

## Financial services and football regulators agree a framework for cooperation

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As football's regulatory framework continues to develop, a [memorandum of understanding](#) ("**MoU**") published last month outlines how the Financial Conduct Authority ("**FCA**") and the Independent Football Regulator ("**IFR**") propose to cooperate and share information.

### Why does this matter?

Football and finance are inextricably linked. As the business of football becomes increasingly tightly regulated, the IFR and FCA have recognised that they will each hold information that is relevant to the other's regulatory remit.

The remits of the IFR and the FCA coincide more than may be immediately apparent. As noted in our separate [briefing](#), the developing responsibilities of the IFR include protecting and promoting the financial soundness of clubs from the top five divisions of English men's football.

The FCA's statutory responsibilities include protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of protection for consumers of financial services. In practice, this extends far beyond obvious situations such as supervising interactions by banks and insurers with their customers. It includes areas as diverse as how payments are made (including through fintech and, increasingly, crypto asset providers), the ways in which UK listed companies operate and interact with investors, and the detection and prevention of insider dealing and market manipulation.

This matters in a football context for at least two reasons. *Firstly*, owners and directors of football clubs will often have a portfolio of business interests. Even if their non-football related interests do not require them to be approved individually by the FCA or involve them participating in the running of firms authorised or regulated by the FCA, those interests will commonly involve roles within listed companies or the accumulation or management of wealth through trading activity on UK markets. Their conduct in those arenas is of interest to the FCA. *Secondly*, many football

clubs are closely connected with financial services firms whose day to day activities are closely scrutinised by the FCA, for example through sponsorship arrangements and other commercial partnerships. In some circumstances, the FCA will be acutely interested in information flowing between firms and individuals it regulates and football clubs. Partnership with the IFR provides it with a new way of gathering this information.

Owners and directors of football clubs should assume that the IFR is providing information to the FCA that may inform the way in which the FCA regulates them and their wider business interests. Equally, although the IFR is constrained from making direct use of material received from the FCA in its regulatory decision making processes, it is to be expected that dialogue between the regulators will prompt it to ask questions when making decisions about fitness and propriety.

### **Overview – cooperation and information sharing between the FCA and the IFR**

The MoU is brief, non-prescriptive and non-binding. Both regulators have substantial discretion when deciding whether to share information.

The MoU acknowledges the intersecting remits, objectives and purposes of the FCA and the IFR. It focuses on the statutory mechanisms enabling them to share information with one another without breaching confidentiality obligations.<sup>1</sup>

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<sup>1</sup> The relevant statutory frameworks for information gathering and sharing are set out in the Football Governance Act 2025 ("**FGA**") for the IFR and in the Financial Services and Markets Act 2000 ("**FSMA**") and the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 ("**the Disclosure Regulations**") for the FCA.

	<u>Disclosure by the IFR</u>	<u>Disclosure by the FCA</u>
<b>What may be disclosed?</b>	The IFR may disclose " <i>information</i> ", which is defined broadly as " <i>information in the form of a document, whether in draft or final form [and] information in any other form</i> ". <sup>2</sup>	The FCA may disclose " <i>confidential information</i> ". <sup>3</sup> In summary, this encompasses information " <i>relating to the business or other affairs of any person</i> " which was received by the FCA for the purposes of it discharging any of its functions, and which has not already been made public and is not in anonymised form.
<b>To whom?</b>	In addition to the FCA, the IFR may disclose " <i>information</i> " to HM Revenue & Customs (" <b>HMRC</b> "), the Secretary of State for Culture, Media and Sport, the Welsh Ministers, the National Crime Agency (" <b>NCA</b> "), the Serious Fraud Office (" <b>SFO</b> ") and the Sports Ground Safety Authority. <sup>4</sup>	The FCA may disclose " <i>confidential information</i> " to " <i>any person</i> " but only for the purposes of enabling or assisting <b>the FCA</b> to discharge any of <b>its</b> functions. <sup>5</sup>
<b>For which purpose(s)?</b>	The IFR may share " <i>information</i> " with any of these recipients in order for <b>the recipient(s)</b> to use the information " <i>for the purpose of facilitating the exercise of [their – i.e. the recipients'] functions</i> ". <sup>6</sup>	

The FCA already has similar agreements in place with other regulatory enforcement authorities whose remits cover aspects of the football business ecosystem. For example, separate MoUs have been in place between it and the Advertising Standards Authority and the Gambling Commission since 2014 and 2021 respectively.<sup>7</sup> Those agreements anticipate situations in which both regulators may have an interest in investigating the same conduct. They contain provisions covering how it should be decided which authority should take the lead on investigations, how concurrent investigations should proceed, and how publicity concerning investigations should be coordinated.

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<sup>2</sup> FGA, section 92(1)

<sup>3</sup> FSMA, section 348(2)

<sup>4</sup> FGA, section 86(2)

<sup>5</sup> Disclosure Regulations, Regulation 3

<sup>6</sup> FGA, section 86(1)(a)

<sup>7</sup> See the memoranda of understanding in place between the FCA and (1) the [Gambling Commission](#) and (2) the [Advertising Standards Authority](#).

The MoU now agreed between the FCA and the IFR does not contain such provisions. This may reflect expectations that, although they may be interested in the same underlying information, in most cases the regulators' remits will not involve them taking action against the same parties at the same time. It may also indicate that the regulators predict that cases giving rise to enforcement action involving both regulators will be fewer and further between than in other areas where the FCA's remit intersects with those of other authorities.

