

## **HKFA REGULATIONS ON WORKING WITH INTERMEDIARIES**

These regulations are drawn up by the Hong Kong Football Association (HKFA) in accordance with FIFA's requirement provided in Art. 1.3 of FIFA's <Regulations on Working with Intermediary" which has come into force on 1 April 2015.

FIFA's new approach based on the concept of intermediaries is an outcome of an in-depth reform of the players' agents system conducted in pursuant to the decision taken by the member associations at the 59<sup>th</sup> FIFA Congress held in Nassau, Bahamas, on 3 June 2009. Desirably the new system is *to be more transparent and simpler to administer and implement*.

The working group set up subsequent to the decision made at the 63<sup>rd</sup> FIFA Congress held in Mauritius on 31 May 2013 to draft the new regulations aimed not *to deregulate the professional (of players' agent) but, on the contrary, seek broader control over individuals who represent players and/or clubs in the negotiations of employment contracts and transfer agreements, and enhance the overarching framework with a view to greater transparency*. In other words, the new regulations *no longer attempt to regulate access to the activity (services of intermediaries used by players and clubs to conclude employment contracts and transfer agreements), but instead control the activity itself*.

The new regulations of FIFA, which were approved by the FIFA Executive Committee at its meeting on 20 and 21 March 2014 and likewise by the member associations at the 64<sup>th</sup> FIFA Congress held in São Paulo, Brazil, on 11 June 2014, enable players and clubs to choose any parties as intermediaries provided that the following principles are respected as minimum standards and requirements:-

- Players and clubs must act with due diligence when selecting an intermediary;
- For the sake of transparency, a registering system for intermediaries shall be put in place at member association level, whereby intermediaries shall be registered for every transaction they are involved in;
- Mandatory Intermediary Declaration for natural and legal persons (as annexes to the regulations);
- Provisions on prerequisites for registration;
- Enhanced transparency provisions (requirements for disclosure and publication of financial aspects of transactions involving intermediaries);
- Indications for the payments to intermediaries (benchmarks for fee calculation, no payment if player is a minor, etc.);
- Conflict of interest (e.g. proper disclosure of information by parties).

Hence, these local (HKFA) regulations are drawn up as rudimentary provisions for implementation and enforcement of the aforesaid minimum standards and requirements.

The implementation and enforcement of these new regulations also entail the abandonment of the players' agent licensing system.

### **Definition of an Intermediary**

A natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement.

*NB: Terms referring to natural persons are applicable to both genders as well as to legal persons. Any term in the singular applies to the plural and vice-versa.*

## **Preamble**

HKFA, sharing FIFA's responsibility to constantly improve the game of football and to safeguard its worldwide integrity, bears likewise the same responsibility specifically in the territory of Hong Kong. In this context, one of HKFA's key objectives is to promote and safeguard considerably high ethical standards in the relations between clubs, players and thus to live up to the requirements of good governance and financial responsibility principles. Moreover specifically, HKFA concurs with FIFA's considerations of the essentiality to protect players and clubs from being involved in unethical and/or illegal practices and circumstances in the context of concluding employment contracts between players and clubs and of concluding transfer agreements. In the light of these considerations, and with the aim of properly addressing the changing realities of modern-day relations between players and clubs as well as to enable proper control and transparency of player transfers, HKFA has enacted these regulations, which shall serve as minimum standards/requirements to be implemented in Hong Kong. HKFA reserves the right to go beyond these minimum standards/requirements and the possibility of further adding thereto.

## **Article 1 - Scope**

1. These provisions are aimed at the engagement of the services of an intermediary by players and clubs to:
  - a) conclude an employment contract between a player and a club which is under HKFA's jurisdiction, or
  - b) conclude a transfer agreement between two clubs which either or both is/are under HKFA's jurisdiction.
2. HKFA shall implement and enforce at least these minimum standards/requirements in accordance with the duties assigned in these regulations, subject to the mandatory laws and any other mandatory national legislative norms applicable to it.
3. These regulations and potential additional provisions going beyond these minimum standards/requirements implemented by HKFA shall not affect the validity of the relevant employment contract and/or transfer agreement.

