors in football

There are several important financial actors in the football industry: the football clubs, football players (the most valuable assets of the industry), corporate sponsors (the most important investors), investors (individuals and private capital, including private equity funds, venture capital funds and consortiums), football agents (acting in the interest of the player or as an intermediary on the transfer market). The national football associations may act as the governing bodies at national level and regulators and may sometimes operate financial clearinghouses for transfer payments. In many countries, the national football associations collaborate closely with the professional leagues.

c. Main revenue sources

Professional football in Europe relies on four main sources of revenue: matchday revenues (e.g., gate receipts and all-season tickets), broadcasting and television rights, sponsorship

⁶ Financial Action Task Force, 'Money Laundering through the Football Sector', available at: <https://www.fatf-gafi.org/en/publications/MethodsandTrends/MoneyLaunderingthroughtheFootballSector.html>.

⁷ AFC – Asian Football Confederation in Asia and Australia; CAF – Confédération Africaine de Football in Africa; CONCACAF – Confederation of North, Central American and Caribbean Association Football in North America and Central America; CONMEBOL – Confederación Sudamericana de Fútbol in South America; OFC – Oceania Football Confederation in Oceania; and UEFA – Union of Football Associations in Europe.

⁸ For more information: <https://www.fifa.com/about-fifa/associations>.

(e.g., brand name placing on shirts and around stadiums), player transfers and other commercial revenues (e.g., licensed merchandise, conference and catering services). On the spending side, a large part of the budgets of professional football teams is spent on staff wages, including salaries, signing-on fees, social security contributions of football players and other staff. Other costs include payments in relation to image rights and transfer fees, including fees paid to players' agents.

3. Vulnerabilities and risks associated with the football sector

a. Vulnerabilities

The Commission's 2022 supranational risk assessment⁹ assessed the level of money laundering threat related to professional football as significant and the level of money laundering vulnerability in the professional football sector as moderately significant/significant¹⁰.

There are several factors that contribute to this, making the football market attractive to criminals. The FATF, for example, has identified three areas of vulnerabilities related to: i) the structure of the sector, ii) the sector's finances, and iii) the sector's culture.

Vulnerabilities in relation to the sector's structure include the easy access to the market by a variety of stakeholders, with minimum or non-existent entry barriers as well as the opaque network of stakeholders and the interdependence between the various actors. The legal structures of clubs vary from private limited companies to foundations, creating an additional layer of complexity for investigators.

Vulnerabilities related to the sector's finances pertain to the considerable sums, cash flows and large financial interests involved. Many of the transactions in the sector involve very large amounts of money, particularly in relation to the transfer market. Moreover, sums and prices within the football sector are subjective and difficult to predict, as well as to identify for a non-expert. This may create possibilities for over- and under-pricing, as demonstrated by the trade-based money laundering typology described below. Finally, in view of financial difficulties, some football clubs may be willing to accept funds from 'suspicious' persons and parties, thus making clubs an easy target for laundering of criminal proceeds.

Finally, with respect to the sector's culture, vulnerabilities include the social vulnerability of some players, who may be badly advised and manipulated by their agents or other intermediaries and be embroiled into illicit activities. In this respect, a confidential report commissioned by UEFA in 2018 concluded that money laundering was widespread in the transfer market.¹¹

b. Risks and typologies

Based on FATF's report on Money Laundering through the Football Sector, several financial flows involving different transactions increase the risk of money laundering in the football sector. These pertain to:

- ownership of football clubs,
- the transfer market and ownership of players,

⁹ Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, COM(2022) 554 final.

¹⁰ Commission Staff Working Document Accompanying the document Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, SWD(2022) 344 final.

¹¹ While the report entitled '*Intermediation market and transfers in football: State-of-play, empirical working and corrective measures*' (2018) was never published, an executive summary is available at the following link: <https://dynamic.faz.net/download/2019/Geheimpapier.pdf?ga=2.171919011.268470747.1561524996-1262706935.1559629719>.

- betting activities,
- image rights, sponsorship and advertising arrangements,
- related illegal activities.

Ownership of football clubs

According to above FATF, investments in football clubs constitute an area of high risk due to the lack of transparency with regard to the source of funding. Investments may be obscure, complicating the verification of the origin of invested funds. Football clubs are not always profitable and future returns are unpredictable, i.e., investments may not necessarily be made for purely economic reasons.

