

The FIFA Clearing House and the Future of Nigerian Football Clubs

Introduction

The Federation of International Football Association (FIFA) has evolved since its establishment in May 1904, always seeking, to adopt international best practices in its approach to issues regarding FIFA, Member Associations and all stakeholders in football.

The introduction of the FIFA Clearing House (FCH), the implementation of which began on November 16, 2022, is the latest in FIFA's journey to ensuring true professionalization, internationalization, transparency, and accountability in the football ecosystem. The ninth President in the FIFA's 118-year history, Gianni Infantino believes that 'this will finally bring some transparency and accountability in the whole transfer market'¹. While we agree with the FIFA supremo on this, we look at what the introduction of the FCH means to Nigerian Football, its Club sides, and the overall football economy in Nigeria.

The FCH and the Football Transfer System

The October 2022 edition of the FIFA Clearing House Regulation (FCHR) defines the FIFA Clearing House (FCH) to mean 'the entity that acts as an intermediary in relation to processing certain payments made in the football transfer system.'² The FCH primarily serves to protect the core objectives of the football transfer system in line with the laws of FIFA.

The specific objectives of the FCH are to "process specific payments related to the transfer of football players between clubs;³ protect the integrity of the football transfer system⁴; enhance and promote financial transparency in the football transfer system⁵; and prevent fraudulent conduct in the football transfer system⁶".

When the training reward system was first adopted in 2001, its primary objective was to defray the costs incurred by clubs in training their players and incentivize the training of young players. However, the training reward system covering "Training Compensations⁷ and Solidarity Contributions"⁸ has not been fully explored as many training clubs especially in Nigeria see the reward system as complex and almost ineffective. The general features of

¹ <https://www.reuters.com/lifestyle/sports/infantino-clearing-house-will-bring-transparency-transfer-market-2022-10-22/> (Retrieved November 9, 2022).

² Definitions Page of the FCHR, p. 5.

³ Article 1.2 (a) FCHR.

⁴ Article 1.2 (b) FCHR.

⁵ Article 1.2 (c) FCHR.

⁶ Article 1.2. (d) FCHR.

⁷ Annexe 4 and Article 20, July 2022 Edition of the FIFA Regulations on the Status and Transfer of Players (RSTP).

⁸ Annexe 5 and Article 21, RSTP.

the Transfer System - TMS, Training Compensation, and Solidarity Contribution/Mechanism - are summarized in the following paragraphs of this article.

The TMS

The primary idea behind the TMS is to control all international player transfers by recording all material and relevant data. Information such as the amount of money involved in the transfer, the obligations of parties to the transfer, time limits for payments, bank account details, particulars of the player involved and in fact all relevant documents with respect to the transfer in question are uploaded on a centralized platform (TMS Platform).

Again, the aim is 'to make international transfers of players more transparent so that all payments can be matched up and ensure fraudulent payments cannot be hidden.'⁹ It is arguable as to whether this aim has been met over the years as there are still instances where material facts in the transfer of players are 'fraudulently' undisclosed.

It is of importance also to note that the use of TMS is a mandatory procedure 'for all international transfers of professional and amateur players (both male and female) within the scope of eleven-a-side football, and any registration of such a player without the use of the TMS will be deemed invalid.'¹⁰ For emphasis, it is a very wrong assumption that the TMS is only available for male players. As can be observed from the scope of the current regulation, both male and female players (professional and amateur) are accorded equal recognition and significance on the TMS Platform. We hope that this would permeate into the knowledge stream of not just the Nigerian football market but Africa.

Training Compensation

Article 20 of the RSTP provides that 'Training Compensation shall be paid to a player's training club (s): (1) when a player is registered for the first time as a professional, and (2) each time a professional is transferred until the end of the calendar year of his 23rd birthday'. The goal of the training compensation scheme is to advance the coaching and education of young players by awarding monetary compensations to training clubs for its efforts in the training and development of young players.

The Court of Arbitration for Sports (CAS) put that succinctly in the case of *MTK Budapest vs. FC Internazionale Milano*¹¹, when it held that the club which trained the player should be compensated for its training efforts and the club that has benefitted from the training efforts invested by the training club should be obliged to pay a training compensation to the training club.

⁹ Bujalski Angus, *Transparency in Transfers*, the International Sports Law Journal 2010/1-2; p. 107.

¹⁰ Annexe 3, Article 1(5), RSTP.

¹¹ CAS 2009/A/1757, 30 July 2009.

Recent jurisprudence of the CAS and FIFA Dispute Resolution Chamber (DRC) appear to be consistent in relation to the obligation to pay training compensation. Fundamentally, it confirms that once the professional status of a player is confirmed i.e., existence of a written contract and payment exceeding expenses, then ‘the nature of a player’s registration, whether on a definite or on a temporary basis with a club claiming compensation, is not relevant to the question of whether or not such claimant club is entitled to receive training compensation...’¹².

Solidarity Contribution/Mechanism

The second pillar of the Training Reward scheme is the Solidarity Contribution or Mechanism which in a nutshell provides that ‘if a professional footballer moves during the course of a contract, 5% of any compensation paid within the scope of this transfer, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and distributed by the new club as a solidarity contribution to the club(s) involved in his training and education over the years...’¹³. For the claimant to succeed in a claim for the payment of solidarity contribution, he must establish that the player has attained professional status, that the transfer took place during the term of the player’s contract. It is also immaterial whether the transfer is on a permanent or loan basis and importantly, the claimant must show that the transfer of the player’s right was in exchange of pecuniary considerations or compensation.

