

**SALARY CAPPING AS A MEASURE TO CURB MONEY LAUNDERING IN
PROFESSIONAL FOOTBALL**

By

**DERRICK VAUGHAN BOWLES
(21181790)**

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Supervisor: Professor Rian Cloete

DECLARATION

I declare that “**SALARY CAPPING AS A MEASURE TO CURB MONEY LAUNDERING IN PROFESSIONAL FOOTBALL**” is my own work, has not been submitted before for any degree or examination at any other university, and that all sources I have used or quoted have been indicated and acknowledged as complete references.

Derrick Vaughan Bowles

10 November 2013

ABSTRACT

With the advent of globalisation the sports industry has shown exponential growth in the last 20 years. The surge of commercialisation of sport, the unprecedented internationalisation of the sports labour market, the enormous sums of money paid for the broadcasting rights of big sporting events, the attraction by multinational blue chip sponsors as well as the direct private investment by the worlds super wealthy have all contributed to the growing economic and social importance of sports.

This massive influx of big money into sports does have its drawbacks. The criminal world has always shown adaptability in finding new channels to launder the proceeds of their illegal activities. Ever increasing and stricter measures and standards put in place by inter-governmental bodies like the Financial Action Task Force (FATF) as well as the increasing compliance of financial institutions the world over with these standards has meant that various legitimate sectors are at risk of being infected with criminal money.

In a Report released by the FATF entitled '*Money Laundering through the Football Sector*' one of the vulnerabilities of football clubs that was identified was the increased strain on their financial needs. Big Clubs require large budgets to be able to compete and afford the best players. Prices for players appear irrational and are very difficult to control. Player salaries comprise a substantial portion of the clubs total budgets. The result of this factor is that a large percentage of clubs are in financial trouble. This financial vulnerability can make clubs more susceptible to offers made from criminals looking for avenues to launder their ill-gotten gains.

A salary cap is simply put a limit on the amount of money a club is permitted to spend on salaries. This limit or cap comes in various forms but is usually implemented as a percentage of the club's annual average revenues. It is a rather controversial measure and certainly has its detractors, but it has shown to increase competitive balance and maintain financial stability in the leagues that they have been introduced.

Salary caps are in effect in professional team sports all around the world. It has been used successfully in North America in their National Football and National Basketball

leagues respectively, as well as in Australia in the Australian Football League and the National Rugby League and into UK professional rugby by the Rugby Football League and later by the Rugby Football Union.

This mini dissertation aims to illustrate the threat posed to professional football by criminal organisations seeking to find new ways to launder the proceeds of their crimes as well as provide an overview of money laundering as a crime. It further aims to provide an overview of salary capping and then tie in the purpose and benefits of the implementation of a salary cap and how it may inadvertently be used to curb money laundering.

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CHAPTER 1 - INTRODUCTION

OVERVIEW OF THE STUDY

With the advent of globalisation the sports industry has shown exponential growth in the last 20 years. The surge of commercialisation of sport, the unprecedented internationalisation of the sports labour market, the enormous sums of money paid for the broadcasting rights of big sporting events, the attraction by multinational blue chip sponsors as well as the direct private investment by the worlds super wealthy have all contributed to the growing economic and social importance of sports.¹

This massive influx of big money into sports does have its drawbacks. The criminal world has always shown adaptability in finding new channels to launder the proceeds of their illegal activities. Ever increasing and stricter measures and standards put in place by inter-governmental bodies like the Financial Action Task Force (FATF) as well as the increasing compliance of financial institutions the world over with these standards has meant that various legitimate sectors are at risk of being infected with criminal money.²

In a Report released by the FATF entitled '*Money Laundering through the Football Sector*' one of the vulnerabilities of football clubs that was identified was the increased strain on their financial needs.³ Big Clubs require large budgets to be able to compete and afford the best players. Prices for players appear irrational and are very difficult to control. Player salaries comprise a substantial portion of the clubs total budgets. The result of this factor is that a large percentage of clubs are in financial trouble. This financial vulnerability can make clubs more susceptible to offers made from criminals looking for avenues to launder their ill-gotten gains.⁴

¹ FATF July 2009 '*Money Laundering through the Football Sector*' at 7 paragraphs 19 and 21, and at 9 paragraph 28 (the full report can be downloaded from their website at: www.fatf-gafi.org) (hereinafter referred to as the '*FATF Report*').

² '*FATF Report*' at 7 paragraph 22, at 5 paragraph 8, and 36 paragraph 131.

³ '*FATF Report*' at 15 paragraph 53 and at 36 paragraph 13.

⁴ '*FATF Report*' at 15 paragraphs 52 and 53.

A salary cap is simply put, a limit on the amount of money a club is permitted to spend on salaries.⁵ This limit or cap comes in various forms but is usually implemented as a percentage of the club's annual average revenues. It is a rather controversial measure and certainly has its detractors, but it has shown to increase competitive balance and maintain financial stability in the leagues that they have been introduced.⁶

Salary caps are in effect in professional team sports all around the world. It has been used successfully in North America in their National Football and National Basketball leagues respectively, as well as in Australia in the Australian Football League and the National Rugby League and into UK professional rugby by the Rugby Football League and later by the Rugby Football Union.⁷

PROBLEM IN THIS STUDY

A challenge faced by anybody undertaking a study on money laundering is the difficulty in obtaining hard evidence of these surreptitious criminal activities. What made this study particularly difficult was finding empirical proof that salary capping had in fact reduced or curbed money laundering in professional football or any particular sport. Thus I had to draw on theoretical conclusions based on the vulnerabilities identified by the FATF and the studies performed by writers and economists on the success and failures of salary capping.

PURPOSE OF THE STUDY

⁵ Kesenne, Stefan *'The impact of salary caps in professional team sports'* Scottish Journal of Political Economy, Vol 47, No 4, September 2000 at 426 (hereinafter referred to as *'Kesenne Impact of Salary Caps in Team Sports'*).

⁶ *'Kesenne Impact of Salary Caps in Team Sports'* at 429. See also Dietl H. Franck E. Lang M. Rathke A. *'Welfare Effects of Salary Caps in Sports leagues with Win-Maximising Clubs'* North American Association of Sports Economists Working Paper No. 08-25 (August 2008) at 20 (accessed at www.researchgate.net/publication/513024-Welfare-Effect-of-Salary-Caps-in-Sports-leagues-with-Win-Maximising-Clubs/file/3dec521727116.pdf on 22 March 2013) (hereinafter referred to as *'Dietl Salary Caps with Win-Maximising Clubs'*).

⁷ Andrew Howarth *'The Impact of the Salary Cap in the European Rugby Super League'* International Journal of Business and Management (June 2008) at 4 paragraph 3 (hereinafter referred to as *'Impact of the Salary Cap in the European Rugby Super League'*).

This study is made up of two elements:

- To illustrate the threat posed to professional football by criminal organisations seeking to find new ways to launder the proceeds of their crimes as well as provide an overview of money laundering as a crime;
- To provide an overview of salary capping and then tie in the purpose and benefits of the implementation of a salary cap and how it may inadvertently be used to curb money laundering;

SECTION A: MONEY LAUNDERING

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2.1 INTRODUCTION

Money laundering, put simply, involves the practice of converting money from illicit transactions into legitimate assets, thereby concealing the predicate transaction.⁸ The term ‘money laundering’ was first coined to describe the notoriously underhanded activities of entrepreneur criminal syndicates that emerged in the United States in the early part of the twentieth century.⁹ Money laundering is seen as a major contributing factor to the continued prevalence of organised crime.¹⁰ Charles Goredema¹¹ defines organised crime as:

‘Systematic criminal activity of a serious nature committed by a structured group of individuals or corporate body in order to obtain, secure or retain, directly or indirectly, a financial or other material benefit.’

Money laundering is described in its simplest form as “a process to make dirty money appear to be clean.”¹² The end result of a money laundering scheme is twofold, firstly, concealment of the criminal nexus of the benefits of the crime, which

⁸ Goredema, Charles ‘Money Laundering in Southern Africa Incidence, Magnitude and Prospects for its Control’ *Institute for Security Studies ISS Paper 92* October 2004 at 1 (hereinafter referred to as “Goredema - Money Laundering in Southern Africa”).

⁹ *Ibid.*

¹⁰ Burchell, Jonathan and Milton, John *Principles of Criminal Law* Third Edition (2005) 986, (hereinafter referred to as “Burchell & Milton Criminal Law”).

¹¹ *Ibid.*

¹² Madinger, John & ZALOPONY, Sidney *A Money Laundering - A Guide for Criminal Investigators* 3rd edition (2012) at 5, (hereinafter referred to as “Madinger Money Laundering - A Guide”). Madinger goes further to explain that dirty money never becomes clean money but merely appears to be clean through the use of proven techniques to make it appear that the money has been acquired somewhere else.

will allow the benefits of that crime to be moved freely through the banking system to be used in future illegal activities.¹³

This study explores the consequences where criminal factions use sport, in particular professional football,¹⁴ as a tool to launder money. It has been estimated that the value of illegally acquired money laundered in South Africa may be as high as 80 billion rand annually.¹⁵ Van Jaarsveld¹⁶ states that:

“Money laundering promotes criminal activities because it allows criminals to profit from their illegal conduct and damages the integrity of society and undermines the rule of the law because it protects the benefits of crime against discovery”.

Money laundering has been referred to as the “Achilles heel of organised crime” as it forces criminals to turn to financial institutions and established businesses, in order to clean their so called dirty money and avoid detection.¹⁷ The view that combating money laundering can lead to crime prevention is succinctly summed up by Van Jaarsveld¹⁸ who states that:

“The idea is that by targeting the money laundering aspect of criminal activities, criminals will be deprived of their illegally acquired benefits which will leave them profitless and as a consequence, the criminal activity should cease”.

The Financial Intelligence Centre Act 38 of 2001 (‘FICA’) and the Prevention of Organised Crime Act 121 of 1998 (‘POCA’) collectively form the backbone of South Africa’s anti-money laundering regime. FICA imposes onerous duties on accountable institutions¹⁹ to establish and verify the identity of their clients²⁰ and to keep records

¹³ See Izelde Louise Van Jaarsveld LLD Thesis entitled ‘Aspects of Money Laundering in South African Law’ UNISA (2011) at 154, (hereinafter referred to as ‘Van Jaarsveld Aspects of Money Laundering’).

¹⁴ See chapter 3 below for reasons as to why professional football was specifically chosen.

¹⁵ ‘Van Jaarsveld Aspects of Money Laundering’ at 4.

¹⁶ *Ibid.*

¹⁷ See Chinelle van der Westhuizen LLM mini dissertation entitled ‘Money laundering and the impact thereof on selected African Countries: A comparative study’ University of Pretoria 2011 at 12 (hereinafter referred to as ‘Van der Westhuizen ‘Money Laundering: A Comparative Study’).

¹⁸ ‘Van Jaarsveld Aspects of Money Laundering’ at 4.

¹⁹ Defined in Schedule 1 of FICA and includes: An attorney; a board of executors or trust or company; an estate agent; a financial instrument trader; a person who carries on the ‘business of a bank’; mutual; carries on business where a gambling license is required; deals in foreign exchange; lending money

of business relationships and transactions.²¹ Accordingly, “POCA criminalises activities in relation to the benefits of crime and sets out the procedures relating to civil proceedings aimed at the forfeiture of the proceeds of crime to the state.”²²

2.2 DEFINITION OF MONEY LAUNDERING

Section 1 FICA defines money laundering as:

[a]n activity which has or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds, and include any activity which constitutes an offence of section 64 of this Act or section 4, 5 or 6 of the Prevention Act.

From this definition a few issues require further discussion.

- a) The first part of this definition coincides with the description of ‘money laundering’ in section of POCA.

The sections read as follows:

Any person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and (a) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether such agreement, arrangement or transaction is legally enforceable or not; or (b) performs any other act in connection with such property, whether it is performed independently or in concert with any other person, which has or is likely to have the effect (l) of concealing or disguising the nature, source, location, disposition or movement of the said property or its ownership or any interest which anyone may have in

against securities; renders investment advice or investment brokering services; public accountant; issues, sells or redeems travellers cheques; money orders etc; the Postbank; member of a licensed stock exchange etc.

