



**SOUTH AFRICAN
FOOTBALL ASSOCIATION**

REGULATIONS ON WORKING WITH INTERMEDIARIES

Approved by

The SAFA National Executive Committee on 27 March 2015
Revised and Approved by the SAFA National Executive Committee on
2 April 2016



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PREAMBLE

FIFA has resolved to conduct an in depth reform of the players' agent system through a new approach based on the concept of Intermediaries. The FIFA Executive Committee approved the new **Regulations on Working with Intermediaries** (hereinafter: *the Regulations*). The new text of these Regulations is the result of widespread discussions and a very lengthy and extensive consultation procedure with all relevant members of the international football community. One of the main objectives is to create a new system that is more transparent and simpler to administer and implement, resulting, in turn, in better enforcement at national level.

It should be noted that new Regulations are to be considered as minimum standards or requirements. In accordance with Article 1(3), the right of associations to go beyond these minimum standards/requirements is preserved. Therefore national associations can set higher thresholds for becoming an Intermediary should they so wish.

One of SAFA's key objectives is to promote and safeguard high ethical standards in the activities between clubs, players and third parties and thus to live up to the requirements of good governance and the principles of financial responsibility. It is essential 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.

The SAFA Regulations on Players' Agents remained in effect until 30 March 2015 where after the new **SAFA Regulations on Working with Intermediaries** came into force on 1 April 2015. These revised regulations are effective as from 1 June 2015.

1. SCOPE

- 1.1 These provisions (“the Intermediary Regulations”) are aimed at member associations of SAFA and specifically the Special member, the National Soccer League (“the League”) where professional football in South Africa takes place and is directly regulated in relation to the engagement of the services of an Intermediary by players and clubs to:-
- a) conclude an employment contract between a player and a club, or
 - b) conclude a transfer agreement between two clubs.
- 1.2 SAFA has jurisdiction over transactions involving Intermediaries, and member associations and in particular the League, are required to and must implement and enforce at least these minimum standards/requirements in accordance with the duties assigned in these Intermediary Regulations, subject to the mandatory laws and any other mandatory national legislative norms applicable to the associations.
- 1.3 The right of SAFA to go beyond these minimum standards/requirements is preserved.
- 1.4 These Intermediary Regulations and potential additional provisions going beyond these minimum standards/requirements implemented by SAFA shall not affect the validity of the relevant employment contract and/or transfer agreement.

2 APPLICATIONS AND DEFINITIONS

- 2.1 In these Intermediary Regulations, any words defined in the SAFA Statutes will have the meaning attributed to them in the SAFA Statutes and, unless the context indicates otherwise,
- 2.1.1 “Audit” means an evaluation and verification of financial accounts, records, operations and performances (financial or otherwise);
 - 2.1.2 “CEO” means the Chief Executive Officer of SAFA, or his/her duly authorised delegate;
 - 2.1.3 “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;
 - 2.1.4 “Intermediary” means 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.

- 2.1.5 “Basic Gross Income” means the total amount of money earned before taxes or other deductions are subtracted from the individual’s salary and excludes bonuses and any other perks.
- 2.1.6 “Transaction” means any negotiation or other related activity, including any communication relating or preparatory to the same, the intention or effect of which is to create, terminate or vary the terms of a player’s contract of employment with a Club, to facilitate or effect the registration of a player with a Club, or the transfer of the registration of a player from a club to a Club (whether on a temporary or permanent basis). A completed Transaction is one that has so achieved the creation, termination or variation of the terms of the player’s contract of employment with a Club, the registration of the player with a Club or the transfer of the registration from a club to a Club.
- 2.2 These Intermediary Regulations govern the activities of Intermediaries who facilitate and negotiate the transfer of players from one club to another within the Republic of South Africa or between a club within the Republic of South Africa and any other Member Association of FIFA.
- 2.3 These Intermediary Regulations are binding on all processes for employing the services of an Intermediary.
- 2.4 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.