Case study 1: Investing funds of dubious origin in a club experiencing financial difficulties

The Financial Intelligence Unit (FIU) of country B received a suspicious transaction report (STR) from a bank with regard to suspicious transactions concerning club A. This club, which was in financial difficulties, was looking for funds (several million EUR) in order to avoid bankruptcy. A proposal was put forward by a financial group established in South America. It was linked to an individual who had already invested funds in various foreign clubs. These funds were suspected to be of illegal origin. After the bank inquired into the origin of the funds the financial group withdrew from the negotiations. A second financing proposal was then put forward by Mr C, a European investor through his company located in a tax haven. Suspicions were raised because this individual, unfamiliar to the world of sports, had suddenly suggested investing money of unknown origin in club A. Additional information showed that Mr C was known to the police and FIU for various cases of fraud. In this case the different opportunities for investing in club A can be considered to be attempts to launder money of illegal origin.

Source: EU Member State B

An undercover investigation, conducted by the Al Jazeera Investigative Unit in 2021 demonstrates how a well-known English football club could be abused for the purposes of laundering criminal proceeds.

Case study 2: Using football to launder money

An investigation carried out by the Al Jazeera Investigative Unit shows the vulnerability of the football sector to funds of dubious origin and how a football club could be bought by criminals to launder the proceeds of their crimes.

The 'Men Who Sell Football' shows middlemen and intermediaries telling undercover reporters how they can hide a criminal's money and identity behind offshore trusts, submit fraudulent due diligence reports to football authorities and obtain new passports for the criminals (with new names) to deceive the football authorities.

The undercover reporters, posing as agents for a fictitious wealthy Chinese criminal (Mr X), told the middleman (also known as 'The Magician' as he can allegedly 'make an elephant disappear') that their client had been convicted and given a seven-year prison sentence, in absentia, for bribery and money laundering. Mr X had nonetheless managed to smuggle cash outside of China through casinos in Macau. Mr X now wishes to launder the money by buying a football club.

The middleman proposed to use offshore trusts to hide Mr X's money and identity and minority investors to 'front' the purchase as joint shareholders of an offshore company.

Source: Al Jazeera Investigative Unit¹²

Football has a long history of private persons investing in clubs, with investments made by politically exposed persons (PEPs) and individuals with a suspected or even well-known criminal background.¹³

The transfer market and “ownership” of players

FIFA’s 2022 edition of the Global Transfer Report¹⁴ highlights that the number of international transfers of professional players (men and women) surpassed 20,000 in 2022. Clubs’ spending on transfer fees reached USD 6.5 billion, an increase of 33.5% compared to 2021.

The vulnerabilities identified by FATF pertain to a lack of transparency in relation to the funding for certain transfer transactions and the opportunity for funds to be paid offshore with limited disclosure requirements regarding the beneficial ownership of the destination accounts.

Furthermore, it is often not feasible to estimate the transaction price for a specific player. The over-evaluation of players corresponds to a money laundering technique similar to the over-invoicing of goods and services seen in trade-based money laundering. The key element of this typology is the misrepresentation of the price of the good or service in order to transfer additional value.

Case study 3: A complicit football club facilitating transfers of players for a higher value than their actual market price (trade-based money laundering)

The FIU (from jurisdiction A in the EU) received information from their foreign counterpart (from jurisdiction B) that a football player was transferred to a football club in jurisdiction A for a price higher than the accurate market value of the player.

At the time, football clubs were reporting entities in jurisdiction A. Since there were no suspicious transaction reports (STRs) submitted to FIU A, the FIU contacted the supervisor of designated non-financial businesses and professions (DNFBPs) supervisor and requested it to perform an on-site inspection of the football club. The DNFBPs supervisor conducted the on-site inspection and collected 30 files of (transfers of) players, among which was the one specified by FIU B.

Subsequently, the DNFBP supervisor provided the information to FIU A. FIU A established that the contract for transferring the abovementioned football player was half a page with a transfer value much higher than the accurate one. On the other hand, the contract for management services was more than 40 pages.

Based on this analysis, the information was submitted to the law enforcement authorities (LEAs) in jurisdiction A and to FIU B. The LEAs in jurisdiction A wiretapped officials from the football club and simultaneously asked the FIU to request the information that had already been obtained through the inspection by the DNFBP supervisor.