²⁰ Section 21 of FICA.

²¹ Section 22 of FICA.

²² ‘Van Jaarsveld Aspects of Money Laundering’ at 4.

respect thereof; or (ii) of enabling or assisting any person who has committed or commits an offence, whether in the Republic or elsewhere — (aa) to avoid prosecution; or (bb) to remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence, shall be guilty of an offence.

b) Section 64 of FICA criminalises transactions conducted for the purpose of avoiding reporting obligations.

c) Section 5 of POCA states that assisting another to benefit from proceeds of unlawful activities –

S(5) Any person who knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities, and who enters into any agreement with anyone or engages in any arrangement or transaction whereby— (a) the retention or the control by or on behalf of the said other person of the proceeds of unlawful activities is facilitated; or (b) the said proceeds of unlawful activities are used to make funds available to the said other person or to acquire property on his or her behalf or to benefit him or her in any other way, shall be guilty of an offence.

d) Section 6 of POCA deals with the acquisition, possession or use of proceeds of unlawful activities

S(6). Any person who— (a) acquires; (b) uses; or (c) has possession of, property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities of another person, shall be guilty of an offence’.

Van Jaarsveld,²³ in her analysis of this definition of money laundering states that

²³ Van Jaarsveld ‘Aspects of Money Laundering’ at 3.

“The aforementioned definition of money laundering is drafted sufficiently wide that the acquisition, use or possession of illegally acquired money is a money laundering offence”. In simple terms, a money laundering offence occurs where a person benefits from a criminal offence. Money laundering occurs through deals and bank transfers until the source of the illegally acquired money has been concealed and the money appears to be legally acquired.”

2.3 METHODS OF MONEY LAUNDERING

The definition above fails to adequately describe the money laundering process. Even broad definitions such as the FICA definition above fail to encompass all the definitions of the crime. Van Jaarsveld²⁴ notes that “In the 1920s and 1930s mobsters such as Al Capone used launderettes²⁵ to mix the benefits of crime with the legally acquired money of other small businesses, a process that is known as commingling²⁶.” Van Jaarsveld goes further and states that “the past three decades saw money laundering change from being an unstructured series of events to the present sophisticated and organised system of so-called ‘alternative financial management’.”²⁷

As is stated by Van Jaarsveld *“Money laundering relies on a complex infrastructure within the international banking system itself that includes bank accounts, shell corporations and other intermediaries used to facilitate the money laundering process.”*²⁸ This study will attempt to focus on the role of the football sector in facilitating and providing an avenue for the money laundering process.

²⁴ Van Jaarsveld ‘Aspects of Money Laundering’ at 161

²⁵ Lilley P, *Dirty Dealing – The Untold Truth About Global Money laundering, International Crime and Terrorism* Third Edition (2006), (hereinafter referred to as *Dirty Dealing* at 5-6. Although the origin of the term has been disputed and claimed to be more likely to mean that dirty money is made clean. See in this regard ‘*Van der Westhuizen ‘Money Laundering: A Comparative Study’* at 11.

²⁶ Commingling is described by Van Jaarsveld as “the process where legally derived cash is mixed with the benefits of a crime”.

²⁷ Van Jaarsveld ‘Aspects of Money Laundering’ at 158.

²⁸ Van Jaarsveld ‘Aspects of Money Laundering’ at 166.

The methods of money laundering vary with technological advances but three²⁹ standard stages have traditionally been identified:

- placement;
- layering; and
- integration.

Placement refers to the process of circumventing the reporting system and placing the money in a bank or other institution.³⁰ A common placement technique involves structuring cash deposits or ‘smurfing’³¹ where large volumes of money are reduced to smaller amounts and distributing these smaller amounts amongst big groups of people who deposit this cash with financial institutions.³² Prior to placing, the benefits of crime are often converted into other currency, which aims to further separate the money from its illegal source to minimise the risk of detection.³³

The layering stage consists of generating a series of complex transactions to distance the benefits from its criminal source and to obscure the money laundering trail.³⁴ Layering can be performed in many different ways – electronic transfers, use of shell companies, off-shore placements and false invoicing being a few of the more obvious means.³⁵ Examples more relevant to this particular study would be financial transactions related to the ownership of football clubs or players, the transfer market, betting activities image rights and sponsorship or advertising arrangements.³⁶ Van Jaarsveld states that:³⁷

²⁹ Some authors have deviated from or have identified further stages in the process. For a comprehensive discussion on the differing views on the stages of money laundering see Van Jaarsveld ‘*Aspects of Money Laundering*’ at 168 footnote 102.

³⁰ “*Burchell & Milton Criminal Law*” at 986.

³¹ See Van Jaarsveld ‘*Aspects of Money Laundering*’ at 178 footnote 172 “*The concept ‘smurfing’ was introduced during an AML operation called ‘Greenback’ which was set up in Miami, Florida between 1980 and 1984. It resulted in the seizure of the benefits of crime to the value of 38.8 million US dollars. The practice of smurfing refers to front men making numerous deposits of the benefits of crime. Their frantic behaviour mimics that of cartoon figures with the same name*”).

³² “*Burchell & Milton Criminal Law*” at 986.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ “*Burchell & Milton Criminal Law*” at 986.

³⁶ See chapter 3 below.

³⁷ Van Jaarsveld ‘*Aspects of Money Laundering*’ at 170.

“during the layering stage the benefits of crime must be distanced from its illegal origins and each transaction is a step further in this process. Consecutive electronic and cross-border transactions are employed in a process known as stacking”.

Integration is the final stage of the laundering cycle which allows the criminal to regain control over the proceeds of the underlying criminal activities without the fear of detection.³⁸ A variety of spending, investing, and lending activities as well as cross-border transactions accomplish the integration process.³⁹ The now laundered money usually returns to the legal monetary system in the form of investments such as real estate^{40 41}.

2.4 CONCLUSION

Techniques employed by criminals seem to be infinite and would seem to be limited only by the ingenuity of the launderer.⁴² Of particular interest in this study is the use by criminals of the football sector as a vehicle to channel their ill-gotten gains as will be explored in more detail in the next chapter.

³⁸ *“Burchell & Milton Criminal Law”* at 986.

³⁹ Van Jaarsveld *‘Aspects of Money Laundering’* at 170.

⁴⁰ *‘FATF Report’* at 17.

⁴¹ Van Jaarsveld *‘Aspects of Money Laundering’* at 170.

⁴² *“Burchell & Milton Criminal Law”* at 986.

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3.1 INTRODUCTION

Throughout the ages societies around the world have devoted considerable resources to sports and idolised the sportsmen who participate therein. What we have seen over the past few decades is the development of sport into a global industry, with football being the most popular and lucrative sport on the planet. Sepp Blatter, the President of the Fédération Internationale de Football Association (FIFA), the international governing body of the football industry has gone so far to say that it actually constitutes a product in its own right.⁴³ According to an official survey conducted by FIFA⁴⁴ there are now 265 million footballers (male and female) of

⁴³ Ian Blackshaw *‘Money Laundering and Tax Evasion in Football’* The International Sports Law Journal 2009/3-4 at 134 (hereinafter referred to as Blackshaw *‘Money Laundering in Football’*).

⁴⁴ The full report entitled ‘FIFA Big Count 2006’ can be accessed on the FIFA website www.fifa.com (hereinafter after referred to as the *‘FIFA Survey’*).

which there are 38 million registered footballers and 113 thousand professional male footballers with a further 5 million people involved if referees and officials are included.⁴⁵

“The professional football market has seen accentuated growth due to a process of commercialisation since the beginning of the 1990’s”.⁴⁶ This surge in commercialisation resulted mainly from the increases in television rights and corporate sponsorship.⁴⁷ English football turned professional in 1992, with sponsorship and television making their first in-roads in the 1960’s.⁴⁸ Unprecedented increased television audiences since then have made it the world’s richest league, expected to net over £3 billion in revenues for the 2013/14 season.⁴⁹ The television rights deal in the UK alone over the English Premier League 2013/14 season is now worth £1 billion a year, with BskyB and the BT Group securing exclusive rights to broadcast 116 and 38 games respectively.⁵⁰ Another contributing factor to the growth of the football industry is that the labour market for professional football players has experienced unprecedented globalisation⁵¹ - with more and more football players being contracted by teams outside their country and transfer payments⁵² of astounding proportions.⁵³

It is this flood of big money into football which has made it vulnerable or susceptible to the influx of criminal money.⁵⁴ Transfers are carried out all over the globe and

⁴⁵ *Ibid.*

⁴⁶ ‘FATF Report’ at 9.

⁴⁷ *Ibid.*

⁴⁸ Basson JAA Loubser MM (editors) ‘*Sport and the Law in South Africa*’ Service issue 7 August 2008 at ch11-1 (hereinafter referred to as ‘*Sport and the law in SA*’).

⁴⁹ Deloitte Annual Review of Football Finance 2013 Which is a yearly overview of the finances of European football which can be downloaded at www.deloitte.com-deloitte-uk-sbg-arff-2013-highlights-download.pdf (last accessed at 6 November 2013) (hereinafter referred to as the ‘*Deloitte Report*’) at 2; see also ‘*The Premier League: Ball watching*’ The Economist August 17th 2013 (hereinafter referred to as ‘*Ball Watching*’).

⁵⁰ ‘*Deloitte Report*’ at 9; see also Gibson, Owen (13 June 2012) ‘*Premier League lands £1 billion deal*’ *The Guardian*, retrieved 2 November 2013.

⁵¹ Globalisation is defined by Collins as the ‘process enabling financial and investment markets to operate internationally, largely as a result of deregulation and improved communications’.

⁵² International football transfer deals, recent examples in the latest transfer window again shattering all previous financial records with the transfer in September 2013 of Gareth Bale from Tottenham Hotspurs to Real Madrid for a sum rumoured to be £84.5 million (See ‘*Gareth Bale Joins Real Madrid from spurs in £85million world record deal*’ BBC Sport 1 September 2013, www.bbc.co.uk/sport/0/football/2358218 retrieved 20 October 2013).

⁵³ ‘FATF Report’ at 9.

⁵⁴ *Ibid.*

these cross border money flows largely fall outside the control of national and supranational football organisations, presenting opportunities to launder money.⁵⁵ Added to this, money from private investors is pouring into football clubs to keep them operating, which may present the investor with opportunities for long term returns in terms of media rights, ticket sales, proceeds of sales of players and merchandising.⁵⁶

3.2 FOOTBALL AND CRIME

The relationship between football and crime has been portrayed in numerous books⁵⁷ and films⁵⁸. This relationship was brought to the world's attention in 1994, when an athlete named Andres Escobar was murdered for accidentally scoring an own goal, which cost the Columbian National Team a chance at winning the Football World Cup.⁵⁹

A deeper look at the incident revealed that the dramatic rise and fall of Columbian football was inextricably tied to the rise and fall of Pablo Escobar's Medellin Drug Cartel.⁶⁰ Columbian football had long been connected at the time to drug traffickers. Escobar provided the money to pay the best players competitive salaries and to lure top foreign coaches to Columbia and to keep them playing in Columbia.⁶¹ Escobar was a major contributor to Atletico Nacional, Medellin's professional team, for which Andres Escobar (no relation) played.⁶² Escobar was alleged to have used Atletico to launder money for his multi-million dollar drug business.⁶³ Not only did football provide Escobar with a vehicle to launder his drug money, but unlike other businesses favoured by criminals, investing in football (the most popular sport in

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ See for example Hill D *The Fix* (2008) McClelland & Stewart, Toronto.

⁵⁸ *The Two Escobars* – ESPN Films: 30 for 30.

⁵⁹ *Op cit* 54. For a film summary see www.espn.com/30for30/film?page=the-two-escobars. See also 'Gunmen kill soccer player in Columbia' Los Angeles Times July 03 1994 (accessed on 13 October 2013).

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ 'Murder, Corruption & Drugs: Columbian Football's Own-Goal' Sabotage Times 4 February 2011 www.sabotagetimes.com/reportage/murder-corruption-drugs-columbian-footballs-own-goal (accessed on 13 October 2013).

