

NKF Client News

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New FIFA Football Agent Regulations

On 9 January 2023, FIFA enacted the new FIFA Football Agents Regulations ("FFAR"). The new regulations are intended to implement minimum professional and ethical standards for the engagement of agents and to ensure a modern, fair, transparent and well-functioning football transfer system. The new regulations stipulate performance standards for agents, in particular a mandatory licensing system, the fundamental prohibition of multiple representations and the limitation or capping of agents' fees. The new rules apply to all agency activities in the international football transfer business. The following is an overview of the most important changes.

1. Licensing system and professional examination

Before an agent can act as an intermediary in the football business, he or she must, in accordance with Art. 4 FFAR, (i) submit a license application via the official FIFA platform and (ii) successfully pass an examination conducted by FIFA in accordance with Art. 6 FFAR, in which the level of knowledge regarding the current FIFA legislation is to be checked on the basis of multiple-choice questions. Furthermore, an (iii) annual fee must be paid to FIFA and, in addition, the applicant must (iv) fulfil all admission requirements stipulated in Art. 5 FFAR. The license granted is personal and non-transferable and authorises the agent to provide football agent services on a worldwide basis. In order to maintain the license, the agents must annually fulfil the "Continuing Professional Development" (CPD) requirements, which are communicated annually by a FIFA circular.

2. Representation agreement

2.1 Written form requirement, maximum duration and reference to independent legal advice

Pursuant to Art. 12 No. 1 FFAR, an agent must conclude a written representation agreement with his or her clients in which the rights and obligations of the parties are defined. The term of agreement may not exceed two years. The cooperation can only be extended by concluding a new contract. Automatic extensions are void. It is also interesting to note that an agent must inform the client in writing, prior to the conclusion of the representation agreement, that they should consider taking independent legal advice in relation to the representation agreement.

2.2 Premature termination

A premature termination of the contract is only possible if there is good cause to do so. If the representation agreement was governed by Swiss law, this provision would be in contradiction with the mandatory right of termination pursuant to Art. 404 para. 1 of the Swiss Code of Obligations (CO). It remains to be seen how legal practice will deal with this issue in respect of representation agreements subject to Swiss law.

2.3 Multiple representations

Under the new FFAR, potential conflicts of interest will be subject to stricter scrutiny. Multiple representations will, as a rule, be prohibited according to Art. 12 FFAR, except in one particular case: Agents may continue to represent the engaging club (but not the releasing club) and the player at the same time if both parties give their written consent for this kind of double representation. The double representation of player and releasing club, which was regular practice in the past, is, however, no longer permitted.

3. Service fee cap and processing of payments through the FIFA Clearing House

The compensation of the agent must be specified in the representation agreement. The agent's client must effect payment personally if the annual gross compensation exceeds USD 200'000. The payment is only due if the compensation is appropriate in light of the scope of the services agreed upon in advance.

Art. 15 FFAR provides for a cap for the agent's commissions, which was heavily criticised by agents in the run-up to the new regulation. Also, these regulations are not coordinated with the Swiss Federal Act on Employment Services and the Hiring of Services (AVG), the Ordinance on Employment Services and the Hiring of Services (AVV) and the Ordinance on Fees, Commissions and Sureties under the Federal Act on Employment Services and the Hiring of Services (GV-AVG). It is, indeed, questionable whether this provision would stand scrutiny by the courts.

The FFAR also foresees that payments to agents must be made via a newly implemented central clearing house, the so-called "FIFA Clearing House".

Tabular overview

Client	Individual's annual remuneration less than or equal to USD 200'000	Individual's annual remuneration above USD 200'000 ¹
Individual	5% of the individual's annual remuneration	3% of the individual's annual remuneration
Engaging entity	5% of the individual's annual remuneration	3% of the individual's annual remuneration
Engaging entity and individual (permitted dual representation)	10% of the individual's annual remuneration	6% of the individual's annual remuneration
Releasing entity (transfer compensation)	10% of the transfer compensation	10% of the transfer compensation

4. Further rights and obligations

Art. 16 FFAR stipulates further rights and obligations for agents. Art 16 FFAR provides for, inter alia, a non-solicitation rule, in accordance with which an agent may, as a rule, not approach

¹ Base salary, bonus and sign-on fee

another entity that has an existing contractual relationship with another agent providing for exclusivity. However, contacting such other entity would be permissible during the last two months of the existing contract term.

Furthermore, an agent may not cause any player or coach to terminate his or her employment contract prematurely without just cause or to violate obligations under their employment contract.

An agent must immediately inform his or her client of any written offer they have received in relation to their client.

5. FIFA Football Tribunal and disciplinary action

Under the reservation of recourse to ordinary state courts, the FIFA Football Tribunal is competent to resolve disputes in connection with an international representation agreement in accordance with Art. 20 in conjunction with Art. 2 para. 2 FFAR, subject to appeal before the Court of Arbitration for Sport (CAS). The detailed procedural rules for this new dispute resolution mechanism are set out in separate procedural regulations. The FIFA Disciplinary Committee and, if applicable, the FIFA Ethics Committee are competent to impose sanctions on football agents violating their duties under the FFAR.

6. Entry into force and transitional provisions

On 9 January 2023, all provisions of the FFAR (articles 1 to 10 and articles 22 to 27 FFAR), which regulate the procedure for obtaining a license entered into force. As of 1 October 2023, all remaining articles that relate to the activities of the agents will enter into force. Existing representation agreements that provide for a contract term beyond 1 October 2023 do not need to be adjusted.

If you have any further questions or suggestions on this topic, please feel free to contact your regular NKF contact.

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This publication does not necessarily address every important topic or cover every aspect of the covered issues. It is not intended to provide legal or other advice.



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