### **Which types of information might be shared, and when?**

Hypothetical examples of situations in which information may be shared between the regulators could include.

- from the IFR to the FCA:
  - details of inaccuracies in or omissions from an application form prepared by an individual seeking approval under the Owners, Directors and Senior Executives ("ODSE") regime who already (and separately) occupies a Senior Manager Function within a firm regulated by the FCA – both regulators would regard this information as relevant to assessments of honesty and integrity;
  - information regarding sponsorships with financial institutions or crypto exchanges which potentially fall within the FCA's remit.
- from the FCA to the IFR:
  - information suggesting that there may have been unfair treatment of fans in the marketing of financial services products aimed at spreading the cost of season tickets, which may prompt the IFR to ask specific questions about individuals' fitness and propriety or (in due course) in relation to licensing processes;
  - documents suggesting that a bank under investigation in respect of its treatment of customers in financial distress may have approved lending facilities based on unduly optimistic assurances given by senior executives within the club about anticipated cost savings arising from sharing of staff and resources with another club in which the club's majority owner also has a substantial stake. The IFR may be interested in making further enquiries to ascertain whether (1) suitable governance processes are in place within the club to ensure that the board is acting solely in the interests of that club and (2) any failures to achieve the anticipated cost savings could endanger the financial soundness of the club.

### **The bigger picture: Which arrangements govern the sharing of information between the IFR and authorities other than the FCA?**

Information obtained by the IFR may also be of significant interest to other UK enforcement authorities. As noted above, the IFR's founding legislation expressly provides for it to share information with agencies including the SFO, NCA and HMRC where that information may be useful to those authorities for the purposes of investigations they may be contemplating or conducting. This bolsters the powers they already have to obtain information and documents direct from football clubs and individuals.

For its part, the SFO has not yet pursued prosecutions against any individuals or entities in cases where alleged misconduct could also

engage matters falling within the IFR's regulatory remit. However, it has shown some interest in investigating football related misconduct. Football related transactions can carry relatively high fraud and bribery risks. Recent legislative changes, specifically the entry into force of the corporate offence of failure to prevent fraud and the introduction of simplified routes to corporate criminal liability for fraud and other economic offences based on the actions of senior executives may mean that the SFO and other investigating authorities are more interested than ever in receiving information from the IFR. For further details of and analysis on these and other relevant ongoing changes to the criminal law in England and Wales - see our Clifford Chance briefings [here](#) and [here](#).

There are currently no publicised MoUs in place between the IFR and authorities other than the FCA outlining how it will cooperate with or receive information from those other authorities. However, one relationship to watch will be that between the IFR and HMRC, given the number of ongoing investigations HMRC has against entities and individuals in the football industry. There is a specific statutory gateway in the IFR's founding legislation enabling "*information*" (which is defined broadly – see above) to flow directly from HMRC to the IFR, and for the IFR to use such "*information*" for **its** regulatory purposes.<sup>8</sup> This is a key difference from arrangements in place with the FCA (under which, as noted above, the IFR is only allowed to use "*confidential information*" received from the FCA in order to perform a supporting role for the FCA). Tax related information will, in many cases, be highly relevant to the assessments to be made by the IFR about the fitness and propriety of individuals and whether clubs meet required standards.

There is not as yet any information sharing understanding in place between the IFR and professional regulators such as the Solicitors Regulation Authority, Financial Reporting Council or General Medical Council (although there remains the possibility for football clubs to receive requests direct from these professional bodies in relation to their employees such as solicitors, accountants and doctors).

Outside the defined information sharing channels now agreed with the FCA, the extent to which and the ways in which the IFR may exchange information with other authorities will vary substantially. In some cases, the other authority may be able to agree sharing under existing more general statutory gateways. For example, the SFO is permitted to disclose information to "*any body having supervisory, regulatory or disciplinary functions in relation to any profession or any area of commercial activity*" provided an agreement is put in place governing how the information may be used.<sup>9</sup> Although the point has not yet been tested, this could include the IFR.

In other cases, the path may be more tortuous. For example, the Football Association ("**FA**") appears on the exhaustive list of parties with which the Gambling Commission is permitted to share information obtained by it in the course of exercising its regulatory functions, but the IFR does not appear on this list.<sup>10</sup> This may suggest that the IFR, if it were to wish to receive information on football related betting activity that it is unable to obtain using its own information gathering powers but which is held by

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<sup>8</sup> FGA, sections 87(1) and 87(2)

<sup>9</sup> Criminal Justice Act 1987, sections 3(5) and 3(6)

<sup>10</sup> Gambling Act 2005, section 30 and Schedule 6, Part 3

the Gambling Commission, would have to seek to do so via the FA. Formal frameworks setting out whether or how this may be possible do not yet exist.

### **Practical points for clubs and individuals**

The nascent information sharing arrangements between the IFR and FCA may introduce additional complexity for football clubs and individuals within them. In many cases, the IFR may act as a conduit for information to flow to the FCA that may subsequently have a significant bearing on the separate interests of individuals and entities connected with those clubs. The IFR will regard dialogue with the FCA as an important source of intelligence that may inform questions it asks and steps it takes when assessing the suitability of individuals and adequacy of governance arrangements within clubs.

Where clubs have not yet considered the risk management implications of these information sharing arrangements or the ways in which the remit of the IFR will intersect with that of the FCA and other enforcement authorities, they should seek professional advice from firms with experience of acting for clients in relation to FCA and sports disciplinary investigations.



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