The FCH Regulations

This paragraph discusses the salient provisions of the FCHR and what the NFF, Football Clubs and stakeholders must do to enjoy the fruits of the FCH and ensure maximum utilization of the machinery.

As a preliminary point, article 4.1 of the FCHR mandates member associations and clubs to ensure that reliable, accurate, and complete player registration and transfer information is made available electronically to FIFA at all times. The importance of this cannot be overemphasized as it would see that member associations and its clubs are up to date on the data registration of its players and curb any question of age discrepancy and irregular data reports. This is because, once a player’s registration is uploaded on the TMS and completed, it remains that way *ad infinitum* and becomes the point of reference at all times in respect of that player. The FCHR makes it mandatory for member associations to ‘use an electronic

¹² Al Arne, *Training Compensation in Light of the Recent Jurisprudence of FIFA DRC and CAS*; <https://bmdw.nl/wp-content/uploads/A.L.-Al-Training-Compensation-in-light-of-the-Recent-Jurisprudence-of-FIFA-DRC-and-CAS.pdf> (Retrieved November 12, 2022).

¹³ Annexe 5, Article 1 (1) RSTP. See also *Enugu Rangers FC, Nigeria vs. Goztepe AS Turkey* – DRC decision passed on 11 June 2022; *Tours FC, France vs. Southampton FC, England* – DRC decision passed on 13 May 2022.

player registration system, integrated with the FIFA Connect ID Service and FIFA connect Interface to register players.¹⁴

Another significant aspect of the FCHR is the applicability of electronic transfer system to national transfers.¹⁵ The FCH provides that a national transfer shall be entered in the electronic domestic transfer system whenever a player is registered with a new club within the same member association.¹⁶ The electronic domestic transfer system will communicate information about the transfer and proof of (each) payment to FIFA through the FIFA Connect Interface within thirty (30) days of registration of the player or date of (each) payment. Where the electronic domestic transfer system of a member association is unable to communicate the details of a national transfer involving transfer compensation to FIFA through the FIFA Connect Interface, the member association shall exceptionally manually declare the transfer in TMS within thirty (30) days, subject to the prior written approval of the FIFA general secretariat.¹⁷ Thereafter, the TMS will identify, from the information communicated by the member association, national transfers for compensation that may trigger an entitlement to training rewards pursuant to the RSTP.

Upon receipt of full payment from the new club of the player, the FCH will generate a Distribution Statement¹⁸ based on the final and binding Electronic Player Passport (EPP)¹⁹ and Allocation Statement²⁰, which shall include the purpose and source of each payment, to make payment(s) to the training club(s). Such Distribution Statement will be sent via email or registered post to each training club. The FCH will then make payment into the bank account (registered in the name of the training club) provided by each training club. The FCH, therefore, acts as an intermediary between the new club of the player and the training clubs, in relation to the payment of training rewards to the training clubs.

The handwriting on the wall is clear. The NFF and clubs in Nigeria must upgrade technologically to be able to participate effectively and ultimately take advantage of the innovative offerings of the FCHR. This is because the transfer of the rights of players can now

¹⁴ Article 4.3 (a), FCHR.

¹⁵ For Example: Transfer of a player A's right from Shooting Stars FC, Ibadan to Rangers International FC, Enugu. (See Articles, 4.3 (b), 7, 12, 13 and 14 of the FCHR.

¹⁶ Article 7.1, FCHR.

¹⁷ Please note that the approval may be granted, at the discretion of the FIFA general secretariat, for a defined period of time, after which the member association shall comply with the electronic system obligations.

¹⁸ This is the document generated by the FCH that contains information about payments of training rewards to which the training club(s) in question is (are) entitled.

¹⁹ EPP is an electronic document containing consolidated registration information of a player throughout their career, including the relevant member association, their status (amateur or professional), the type of registration (permanent or loan), and the club(s) (including training category) with which they have been registered since the calendar year of their 12th birthday.

²⁰ This is the document issued by the FIFA general secretariat to the FCH that provides it with the necessary information to process payments, notably the paying and receiving parties and the amounts to be distributed.

only be possible with their EPP, generated by the TMS based on the data received from the domestic registration system of each member association. Except a player is electronically registered by a member association for a club and identified with the EPP, it is impossible to automatically calculate and make payments of training rewards.

Football clubs in Nigeria must now rise and take the letters of the regulations seriously for their own benefit, since the FCH will act as an intermediary by receiving the relevant training reward payment from the buying club and then distribute the money to the relevant training clubs. With the current wave of reforms, Nigeria cannot be left out as 'it is estimated that around 400 Million USD per year will be paid through the FCH, involving more than 14,000 transactions, 120 countries and 15 different currencies.'²¹

In the light of the above, we conclude that football clubs in Nigeria, a country known for its potential talents, would be heading into an amazing future as the FCH would ensure that every compliant training club in Nigeria would be fully compensated in line with the provisions of the Regulations. This will further aid in the redistribution of wealth to clubs for the development of football.

No part of this article should be relied on as legal advice. It is only intended as a general guide on the subject and as such, we advise that you consult a lawyer where legal advice is desired.

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²¹ Shea John, *The New FIFA Clearing House – What you need to know.* <https://sportsinsights.lewissilkin.net/post/102fon3/the-new-fifa-clearing-house-what-you-need-to-know> (Retrieved November 14, 2022).