Columbia particularly amongst the poorer communities) gave Escobar the social prestige he was seeking.

Aside from his investments in Atletico, Escobar also built football pitches all around Medellin providing underprivileged children with the opportunity to play football.⁶⁴ This so-called charity further enhanced his “Robin Hood” status in his hometown of Medellin which may have been the reason why the Columbian National Football Association turned a blind eye to the rampant match fixing which came about through the interest and investments shown, not only by Escobar, but many of the other drug lords in Columbia.⁶⁵

“For the drug cartels the 1994 Soccer World presented an opportunity to make an obscene amount of money through betting on the outcome of the group stages”.⁶⁶ The following quote shows just how far the drug cartels were willing to go “to ensure that their investment would be worthwhile, the players were supposedly pressured into performing well by kidnappings of their children and death threats being made to them and their families.”⁶⁷

3.3 STRUCTURE OF THE FOOTBALL SECTOR

As mentioned previously FIFA is the international governing body of the football industry. FIFA serves to promote and develop football throughout the world and is also the custodian of the regulations which govern the game.⁶⁸

⁶⁴ *The Rise and Downfall of Columbian Football* ‘Norwegian Musings’ posted on April 6 2011 and accessed last on 4 November 2013 at www.norwegianmusings.wordpress.com/2011/04/06/the-rise-and-downfall-of-columbin-football (hereinafter referred to as ‘*Rise and downfall*’).

⁶⁵ *Ibid.*

⁶⁶ *Rise and downfall*. As indicated by the FATF (‘*FATF Report*’ at 8 paragraph26), “*money laundering through legal and illegal betting, especially on the internet, has posed a mammoth problem to law enforcement and money laundering authorities.* or a detailed analysis on international sports betting policy and law see Paul M. Anderson, Ian S. Blackshaw, Robert C. R. Siekmann, Janwillem Soek (ed’s) ‘*Sports Betting: Law and Policy*’ Asser International Sports Law Series 2012 (hereinafter referred to as ‘*Blackshaw Sports Betting*’).

⁶⁷ *Rise and downfall*.

⁶⁸ See the ‘*FIFA Statutes*’ Articles 2 and 6. The FIFA Statutes can be downloaded off the FIFA website at www.fifa.com (last accessed on 7 September 2013) (hereinafter referred to as ‘*FIFA Statutes*’); see also ‘*FATF Report*’ at 10.

FIFA's membership comprises 209 national associations. FIFA consists of six Confederations⁶⁹ which are the umbrella organisations for the national football associations.⁷⁰ Professional and amateur football clubs are members of their national football associations and national associations must be members of both FIFA and the confederation in which their country is geographically resident, in order for their teams to qualify for entry to FIFA's competitions.⁷¹

3.4 SELF REGULATORY NATURE OF FOOTBALL AND SPORTS IN GENERAL

Sporting associations have traditionally defined the rules of the game, including rules pertaining to finance, at an international level.⁷² National governments still adhere, more-or-less, to the policy that the specific nature of sport as well as the important social, educational and cultural functions it plays in society sets it apart from any other field of business.⁷³ This position was entrenched in Europe when the European Council officially endorsed the Nice Declaration of 2000 which recognises the need to protect independence, autonomy, self regulation and self-organisation of sports according the principle that '*sports and politics don't mix*', while still respecting individual EU and National legislations.⁷⁴ The position in South Africa is somewhat different given our segregated past and thus the Government has played a more active role, particularly with regards to policy in our sport.⁷⁵

3.5 FINANCES IN FOOTBALL

⁶⁹ 'FIFA Statutes' defines Confederation as "a group of Associations recognised by FIFA that belong to the same continent (or assimilable geographic region)". Article 20(1) lists the six Confederations as AFC – *Asian Football Confederation in Asia and Australia*, CAF – *Confederation Africaine de Fooball in Africa* CONCACAF – *Confederation of North, Central American and Caribbean Association Football in North America and Central America*, CONMEBOL – *Confederation Sudamericana de Futbol in South America*, OFC – *Oceania Football Confederation in Oceania* and UEFA – *Union of European Football Associations in Europe*.

⁷⁰ 'FATF Report' at 10.

⁷¹ 'FIFA Statutes Article 20(3); see also 'FATF Report' at 10.

⁷² 'FATF Report' at 11.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ A recent example of such interference would be the proposed re-introduction of the 'quota system at provincial cricket level, which, if introduced will require a minimum of two black African players in the starting XV of each team in domestic competitions – Chumani Bambini, *Former cricketers give the nod to new quotas*' Bdlive, 03 October 2013 (last accessed at www.bdlive.co.za/sport/cricket/2013/10/01/former-cricketers-give-the-nod-to-new-quotas on 19 October 2013).

UEFA is one of the biggest of the six Confederations and by far and away the strongest in terms of wealth and influence over the global game.⁷⁶ The world's top players are drawn to play in the European leagues by the huge salaries paid out by the world's wealthiest clubs particularly in England, Spain, Germany and Italy.⁷⁷ There are no comprehensive figures of the overall size of the worldwide football sector. However, according to the Deloitte Report ⁷⁸ the revenue's for Europe's Premier leagues in 2011/12 season totalled 19.4 billion EUR, of which the 'big five leagues'⁷⁹ had a market share of 48% or 9.3 billion EUR.⁸⁰ This truly astounding figure shows just how resilient the top tier of the game is in the face of the wider economic challenges faced in Europe.

Professional football in Western Europe relies on three main sources of revenue: broadcasting rights, match day revenues (comprising of gate receipts and season ticket sales) and other commercial revenues.⁸¹ For the top-division clubs in the big five European leagues the bulk of their revenue comes in the form of broadcast deals.⁸² This is none more prevalent than in the case of the English Premier League where, thanks mostly in part to the Premier League's long-established central revenue distribution mechanism, the revenue from broadcasting rights for 2013/2014 which is set to be distributed to the clubs is estimated to range between £60 million and £95 million.⁸³

With regards to expenses roughly more than half of the budgets of professional organisations is spent on salaries and related costs (this includes players salaries plus net transfer payments).⁸⁴ Other payments include salaries paid to other staff, business costs, image rights, signing-on fees and transfer fees, including fees to players' agents.⁸⁵ In the English Premier League the clubs' total wages bill, across all

⁷⁶ 'FATF Report' at 10.

⁷⁷ *Ibid.*

⁷⁸ See footnote 51 above.

⁷⁹ Namely: England (2.9 billion EUR), Germany (1.9 billion EUR), Spain (1.8 billion EUR), Italy (1.6 Billion EUR) and France (1.1 billion EUR).

⁸⁰ 'Deloitte Report' at 6.

⁸¹ 'Deloitte report' at 7.

⁸² 'Deloitte Report' at 7.

⁸³ *Ibid.*

⁸⁴ FATF Report at 12.

⁸⁵ *Ibid.*

employees, in 2011/12 was £1,658 million ranging from £202m spent by Manchester City down to £35 million for Swansea City.⁸⁶ The wages/revenue ratio is a well-established key performance indicator for football clubs.⁸⁷ In the 2011/12 season, of the 28 clubs from the top two divisions with a wages/revenue ratio greater than 70% only four reported an operating profit.⁸⁸ The average/wages ratio for the English Premier League was 70% for the 2011/2012 season and has been sitting in the range of between 67% and 70% for the last 4 seasons.⁸⁹

The above figures only really tell a story of the amounts paid to a very select group of top players, agents, managers and coaches.⁹⁰ The football industry is characterised by a very uneven distribution of income ranging from half professionals, full professionals and a select group of elite world stars.⁹¹ The top clubs, armed with the allure of international stardom and massive salaries, are able to attract young talent and the best players from less wealthy clubs in particular talent scouting in places like Africa and South America.⁹²

In relation to this study of money laundering through professional football, several key financial actors can be identified:⁹³

- The clubs;
- The players;
- Corporate sponsors;
- Media;
- Individual investors;
- Talent pools;
- Football agents;
- Local Governments;

⁸⁶ *Deloitte Report* at 9.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ *FATF Report* at 12 paragraph 41.

⁹¹ *Ibid.*

⁹² *FATF Report* at 13 paragraph 43.

⁹³ *FATF Report* at 13.

In addition to these listed above, associations can act as regulators as well as clearing houses for transfer payments.⁹⁴ Football supporters have been known to provide large amounts of cash and to have an influence over the owners and managers of the clubs, and in some rare cases,⁹⁵ being allegedly linked with organised crime.⁹⁶ It is submitted by the FATF⁹⁷ that if there is fraud, corruption, tax evasion or money laundering it usually takes place within the complex network of relations between these actors.

3.6 VULNERABILITIES OF THE FOOTBALL SECTOR

The FATF identified a few areas which they believe make professional football susceptible to money laundering.⁹⁸ Several factors combine to make football such an attractive option to criminals. I have touched on a few of the issues above but what will follow is a more in depth analysis. In doing so, I will be relying quite heavily on the work done by the FATF in their 2009 Report.⁹⁹ Based on the responses to the questionnaires the FATF identified three areas of vulnerabilities, which relate to the structure of the sector, the sector's finance and the sectors culture.¹⁰⁰ Each of these will be discussed in turn.

3.6.1 The Vulnerabilities related to the sector's structure

Complex networks of stakeholders – The football sector is characterised by opaque networks of stakeholders and interdependence between the different role players.¹⁰¹ The increase in the number of international transfers and the massive sums of television and sponsorship money being spent on the sale and purchase of

⁹⁴ For example the FA Football Agents Regulations state that all payments made by a club to an agent are required to be made via The FA Clearing House through the submission of the AG7 Form by the agent. Further, payments to clubs belonging to other national associations in respect of transfer fees, solidarity and training compensation are also required to be made via The FA Clearing House. The Full FA Football Agent's Regulations can be downloaded at www.thefa.com/-media/Files/TheFAPortal/governance-docs/agents/agents-regulations/agents-regulations-from-4july-2009.ashx.

⁹⁵ See the above discussion regarding Pablo Escobar and his connections to Atletico Nacional.

⁹⁶ 'FATF Report' at 13.

⁹⁷ *Ibid.*

⁹⁸ 'FATF Report' at 14.

⁹⁹ *Op cit* 1.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.* Note see below for a detailed discussion on this topic.

players has meant that more and more people are involved in the sector.¹⁰² This large number and broad range of stakeholders and the resultant money flows associated with the industry, provides ample opportunity for layering¹⁰³ and further concealment of the origins of the money, particularly as a large number of these transactions and criminal activities are carried out abroad.¹⁰⁴

Diversity of legal structures – the legal structures of football clubs vary vastly from one country to another.¹⁰⁵ This is further complicated by the fact that the stadium and general marketing activities are often outsourced and managed by or through different companies.¹⁰⁶ A case in point would be the controversy surrounding the ownership of Carlos Tevez,¹⁰⁷ who when joining the Brazilian club Corinthians from Argentina's Boca Juniors at the age of 20, sold his "economic rights" - registration as a footballer – to MSI, a company registered in the British Virgin Islands.¹⁰⁸

3.6.2 Vulnerabilities related to the sector's finance

Considerable sums involved – as has been discussed above, many of the transactions within the sector involve considerable sums of money, this is none more prevalent than on the transfer market.¹⁰⁹ Competition at the top of the sport is intense with the performance of the club on the field directly influencing its financial position.¹¹⁰ The international money flows that are involved with the modern global game risk falling outside the control of national and football organisations.¹¹¹ These money flows often involve movement of funds in and out of tax havens or involving

¹⁰² For example managers, intermediaries, sponsors and third party ownership of players such as MSI's ownership of Carlos Tevez [see David Conn '*Carlos Tevez: The billionaires fight over his ownership revealed*' The Guardian 23 August 2011 last accessed at www.theguardian.com on 2 November 2013 (hereinafter referred to as '*Conn Carlos Tevez*') and the discussion thereof on page 19 below].

¹⁰³ See discussion on pages 8 and 9 above.