3 GENERAL PRINCIPLES

- 3.1 Players and clubs are entitled to employ the services of an Intermediary when concluding an employment contract and/or a transfer agreement.
- 3.2 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.
- 3.3 Whenever an Intermediary is involved in a transaction, the Intermediary must be registered in the Intermediary Regulation Tool system (IRT) pursuant to these Intermediary Regulations.
- 3.4 The engagement of officials, as defined in point 11 of the Definitions section of the FIFA Statutes, as Intermediaries, by players and clubs is prohibited. For certainty it is recorded that no Intermediary may occupy a position within a member association, the League, FIFA, CAF, SAFA, COSAFA or any of the affiliated clubs or any association connected to any of these that could lead to a conflict of interest. Intermediaries are precluded from implying, directly or indirectly, that such a contractual relationship with leagues, associations, confederations or FIFA exists in connect with their activities.

- 3.5 A player or club affiliated to SAFA, a member association or the League, will face disciplinary sanctions should they fail to comply with these Intermediary Regulations.
- 3.6 These Intermediary Regulations will apply in the same regard to:-
- 3.6.1 A practicing Attorney or Advocate within the Republic of South Africa who may wish to represent a player or club in any matter relating to the transfer of a player from one club to another, and
- 3.6.2 A player's biological parent, sibling, legal guardian who may wish to represent him/her in matters relating to his/her transfer from one club to another. An uncle or aunt of the player duly authorised by properly executed power of attorney may too represent him/her in matters relating to his/her transfer from one club to another.
- 3.7 All SAFA accredited players agent licenses issued prior to 1 April 2015 will no longer be valid. With the coming into force of these provisions, the previous licensing system shall be abandoned and all existing licences will lose validity with immediate effect and shall be returned to SAFA, the Association that issued them.
- 3.8 Any representation contracts that are signed after the dates of these Intermediary Regulations are required to align their clauses with the requirements provided for in Article 6 of these Intermediary Regulations below.

4 REGISTRATION OF INTERMEDIARIES

- 4.1 For the sake of transparency, each Member Association of FIFA, is required to implement a registration system for Intermediaries that has to be publicised in accordance with Article 7 below (Disclosure & Publication required by Clubs, Players, member associations & SAFA). Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction.
- 4.2 The registration system for Intermediaries is publicised in accordance with Article 7 below (Disclosure & Publication required by Clubs, Players, member associations & SAFA). Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction (cf. Articles 4.4 and 4.9 below).
- 4.3 Within the scope of the above-mentioned registration system, SAFA, its member associations, and in particular the League, must require clubs and players who engage the services of an Intermediary to submit the Intermediary Declaration in accordance with Annexes A and B of these Intermediary Regulations. SAFA, its member associations, or the League may request further information and/or documentation.
- 4.4 Following the conclusion of the relevant transaction, a player engaging the services of an Intermediary within the scope of Article 1.1 (a) above in the conclusion of **an employment contract**, must submit to the member association of the club (the League if a professional club):-

- i. the relevant Intermediary Declaration;
 - ii. Any other documentation required by the member association (the League if applicable) or SAFA such as certified proof of residence; certified copy of identification document;
 - iii. Representation contract between the Player and Intermediary.
- 4.5 In case of renegotiation of an employment contract, a player engaging the services of an Intermediary must also provide the member association of his current club with the same documentation.
- 4.6 Following the conclusion of the relevant transaction, a club engaging the services of an Intermediary within the scope of Article 1.1 (b) above in conclusion of **a transfer agreement between two** clubs must submit to the member association of the club (the League if a professional club is involved):-
- i. the Intermediary Declaration;
 - ii. Any other documentation required by the member association (the League if applicable) or SAFA such as certified proof of residence; certified copy of identification document;
 - iii. Written agreement between Club and Intermediary for services rendered.
- 4.7 If the releasing club engaged the services of an Intermediary, that club shall also submit a copy of the Intermediary Declaration to its association.
- 4.8 The aforementioned notification by players and clubs must be made each time any activity within the scope of these Intermediary Regulations takes place.
- 4.9 The member association (the League if the transaction concerns professional football) must provide SAFA with the copies of the documentation submitted to it including the relevant Intermediary Declaration.

