

FAM
REGULATIONS ON WORKING WITH
INTERMEDIARIES



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Definition of an Intermediary

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

FAM abides the responsibility to constantly develop the game of football and to maintain the integrity. In this context, one of FAM's key objectives is to uphold and safeguard considerably high ethical standards in the relations between clubs, players and third parties, and thus to live up to the requirements of good governance and financial responsibility principles. More precisely, FAM considers it 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. In the light of these considerations, and with the aim of appropriately addressing the changing realities of modern day dealings between players and clubs as well as to enable proper control and transparency of player transfers, FAM has enacted these regulations in accordance with article 4 of the Regulations Governing the Application of the FAM Statutes. These regulations shall serve as minimum standards/ requirements that must be implemented by each clubs at national level having the possibility of further adding thereto.

"FAM" means the "Football Association of Malaysia" recognised by Commissioner of Sports, Malaysia and a member of AFC and FIFA.

"FIFA" means Federation Internationale de Football Association.

"Teams" means football teams and includes members, state football associations, district football associations, clubs and invited teams approved to participate in football tournaments organised or sanctioned by FAM.

1 Scope

1.

These provisions are aimed at teams in relation to the engagement of the services of an intermediary by players and teams to:

- a) Conclude an employment contract between a player and a team, or
- b) Close a transfer agreement between two teams.

2.

Teams are required to abide with 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 the associations. FAM shall draw up regulations that shall incorporate the principles established in these provisions.

3.

The right of FAM to go beyond these minimum standards/requirements is preserved.

4.

These regulations and potential additional provisions going beyond these minimum standards/requirements implemented by FAM shall not affect the validity of the relevant employment contract and/or transfer agreement.

2 General principles

1.

Players and teams 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 teams shall act with due diligence. In this context, due diligence means that players and teams 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 17 of the Definitions section of the FAM Statutes, as intermediaries by players and teams is prohibited.

5.

All existing licenses for Agents will lose their validity after one year subject to their expiration date. Individuals wishing to represent Players in transactions will need to be registered as an Intermediary with FAM.

6.

Subject to sub-paragraph 5, if an intermediary has or has existing agreement(s) with player(s) prior to the establishment of this Regulations, the agreement is deemed valid provided that the Intermediary must register with FAM and attach together with the current existing agreement upon registration.

3 Registration of intermediaries

1.

For transparency purpose, every Intermediary who wishes to intermediate in Malaysia must register with FAM together with fee subject to the approval of FAM. Upon approval, an intermediary is able to conduct his football activity in Malaysia.

2.

Each team is required to implement a registration system for intermediaries that have to be publicized in accordance with article 6 paragraphs 3 below. Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction (cf. paragraphs 3 and 4 below).

3.

Within the scope of the above-mentioned registration system, FAM must require teams and players who engage the services of an intermediary to submit the Intermediary Declaration Form in accordance with annexes 1 of these regulations. FAM may request further information and/or documentation.

4.

Following the conclusion of the relevant transaction, a player engaging the services of an intermediary within the scope of article 1 paragraph 1(a) above must submit to FAM with which he signed his employment contract with at least the Intermediary Declaration Form and any other documentation required by FAM. In case of renegotiation of an employment contract, a player engaging the services of an intermediary must also provide to FAM of his current club with the same documentation.

5.

Following the conclusion of the relevant transaction, a team engaging the services of an intermediary within the scope of article 1 paragraph 1(b) above must submit FAM with which the player in question is to be registered at least the Intermediary Declaration Form and any other documentation required by FAM. If the releasing team engaged the services of an intermediary, that team shall also submit a copy of the Intermediary Declaration to FAM.

6.

The aforementioned notification by players and teams must be made each time any activity within the scope of article 1 paragraph 1 of these regulations takes place.

4 Requisites for registration

1.

In addition to the information provided to FAM by the player or Teams under article 3 above, and before the relevant intermediary can be registered, FAM will at least have to be satisfied that the intermediary involved has an impeccable reputation.

2.

FAM must also be satisfied that in carrying out his activities, the intermediary contracted by a team and/or a player has no contractual relationship with leagues, FAM, 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, FAM, confederations or FIFA exists in connection with their activities.