The wiretapping provided additional information (links with other complicit actors) as the FIU request resulted in subsequent activities/conversations between football officials.

A bank from jurisdiction A filed an STR about the case, and the trigger was that the player’s managers received half of the transfer price.

Source: FIU from EU Member State A

¹² For further information: <https://www.aljazeera.com/news/2021/8/9/investigation-reveals-football-used-to-launder-money-men-who-sell-football>.

¹³ In this regard, the FATF report referred to in footnote 2 contains a number of interesting case studies.

¹⁴ The 2022 edition of the report was adopted in January 2023 and is available at: <https://digitalhub.fifa.com/m/2ee0b8943684e25b/original/FIFA-Global-Transfer-Report-2022.pdf>.

Football agents could be a focal point of illegal transactions occurring in the transfer market. In an increasingly complex environment, players and sports clubs request the services of agents to negotiate and sign contracts. The international transfer market consists of thousands of football agents.¹⁵ Football agents can perform several different activities in parallel, e.g., they may manage their players, but also customer's funds (asset management consultancy), give tax advice (tax consultancy), offer an image contract or take care of their publicity (advertising agents). Football agents' role is fundamental as they often determine whether a transfer happens or not (e.g., through their influence over a player and/or relationship with a football club).

High- and low-risk transactions

Certain transactions appear to present a lower risk for money laundering. These include:

- transactions linked to the services provided to fans, e.g., the purchasing of tickets to attend a football match or the purchasing of football merchandise such as t-shirts or other items;
- transactions linked to the contractual relationship between a football club and its staff (e.g., coaches and football players);
- transactions linked to media and broadcasting rights. While a crucial source of income and revenues for football clubs, there are no proven cases of criminal activities through media and broadcasting contracts;
- transactions linked to the distribution to clubs of commercial revenue in relation to their participation in UEFA club competitions, e.g., the UEFA Champions League, the UEFA Europa League, the UEFA Europa Conference League and the UEFA Super Cup;
- transactions linked to training compensation payments or solidarity contribution payments as the risks are mitigated by the FIFA Clearing House.

The following transactions in the football sector appear instead to present a higher risk of money laundering:

- transactions between a potential investor and a football club;
- transactions between a potential sponsor and a football club (of particularly high risk are business relationships between betting companies and football clubs);
- transactions between players' agents or other intermediaries (both legal and natural persons) and football clubs;
- transactions between football clubs for the purposes of a player's transfer.

Illegal betting and match-fixing

Europol's 2021 Serious and Organised Crime Threat Assessment (SOCTA) estimates the global annual criminal proceeds from betting-related match-fixing at approximately EUR 120 million.¹⁶ In its report on the involvement of organised crime groups (OCGs) in sports corruption¹⁷, Europol highlights that betting-related match-fixing can also serve for the laundering of criminal proceeds by the same OCGs involved in the match-fixing or to provide a service to other OCGs. The United Nations Office on Drugs and Crime (UNODC) has also identified illegal betting as a major conduit for money laundering and a major drive for corruption in sport.¹⁸

¹⁵ For example, in April 2023 FIFA reported that it has received 6,586 applications for the first-ever FIFA football agent exam.

¹⁶ Europol, 'The European Union Serious and Organised Crime Threat Assessment' (2021), available at: https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021_1.pdf.

¹⁷ See footnote 1.

¹⁸ The UNODC Global Report on Corruption in Sport, available at: <https://www.unodc.org/unodc/en/safeguardingsport/grcs/index.html>.

Interpol has been very active in the area of combating illegal sport gambling, noting that it generates significant profits for organised crime networks and is often closely linked to other forms of criminality, such as money laundering.

Case study 4: Interpol's Operation SOGA VIII

Interpol's Operation SOGA (short for soccer gambling) VIII led to thousands of raids and the arrest of some 1400 suspects across Asia and Europe. Authorities have seized USD 7.9 million in cash, as well as computers and mobile phones connected to nearly USD 465 million in bets.

The Hong Kong police has detained more than 800 suspects, including the alleged kingpin of a triad-controlled bookmaking syndicate, seizing nearly USD 2.7 million in cash and records detailing hundreds of millions in bets.