## **Article 2 - General Principles**

1. Players and clubs are entitled to engage the services of intermediaries when concluding an employment contract and/or a transfer agreement.
2. In the selection and engaging process of intermediaries, players and clubs shall act with due diligence. In this context, due diligence means that players and clubs shall use reasonable endeavours to ensure that the intermediaries sign the relevant Intermediary Declaration and the representation contract concluded between the parties.
3. Whenever an intermediary is involved in a transaction, he shall be registered pursuant to article 3 below.
4. The engagement of officials, as defined in point 11 of the Definitions section of the FIFA Statutes <sup>Note 1</sup>, as intermediaries by players and clubs is prohibited.

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*Note 1: Official: every board member, committee member, referee and assistant referee, coach, trainer and any other person responsible for technical, medical and administrative matters in FIFA, a Confederation, Association, League or Club as well as all other persons obliged to comply with the FIFA Statutes (except Players and intermediaries).*

### **Article 3 - Registration of Intermediaries**

1. For the sake of transparency, HKFA shall implement a registration system for intermediaries that has to be publicised in accordance with article 6 paragraph 3 below. Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction (cf. paragraphs 2 and 3 below).
2. Within the scope of the above-mentioned registration system, clubs and players who engage the services of an intermediary are required to submit at least the Intermediary Declaration in accordance with annexes 1 and 2 of these regulations. HKFA may request further information and/or documentation.
3. Following the conclusion of the relevant transaction, a player engaging the services of an intermediary within the scope of article 1 paragraph 1a) above must submit to HKFA at least the Intermediary Declaration and any other documentation required by HKFA. In case of renegotiation of an employment contract, a player engaging the services of an intermediary must also provide HKFA with the same documentation.
4. Following the conclusion of the relevant transaction, a club engaging the services of an intermediary within the scope of article 1 paragraph 1b) above must submit to HKFA at least the Intermediary Declaration and any other documentation required by HKFA. If the releasing club engaged the services of an intermediary, that club shall also submit a copy of the Intermediary Declaration to HKFA.
5. In a transaction that a club engaging the services of an intermediary within the scope of article 1 paragraph 1b) above belongs to another national association, the Intermediary Declaration, and any other documentation as required, must submit also to the relevant national association.
6. The aforementioned notification by players and clubs must be made each time any activity within the scope of article 1 paragraph 1 of these regulations takes place.

### **Article 4 - Requisites for Registration**

1. In addition to the information provided to HKFA by the player or the club under article 3 above, and before the relevant intermediary can be registered, the intermediary involved has at least to satisfy HKFA of having an impeccable reputation.
2. If the intermediary concerned is a legal person, it has to satisfy HKFA that the individuals representing the legal entity within the scope of the transaction in question are having an impeccable reputation, before the legal entity can be registered.
3. In carrying out his activities, the intermediary contracted by a club and/or a player must satisfy HKFA that he has no contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest. Intermediaries are precluded from implying, directly or indirectly, that such a contractual relationship with leagues, associations, confederations or FIFA exists in connection with their activities.
4. HKFA is considered to have complied with its obligations under paragraphs 1 to 3 above if they obtained a duly signed Intermediary Declaration as per annexes 1 or 2 of these Regulations from the intermediary concerned.
5. The representation contract that the intermediary concludes with a player and/or a club (cf. article 5 below) must be deposited with HKFA when the registration of the intermediary takes place.

## **Article 5 - Representation Contract**

1. For the sake of clarity, clubs and players shall specify in the relevant representation contract the nature of the legal relationship they have with their intermediaries, for example, whether the intermediary's activities constitute a service, a consultancy within the scope of article 1 paragraph 1 of these regulations, a job placement or any other legal relationship.
2. The main points of the legal relationship entered into between a player and/or club and an intermediary shall be recorded in writing prior to the intermediary commencing his activities. The representation contract must contain the following minimum details:
  - a) the names of the parties;
  - b) the scope of services;
  - c) the duration of the legal relationship;
  - d) the remuneration due to the intermediary;
  - e) the general terms of payment, the date of conclusion;
  - f) the termination provisions; and
  - g) the signatures of the parties.

If the player is a minor, the player's legal guardian(s) shall also sign the representation contract in compliance with the national law of the country in which the player is domiciled.