5 REGISTRATION REQUIREMENTS

- 5.1 In addition to the information provided by the player or the club; SAFA, the member association, or the League will be entitled to conduct investigations to establish if an Intermediary has an impeccable reputation.
- 5.2 If the Intermediary concerned is a legal person, the member association responsible for registering the transaction will be entitled to satisfy itself that the individuals representing the legal entity within the scope of the transaction in question have an impeccable reputation
- 5.3 Member associations (the League if the transaction concerns professional football) must also be satisfied that in carrying out their activities, the Intermediary contracted by a club and/or a player has no contractual relationship with leagues, associations, confederations, the League, SAFA, or FIFA that could lead to a potential conflict of interest. Intermediaries are precluded from implying, directly or indirectly, that such a contractual relationship exists.
- 5.4 SAFA and/or the League and/or member associations are considered to have complied with their obligations under sub-articles 5.1 to 5.3 above if they obtained a duly signed

Intermediary Declaration as per annexes A or B of these Intermediary Regulations from the Intermediary concerned.

- 5.5 The representation contract that the Intermediary concludes with a player and/ or a club (cf. Article 6 below) must be deposited with the member association concerned (the League if the transaction concerns professional football) when the registration of the Intermediary takes place.
- 5.6 The member association (including the League) must provide SAFA with a copy of the representation contract submitted to it.

6 REPRESENTATION CONTRACT

- 6.1 Club 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:-
- i. a service;
 - ii. a consultancy within the scope of Article 1(1);
 - iii. a job placement; or
 - iv. any other legal relationship.
- 6.2 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.
- 6.3 The representation contract must contain the following minimum details:-
- i. names of the parties;
 - ii. scope of services;
 - iii. 2 year duration of the legal relationship;
 - iv. remuneration due to the Intermediary;
 - v. general terms of payment;
 - vi. date of conclusion.

7 DISCLOSURE AND PUBLICATION REQUIRED BY CLUBS, PLAYERS AND SAFA

- 7.1 Players and/or clubs are required to disclose to SAFA and the relevant member association (including the League) (cf.4.2 - 4.4) 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.
- 7.2 In addition, players and/or clubs shall, upon request, with the exception of the representation contract (disclosure of which is mandatory), disclose to the competent bodies of the member

associations (including the League) SAFA, CAF and FIFA, all contracts, agreements and records with Intermediaries in connection with activities in relation to these provisions, for the purpose of their investigations.

- 7.3 Players and/or clubs shall in particular reach agreements with their Intermediaries to ensure that there are no obstacles to the disclosure of the above-mentioned information and documents.
- 7.4 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.
- 7.5 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.
- 7.6 The member association including the League will make available to SAFA sufficient information as necessary to enable SAFA to make publicly available at the end of March of every calendar year on the official SAFA website, the names of all Intermediaries they have registered as well as the single transactions in which they were involved.
- 7.7 SAFA 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.
- 7.8 SAFA may also make available to their member associations (including the League), registered players and/or 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.

8 PAYMENTS TO INTERMEDIARIES

- 8.1 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 employment contract.
- 8.2 Clubs that engage the services of an Intermediary shall remunerate the Intermediary 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.
- 8.3 While taking into account the relevant national regulations and provisions of the national and international laws players and clubs are guided by 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 shall be negotiated between the Player and the Intermediary for the entire duration of the relevant employment contract.
 - b) In the event that no signed contract has been entered into between the parties a minimum amount of 3% of a Player's basic gross income shall apply. (This is considered the default in the event the player or club cannot reach an agreement on the commission percentage).
 - c) The total amount payable by the Player to the Intermediary shall not exceed 10% of the value of the Player's contract.
 - d) The total amount of remuneration per transaction due to Intermediaries who have been engaged to act on a player's behalf in order to conclude an employment contract with a player and club shall be negotiated by the parties, is recommended at between 3% and 10% of the total value of the Player's basic gross income for the entire duration of the relevant employment contract.
 - e) The total amount of remuneration per transaction due to Intermediaries, who have engaged to act on a club's behalf in order to conclude a transfer agreement shall be negotiated by the parties, is recommended at between 3% and 10% of the eventual transfer fee paid in connection with the relevant transfer of the player.
- 8.4 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.
- 8.5 Subject to Article 8.6 and Article 9 (Conflict of Interest) below, any payment for the services of an Intermediary shall be made exclusively by the client of the Intermediary to the Intermediary.
- 8.6 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.
- 8.7 Officials, as defined in point 11 of the Definitions section of the FIFA Statutes, or those of SAFA or member associations, including the League, 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.