SOGA VIII has also seen a strong participation by European countries. For example, Italian authorities have carried out a nationwide operation during Euro 2020¹⁹, resulting in the inspection of 280 betting shops and EUR 1.3 million in sanctions for illegal betting operations.

To date, Interpol's eight SOGA operations have resulted in more than 19100 arrests, seizures of more than USD 63 million in cash and the closure of more than 4000 illegal gambling dens which handled more than USD 7.3 million worth of bets.

Participating countries: Austria, Azerbaijan, Bahrain, Belgium, Brunei, Cambodia, China, Croatia, Czechia, Finland, France, Germany, Hungary, India, Ireland, Italy, Malaysia, Maldives, Philippines, Poland, Portugal, Romania, Russia, Singapore, Spain, Switzerland, United Kingdom, Vietnam.

Source: Interpol²⁰

According to Europol, fraud schemes linked to sporting events, in particular match-fixing for betting-related and other reasons is a criminal activity which is enabled by corruption. Football remains the most targeted by international criminal networks in the EU, with a particular focus on sports actors in lower-level competitions and youth clubs when it comes to fraud schemes linked to sport events, in particular match-fixing. Smaller leagues and competitions are more vulnerable as they lack resources to implement key countermeasures, and there is less media coverage.

Case study 5: Sports corruption in fifth tier league games in Melilla and Granda

In an operation supported by Europol, officers of the Spanish National Police (Policía Nacional) have arrested 17 members of an organised criminal network engaged in sports corruption. Among the detainees are the president and players of a club playing in the fifth tier of the Spanish football league. The individuals are suspected of manipulating matches and placing large bets on their outcomes. The investigation, which is still ongoing, is focused on matches that were played on the final match day of the season, once the investigated team had been relegated. Upon receiving a large number of bets on specific results and noticing considerable amounts being gambled, bookmakers became suspicious and reported these findings.

Europol supported the Spanish investigators in revealing a complex criminal network engaged in match-fixing, money laundering and document fraud. Allegedly, the team president managed the match-fixing scheme by involving trusted players in the practice. To avoid suspicion, the players relied on third parties such as relatives to place and collect their fraudulent bets. During the investigation, a Europol specialist and an analyst with a mobile

¹⁹ Due to the COVID-19 Pandemic, the Euro 2020 took place in the summer of 2021.

²⁰ For further information: <https://www.interpol.int/en/News-and-Events/News/2021/Illegal-gambling-Operation-SOGA-VIII-leads-to-1-400-arrests>.

office were deployed to Spain to perform real-time cross-checks and assist the investigators with forensic analysis of electronic devices.

Source: Europol²¹

Image rights, sponsorship and advertising arrangements

The FATF stresses that the so-called 'image contracts', which take advantage of the 'rights to the player's image' could be vulnerable to tax evasion and money laundering. The FATF examines several possible typologies, including the use of fictitious image rights, which could be used to disguise part of the salary to evade taxes; nonetheless, it is to be noted that no cases have been identified demonstrating that these risks have materialised.

Financial flows from sponsorship and advertising arrangements could also be used to launder criminal proceeds. A large part of football clubs' revenues depends on sponsors who invest in football for marketing reasons. If no checks are done on sponsors' backgrounds and the origin of funds, organised crime could use sponsorship as a gateway to enter legitimate businesses or exploit them for money laundering purposes. Criminals may, for example, create fake sponsorship or endorsement deals to launder money through football.

Related illegal activities

In addition to the money laundering typologies described above, the football sector may also be used as a vehicle for carrying out criminal activities.

Case study 6: FIFA officials indicted for racketeering conspiracy and corruption

On 3 December 2015 the federal court in Brooklyn, New York, indicted 16 defendants with racketeering, wire fraud and money laundering conspiracies in connection with their participation in a 24-year scheme to enrich themselves through corruption of international football.

The defendants charged in the indictment include high-ranking officials of FIFA, as well as of other governing bodies operating under the FIFA umbrella. The defendants include the then presidents of CONCACAF and CONMEBOL, FIFA vice-presidents and Executive Committee members, as well as presidents of the Brazilian Football Federation and current and/or former presidents of nearly every president of a football federation in Central America.