¹⁰⁴ '*FATF Report*' at 14.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.* Examples of this in South Africa would be a company like SAIL (Pty) Ltd who managed the Cape Town Stadium which hosted a World Cup semi-final in 2010 as well as managing the brand commercialisation and marketing of the Blue Bulls Company (Pty) Ltd (see the Sail (Pty) Ltd website last accessed on 21 December 2013 at http://www.sail.co.za/pages/Brand-Commercialisation_Content_d379c707-ff3e-4865-9128-a7f27078c13c.aspx

¹⁰⁷ '*Conn Carlos Tevez*'.

¹⁰⁸ *Ibid.*

¹⁰⁹ '*FATF Report*' at 15.

¹¹⁰ See the discussion at paragraph 3.6.2 on page 18 above regarding Finance in Football.

¹¹¹ '*FATF Report*' at 15.

many different countries.¹¹² Another concern is the fact that revenue collected by clubs regarding ticket sales often come in the form of cash.¹¹³

Irrational character of the sums involved and the unpredictable nature of football – prices for players can appear irrational and are hard to control without the implementation of a salary cap.¹¹⁴ As mentioned earlier transfers of players are carried out all over the world providing ample opportunity for money laundering practices.¹¹⁵ Another feature of football is the high level of unpredictability over future results which leads to a culture of tolerance towards seemingly irrational sums paid for the world's elite footballers.¹¹⁶ This intangible nature of players value has opened up the door to reciprocal over-valuation of players between two clubs in deals where players were exchanged allowing for the inflation of asset values.¹¹⁷

Financial needs of football clubs – many football clubs are in terrible shape financially with only half of the English Premier League reporting an operating profit.¹¹⁸ This is particularly evident in the English Championship League¹¹⁹ where the wages to revenue ratio has hovered threateningly around the 90% mark since 2007/08.¹²⁰ For many years this division has struggled financially with the combination of clubs adjusting to the impact of relegation from the Premier League while others aspiring to achieve promotion.¹²¹ Clubs in this division continue to spend roughly 30% more than they generate – a clearly unsustainable position without owner benefaction.¹²² This invidious position could lead to clubs accepting funds

¹¹² *Ibid.*

¹¹³ 'FATF Report' at 15 and 21. Although the risk of money laundering in this way has been somewhat alleviated, especially at the higher level, by the monitoring requirements and access control by electronically monitored turnstiles which limit the numbers of fans entering the stadium for safety reasons.

¹¹⁴ 'FATF Report' at 15. This study concerns the effect that a salary cap has in regards to the uncontrollable nature and subjectivity of the price of players.

¹¹⁵ 'FATF Report' at 15. This money laundering technique is similar to trade based techniques of over-invoicing of goods and services.

¹¹⁶ *Ibid.* Interestingly this is often one of the reasons cited by football pundits when justifying why it is the greatest game on earth.

¹¹⁷ 'FATF Report' at 15 and 21.

¹¹⁸ 'Deloitte Report' at 8.

¹¹⁹ The old First Division.

¹²⁰ 'Deloitte Report' at 3.

¹²¹ *Ibid.*

¹²² *Ibid.*

from dubious parties.¹²³ Big clubs require large budgets to be able to buy quality players.¹²⁴ Sport can be described as a ‘winner-takes-all market’ which typically does not pay according to absolute performances, but rather according to performances relative to others.¹²⁵

Rewards at the top in these markets are disproportionately high while the rewards below are disproportionately low.¹²⁶ Losing just one game can have massive financial consequences for e.g. the Football League Championship playoff which is not only reported to be the most profitable football match in the world, but also the richest game in any sport, placing it above the Superbowl, NBA Finals, and even the FIFA World Cup in terms of money for the winner.¹²⁷ Financial vulnerabilities can make football clubs an easy target for criminals seeking a means to launder their dirty money.¹²⁸ This vulnerability has been exaggerated by the global financial crisis and situation in the Euro zone which has made it harder for clubs to find sponsorships.¹²⁹

3.6.3 Vulnerabilities related to the sector’s culture

Societal Role of Football – Sport plays an emotive role in society as such people are reluctant to shatter the ‘illusion of innocence’ that sport holds.¹³⁰ The image of sport is very important particularly to the sponsors who try to promote their brands on the good image of a particular sport.¹³¹ A rumour about criminal involvement or money laundering can result in the withdrawal of sponsors and the loss of revenue which they bring.¹³² Thus incidences of money laundering may not be reported by the management of football clubs.

¹²³ ‘FATF Report’ at 15.

¹²⁴ The ‘Deloitte Report’ at 9 indicated that there were six Premier League clubs with total wages above the average of £83 million, all of which finished in the top eight positions in the table.

¹²⁵ ‘FATF Report’ at 15.

¹²⁶ *Ibid.* An unrelated incident which proves this point was the feeling of utter disbelief among the South African cricketing public when the Hansie Cronje match fixing scandal broke. See in this regard ‘*Blackhaw Sports Betting*’ at 724.

¹²⁷ Paddy Naughtin ‘*The world’s richest game*’ 24 May 2013 (last accessed on 9 November 2013 at www.upstart.net.au/2013/05/24/the-worlds-richest-game/)

¹²⁸ ‘FATF Report’ at 15.

¹²⁹ *Ibid.*

¹³⁰ ‘FATF Report’ at 16.

¹³¹ *Ibid.*

¹³² *Ibid.*

Non-material rewards – Football clubs are deeply rooted in local societies. This makes football clubs an attractive option to gain a social status in the local community.¹³³ An investment in a football club, as with Pablo Escobar's investment in local and national football in Columbia,¹³⁴ can provide the criminal with a favourable status. Like it did in Columbia, investing in football can provide criminal organisations access to associated activities such as betting, real estate businesses and contracts with the local government.¹³⁵

3.7 CASES AND TYPOLOGIES¹³⁶

The FATF¹³⁷ identifies the following risk areas for money laundering in professional football:

- Ownership of football clubs;
- Transfer market and ownership of players;
- Betting activities;
- Commercialisation of rights.

Each of these risks shall be discussed in turn.

a) Ownership of clubs

In terms of money laundering techniques investments in football clubs is very similar to investment of criminal proceeds in real estate in that they both can be effectively used to integrate money of illegal origin into the financial system.¹³⁸ Investments of this nature are a risk area for money laundering due to the lack of transparency regarding the source of the funding.¹³⁹ The FATF in their 'Recommendations'¹⁴⁰ and in the AML legislation of FATF members¹⁴¹ states that a measure to prevent this would be the customer due diligence which is applicable to financial institutions and

¹³³ *Ibid.*

¹³⁴ See discussion on page 13 above.

¹³⁵ 'FATF Report' at 16.

¹³⁶ This section of my study is based on the evidence collected by the FATF in their 2009 Report (pages 17-29) as well as my own observations where indicated.

¹³⁷ 'FATF Report' at 17.

¹³⁸ 'FATF Report' at 17 paragraph 59.

¹³⁹ 'FATF Report' at 18.

¹⁴⁰ 'FATF on Money Laundering – The Forty (Revised) Recommendations (20 June 2003)' (hereinafter referred to as the FATF Revised Recommendations 2003).

¹⁴¹ See Section 42 of FICA which requires accountable institutions to formulate and implement internal rules concerning the establishment and verification of the identity of clients.

non-financial professions when dealing with these types of transactions.¹⁴² As stated above the football clubs in financial trouble will be the most vulnerable to beneficiation and depending on the severity of their situation may not always ask many questions when a new investor appears.¹⁴³

Football has been synonymous with private investors investing in football clubs with investments often being made by successful businessmen including politically exposed persons (PEP's) and individuals with suspected or known criminal backgrounds.¹⁴⁴

b) Transfer market and ownership of players

The increasing internationalisation¹⁴⁵ of the market for football players has increased the opportunities for money laundering. The world's best players from around the world are drawn to the richest European leagues. Scouting of talented players in the poorer parts of the world has been a popular practice for many decades now. Brazil and Argentina have long been exporters of footballers to Europe; however, in recent times the trend has shifted to Africa as a less expensive source of new talent.¹⁴⁶ In October 2009, 571 players imported from Africa were employed by 528 clubs of 36 top division leagues of UEFA member countries and represent 13.9% of the total number of expatriate players in Europe.¹⁴⁷

A major contributing factor to the internationalisation of the labour market of football players was the European Court's famous decision in *Bosman*¹⁴⁸ ruling when the

¹⁴² 'FATF Report' at 18.

¹⁴³ *Ibid.*

¹⁴⁴ See discussion on Pablo Escobar above at 13 paragraph 3.2. Another recent example is the Russian oligarch Roman Abramovich and his rather sketchy politically connected business past. Who in 2003 became the owner of Chelsea Football Club.

¹⁴⁵ Internationalisation can be defined as the process of increasing involvement of enterprises in international markets – Susman, Gerald (ed's) *Small and Medium-sized Enterprises and the Global Economy* (2007) Published by Edward Elgar Publishing Limited, at 281.

¹⁴⁶ 'FATF Report' at 21. See also 'Besson, R., Poli, R. and Ravenel, L. 2010: *Demographic Study of Footballeurs in Europe. Neuchâtel: CIES:*' (last accessed at http://www.footballfordevelopment.net/uploads/tx_drblob/storage/Poli_migration-of-African-football-players_01.pdf on 27 December 2013) (hereinafter referred to as '*Migration of African Football Players*').

¹⁴⁷ '*Migration of African Football Players*' at 5.

¹⁴⁸ Case C-415/93, *URBSFA v Bosman*, [1995] ECR I-4921. The brief summary of the position before *Bosman* were that players were unable to simply move freely between clubs in the exercise of their contractual freedoms. Under the rules enforced by football authorities across the world, a club is entitled to field a player

European Court of justice found that the existing practices in professional football were compatible with the Treaty provisions governing the free movement of workers.¹⁴⁹ As a result of the ruling in *Bosman*, adjustments were made to the transfer system and clubs have reacted to the judgment by seeking to contract players on longer and more lucrative fixed terms.¹⁵⁰

The transfer market is vulnerable to various forms of misuse, such as tax evasion, insider trading and money laundering. This position is further exacerbated by the lack of transparency in relation to the funding for certain transfer transactions and the opportunity for funds to be paid offshore with limited disclosure requirements regarding beneficial ownership of destination accounts.¹⁵¹

In an increasingly complex legal and business environment, football players have been turning more and more to agents to negotiate and sign contracts on their behalf. The international transfer market has over 4000 football agents with an official FIFA registration.¹⁵² There are no limits to the role these agents play although their mandates often include managing the player's funds, providing tax advice, managing the player's image rights as well as their publicity.¹⁵³ FIFA in an effort to regulate the industry has issued the Player's Agent's Regulations 2008 in accordance with article 14 of the Regulations Governing the Application of the FIFA Statutes.¹⁵⁴ However, many agents still operate without licenses (as players can chose relatives or lawyers as their agent) and are therefore not controlled the FIFA or the respective national football association.¹⁵⁵

in an official match only once it has secured that players registration, which was held by the players previous club. This registration would in turn only be released once the previous club is satisfied with the terms offered by the new club. These terms typically involved the payment of a transfer fee.

¹⁴⁹ Article 39 (ex 48) EC.

¹⁵⁰ For a full discussion on the effect of the *Bosman* ruling on the transfer system see Stephen Weatherill, "*Fair Play Please!*": *Recent Developments in the Application of EC Law to Sport*' *Common Market Law Review* 40: 51-93, 2003 at 66.

¹⁵¹ 'FATF Report' at 21.

¹⁵² 'FATF Report' at 22.

¹⁵³ *Ibid.*

¹⁵⁴ These regulations can be downloaded in full off the FIFA website at www.fifa.com (last accessed on 15 September 2013).

¹⁵⁵ 'FATF Report' at 23.