3.

Teams are considered to have complied with their obligations under paragraphs 1 and 2 above if they obtained a duly signed Intermediary Declaration as per annexes 1 of these Regulations from the intermediary concerned.

4.

The representation contract that the intermediary concludes with a team or a player (cf. article 5 below) must be deposited with FAM when the registration of the intermediary takes place.

5 Representation contract

1.

For the sake of clarity, teams 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 teams and an intermediary shall be recorded in writing prior to the intermediary commencing his activities. The representation contract must contain the following minimum details: the names of the parties, the scope of services, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of conclusion, the termination provisions and 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 Malaysian law.

3.

The minimum duration of the agreement shall be at least one (1) year and not exceeding five (5) years.

6 Disclosure and publication

1.

Players and/or teams are required to disclose to FAM (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 teams shall, upon request, with the exception of the representation contract, the disclosure of which is mandatory under article 4 paragraph 4 above, disclose to the FAM 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 teams 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. Teams 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 team 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.

FAM shall make publicly available at the end of March of every calendar year, for example 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, FAM shall also publish the total amount of all remunerations or payments actually made to intermediaries by their registered players and by each of their affiliates. The figures to be published are the consolidated total figure for all players and the individual clubs' consolidated total figure.

4.

FAM may also make available to their registered players and affiliates any information relating to transactions that have been found to be in breach of these provisions that is of relevance for the pertinent irregularities.

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 players' basic gross income for the entire duration of the contract.

2.

Teams 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 installments.

3.

As a recommendation, players and teams may adopt the following benchmarks:

- a) The minimum amount of remuneration per transaction due to intermediaries who have been engaged to act on a player's behalf is three percent (3%) of the player's basic gross income for the entire duration of the relevant employment contract. The remuneration may be more than three percent (3%) subject to agreement by parties.
- b) The minimum amount of remuneration per transaction due to intermediaries who have been engaged to act on team's behalf in order to conclude an employment contract with a player is three percent (3%) of the player's eventual basic gross income for the entire duration of the relevant employment contract. The remuneration may be more than three percent (3%) subject to agreement by parties.
- c) The minimum amount of remuneration per transaction due to intermediaries who have been engaged to act on team's behalf in order to conclude a transfer agreement is three percent (3%) of the eventual transfer fee paid in connection with the relevant transfer of the player. The remuneration may be more than three percent (3%) subject to agreement by parties.

4.

Teams shall ensure that payments to be made by one team to another team in connection with a transfer, such as transfer fee, 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 team's agreement, the player may give his written consent for the team 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.

Official, as defined in point 13 of the Definitions section of the FAM 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 teams 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 30 Definitions FAM Regulations on the Status and Transfer of Players.

8 Conflicts of interest

1.

Prior to engaging the services of an intermediary, players and/or teams shall use reasonable endeavours to ensure that no conflicts of interest exist or are likely to exist either for the players and/or teams 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 team 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 team 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 team) will remunerate the intermediary. The parties shall inform the relevant association of any such agreement and accordingly submit all the aforementioned written documents within the registration process (cf. articles 3 and 4 above).

9 Sanctions

1.

FAM is responsible for the imposition of sanctions on any party under their jurisdiction that violates the provisions of these Regulations, their statutes or regulations.

2.

FAM 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.

10 Enforcement of teams' obligations

1.

FAM shall monitor the proper implementation of these minimum standards/requirements by the teams and may take appropriate measures if the relevant principles are not complied with.

2.

The FAM Disciplinary Committee shall be competent to deal with such matters in accordance with the FAM Disciplinary Code.

11 Fees

1.

Every intermediary must pay the Intermediaries Fee exclusive goods and services tax (GST) for the registration of new membership as an intermediary. The duration of the membership is for a year. An intermediary must renew their license upon expiry of the current membership term exclusive GST. It may be changed from time to time subject to FAM discretion. Every tax imposed by the Government of Malaysia for the services shall be borne by the Intermediary.

2.