Taken together, the defendants in this superseding indictment are alleged to have engaged in a number of schemes, all designed to solicit and receive well over USD 200 million in bribes and kickbacks to sell lucrative media and marketing rights to international football tournaments and matches, among other valuable rights and properties.

Source: US Department of Justice²²

Population movements and migration are becoming more and more significant and the circumstances around football players' recruitment and accommodation are not always clear.

Case study 7: Football and human trafficking in Portugal

According to media reports, 47 young footballers, including 36 minors, were rescued by Portuguese law enforcement authorities in January 2023 during an operation against a human trafficking network linked to a training centre in northern Portugal.

²¹ For further information: <https://www.europol.europa.eu/media-press/newsroom/news/odds-were-against-17-football-match-fixers>.

²² For further information: <https://www.justice.gov/usao-edny/pr/sixteen-additional-fifa-officials-indicted-racketeering-conspiracy-and-corruption>.

The victims were from countries located in Africa, Asia and South America. Two Portuguese nationals and five companies have been indicted as part of the operation. One of the indicted persons was an official of the Bsports academy and president of the general assembly of the Portuguese football league.

The victims were sequestered in the premises of the Bsports football academy in Riba d'Ave, near Vila Nove de Famalicao.

Source: Media reports²³

4. Potentially mitigating measures at international and national levels

As highlighted by the preceding sections of this non-paper, the football sector is vulnerable to money laundering and other serious crimes, such as corruption and human trafficking. In this regard, the European Parliament's resolution of 23 November 2021 on EU sports policy²⁴ recalled the need to regulate the activities of agents and insisted that fighting corruption in sport, often linked to money laundering and crime, requires transnational cooperation among all stakeholders and authorities.

Furthermore, on 3 May 2023, the European Commission adopted an anti-corruption package, which includes a Joint Communication on the fight against corruption²⁵. The Communication emphasises that sport is an example of an area relatively recently identified as high risk, where organised crime groups seek profit through match fixing through corruption and extortion. Furthermore, the Communication establishes the EU network against corruption, a forum for discussion, which brings together national authorities, civil society, international organisations, EU agencies and relevant services of the European Commission, including in the sport field.

a. Council of Europe Convention on the Manipulation of Sports Competitions (the Macolin Convention)²⁶

The Macolin Convention is the only international legal instrument on the manipulation of sports competitions. It requests public authorities to cooperate with sports organisations, betting operators and competition organisers to prevent, detect and sanction the manipulation of sports competitions. It proposes a common legal framework for an efficient international cooperation to respond to this global threat.

The Convention entered into force on 1 September 2019. It has been ratified by France, Greece, Iceland, Italy, Norway, Portugal, Moldova, Switzerland and Ukraine and signed by 32 other European States, as well as by Australia and Morocco.

b. FIFA

The FIFA Football Agents Regulations

FIFA has put in place a new regulation on football agents²⁷ aiming to ensure integrity and functioning of the transfer market. Its key elements include:

²³ For further information: <https://www.africanews.com/2023/06/15/portugal-47-footballers-victim-of-human-trafficking-released/>.

²⁴ European Parliament resolution of 23 November 2021 on EU sports policy: assessment and possible ways forward (2021/2058(INI)), available at: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0463_EN.html.

²⁵ Joint Communication to the European Parliament, the Council and the European Economic and Social Committee on the fight against corruption, JOIN(2023)12, available at: https://ec.europa.eu/commission/presscorner/detail/en/jp_23_2516.

²⁶ Council of Europe Convention on the Manipulation of Sports Competitions (Maggingen/Macolin, 18.IX.2014), CETS No. 215, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016801cdd7e>

²⁷ The FIFA Football Agents Regulation (FFAR). For further information: <https://digitalhub.fifa.com/m/1e7b741fa0fae779/original/FIFA-Football-Agent-Regulations.pdf>.

- Licensing requirements for agents: a licence is only granted upon application via the newly established FIFA Platform after successfully passing the FIFA agent exam and the payment of the annual licence fee (USD 600 in 2023).
- Fee cap: (i) agent acting for the engaging club or player: 3 or 5% of the player's annual remuneration; (ii) permitted multiple representation: 6 or 10% of the player's annual remuneration; (iii) agent acting for the releasing, i.e. the selling club: 10% of the total transfer compensation.
- Market monitoring system: agents need to disclose details about their ongoing business conduct via a new market monitoring and clearance system to allow the enforcement of the FFAR.
- Eligibility requirements: an applicant must never have been convicted of a criminal charge regarding matters related to, e.g.: organised crime, drug trafficking, corruption, money laundering, match manipulation.