Another problem identified by the FATF is the sheer number of financial transactions which occur during the transfer process.¹⁵⁶ As discussed above¹⁵⁷ the purpose of money laundering is to distance the criminal origins of money through a series of seemingly legitimate transactions. The football transfer market provides the criminal with a myriad of opportunities to do just that. Besides the transfer sum which is stated in the contract, there are transfer bounties and the additional benefits that added to a deal to attract a football player such as housing, car, financial arrangements for their respective family etc.¹⁵⁸ There are no fixed rules on how these transactions should be accounted for which means that the overall settlement of the transfer could therefore remain non-transparent and provide opportunities for money laundering.¹⁵⁹

As I touched on earlier,¹⁶⁰ the advent of third party ownership of players or ownership of the rights in players, by individuals or entities that are not football players, gives rise to money laundering opportunities as these individuals fall outside the direct jurisdiction of the football organisations.¹⁶¹ The ownership structures often involve companies in offshore jurisdictions with complex and often impenetrable ownership structures.¹⁶² Huge sums of money are generated as a result of player transactions where money is paid to these third parties where they hold the ownership rights to certain players. In reaction to the Carlos Tevez incident the English Premier League in June 2008 introduced rule L34 and L35 in an attempt to outlaw third party ownership.¹⁶³ "FIFA also aimed to restrict this practice at least as

¹⁵⁶ 'FATF Report' at 23.

¹⁵⁷ See discussion in Chapter 2 on layering.

¹⁵⁸ 'FATF Report' at 23.

¹⁵⁹ *Ibid.* An example of this lack of transparency can be seen in the media reports surrounding the recent possible record breaking transfer of Gareth Bale "where the exact amount Real Madrid paid Tottenham Hotspur for Bale had been shrouded in secrecy. When Bale joined the club in September it was widely reported that Real Madrid paid £84.5 million for him, but neither club would reveal the exact figure. In fact the exact amount was only revealed a month later when the Real Madrid president Florentino Perez unintentionally revealed the exact figure in a television interview when answering questions regarding the amount that Real Madrid had insured his life for." (['Gareth Bale's Transfer Fee Revealed by Real Madrid President, Cristiano Ronaldo Still Holds World Record'](#) www.nesnoccer.com, Tue, Oct 15, 2013 at 4:31PM, [Marcus Kwesi O'Mard](#) last accessed at <http://nesn.com/2013/10/gareth-bales-transfer-fee-revealed-by-real-madrid-president-cristiano-ronaldo-still-holds-world-record/> on 29 December 2013).

¹⁶⁰ See the example on page 18 and 19 on the ownership of Carlos Tevez by MSI.

¹⁶¹ 'FATF Report' at 23.

¹⁶² 'FATF Report' at 24.

¹⁶³ 'Hero's or Villains? Third party Ownership in the Premier League' Field Fisher Waterhouse LLP 5 May 2009 (last accessed at www.ffw.com on 27 July 2013).

far as a third party's influence is concerned with Article 18 of FIFA's Rules on the Status and Transfer of Players which states that:¹⁶⁴

No club shall enter into a contract which enables any other party to that contract or any third party to acquire the ability to influences in employment and transfer related matters its independence, its policies or the performance of its teams”.

On 1 October 2010 FIFA introduced the 'Transfer Matching System' or “TMS”¹⁶⁵ which it FIFA aims to *inter alia*:

- Enable clubs to confirm the details of players details;
- Facilitate the transfer of player registrations between associations;
- Help safeguard the protection of minors;
- Monitor player transfer activities and investigate alleged breaches of transfer regulations; and
- Enforce adherence to the transfer regulations through a specific sanction system.

TMS is a mandatory system for processing all international transfers. The system is deceptively simple but has the potential to bring transparency and integrity to the wilder reaches of the market. A web-based system, it requires the buying and selling clubs to enter details of transfers, including the contracts, player IDs, payments to agents, total fees and verifiable proof of payment. Only when the details match is the deal cleared.¹⁶⁶

Development work on the TMS has taken FIFA around the world and revealed shocking truths about the global transfer market.¹⁶⁷ “This revealed suspected money-laundering using the fraudulent sale of players that do not exist, transfer fees paid in cash and delivered in steel strong-boxes, and the widespread third-party ownership

¹⁶⁴ *Ibid.*

¹⁶⁵ 'FIFA Transfer Matching System' (last accessed at www.fifa.com/aboutfifa/organisations/footballgovernance/transferrmtchingsystem.html on 13 February 2013).

¹⁶⁶ 'Fifa's new transfer system will cut through 'jungle' The Telegraph 09 November 2013 (last accessed at www.telegraph.co.uk/sport/football/7301303/fifas-new-transfer-system-will-cut-through-jungle.html on 9 November 2013) (hereinafter referred to as 'FIFA's New Transfer System') on 9 November 2013.

¹⁶⁷ 'FIFA's New Transfer System'.

of teenage players hot-housed in Latin American academies before being sold to global leagues.”¹⁶⁸

c) Betting activities

Betting and sports are synonymous with one another. Betting provides a great source of entertainment for football fans however it does have a dark side in the form of attempts to fix matches and alter the results of sporting competitions. The FATF has identified betting as being vulnerable to the practices of generating illegal proceeds through match fixing as well as pure money laundering.¹⁶⁹ While problems linked to betting may not be new, betting in sports seems to have reached new levels of sophistication, with operators involved across many countries across the globe setting up of offshore betting companies.¹⁷⁰ Another contributing factor to the difficulty of regulating betting activities is the use of the internet for purposes of online betting which has increased the risk of money laundering.¹⁷¹

d) Commercialization of rights

A massive source of income for modern players is the ability to leverage one’s image rights and align that to a particular brand by concluding image contracts with that company. The commercialization of these image rights has been identified by the FATF as a means to launder money.¹⁷² As with the transfer market payments made to a player by a company or a brand, for the right to use that particular player’s image, may seem irrational and difficult to quantify. These particular transactions may also be susceptible to a form of over-evaluation of a player’s image rights in order to transfer more value.¹⁷³ Another method identified is the use of fictitious image rights where a portion of a player’s salary may be disguised as a payment to use his image rights which may be either grossly over-valued or non-existent for purposes of tax evasion.¹⁷⁴

¹⁶⁸ *Ibid.*

¹⁶⁹ ‘FATF Report’ at 24.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*

¹⁷² ‘FATF Report’ at 25.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

3.8 CONCLUSION

In summary this chapter attempted to highlight the vulnerabilities of the football sector to the financial crime of money laundering by illustrating methods which may be used in certain areas common to professional football. The geographical focus of this part of the study was that of Western Europe as the large sums of money involved in the so-called super leagues makes it particularly vulnerable. However, the methods and vulnerabilities identified apply equally to all professional leagues across the world, Africa and South Africa being no exception. These sentiments were echoed recently by Danny Jordaan, the South African Football Association president where speaking to delegates from two African regional football bodies, Jordaan identified Bribery, manipulation and match fixing perpetuated by the underworld as the biggest threat to football.¹⁷⁵

The next chapter will discuss the anti-money laundering legislation in South Africa.

¹⁷⁵ Louis Mazibuko '*Jordaan warns sleaze a big threat to football*' Business Day Live 04 November 2013 (last accessed at www.bdlive.co.za/sport/soccer/2013/11/04 on 09 November 2013).

CHAPTER 4: ANTI-MONEY LAUNDERING LEGISLATION IN SOUTH AFRICA

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4.1 INTRODUCTION

The fight against money laundering became a priority of public policies about 20 plus years ago when the USA realised that the significant development of circuits reinvesting dirty money constitutes a real threat to the social and economic framework of the world.¹⁷⁶ More recently, various international public authorities and organisations have expressed concern over the integrity of the football sector which concerns include money laundering.¹⁷⁷

In Europe in 2007 the European Parliament adopted a resolution in which it requested the Council of the European Union to develop and adopt measures for the fight against the criminal activities plaguing professional football, such as money laundering, illegal betting, doping and match fixing.¹⁷⁸ Later that year the European Commission published its White paper on Sport¹⁷⁹ which recognised that corruption, money laundering and other forms of white collar crime have a negative impact on sport at the local, national and international levels.¹⁸⁰

FIFA as the overall guardian of the game of football is always striving to protect the image of the game from the harmful effects of unethical methods and practices. As a

¹⁷⁶ 'FATF Report' at 30.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ Commission of the European Union (2007) which can be downloaded on the European Commission website at www.europa.eu/sport/white-paper/swd-the-organisation-of-sport_en.htm (last accessed on 10 February 2013) (hereinafter referred to as the 'White Paper').

¹⁸⁰ 'White Paper' at 15.

first step FIFA developed a Code of Ethics and later created an independent Ethics Committee.¹⁸¹ In November 2005, FIFA established a special task force entitled “For the Good of the Game” which was aimed at investigating and combating threats to the integrity of football namely problems involving corruption, multi-club ownership by a single individual or organisation,¹⁸² betting on football, money laundering and the flow of money during player transfers etc.¹⁸³ As a result of the proposals made by this Task Force FIFA introduced the following measures:

- Transfer Matching System¹⁸⁴;
- FIFA Club Licensing Regulations¹⁸⁵;
- Player Agents Regulations¹⁸⁶;
- Early Warning system on betting activities¹⁸⁷

I will now turn to discussing the anti-money laundering legislation of South Africa. This part of my study shall attempt to provide an overview of the legislation enacted by this jurisdiction in an effort to combat money laundering. South Africa’s money laundering control is still in its early stages in comparison to other jurisdictions but nonetheless has a key role to play as regards money laundering control in Southern Africa.¹⁸⁸ South Africa is also an active member of the Eastern and Southern African Anti-Money laundering Group, a group which is sanctioned by the FATF and is charged with the objective of combating money laundering in the region.¹⁸⁹ Another reason for choosing South Africa in the context of this study is the relative strength of the Premier Soccer League (“PSL”) which has been the top level football league in

¹⁸¹ The FIFA Code of Ethics can be downloaded off the FIFA website at www.fifa.com (last accessed on 28 September 2013).

¹⁸² For example Roman Abramovich’s alleged conflict of interest in 2004 when Sibneft (with a company which he held an interest in) concluded a three year sponsorship deal with the Russian football club CSKA Moscow. He was later cleared by UEFA of these charges. See ‘UEFA Clears Abramovich’ BBC Sport 2 September 2004 (last accessed at www.newsbbc.co.uk on 29 October 2013.)

¹⁸³ ‘FATF Report’ at 31.

¹⁸⁴ See Chapter 3 above at page 26.

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*

¹⁸⁷ This system is an independent subsidiary of FIFA aimed at protecting football from match fixing derived from sports betting by highlighting irregular betting patterns – ‘FATF Report’ at 32.

¹⁸⁸ De Koker, L. ‘KPMG Money laundering Control Service’ (2007) at 120 (hereinafter referred to as ‘De Koker KPMG’).

¹⁸⁹ ‘Van Jaarsveld Aspects of Money Laundering’ at 26.

South Africa since its foundation in 1996 and is ranked the 7th richest football league in the world and the richest in Africa.¹⁹⁰

The scope of literature on money laundering control and related issues is incredibly vast and thus I had to impose certain restrictions on this portion of my study. The focus of this part of my study is to provide the reader with an overview of the money laundering control regime in this particular regime, bearing in mind the vulnerabilities identified in chapter 3 with regards to professional football. The approach here is not to give a critical analysis but merely an overview of the applicable legislation.¹⁹¹

4.2 MONEY LAUNDERING CONTROL

Money laundering control legislation is used by the police authorities to combat criminal activities by keeping the benefits of crime out of the financial system. An effective money laundering control regime should render it impossible for criminals to use the benefits of their criminal activities without fear of prosecution and, or civil forfeiture of the funds.¹⁹²

Van Jaarsveld states that:

*since the early 1990s, the Know Your Customer (“KYC”) standard has been promoted by the international community as a crucial measure to identify both criminals and the benefits of crime before the funds can enter the financial system. the KYC standard as “the crux of international anti-money-laundering (“AML”) legislation comprises four key obligations, namely:*¹⁹³

- *customer identification;*
- *suspicious transaction reporting;*
- *record-keeping; and*

¹⁹⁰ Carlos Amato ‘PSL can be as lucrative as European leagues’ 19 September 2010 (last accessed at www.timeslive.co.za on 1 November 2013).

¹⁹¹ For an in depth comparative analyses of the respective regimes see ‘Van Jaarsveld Aspects of Money Laundering’ chapter 6 and chapter 8.

¹⁹² ‘Van Jaarsveld Aspects of Money Laundering’ at 8.