## **Article 6 - Disclosure and Publication**

1. Players and/or clubs are required to disclose to HKFA (cf. article 3 paragraphs 2 and 3) 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, players and/or clubs shall, upon request, with the exception of the representation contract, the disclosure of which is mandatory under article 4 paragraph 5 above, disclose to the competent bodies of the leagues, associations, confederations and FIFA, all contracts, agreements and records with intermediaries in connection with activities in relation to these provisions, for the purpose of their investigations. Players and/or clubs shall in particular reach agreements with the intermediaries to ensure that there are no obstacles to the disclosure of the above-mentioned information and documents.
2. All above-mentioned contracts shall be attached to the transfer agreement or the employment contract, as the case may be, for the purpose of registration of the player. Clubs or players shall ensure that any transfer agreement or employment contract concluded with the services of an intermediary bears the name and signature of such intermediary. In the event that a player and/or a club have not used the services of an intermediary in their negotiations, the pertinent documentation lodged within the scope of the respective transaction shall contain a specific disclosure of this fact.
3. HKFA shall make publicly available at the end of March of every calendar year on their official website the names of all intermediaries they have registered as well as the single transactions in which they were involved. In addition, HKFA shall also publish the total amount of all remunerations or payments actually made to intermediaries by their registered players and by each of their affiliated clubs. The figures to be published are the consolidated total figure for all players and the individual clubs' consolidated total figure.
4. HKFA may also make available to their registered players and affiliated clubs any information relating to transactions that have been found to be in breach of these provisions that is of relevance for the pertinent irregularities.

## Article 7 - Payments to Intermediaries

1. The amount of remuneration due to an intermediary who has been engaged to act on a player's behalf shall be calculated on the basis of the player's basic gross income for the entire duration of the contract.
2. Clubs that engage the services of an intermediary shall remunerate him by payment of a lump sum agreed prior to the conclusion of the relevant transaction. If agreed, such a payment may be made in instalments.
3. While taking into account the relevant national regulations and any mandatory provisions of national and international laws, and as a recommendation, players and clubs may adopt the following benchmarks:
  - a) The total amount of remuneration per transaction due to intermediaries who have been engaged to act on a player's behalf should not exceed three per cent (3%) of the player's basic gross income for the entire duration of the relevant employment contract.
  - b) The total amount of remuneration per transaction due to intermediaries who have been engaged to act on a club's behalf in order to conclude an employment contract with a player should not exceed three per cent (3%) of the player's eventual basic gross income for the entire duration of the relevant employment contract.
  - c) The total amount of remuneration per transaction due to intermediaries who have been engaged to act on a club's behalf in order to conclude a transfer agreement should not exceed three per cent (3%) of the eventual transfer fee paid in connection with the relevant transfer of the player.
4. Clubs shall ensure that payments to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions, are not paid to intermediaries and that the payment is not made by intermediaries. This includes, but is not limited to, owning any interest in any transfer compensation or future transfer value of a player. The assignment of claims is also prohibited.
5. Subject to article 7 paragraph 6 and article 8 below, any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary.
6. After the conclusion of the relevant transaction and subject to the club's agreement, the player may give his written consent for the club to pay the intermediary on his behalf. The payment made on behalf of the player shall be in accordance with the terms of payment agreed between the player and the intermediary.
7. Officials, as defined in point 11 of the Definitions section of the FIFA Statutes, are prohibited from receiving any payment from an intermediary of all or part of the fees paid to that intermediary in a transaction. Any official who contravenes the above shall be subject to disciplinary sanctions.
8. Players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor, as defined in point 11 of the Definitions section of the Regulations on the Status and Transfer of Players <sup>Note 2</sup>.

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*Note 2: Minor: a player who has not yet reached the age of 18.*

## **Article 8 - Conflicts of Interest**

1. Prior to engaging the services of an intermediary, players and/or clubs shall use reasonable endeavours to ensure that no conflicts of interest exist or are likely to exist either for the players and/or clubs or for the intermediaries.
2. No conflict of interest would be deemed to exist if 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, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations.
3. If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction under the conditions established in paragraph 2 above, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party (player and/or club) will remunerate the intermediary. The parties shall inform HKFA of any such agreement and accordingly submit all the aforementioned written documents within the registration process (cf. articles 3 and 4 above).