While the new licence regime entered into force on 9 January 2023, the core substance of the FFAR will become effective on 1 October 2023. Each FIFA member association is obliged to implement and enforce national football agent regulations by 30 September 2023 to regulate the activities of football agents at national level.

The FFAR has drawn criticism by agents and legal action has been brought before national courts in Czechia, Germany, the Netherlands and Spain challenging the compliance of the FFAR with EU competition and internal market law. The Regional Court of Dortmund in Germany has issued an interim injunction against FIFA and the German Football Federation, effectively prohibiting the implementation of the FFAR in Germany²⁸. The issue has also reached the Court of Justice of the European Union²⁹.

The FIFA Clearing House

The FIFA Clearing House (FCH)³⁰ is a key element of the transfer system reform package, adopted by the FIFA Council in 2018. The main objectives of FCH are to:

- centralise, process and automate payments between clubs, initially relating to training rewards (training compensation and solidarity contribution); and
- promote financial transparency and integrity, and avoid fraudulent conduct in the transfer system.

The FCH is a payment institution established in France that acts as an intermediary in payments relating to training rewards (solidarity mechanism and training compensation) deriving from Articles 20 and 21 and Annexes 4 and 5 of the FIFA Regulations on the Status and Transfer of Players (RSTP).

Although the FCH is a 100% subsidiary of FIFA, it operates independently from FIFA to the extent that the onboarding of clubs, including the compliance assessment and the payments are done independently from FIFA. On its website, FIFA stresses that as a payment institution licensed in France and supervised by the French Prudential Supervision and Resolution Authority (Autorité de Contrôle Prudentiel et de Résolution), FCH is bound by bank secrecy, and treats clients' documentation and information with the utmost confidentiality.

c. UEFA

²⁸ For more information: <https://www.fifa.com/legal/football-regulatory/agents/news/information-on-the-preliminary-injunction-granted-by-the-landgericht>.

²⁹ Request for a preliminary ruling from the Landgericht Mainz (Germany) lodged on 31 March 2023 — FT and RRC Sports GmbH v Fédération Internationale de Football Association (FIFA) (Case C-209/23, RRC Sports), (2023/C 235/17).

³⁰ For further information: <https://fifaclearinghouse.org/subuniverse-clearing-house>.

UEFA has recently developed new measures aiming to achieve financial sustainability through strengthening clubs' balance sheets and more directly controlling wages and transfer costs relative to revenues.

Measures include enhanced disclosure requirements about a club's legal group structure and parties with control or significant influence, the ultimate aim being to provide greater transparency and help protect the integrity of competitions.³¹

UEFA also revamped its European football anti-match fixing working group. The working group unites key anti-match-fixing stakeholders from sport, government, law enforcement and private industry to discuss anti-match-fixing challenges and explore solutions.³² The working group's revamp aligns with UEFA's anti-match-fixing action plan³³, which was approved by the UEFA Executive Committee in July 2021 and pinpoints the need for strengthened stakeholder cooperation and new approaches to fighting match-fixing, among other deliverables.

d. National level

- Belgium

Following 'Operation Clean Hands' and the investigation by the federal police authorities into widespread match-fixing, corruption, tax fraud and money laundering in Belgian football, Belgium decided to subject the professional football sector in the country to the AML/CFT preventive framework. As a result, professional football clubs, players' agents in the football sector and the Royal Belgian Football Association (RBFA) have been included in the list of obliged entities. The law has not yet entered into force with respect to football players' agents.

It is important to note that the Parliamentary discussions that took place show that the competent Minister, competent government agency (including the FIU) and stakeholders from professional football were sceptical, and even critical, of this move.³⁴ It has, however, been remarked during the Parliamentary discussions leading to the adoption of the law that professional football should be subjected to the AML/CFT preventive framework at the EU level.³⁵

- Bulgaria

Bulgaria has also included 'professional football clubs' as obliged entities under the preventive framework in the country. Previously, 'sports clubs' were obliged entities under the Bulgarian preventive framework, however, a reform carried out in 2021 narrowed down the scope to 'professional football clubs'.