¹⁹³ *Ibid.*

- *training*

4.3 MONEY LAUNDERING CONTROL IN SOUTH AFRICA

Introduction

As mentioned above¹⁹⁴ the two primary pieces of legislation which govern the crime of money laundering in South Africa are FICA and POCA. POCA criminalises activities which are aimed at concealing the nature, source, location, disposition or movement of the benefits of crime, and provides for the confiscation and civil forfeiture thereof.¹⁹⁵ In turn, FICA imposes stringent obligations on Accountable Institutions and creates money laundering offences when these obligations are neglected.¹⁹⁶ For example, section 21 of FICA requires that an Accountable Institution establishes the identity of customers whilst section 29 thereof stipulates that a bank reports suspicious or unusual account activity to the Financial Intelligence Centre.¹⁹⁷

Accountable Institutions must further keep records of their customers' transactions and train employees to comply with FICA and the accountable institutions own internal AML measures. Failure to observe FICA's provisions incriminates a bank and leads to its prosecution for a money laundering offence. FICA follows a path that was paved by international AML legislation. As a result, the KYC standard obligations have been incorporated in full in the Act.¹⁹⁸

4.4 MONEY LAUNDERING OFFENCES

The offence of money laundering is not limited by reference to the type of underlying criminal activity from which the laundered proceeds are derived, nor to the specific method used to launder the proceeds of the crime.¹⁹⁹ The underlying criminality on

¹⁹⁴ See Chapter 2.

¹⁹⁵ 'Van Jaarsveld Aspects of Money Laundering' at 9.

¹⁹⁶ *Ibid.*

¹⁹⁷ The Financial Intelligence Centre and the Money Laundering Advisory Council was created by chapters 1 and 2 of FICA which came into force on 1 February 2002 ("*Burchell & Milton Criminal Law*" at 992, footnote 94).

¹⁹⁸ 'Van Jaarsveld Aspects of Money Laundering' at 9.

¹⁹⁹ "*Burchell & Milton Criminal Law*" at 988.

which money laundering is based is not confined to one or more confined forms of conduct, but are rather linked to the proceeds of unlawful activities.²⁰⁰

POCA creates three main general money laundering offences:²⁰¹

1. A person who knows or ought to know that property forms part of the proceeds of unlawful activities, commits an offence in terms of Section 4 if he enters into any agreement, arrangement or transaction in connection with the property;²⁰²
2. A person commits an offence in terms of Section 5 if he knows or ought to know that another person has obtained the proceeds of unlawful activities and enters into any agreement, arrangement or transaction;²⁰³
3. A person who acquires uses or possesses property and who knows or ought to have known that it is of the proceeds of unlawful activities of another person, commits an offence under Section 6.²⁰⁴ It is worth noting that negligence is sufficient for liability in terms of a section 6 offence and thus this section extends the scope of criminal liability beyond the common law degrees of participation in the crime.²⁰⁵ In terms of section 2(1) of POCA a person had knowledge of a fact if he actually knew that fact, or if the court is satisfied that he believed there was a reasonable possibility of the existence of that fact and then failed to obtain information to confirm or disprove the fact.

Section 8 states that any person convicted of an offence contemplated in section 4, 5 or 6 shall be liable to fine not exceeding R100 million or imprisonment for a period not exceeding 30 years.²⁰⁶

²⁰⁰ *Ibid.*

²⁰¹ See the discussion in De Koker 'Money Laundering in South Africa' (1 September 2002) Centre for the Study of Economic Crime; RAU University, Johannesburg, South Africa, (this paper was commissioned by the Institute for Security Studies) at 5 and 6 (hereinafter referred to as 'De Koker Money Laundering in South Africa').

²⁰² 'De Koker Money Laundering in South Africa' at 5.

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ "Burchell & Milton Criminal Law" at 991.

²⁰⁶ See also De Koker and Henning 'Money laundering Control in South Africa' (1998) Transactions of the Centre for Business Law, University of the Free State at 24.

4.5 REPORTING DUTIES OF ACCOUNTABLE INSTITUTIONS

Chapters 3 and 4 of FICA contain the following control measures to sustain a prosecution on the crime of money laundering:

- Section 21 creates an obligation on accountable institutions to establish and verify the identity of clients;
- Section 22 creates an obligation on them to keep records of business relationships and transactions for a period of five years after the completion of the relevant transaction.

FICA imposes further obligations on accountable institutions not to establish a business relationship or conclude a transaction with a client unless the identity of the client has been established, verified and recorded.²⁰⁷

In terms of section 42 of FICA an accountable institution is required to formulate and implement internal rules concerning the establishment and verification of the identity of clients. Section 43 further obligates them to provide training to its employees to enable them to comply with these reporting duties. Failure to comply with obligations imposed under these two sections constitutes an offence in terms of section 62.

4.6 OBJECTIVE VERSUS SUBJECTIVE CONTROL

A last note on anti money laundering control relates to the two schools of thought regarding due diligence and reporting by accountable institutions, namely the objective and the subjective models of money laundering control.²⁰⁸ According to Van Jaarsveld "the Objective Model of Money Laundering Control imposes mandatory reporting and record-keeping duties on banks."²⁰⁹ "Banks are further

²⁰⁷ "Burchell & Milton Criminal Law" at 993.

²⁰⁸ For a comprehensive discussion on these two opposing models see Van Jaarsveld 'Aspects of Money Laundering' at 205- 209.

²⁰⁹ Noble, Ronald K & Golubic, Court E 'A New Anti-Crime Framework For the World: Merging the Objective and Subjective Models for Fighting Money Laundering' (1997-1998) 27(30) *New York University Journal of International Law & Politics* 83-84 (hereinafter referred to as Noble & Golubic (1997-1998) *NYU J of Internat Law & Politics*; see also Van Jaarsveld 'Aspects of Money Laundering' at 206.

required to report all cash transactions above a set amount regardless of whether or not they appear suspicious.”²¹⁰

In terms of the Subjective Model it is left to the bank to determine the type of transaction that it will regard as suspicious and therefore, decide to report.²¹¹ South African AML seems to employ a combination of both these models in that there are reporting thresholds in place but the banks are not exempt from the requirements in terms of FICA to enforce their own internal standards.²¹²

4.7 CONCLUSION

As mentioned earlier in this chapter South Africa’s AML is relatively new but is based on the cornerstones of the KYC standards and a relative has been in the advantageous position as a late-comer been able to literally cherry pick the most successful provisions from AML from all over the world. In saying that though it is still going through some teething issues which have been identified²¹³ and corrective measures in the form of amendments being suggested. It will be of particular interest to note whether this legislation will hold up in the face of the challenge of money launderer’s targeting the world’s football leagues or whether special measures will have to be introduced to bolster them.

²¹⁰ Van Jaarsveld *‘Aspects of Money Laundering’* at 206.

²¹¹ Van Jaarsveld *‘Aspects of Money Laundering’* at 207.

²¹² *“Burchell & Milton Criminal Law”* at 993.

²¹³ See *‘Van Jaarsveld Aspects of Money Laundering’* at pages 458 to 583.

SECTION B: SALARY CAPPING

CHAPTER 5 – SALARY CAPPING

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5.1 INTRODUCTION

Salary caps have been widely used in professional team sports as a mechanism for improving competitive balance in league competitions. The importance of competitive balance is identified by Kesenne “the quality of a league championship, which is the product in a professional team sports industry, depends *inter alia* on the competitive balance within that league.”²¹⁴ Several European, North American and Australian professional sports leagues have adopted salary caps which can be defined in simple terms “as a measure that attempts to limit how much money clubs spend on player salaries.”²¹⁵

The possibility of a salary cap as a mechanism for limiting the spiralling wages of football players has been discussed throughout Europe for some time now.²¹⁶ As discussed above,²¹⁷ player salaries represent the largest component of the operating costs of football clubs. Numerous studies on the welfare effects of salary caps have shown that they will increase competitive balance and decrease overall salary

²¹⁴ ‘Kesenne Impact of Salary Caps in Team Sports’ at 422.

²¹⁵ Lindholm J. ‘The Problem with Salary Caps Under European Union Law: The Case Against Financial Fair Play’ Texas Review of Entertainment and Sports Law, Vol. 12.2 at 189 (2010) (hereinafter referred to as ‘Lindholm’s Problem With Salary Caps Under European Union Law’)

²¹⁶ Was placed on the agenda by the Commission of the European Communities in its White Paper on sport - *op cit* Chapter 4 footnote 180.

²¹⁷ See Chapter 3 above page 16 footnotes 84 and 86.

payments to players in the league.²¹⁸ Empirical investigations have shown that the uncertainty of an outcome of a game or league championship is a significant factor in explaining a club's revenue such as match day revenue.²¹⁹

In striving for a more-or-less balanced competition, sports federations and league authorities have always attempted to regulate the player labour market and to prevent the concentration of all playing talent being vested with the big city clubs who have more financial means to offer better salaries than the clubs in the small towns.²²⁰

Of course the implementation of salary caps has not been without its detractors. Top players don't like salary caps, for reasons that are obvious. In 1993 the Major League Baseball season in the USA was called off by player revolts following a dispute surrounding salary caps. Another example was where the 1998-99 National Basketball Association season was reduced, as a result of a 202 day lock-out, following a disagreement between the owners and players on the level of the salary cap.²²¹

The structure of each league's salary cap is unique and can vary in terms of the monetary limit of the salary cap, how this limit is determined, what components of a player's salary count against the cap, and what, if any exemptions exist to allow teams to spend over the salary cap.²²² Salary caps can apply in numerous forms – Chris Davies²²³ breaks it down into two forms “an even salary cap where the same limit applies to each club, and an uneven salary cap where a different amount exists for each club, depending on the governing body or league authorities view of each

²¹⁸ See Helmut Dietl, Markus Lang and Alexander Rathke *The effect of salary caps in professional team sports on social welfare* Institute for Strategy and Business Economics, University of Zurich, Working Paper No. 72 (August 2007) (electronic copy available at <http://ssrn.com/abstract=1003954> last accessed on 11 November 2012) (hereinafter referred to as '*Dietl Salary Caps and Social Welfare*'); '*Owens's Salary Caps and Competitive balance*'; Andrew Howarth *The Impact of the Salary Cap in the European Rugby Super League* International Journal of Business and Management, vol.3 no.6 (June 2008) (hereinafter referred to as '*Howarth's Impact of a Salary Cap*').

²¹⁹ '*Kesenne Impact of Salary Caps in Team Sports*' at 422.

²²⁰ *Ibid.*

²²¹ '*Kesenne Impact of Salary Caps in Team Sports*' at 423.

²²² '*Owens's Salary Caps and Competitive balance*' at 47.

²²³ Davies C. *The Use of Salary Caps in Professional Team Sports and the Restraint of Trade Doctrine* Journal of Contract Law (2006) 22 at 251 (hereinafter referred to as '*Davies Salary Caps in Professional Team Sports*'

club's specific financial position." A further distinction can be drawn between a "hard cap"²²⁴ and a "soft cap". A "hard cap" requires club's to stay under at all times the cap at all times.²²⁵ In this instance teams that violate the cap are subject to sanction in the form of fines and cancellation of contracts etc.²²⁶ A "soft cap"²²⁷ is one which provides for exemptions that allows teams who are granted an exemption to spend above the salary cap.²²⁸

5.2 PURPOSE AND OBJECTIVES OF SALARY CAPS

There are two main reasons for using salary caps in sport. The first being to restrict a club's main item of expenditure namely player's costs (salaries).²²⁹ The second "is to improve the competitiveness of the league by restricting to a finite level of how much one club can spend on its playing staff."²³⁰ By imposing a salary cap team owners effectively minimize salary competition for talent and guard against the problem of salary inflation on a league wide basis.²³¹

Obviously club owners in favour of a salary cap will place less emphasis on this point and focus more on the other benefit of salary capping, namely that it is means to promote or maintain competitive balance. A salary cap will create an environment where all teams spend a similar amount on player talent which will result in a more even distribution of talent across all the teams in the league which will enhance competitive balance in that league.²³²

²²⁴ Such as in the National Hockey League and the National Football League's in the USA (*Owens's Salary Caps and Competitive balance*' at 47).

²²⁵ *Owens's Salary Caps and Competitive balance*' at 47.