- 8.8 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.
- 8.9 It is recommended that the signing-on fees, loyalty fees, initiation fees, administration fee or any fee relating to image rights of a Player should form part of the Player's Basic Gross Income.

9 CONFLICT OF INTEREST

- 9.1 Prior to engaging the services of an Intermediary, players and/or clubs shall use reasonable endeavours to ensure that no conflict of interest exists or is likely to exist either for the players and/or clubs or for the Intermediaries.
- 9.2 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.
- 9.3 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 sub-article 9.2 above, the player and the club concerned will 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 will inform SAFA of any such agreement and accordingly submit all the aforementioned written documents within the registration process (cf. Articles 4 and 5 above).

10 RIGHTS AND DUTIES OF INTERMEDIARIES

- 10.1 Subject to 10.2 and 10.3 below, Intermediaries shall have the right to approach any player or club and to represent any player or club that requests him/her to negotiate and conclude a contract on their behalf.
- 10.2 An Intermediary may represent a player or club or manage their affairs only if s/he has a written contract with the player or club in question. Such contract shall have an initial period of no more than two years.
- 10.3 An Intermediary shall have the following duties:-
- 10.3.1 To comply with the statutes, rules and regulations of SAFA, CAF and FIFA at all times.

- 10.3.2 To ensure that every transaction in which s/he represents the interests of a player or club conforms to the above mentioned statutes, rules and regulations.
- 10.3.3 Not to attempt to induce a player who is under contract with a club to breach his/her contract with the club.
- 10.3.4 Not to represent the interests of more than one party in any particular transfer
- 10.3.5 To comply with his/her common law fiduciary duties to his/her principal in every transaction in which s/he represents the interests of a player or club.
- 10.4 Any Intermediary who fails to comply with a duty contemplated by Article 10.3 commits misconduct and is liable to be sanctioned by means of the imposition of:-
- 10.4.1 a reprimand, censure or caution;
- 10.4.2 a fine;
- 10.4.3 an order that the Intermediary pay to an aggrieved party compensation.
- 10.5 The sanctions imposed in terms of Article 10.4 may be cumulative.
- 10.6 Any fine or compensation order imposed in terms of Article 10.4 shall have the status of a civil debt in favour of SAFA or the party to be compensated as the case may be.

11 DUTIES OF PLAYERS IN RELATION TO INTERMEDIARIES

- 11.1 A player shall ensure that his/her Intermediaries' name and signature appears on any contract in respect of the negotiation or conclusion of which the Intermediary has represented the player.
- 11.2 Any player who fails to comply with a duty contemplated in these Regulations commits misconduct and is liable to be sanctioned by means of the imposition of:-
- 11.2.1 a reprimand, censure or caution;
- 11.2.2 a fine;
- 11.2.3 a disciplinary suspension of up to twelve (12) months;
- 11.2.4 any other sanction contemplated in the SAFA disciplinary code.
- 11.3 The sanctions imposed in terms of Article 11.2 may be cumulative.

12 DUTIES OF CLUBS IN RESPECT OF INTERMEDIARIES

- 12.1 A club shall ensure that it's Intermediaries' name and signature appears on any contract in respect of the negotiation or conclusion of which the Intermediary has represented the club.

- 12.2 Any club which pays another club compensation for a player's training or development shall be obliged to pay the full amount of compensation directly to the club in question and, notwithstanding any agreement or instruction to the contrary, shall not pay any part of the amount to an Intermediary.
- 12.3 All clubs and their staff and officials are responsible for familiarising themselves with these Regulations and bringing these Regulations under the attention of the Players, its staff and officials.
- 12.4 Any club which fails to comply with a duty contemplated by Article 12.1 to 12.3 commits misconduct and is liable to be sanctioned by means of the imposition of:-
- 12.4.1 a reprimand, censure or caution;
 - 12.4.2 suspension of all or part of its management bodies;
 - 12.4.3 a fine of up to ZAR100 000.00;
 - 12.4.4 a prohibition from carrying out national and/or international transfers within a stated period;
 - 12.4.5 a ban on participation in any national or international footballing activities within a stated period;
 - 12.4.6 any other sanction contemplated in the SAFA disciplinary code.
- 12.5 The sanctions imposed in terms of Article 12.4 may be cumulative.