- Netherlands

The Royal Dutch Football Association (Koninklijke Nederlandse Voetbal Bond, KNVB) developed the so-called 'Know Your Owner' test³⁶. The test has entered into force in 2018 and

³¹ For further information, Articles 62-65 of the UEFA Club Licensing and Financial Sustainability Regulations available at: https://editorial.uefa.com/resources/0274-14dc03ef33b9-3e2caa872860-1000/20220408_club_licensing_and_financial_sustainability_regulations_2022-en.pdf.

³² For further information: <https://www.uefa.com/returntoplay/news/0277-15ab5b5b4fe5-736713fe164e-1000--revamped-uefa-anti-match-fixing-working-group-gets-down-t/>.

³³ For further information: <https://www.uefa.com/insideuefa/protecting-the-game/integrity/>.

³⁴ For example: Bill containing miscellaneous provisions regarding the prevention of money laundering and the financing of terrorism and to limit the use of cash money, Report of the first Reading, Chamber of Representatives 2019-2020, *Parl.St.* nr. 55-1324/004, p. 13.

³⁵ Bill containing miscellaneous provisions regarding the prevention of money laundering and the financing of terrorism and to limit the use of cash money, Report of the second Reading, Chamber of Representatives 2019-2020, *Parl.St.* nr. 55-1324/008, p. 11.

³⁶ To be noted that a similar approach has been deployed in England, where the Owners' and Directors' Test outlines requirements that would prohibit an individual from becoming an owner or director of a football club. Essentially, the test bars anybody who has an unspent criminal conviction of more than 12 months for an act which constitutes fraud of any kind, tax evasion, bribery and money laundering from owning a football club. The full criteria of the Test is available in Section F of the [Premier League Handbook](#).

applies to anyone purchasing 25% or more of the shares of a Dutch football club. The emphasis – and cost – lies with the prospective buyer who has to meet the requirements, derived from AML/CFT field. In particular, the process starts with establishing the identity of the customer and, in the case of a legal entity, the identity of the ultimate beneficial owner.

5. Considerations

As the preceding sections of this non-paper illustrate, the money laundering risks in the football sector are multiple. Different approaches and tools have been deployed to mitigate those risks. While some jurisdictions have opted for a ‘regulatory’ approach, others have adopted measures aiming to ensure that the high-ranking management of professional football clubs is subjected to ‘fit-and-proper’ assessments.

Including football clubs, the national football associations and football agents in the list of obliged entities under the AML/CFT regime would require them to carry out customer due diligence (CDD) and report suspicious transactions and activities to the national FIU. Moreover, market entry requirements would prevent complicit actors from accessing the football sector and abusing clubs and players for the purposes of generating and laundering criminal proceeds. Finally, including the football sector among the obliged entities at the EU level would achieve a level-playing field between football clubs within the EU, eliminate competitive disadvantages and increase awareness of the ML/TF risks faced by the sector.³⁷

The positive effects of such a regulatory framework were stressed by the authorities of one Member State. They noted that despite their initial scepticism towards inclusion of these operators under the national AML/CFT framework, they are now convinced of its well-founded, since this allowed the FIU to have a view over suspicious transactions that it would not be aware of previously and, more importantly, regulation and supervision sent a clear message to the sector that there is an expectation by the public authorities that its activities are of a legitimate nature.

On the other hand, during preliminary exchanges with the Commission, UEFA and other stakeholders from the football sector noted that the possible impact on and burden for small and medium-sized football markets in the Member States should be taken into account when assessing whether the football sector should be subjected to AML/CFT regulation. Among other arguments, stakeholders highlighted potential unintended consequences regarding the ‘competitive balance’ between EU Member States’ football leagues and other leagues across the world. Stakeholders also stressed that the impact of any policy options should be carefully assessed before a policy decision is taken. Finally, it was noted that there are big differences between the various football ‘ecosystems’ in the European Union; in this regard, stakeholders highlighted that a ‘one-size-fits-all’ approach should be avoided.