## **Article 9 - Sanctions**

1. HKFA is responsible for the imposition of sanctions on any party under its jurisdiction that violates the provisions of these regulations, its statutes or regulations.
2. HKFA is obliged to publish accordingly and to inform FIFA of any disciplinary sanctions taken against any intermediary. The FIFA Disciplinary Committee will then decide on the extension of the sanction to have worldwide effect in accordance with the FIFA Disciplinary Code.

## **Article 10 - Enforcement of HKFA's Obligations**

1. FIFA shall monitor the proper implementation of these minimum standards/ requirements by HKFA and may take appropriate measures if the relevant principles are not complied with.
2. The FIFA Disciplinary Committee shall be competent to deal with such matters in accordance with the FIFA Disciplinary Code.

## **Article 11 - Adoption and Enforcement**

1. These regulations have been adopted by the Board of Directors of the Hong Kong Football Association and come into force on 03.08.2015.

NB: If there are any discrepancies in the interpretation of the English and Chinese text of these regulations, the English text is authoritative.

**Intermediary Declaration for Natural Persons**

**ANNEXE 1**

First name(s): \_\_\_\_\_

Surname(s): \_\_\_\_\_

Date of birth: \_\_\_\_\_

Nationality/nationalities: \_\_\_\_\_

Full permanent address (incl. phone/fax and e-mail): \_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_  
(First name(s), surnames(s) of intermediary)

**HEREBY DECLARE THE FOLLOWING:**

1. I pledge to respect and comply with any mandatory provisions of applicable national and international laws, including in particular those relating to job placement when carrying out my activities as an intermediary. In addition, I agree to be bound by the statutes and regulations of the Hong Kong Football Association (HKFA), of confederations and as well as of FIFA in the context of carrying out my activities as an intermediary.
2. I declare that I am currently not holding a position of official, as defined in point 11 of the Definitions section of the FIFA Statutes, nor will I hold such a position in the foreseeable future.
3. I declare that I have an impeccable reputation and in particular confirm that no criminal sentence has ever been imposed upon me for a financial or violent crime.
4. I declare that I have no contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest. In case of uncertainty, any relevant contract shall be disclosed. I also acknowledge that I am precluded from implying, directly or indirectly, that such a contractual relationship with leagues, associations, confederations or FIFA exists in connection with my activities as an intermediary.
5. I declare, pursuant to article 7 paragraph 4 of the HKFA Regulations on Working with Intermediaries, that I shall not accept any payment to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions.
6. I declare, pursuant to article 7 paragraph 8 of the HKFA Regulations on Working with Intermediaries, that I shall not accept any payment from any party if the player concerned is a minor, as defined in point 11 of the Definitions section of FIFA's Regulations on the Status and Transfer of Players.

- 7. I declare that I shall not take part in, either directly or indirectly, or otherwise be associated with, betting, gambling, lotteries and similar events or transactions connected with football matches. I acknowledge that I am forbidden from having stakes, either actively or passively, in companies, concerns, organisations, etc. that promote, broker, arrange or conduct such events or transactions.
- 8. I consent, pursuant to article 6 paragraph 1 of the HKFA Regulations on Working with Intermediaries, to HKFA obtaining full details of any payment of whatsoever nature made to me by a club or a player for my services as an intermediary.
- 9. I consent, pursuant to article 6 paragraph 1 of the HKFA Regulations on Working with Intermediaries, to the leagues, associations, confederations or FIFA obtaining, if necessary, for the purpose of their investigations, all contracts, agreements and records in connection with my activities as an intermediary. Equally, I consent to the aforementioned bodies also obtaining any other relevant documentation from any other party advising, facilitating or taking any active part in the negotiations for which I am responsible.
- 10. I consent, pursuant to article 6 paragraph 3 of the HKFA Regulations on Working with Intermediaries, to HKFA holding and processing any data for the purpose of their publication.
- 11. I consent, pursuant to article 9 paragraph 2 of the HKFA Regulations on Working with Intermediaries, to HKFA publishing details of any disciplinary sanctions taken against me and informing FIFA accordingly.
- 12. I am fully aware and agree that this declaration shall be made available to the members of the competent bodies of HKFA.
- 13. Remarks and observations which may be of potential relevance:

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I make this declaration in good faith, the truth of which is based on the information and materials currently available to me, and agree that HKFA shall be entitled to undertake such checks as may be necessary to verify the information contained in this declaration. I also acknowledge that, having submitted this declaration, in the event that any of the above-mentioned information changes, I must notify HKFA immediately.