13 SANCTIONS

- 13.1 Any party wishing to file a complaint against an Intermediary shall address it in writing to SAFA.
- 13.2 SAFA must investigate any complaint which is lodged:
- 13.2.1 not less than twelve months after the events that gave rise to the complaint, and
 - 13.2.2 if the Intermediary concerned has terminated his activities, not less than six months after his/her licence was returned to, or cancelled by, SAFA as the case may be.
- 13.3 SAFA may, in its discretion, investigate any complaint which is lodged outside the time limits contemplated by Article 13.2
- 13.4 If, upon investigation of a complaint against an Intermediary, SAFA concludes that there is a *prima facie* case that the Intermediary concerned has committed misconduct, it shall institute

disciplinary proceedings in terms of these Intermediary Regulations and the SAFA Disciplinary Code.

- 13.5 SAFA is obliged to publish the results of such proceedings 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.
- 13.6 All sanctions or charges against clubs, intermediaries and players will be initiated by SAFA.

14 ENFORCEMENT OF ASSOCIATION'S OBLIGATIONS

- 14.1 SAFA shall monitor the proper implementation of the requirements set in these Intermediary Regulations and may take appropriate measures if the relevant principles are not complied with.
- 14.2 The SAFA Disciplinary Committee shall be competent to deal with such matters in accordance with the SAFA Disciplinary Code.
- 14.3 This Intermediary Regulation shall remain subject to the FIFA Regulations on Working with Intermediaries (or its successors) as amended from time to time.

15 TRANSITIONAL MEASURES

- 15.1 These provisions supersede the SAFA Players' Agents Regulations in force prior to the promulgation of these Intermediary Regulations.
- 15.2 With the coming into force of these provisions, the previous licensing system shall be abandoned and all existing licences will lose validity with immediate effect.

16 OTHER SPECIFIC ACTS OF MISCONDUCT

Notwithstanding the acts of misconduct mentioned in Articles 10 to 13, the following specific acts of misconduct are also sanctionable:

- 16.1 Inducement to breach a contract, agreement, or arrangement, whether intentional or negligent;
- 16.2 Any act which evidences a conflict of interest including but not limited to:-
- a. the failure to disclose any and all payments that are made to or received from any contracting party;

- b. acting for more than one party to any transaction without express written consent recording the nature of the conflict and agreement of all parties to the otherwise conflictual arrangement.
- 16.3 The making of any misrepresentation of any sort by or concerning an Intermediary including holding oneself out as having authority, skills, expertise or experience one does not have;
 - 16.4 The failure to fully and properly explain the content, meaning, and effect of all contracts, agreements, or arrangements, concluded with clubs or players to those clubs or players;
 - 16.5 The failure to record all contracts, agreements, or arrangements in writing and ensure that these are signed by or on behalf of the other contracting parties;
 - 16.6 The failure to provide copies of all contracts to the other contracting parties;
 - 16.7 The levying of unreasonable or unconscionable fees or charges;
 - 16.8 The failure to ensure that each transaction in which one is involved is fully and properly documented and reported to the appropriate football association;
 - 16.9 The failure to comply fully with all relevant provisions of the football prescripts relating to Intermediaries;
 - 16.10 The failure to draw to the attention of players or clubs the relevant provisions of the Consumer Protection Act and the FIFA, SAFA, and League rules;
 - 16.11 The failure to keep separate and proper books of account and to make these available upon request to any contracting party or football association;

SIGNED:

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DR DANNY JORDAAN
PRESIDENT

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MR DENNIS A. MUMBLE
GENERAL SECRETARY / CEO

DATE: 1 June 2015