Should co-legislators decide to expand AML/CFT requirements to the football sector, certain specificities should be borne in mind. Those pertain to, e.g.:

- **The football sector is very different from other sectors that have traditionally been subject to the AML/CFT preventive framework.**³⁸ In particular, the concepts of ‘client’ and ‘business relationship’ are different in the football sector compared to other sectors, and it is sometimes difficult to determine the cases where a football club would act as a provider of a service and has to know who its customer is. It is thus important to ensure that the approach deployed is neither very restrictive and excluding certain interactions and transactions that could be considered high-risk from a money laundering point of view, e.g., between a football club and a potential investor or when transacting with a team operating in a high-risk third country for the purposes of purchasing (as opposed to selling) a football player, nor overly broad and burdensome.

³⁷ Ibid Footnote 24.

³⁸ In 2022 Niels Appermont and William Bull published research into the application of the newly-amended Belgian ‘Preventative Anti-Money Laundering Law’ (PAML) to professional football clubs, player agents and the RBFA. The research was funded by the UEFA grant programme.

- **The relationship between a football association's supervisory and disciplinary role in football and its potential position under the AML/CFT framework.** Football associations might be placed in a situation whereby they are obliged to flag potential cases of money laundering to which they are not parties and about actors (e.g., football clubs and agents) which are not their clients. It is worth stressing that within the licensing process, the football association's role is to decide whether or not a club is granted a license. This procedure provides the football association with the possibility to look into financial information provided by football clubs, e.g., their records and accounts, or into contractual agreements with players or their agents and flag any suspicion to the FIU. However, a football association may be put in a difficult situation whereby it either allows a suspicious transaction to go ahead and grants license or is liable to civil suits by clubs that have not been granted license.
- **Interference with transfers and transfer windows.** Obligated entities have to comply with their customer due diligence (CDD) obligations when establishing a business relationship or carrying out an occasional transaction. This may present clubs with difficulties, especially with regard to transfers that are executed close to the end of the transfer window as they may not have sufficient time to obtain information to identify and verify the identity of their customers (e.g., concerning the owner of another football club purchasing a football player) and their beneficial owners. This may put EU football clubs in a competitive disadvantage compared to other football teams from jurisdictions where the sector is not included in the AML/CFT preventive framework.

6. Possible regulatory framework

Should the co-legislators converge on the decision to regulate professional football (both male and female) under the AML/CFT framework, it would be advisable to target specific transactions at association and club level while the licensing/registration and fit and proper measures could build on existing rules.

It would be advisable that sufficient time is foreseen for the football sector's phasing into the AML/CFT regulatory framework. In this regard, the application of the requirements of the Anti-Money Laundering Regulation should not occur before the three years from its date of entry into force that the Commission had proposed.

The relevant regulatory framework would thus be as follows:

Proposal for an Anti-money Laundering Regulation

Article 2

Definitions

(36a) 'professional football club' means any football club that has been granted a licence and participates in the national professional football league(s) in a Member State of the Union;

(36b) 'football association' means the governing body of football within a Member State;

(36c) 'football agent' means a natural person licensed by FIFA to perform football-related services for or on behalf of a customer, including any negotiation, communication relating or preparatory to the same, or other related activity with the purpose, objective and/or intention of concluding a transaction in relation to the transfer of a football player.

Article 3

Obligated entities

(1a) professional football clubs when involved in the following transactions:

- **transactions with an investor;**
- **transactions with a sponsor;**

- **transactions with players' agents or other intermediaries, whether natural or legal persons;**
 - **transactions for the purposes of a professional football player's transfer;**
- (lb) football associations in relation to the licensing of football clubs and the overseeing of their activities;**
- (lc) football agents.**

Article 15

Application of customer due diligence

3a. For the purposes of this chapter, obliged entities shall consider as their customers the following persons:

- (e) In the case of football associations, football clubs insofar as they participate in the professional league(s) of the football association in that Member State

Proposal for a new Anti-money Laundering Directive

Article 6

Checks on the senior management and beneficial owners of certain obliged entities

[...]

2. With respect to the obliged entities referred to in Article 3, points 3(a), (b), (d), (e) and (h) to (1a) of Regulation [*please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final*], Member States shall ensure that supervisors take the necessary measures to prevent persons convicted of money laundering, any of its predicate offences or terrorist financing or their associates from being professionally accredited, holding a management function in or being the beneficial owners of those obliged entities.