²²⁶ *Ibid.*

²²⁷ Such as in the National Basketball Association in the USA (*Owens's Salary Caps and Competitive balance*' at 47).

²²⁸ *Owens's Salary Caps and Competitive balance*' at 47.

²²⁹ *Howarth's Impact of a Salary Cap*' at 4.

²³⁰ RFL Operational Rules – Section E1 – Salary Cap Regulations – Issue 5 – February 2007; See also *Howarth's Impact of a Salary Cap*' at 4.

²³¹ *Owens's Salary Caps and Competitive balance*' at 48.

²³² Endo M. Florio K. Gerber J. and Sommers P. 'Does a salary cap improve competitive balance?' *Atlantic Economic Journal* (2003) at 288.

5.3 CRITICAL ANALYSIS OF SALARY CAPS

This portion of my study will focus on the potential application of a salary cap to the European football leagues. I will refer in this regard to the implementation of salary capping to other sports in Europe and then discuss how a similar system of salary maybe customised to football and the unique challenges that it presents.

As discussed salary caps have been widely used in North America and Australia. It took a little time before it was introduced into European sports but as professional sports clubs grew into profit maximizing business so the need to reduce the financial losses incurred by the European sporting clubs mostly as a result of spiralling player salaries became more apparent.

Currently in Europe salary caps are in effect in the Guinness Premiership (rugby union), the Super League (rugby league) and the French rugby league, Ligue Nationale de Rugby (LNR).²³³ A credible explanation for the lack of salary caps in European sports is the difference in the way the sport is organised in Europe.²³⁴ Clubs engaged in sports organised around promotion and relegation between leagues on different levels and further considering the partial overlap in competitions on a national and European level, are far more likely to resist a central authority dictating the terms on talent distribution.²³⁵

UEFA's Financial Fair Play Rules were first introduced in the 2011/12 season in Europe.²³⁶ Although not essentially a salary cap in that these rules do not stipulate a fixed amount that clubs can spend on salaries, they do however limit how much clubs can spend on player salaries by introducing a "break-even requirement whereby football clubs will be denied a UEFA competition licence if their expenses exceed their incomes."²³⁷ It is interesting to note that when UEFA's Executive Committee approved the Financial Fair Play Regulations in 2009 it claimed that the

²³³ Lindholm's *Problem With Salary Caps Under European Law* at 190.

²³⁴ *Ibid.*

²³⁵ *Ibid.*

²³⁶ UEFA, Club Licensing and Financial Fair Play Regulations (2010) articles 58-63 which can be downloaded off the UEFA website at www.uefa.com.

²³⁷ Lindholm's *Problem With Salary Caps Under European Law* at 191.

principle objectives behind the rules were not to bring about competitive balance but were: to decrease pressures placed on salaries and transfer fees and limit the inflationary effect; to encourage clubs to compete within their means; to encourage long term investment in the youth sector and infrastructure; to protect the long term viability of European Club football and to ensure that clubs settle their liabilities on time.²³⁸

The Fair Play Regulations may be confused or mistaken for an absolute salary cap but as I have noted above there are appreciable differences between the two. Although a step in the right direction the Financial Fair Play Regulations have been criticized for treating the symptoms whereas an absolute salary cap has been touted to solve the root cause of inequitable resources and promote competitive balance.²³⁹ An enforceable salary cap is still seen by some as the only effective device to maintain financial viability and improve competitive balance.²⁴⁰

5.4 INTRODUCTION OF SALARY CAPPING IN EUROPEAN CLUB FOOTBALL

UEFA, even though they introduced the Financial Fair Play Regulations, seems to be reluctant to introduce salary capping mechanisms. Presumably this reluctance is not due to the fact that they nor the other stakeholders of European football are ignorant to the dangers of competitive imbalance and financial instability.²⁴¹

As stated above, the reasons for the seeming reluctance to introduce salary capping to European football is the structure of football in Europe.²⁴² Every national football association governs a system of leagues which are open through a system of promotion and relegation stretching from the amateur level through to the top national division of professional football.²⁴³ Above these national leagues is UEFA which is an association of national associations which organises the various

²³⁸ Lindholm's *Problem With Salary Caps Under European Law* at 196.

²³⁹ Lindholm's *Problem With Salary Caps Under European Law* at 210.

²⁴⁰ 'Dietl *Salary Caps and Social Welfare*' at 3; See also Fort R. Quirk J. 'Cross-subsidization, incentives and outcomes in professional team sports leagues' (1995) *Journal of Economic Literature* 1265-1299 at 33.

²⁴¹ 'Dietl *Salary Caps with Win-Maximising Clubs*' at 2.

²⁴² *Ibid.*

²⁴³ *Ibid.*

European club championships like the UEFA Champions League.²⁴⁴ Thus in Europe the different political and market conditions of every football nation member of UEFA creates additional stakeholder diversity, which will complicate the salary capping mechanism as the interests of various stakeholders need to be properly balanced.²⁴⁵ Therefore the implementation of an absolute salary cap applicable to all clubs as is in effect in the USA, will not be feasible in Europe as the income differentials between clubs of a certain division in different countries is significant.²⁴⁶

Another factor to consider in implementing a salary cap is that in many European countries the vast majority of their clubs are still considered to be members clubs and thus in the absence of residual claimants profit maximisation would seem nonsensical.²⁴⁷

Thus, in light of these factors above, for a salary cap to be effective the outright profit-maximisation philosophy of the American teams should be replaced with win-maximisation as a goal for European clubs.²⁴⁸ Thus the only workable solution would be the implantation of a percentage-of-revenue cap.²⁴⁹

5.5 SALARY CAPPING AS A MEASURE TO CURB MONEY LAUNDERING

In this portion of my study I shall attempt to show that salary capping can theoretically provide a measure to curb money in professional football. As was shown elsewhere in this study football, as the biggest, truly global high value sport, is indeed vulnerable to the use of its sector by criminals to launder their ill gotten gains.

One of the three areas of vulnerability identified by the FATF was the football sectors finances.²⁵⁰ Modern top flight football clubs have considerable financial needs with the single greatest expense being the ever increasing demand for higher salaries

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

²⁴⁶ 'Dietl Salary Caps with Win-Maximising Clubs' at 19.

²⁴⁷ 'Dietl Salary Caps with Win-Maximising Clubs' at 3.

²⁴⁸ 'Dietl Salary Caps with Win-Maximising Clubs' at 6.

²⁴⁹ 'Kesenne Impact of Salary Caps in Team Sports' at 426 in terms of which the maximum amount each club is allowed to spend on player salaries is fixed year on year as a percentage of the total league revenue in the previous season, divided by the number of teams in the league.

²⁵⁰ See Chapter 3 above regarding financial vulnerability.

and transfer fees frequently required to secure the services of quality players.²⁵¹ With wages to revenue figures ranging anywhere between 60-94% coupled with the uncertainty of performance in spite of spending alarming sums of money on securing the top players means that many football clubs are teetering on the brink of financial ruin.²⁵² It is these specific clubs which pose good targets for criminals with often shady motives looking to invest in the sport.²⁵³

It is well recognised that sound club financials play an important role in avoiding incomplete seasons and maintaining the integrity of the sport.²⁵⁴ Clubs operating on the verge of insolvency are more inclined to engage in illegal practices such as match fixing and money laundering.²⁵⁵ The introduction of a salary cap helps to control aggregate salary payments in a league and further produces a more balanced and competitive league.²⁵⁶

Football in Europe has a win-maximisation as opposed to a profit-maximisation partly due to the members' club association of many of the top European clubs but also thanks in part to the influx of super wealthy businessmen buying controlling stakes or taking outright ownership of football clubs, particularly in the English Premier League.²⁵⁷ At these clubs the assumption of profit-maximisation seems the furthest thing from these billionaire investors who assume the role of sponsors, spending rather than earning in the pursuit of glory.²⁵⁸ This seemingly irrational spending only serves to drive up the amounts being paid for players. An enforceable salary cap will serve to rein in this spending and constrain the salaries of players within the league and putting paid to the catch 22 that clubs who do not have massive cash injections from wealthy businessmen but rely on profits generated from good business practices.²⁵⁹

²⁵¹ 'FATF Report' at 9.

²⁵² 'Deloitte Report' at 9.

²⁵³ 'FATF Report' at 15.

²⁵⁴ *Dietl Salary Caps with Win-Maximising Clubs*' at 15.

²⁵⁵ *Ibid.*

²⁵⁶ *Ibid.*

²⁵⁷ *Dietl Salary Caps with Win-Maximising Clubs*' at 3.

²⁵⁸ *Ibid.*

²⁵⁹ 'Kesenne Impact of Salary Caps in Team Sports' at 429.

In England Manchester United and Arsenal, both of whom made profits in the 2010/11 season are understood to be in favour of rules which require clubs to make a profit and not subsidized losses.²⁶⁰ It has however been argued that the financial disparity between different European Football teams is too large to support an absolute salary cap and that the cost of administering it would be prohibitive.²⁶¹ One may be sceptical of such arguments considering how UEFA has been able to overcome national differences in economies when regulating other aspects of European football.²⁶²

5.6 CONCLUSION

After another record breaking television rights deal being concluded²⁶³ one can only anticipate the trend of astronomical transfer fees and wage deals for Europe's top footballers to continue. Everyone involved in the game is acutely aware that if the current trend continues unabated a financial crisis seems ominous. Salary capping in its various forms has been shown to be capable of both maintaining the financial viability of small market teams as well as achieving competitive balance in leagues in the four major sporting leagues in the USA.²⁶⁴ As I have outlined above the implementation of a salary cap in European football does pose its own unique challenges, however these challenges pale in comparison to the reparation work that will need to be done to the reputation of the game if we have another "Pablo Escobar" entering the fray and buying up a Chelsea FC.

²⁶⁰ David Conn 'Premier League ponders salary cap or financial fair play as new cash looms' The Guardian 6 September 2013 (last accessed at www.theguardian.com/2012/sep/06/premier-league-salary-cap on 15 July 2013).

²⁶¹ Lindholm's *Problem With Salary Caps Under European Law* at 211.

²⁶² *Ibid.*

²⁶³ See Chapter 3 page 12 footnote 50 above.

²⁶⁴ *Op cit* 6.

CHAPTER 6 – CONCLUSION AND RECOMMENDATIONS

This study has shown that criminals have revealed great adaptability in finding new channels to launder their criminal proceeds. It has further shown that the increase in growth and the emergence of football as a global industry has brought with it certain negative consequences, of which money laundering is but one. The vulnerabilities of professional football have been depicted by the FATF in its 2009 Report and have been further highlighted and expanded upon in this study.²⁶⁵

The report identified three areas of vulnerability in professional football:

- Relating to the structure of the football sector making it an easy market to penetrate. Further the multitude of stakeholders and money flows particularly the nature of the cross border flows of money make it particularly inviting to criminals who seek seemingly legitimate means to move money around.
- The second area of vulnerability is that of the financial structure of football. This is the area which is of particular importance to this specific study and the relationship between money laundering in football and the possible curbing thereof by way of a salary cap. Many clubs in the pursuit of their goals and a win-at-all-costs approach being driven by the influx of super-rich private investors have been sailing incredibly close to the financial wind. These practices often leave the clubs in a terrible financial state. It is these clubs that are most likely to be led astray and into the arms of dubious investors. Salary caps by their very design aim to improve the financial wellbeing and the competitive balance in the leagues within they are implemented. The purpose of my study was to show that the pursuit of these two aims may very well have the effect of curbing money laundering in professional football leagues by ensuring the financial wellbeing of the clubs and making them less likely to seek alternative means of income.
- The third vulnerability identified by the FATF and discussed in this study was the culture of football. The important role that football plays in society means that people hold it sacred and are reluctant to shatter its 'illusion of innocence'. This was further illustrated by the discussion on the infamous

²⁶⁵ See Chapter 3 paragraph 3.6 pages 17-22 above.

Pablo Escobar and the shocking reality behind the rise and fall of Columbian football in the 1990's.