Every foreign intermediary must pay Intermediaries Fee exclusive GST for registration of membership to intermediate in Malaysia. Foreign intermediary also must attach their Intermediary Certificate together with registration fee (applicable to the foreign intermediary with Intermediary License). An intermediary must renew their license upon expiry of the current membership term exclusive GST. It may be changed from time to time subject to FAM discretion. Every tax imposed by the Government of Malaysia for the services shall be borne by the Intermediary.

12 Termination

1.

Either Party fails to materially observe or perform any of its material obligations under Intermediary Agreement and, in the case of a failure which is capable of being remedied, such failure is not remedied within sixty (60) days after a written notice to the defaulting party informing of the failure is received by the defaulting party.

2.

The intermediary's agreement also may be terminated by both parties by mutual consent subject to term and agreement between parties.

13 Grievance Procedures

1.

In the event that there is a grievance in the Intermediaries Agreement, the party not in default must inform the defaulting party within seven (7) days after a written notice to the defaulting party informing of the failure by the defaulting party to the party not in default.

2.

If the party not in default is not remedied seven (7) days after the received of the notice by the party not in default, then the party not in default may lodge a complaint to FAM's Status Committee. The decision of the Status Committee is in accordance to the guidelines below:

- a. The Complainant/s must make a written complaint regarding the dispute together with affidavit in support certified by Malaysia's commissioner for oaths or notary public seven (7) days after the Complainant/s has not been remedied by the Respondent/s. If the dispute is not resolved by the Status Committee, it must then refer to FAM Appeal Committee seven (7) days after the decision has been made.
- b. If the decision of the Appeal Committee, FAM is still not satisfactory the parties to the dispute or the dispute is still no solution, then it should be referred to the Court of Arbitration pursuant to the Arbitration Act 1952 by an arbitration agreed to by the parties to the dispute. The arbitration decision shall be final and shall be accepted by all parties involved. Arbitration costs shall be borne by both parties.
- c. Parties are prohibited from filing any proceedings relating to the Intermediaries Agreement or any grievance concerning the Status and Transfer of Players Football Association of Malaysia in a court of law. Any dispute relating to the status, displacement, contracts and any grievance about the Intermediaries Agreement of Football Association of Malaysia shall be referred to FAM or jurisdiction of FIFA.

14 Time

1.

Time shall be the essence of this agreement. Every notice given must be in writing and must be sent to the intermediary and/or teams.

2.

The notice must be sent by registered post and such notice deemed to have been received by the parties involved.

3.

In the event of a party change the address as in the Intermediary Agreement, a notice of change of address must be send to other party/ies involved in the Intermediary Agreement within seven (7) days after the change of the address.

15 Transitional measures

1.

These provisions, which were approved by the FAM Executive Committee on 7th November 2016, and come into force on 8 November 2016.

2.

With the coming into force of these provisions, the previous licensing system shall be abandoned and all existing licenses will lose validity with immediate effect and shall be returned to the associations that issued them.

Kelana Jaya, 7 November 2016
For the FAM Executive Committee

President: HRH Tengku Abdullah ibni Sultan Ahmad Shah
General Secretary: Dato'Haji Hamidin bin Haji Mohd Amin

ANNEX 1



Intermediary Declaration

First name(s) :
Surname(s) :
Date of birth :
Nationality/nationalities :
Identity Card No :
Passport No. :
Full permanent address :
Telephone :
E-mail :

I,
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 Football Association of Malaysia (FAM), as well as by the Statutes and regulations 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 17 of the Definitions section of the FAM 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 state football associations, Clubs, FAM, 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 FAM 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 FAM 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 article 19 in the 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, organizations, etc. that promote, broker, arrange or conduct such events or transactions.
8. I consent, pursuant to article 6 paragraph 1 of the FAM Regulations on Working with Intermediaries, to the association 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 FAM Regulations on Working with Intermediaries, state football association, club, FAM 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 FAM Regulations on Working with Intermediaries, to the association concerned holding and processing any data for the purpose of their publication.
11. I consent, pursuant to article 9 paragraph 2 of the FAM Regulations on Working with Intermediaries, to FAM 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 the association concerned.
13. Remarks and observations which may be of potential relevance:

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 the FAM concerned 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 the association concerned immediately.

(Intermediary Name)

Date: TBD