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(Place and date)

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(Signature)

**Intermediary Declaration for legal persons**

**ANNEXE 2**

Name of company (legal person/entity): \_\_\_\_\_  
Address of company (incl. phone/fax, e-mail and website):

\_\_\_\_\_

Hereinafter referred to as “the company”

First name(s) and surname(s) of the individual duly authorised to represent the  
aforementioned company (legal person/entity):

\_\_\_\_\_  
*(NB: each individual acting on behalf of the company has to fill in a separate Intermediary Declaration)*

I, \_\_\_\_\_  
(First name(s), surnames(s) of the individual representing the legal person/  
entity)

duly authorised to represent the company

HEREBY DECLARE THE FOLLOWING:

1. I declare that both the company I represent and that I myself shall respect any mandatory provisions of applicable national and international laws, including in particular those relating to job placement when carrying out activities as an intermediary. In addition, I declare that both the company I represent and that I myself agree to be bound by the statutes and regulations of the Hong Kong Football Association (HKFA), of confederations as well as of FIFA in the context of carrying out activities as an intermediary.
2. I declare that I am currently not holding a position of official, as defined in point 11 of the Definitions section of the FIFA Statutes, nor will I hold such a position in the foreseeable future.
3. I declare that I have an impeccable reputation and in particular confirm that no criminal sentence has ever been imposed upon me for a financial or violent crime.
4. I declare that neither the company I represent nor I myself have any contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest. In case of uncertainty, any relevant contract shall be disclosed. I also acknowledge that the relevant company is precluded from implying, directly or indirectly, that such a contractual relationship with leagues, associations, confederations or FIFA exists in connection with its activities as intermediary.
5. I declare, pursuant to article 7 paragraph 4 of the HKFA Regulations on Working with Intermediaries, that neither the company I represent nor I myself shall accept any payment to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions.

6. I declare, pursuant to article 7 paragraph 8 of the HKFA Regulations on Working with Intermediaries, that neither the company I represent nor I myself shall accept any payment from any party if the player concerned is a minor, as defined in point 11 of the Definitions section of FIFA's Regulations on the Status and Transfer of Players.
7. I declare that neither the company I represent nor I myself shall take part in, either directly or indirectly, or otherwise be associated with, betting, gambling, lotteries and similar events or transactions connected with football matches. I acknowledge that both the company I represent and I myself are forbidden from having stakes, either actively or passively, in companies, concerns, organisations, etc. that promote, broker, arrange or conduct such events or transactions.
8. On behalf of the company I represent, I consent, pursuant to article 6 paragraph 1 of the HKFA Regulations on Working with Intermediaries, to HKFA obtaining full details of any payment of whatsoever nature made to the company by a club or a player for its services as an intermediary.
9. On behalf of the company I represent, I consent, pursuant to article 6 paragraph 1 of the HKFA Regulations on Working with Intermediaries, to the leagues, associations, confederations or FIFA obtaining, if necessary, for the purpose of their investigations, all contracts, agreements and records in connection with the activities as an intermediary of the company. Equally, I consent to the aforementioned bodies also obtaining any other relevant documentation from any other party advising, facilitating or taking any active part in the negotiations for which the company I represent is responsible.
10. On behalf of the company I represent, I consent, pursuant to article 6 paragraph 3 of the HKFA Regulations on Working with Intermediaries, to HKFA holding and processing any data for the purpose of their publication.
11. On behalf of the company I represent, I consent, pursuant to article 9 paragraph 2 of the HKFA Regulations on Working with Intermediaries, to HKFA publishing and informing FIFA of any disciplinary sanctions taken against the company I represent.
12. I am fully aware and agree that this declaration shall be made available to the members of the competent bodies of HKFA.
13. Remarks and observations which may be of potential relevance:

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I make this declaration in good faith, the truth of which is based on the information and materials currently available to me, and agree that HKFA shall be entitled to undertake such checks as may be necessary to verify the information contained in this declaration. I also acknowledge that, having submitted this declaration, in the event that any of the above-mentioned information changes, I must notify HKFA immediately.

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(Place and date)

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(Signature)