In closing, the FATF²⁶⁶ have made a few recommendations to aid in dealing with the money laundering risks associated with professional football:

1. Building a better awareness – by creating an understanding of the money laundering risks associated with football among its relevant stakeholders may prove useful in identifying problems or risk areas;
2. Imposing good governance and improving financial transparency – this may be directly linked to attempts made to improve the financial wellness of European football leagues such as the introduction of the Financial Fair Play Regulations which although falling short of the mark, at least in terms of this study and the pursuit of an enforceable salary cap, but nobody can argue that it is not a step in the right direction.

This study has added to these recommendations in the form of a move towards an enforceable salary cap in European football. In addition to the positive welfare effects that a salary cap aims to achieve, I am saying that another effect can be added to the two benefits already associated with it, namely an effective measure in curbing money laundering by taking away the desperation that dire financial circumstances may bring to football clubs.

²⁶⁶ For all the recommendations see the '*FATF Report*' at 37 and 38.

BIBLIOGRAPHY

Abbreviations

- AML = Anti-money laundering.
- FATF = Financial Action Task Force.
- FIC = Financial Intelligence Centre.
- MLAC = Money laundering Advisory Council.

Legislation

- Prevention of Organised Crime Act 121 of 1998.
- The Financial Intelligence Centre Act 38 of 2001 (FICA).

Online databases

- Goredema, Charles 'Money Laundering in Southern Africa Incidence, Magnitude and Prospects for its Control' *Institute for Security Studies* ISS Paper 92 October 2004 (last accessed at <http://mercury.ethz.ch/serviceengine/files/ISN/99209/ipublicationdocument/42666b03-1909-4749-9d1fa2e0bb25d94b/en/92.pdf> on 12 May 2013).

Books and Journals

- Davies C. 'The Use of Salary Caps in Professional Team Sports and the Restraint of Trade Doctrine' *Journal of Contract Law* (2006) 22 at 246-267.
- Kesenne, Stefan 'The impact of salary caps in professional team sports' *Scottish Journal of Political Economy*, Vol 47, No 4, September 2000 (accessed at <http://ideas.repec.org/p/ant/wpaper/1999026.html> on 3 July 2012);
- Evan S. Totty and Mark F. Owens 'Salary Caps and Competitive Balance in Professional Sports Leagues' *Journal For Economic Educators* 11(2) 2011 (accessed at <http://econpapers.repec.org/RePEc:mts:jrnlee:v:11:y:2011:1:2:p:46-56> on 7 July 2013);
- Charles Goredema 'Legislation in South Africa, Swaziland and Zimbabwe to combat organised crime' in *ISS Monograph 56* (June 2001);

- Ian Blackshaw '*Money Laundering and Tax Evasion in Football*' The International Sports Law Journal 2009/3-4 (accessed off the International Sports Law Journal at www.asser.com on 15 August 2012).
- Lilley P, *Dirty Dealing – The Untold Truth About Global Money laundering, International Crime and Terrorism* Third Edition (2006), Published by Kogan Page Limited;
- Hill D *The Fix* McClelland & Stewart, (2008) Toronto;
- Paul M. Anderson, Ian S. Blackshaw, Robert C. R. Siekmann, Janwillem Soek (ed's) '*Sports Betting: Law and Policy*' Asser International Sports Law Series 2012;
- Susman, Gerald (ed's) '*Small and Medium-sized Enterprises and the Global Economy*' (2007) Published by Edward Elgar Publishing Limited;
- Bessen R, Poli R and Ravenel L. 2010 '*The migrations of African football players to Europe: Human trafficking and neo-colonialism in question*' (last accessed at www.footballfordevelopment.net on 10 October 2013);
- Stephen Weatherill, "*Fair Play Please!*": *Recent Developments in the Application of EC Law to Sport*' Common Market Law Review 40: 51-93, 2003;
- '*Hero's or Villains? Third party Ownership in the Premier League*' Field Fisher Waterhouse LLP 5 May 2009 (last accessed at www.ffw.com on 27 July 2013);
- De Koker, L '*KPMG Money laundering Control Service*' (2007) Butterworths, Durban;
- De Koker and Henning '*Money laundering Control in South Africa*' 30 (1998) TranCBL, University of the Free State;
- De Koker '*Money Laundering in South Africa*' (September 2002) Centre for the Study of Economic Crime; RAU University, Johannesburg, South Africa, paper commissioned by the Institute for Security Studies;
- Noble, Ronald K & Golumbic, Court E '*A New Anti-Crime Framework For the World: Merging the Objective and Subjective Models for Fighting Money Laundering*' (1997-1998) at 79;

- Lindholm J. '*The Problem with Salary Caps Under European Union Law: The Case Against Financial Fair Play*' Texas Review of Entertainment and Sports Law, Vol. 12.2 at 189-213 (2010)
- Helmut Dietl, Markus Lang and Alexander Rathke '*The effect of salary caps in professional team sports on social welfare*' Institute for Strategy and Business Economics, University of Zurich, Working Paper No. 72 (August 2007) (electronic copy available at <http://ssrn.com/abstract=1003954> last accessed on 11 November 2012);
- Evan S. Totty and Mark F. Owens '*Salary Caps and Competitive Balance in Professional Sports Leagues*' Journal For Economic Educators 11(2) 2011;
- Andrew Howarth '*The Impact of the Salary Cap in the European Rugby Super League*' International Journal of Business and Management, , vol.3 no.6 (June 2008);
- Endo M. Florio K. Gerber J. and Sommers P. '*Does a salary cap improve competitive balance?*' Atlantic Economic Journal (2003) at 288;

Case Law

- Case C-415/93, *URBSFA v Bosman*, [1995] ECR I-4921;

Textbooks

- Burchell, Jonathan and Milton, John *Principles of Criminal Law* Third Edition (2005) JUTA;
- Madinger, John & Zalopony, Sidney A *Money Laundering - A Guide for Criminal Investigators* 3rd edition (2012);
- Basson JAA Loubser MM (editors) '*Sport and the Law in South Africa*' Service issue 7 August 2008;
- Fort R. Quirk J. '*Cross-subsidization, incentives and outcomes in professional team sports leagues*' (1995) Journal of economic Literature 1265-1299;

Unpublished papers

- Dietl H. Franck E. Lang M. Rathke A. '*Welfare Effects of Salary Caps in Sports leagues with Win-Maximising Clubs*' North American Association of Sports Economists Working Paper No. 08-25 (August 2008) (accessed at www.researchgate.net/publication/513024-Welfare-Effect-of-Salary-Caps-in-

[Sports-leagues-with-Win-Maximising-Clubs'/file/3dec521727116.pdf](#) on 22 March 2013);

- Izelde Louise Van Jaarsveld LLD Thesis entitled '*Aspects of Money Laundering in South African Law*' UNISA (2011);
- Chinelle van der Westhuizen LLM mini dissertation entitled '*Money laundering and the impact thereof on selected African Countries: A comparative study*' University of Pretoria 2011;

Slide Shows

- Besson, R., Poli, R. and Ravenel, L. 2010: *Demographic Study of Footballers in Europe*. Neuchâtel: CIES (last accessed at http://www.footballfordevelopment.net/uploads/tx_drblob/storage/Poli_migration-of-African-football-players_01.pdf on 27 December 2013);

Reports

- FATF July 2009 '*Money Laundering through the Football Sector*' at 4 (the full report can be downloaded from their website at: www.fatf-gafi.org) (last accessed on 12 July 2012);
- 'FIFA Big Count 2006' can be accessed on the FIFA website www.fifa.com (last accessed on 1 November 2013);
- Deloitte Annual Review of Football Finance 2013 downloaded at www.deloitte.com-deloitte-uk-sbg-arff-2013-highlights-download.pdf (last accessed at 6 November 2013);
- Commission of the European Union (2007) which can be downloaded on the European Commission website at www.europa.eu/sport/white-paper/swd-the-organisation-of-sport_en.htm (last accessed on 10 February 2013);
- *FATF on Money Laundering – The Forty (Revised) Recommendations* (20 June 2003);

FIFA Documents

- '*FIFA Statutes*' Articles 2 and 6. The FIFA Statutes can be downloaded off the FIFA website at www.fifa.com (last accessed on 7 September 2013);

- FA Football Agent's Regulations can be downloaded at www.thefa.com/-media/Files/TheFAPortal/governance-docs/agents/agents-regulations/agents-regulations-from-4july-2009.ashx;
- 'FIFA Transfer Matching System' (last accessed at www.fifa.com/aboutfifa/organisations/footballgovernance/transfermtchingsystem.html on 13 February 2013);
- The FIFA Code of Ethics can be downloaded off the FIFA website at www.fifa.com (last accessed on 28 September 2013);
- UEFA, Club Licensing and Financial Fair Play Regulations (2010) articles 58-63 which can be downloaded off the UEFA website at www.uefa.com;

Sporting Regulations

- RFL Operational Rules – Section E1 – Salary Cap Regulations – Issue 5 – February 2007;

Newspaper and Magazine articles

- 'The Premier League: Ball watching' The Economist August 17th 2013;
- Gibson, Owen (13 June 2012) 'Premier League lands £1 billion deal' *The Guardian*, (retrieved 2 November 2013 at www.theguardian.com/sport/football/uk/7999384);
- 'Gareth Bale Joins Real Madrid from spurs in £85million world record deal' BBC Sport 1 September 2013, www.bbc.co.uk/sport/0/football/2358218 retrieved 20 October 2013);
- [Gareth Bale's Transfer Fee Revealed by Real Madrid President, Cristiano Ronaldo Still Holds World Record](http://www.nesn.com/2013/10/gareth-bales-transfer-fee-revealed-by-real-madrid-president-cristiano-ronaldo-still-holds-world-record/) www.nesn.com, Tue, Oct 15, 2013 at 4:31PM, [Marcus Kwesi O'Mard](http://www.nesn.com/2013/10/gareth-bales-transfer-fee-revealed-by-real-madrid-president-cristiano-ronaldo-still-holds-world-record/) last accessed at <http://www.nesn.com/2013/10/gareth-bales-transfer-fee-revealed-by-real-madrid-president-cristiano-ronaldo-still-holds-world-record/> on 29 December 2013
- 'Gunmen kill soccer player in Columbia' Los Angeles Times July 03 1994 (www.articles.latimes.com/1994-07-03/news/mn-11578_1_worldcup accessed on 13 October 2013);

- *The Rise and Downfall of Columbian Football* 'Norwegian Musings' posted on April 6 2011 and accessed last on 4 November 2013 at www.norwegianmusings.wordpress.com/2011/04/06/the-rise-and-downfall-of-columbian-football;
- Chumani Bambini, '*Former cricketers give the nod to new quotas*' Bdlive, 03 October 2013 (last accessed at www.bdlive.co.za/sport/cricket/2013/10/01/former-cricketers-give-the-nod-to-new-quotas on 19 October 2013);
- David Conn '*Carlos Tevez: The billionaires fight over his ownership revealed*' The Guardian 23 August 2011 last accessed at www.theguardian.com on 2 November 2013;
- Louis Mazibuko '*Jordaan warns sleaze a big threat to football*' Business Day Live 04 November 2013 (last accessed at www.bdlive.co.za/sport/soccer/2013/11/04 on 09 November 2013);
- Paddy Naughtin '*The world's richest game*' 24 may 203 (last accessed on 9 November 2013 at www.upstart.net.au/2013/05/24/the-worlds-richest-game/);
- '*Fifa's new transfer system will cut through 'jungle'*' The Telegraph 09 November 2013 (last accessed at www.telegraph.co.uk/sport/football/7301303/fifas-new-transfer-system-will-cut-through-jungle.html on 9 November 2013);
- 'UEFA Clears Abramovich' BBC Sport 2 September 2004 (last accessed at www.newsbbc.co.uk on 29 October 2013.);
- Carlos Amato '*PSL can be as lucrative as European leagues*' 19 September 2010 (last accessed at www.timeslive.co.za on 1 November 2013);
- David Conn '*Premier League ponders salary cap or financial fair play as new cash looms*' The Guardian 6 September 2013 (last accessed at www.theguardian.com/2012/sep/06/premier-league-salary-cap on 15 July 2013);

Films

- ESPN Films 30for30 '*The Two Escobars*' see the film summary at www.espn.com/30for30/film?page=the-two-escobars (retrieved on 17 September 2012).