

An update on Manchester City's compliance with Financial Fair Play

By [James Ferrow](#) written for and published by [LawInSport.com](#) on the 17 March 2015. [View the original article here.](#)



For Manchester City FC (“**Man City**”), it has been a somewhat interesting start to 2015 off the field. In the wake of the contractual confusion over the registration of Frank Lampard, and the [blockbuster signing of Wilfried Bony](#) on the 14th January 2015¹, for a reported fee of up to [£28m from Swansea](#)², the [club's administration is under the microscope](#) again.³

In parallel with the transfer dealings referred to above, reports have also surfaced of Man City's arrangements with two loss-making companies that share the same parent company as the football club (City Football Group Limited)⁴.

Below the author will explore the detail of these reports and focus on whether the club's critics are correct to raise suspicions with regard to the club's compliance with the [UEFA Financial Fair Play Regulations](#) (“FFP Regulations”).⁵

¹ 'City have completed the signing of Wilfried Bony from Swansea City', [mcfc.co.uk](#), 14 January 2015, accessed 12 March 2015, <http://www.mcfc.co.uk/news/team-news/2015/january/wilfried-bony-joins-city>

² 'Wilfried Bony: Man City complete signing of Swansea Striker', BBC, January 14, 2015, last viewed on March 13 2015, <http://www.bbc.co.uk/sport/0/football/30817037>

³ S Johnson, 'Chelsea boss Jose Mourinho questions Manchester City's compliance with Financial Fair Play after £28m Wilfried Bony deal', *Evening Standard*, January 16, 2015, last viewed March 9, 2015, <http://www.standard.co.uk/sport/football/jose-mourinho-questions-manchester-citys-compliance-with-financial-fair-play-after-28m-wilfried-bony-deal-9983058.html>

⁴ City Football Marketing Limited: Director's Report and Financial Statements: Period from 14 January 2013 to 31 May 2014 and City Football Services Limited: Director's Report and Financial Statement: Period from 14 January 2013 to 31 May 2014.

⁵ UEFA Club Licensing and Financial Fair Play Regulations, UEFA, Edition 2012, last viewed March 9, 2015, http://www.uefa.com/MultimediaFiles/Download/Tech/uefaorg/General/01/80/54/10/1805410_DOWNLOAD.pdf

Lampard 'loan deal' revisited

Since the publication of [my previous article](#)⁶ assessing City's supposed 'loan' deal for Frank Lampard from its sister club, [New York City FC](#) ("New York FC"),⁷ and Man City's announcement at a press conference on the 31 December 2014 that [Lampard's loan has been 'extended'](#)⁸, it has now transpired that [Lampard did not in fact sign for New York FC](#).⁹

The media allege that Lampard [signed a 12 month contract to play for Man City](#) with a break clause which could be triggered on 31 December 2014.¹⁰ However, Rule T.11 of the [Premier League Rules](#)¹¹ requires that a contract between a Club and a Player may be for any period provided that its expiry date is 30th June. This rule is subject to some limited exceptions but they are not applicable in this case. The break clause that Man City are alleged to have included in Lampard's contract would, in the author's opinion, likely be in breach of Rule T.11.

Indeed, a [statement from the Premier League](#) on 8 January 2015 read: "*Frank Lampard is registered as Manchester City player until the end of the 2014-15 season. The Premier League has sought and received assurances from Manchester City that there is no agreement in place between the club or City Football Group with New York City FC relating to the player.*"¹²

Assuming that the Premier League's statement, and Man City's financial statements, accurately reflect the true nature of Lampard's relationship with City, it can be concluded that there are no longer any relevant legal or regulatory issues (e.g. related party transaction issues pursuant to the FFP Regulations related to the registration of the player to scrutinise at this point.

Renewed scrutiny

For the City Group, perhaps the most negative aspect of the Lampard transaction has been from a public relations perspective. There have been [reports of "outraged"](#) New York FC fans who had bought season tickets based on the imminent arrival of Lampard.¹³

Perhaps more importantly, the imprecise presentation of the deal appears to have encouraged closer scrutiny of other aspects of the City Group's business. This renewed focus had occurred within days

⁶ J Ferrow, 'Does the loan of Frank Lampard to Man City raise FFP concerns', *LawInSport*, September 8, 2014, last viewed 5 March 2015, <http://www.lawinsport.com/sports/football/item/does-the-lampard-loan-raise-financial-fair-play-concerns-for-man-city?highlight=WYjQYW1lcylslidqYW1lcylslmpbhWVzJyJslmpbhWVzJ3MiLCJmZXJyb3ciLCJqYW1lcYBmZXJyb3ciXQ==>

⁷ New York City FC, NYCFC, <http://www.nycfc.com/>

⁸ Manchester City, 31 December 2014, accessed 11 March 2015, mcfc.co.uk, <http://www.mcfc.co.uk/news/team-news/2014/december/club-statement-frank-lampard>

⁹ P. Handler, 'Man City admit mistakes over Lampard move', *Manchester Evening News*, January 9, 2015, last viewed March 13 2015, <http://www.manchestereveningnews.co.uk/sport/football/football-news/man-city-admit-mistakes-over-8411631>

¹⁰ J Jackson, 'Manchester City admit Frank Lampard never signed two-year deal with NYCFC', *The Guardian*, January 9, 2015, last viewed March 9, 2015, <http://www.theguardian.com/football/2015/jan/09/manchester-city-error-frank-lampard-new-york-city-fc-deal>

¹¹ Premier League Handbook, Premier League, Season 2014/2015, last viewed March 17, 2015, <http://m.premierleague.com/content/dam/premierleague/site-content/News/publications/handbooks/premier-league-handbook-2014-15.pdf>), (see Rule T.11, 'Length of Contract', pg. 189)

¹² J Jackson, 'Manchester City have 'no agreement with New York' over Frank Lampard', *The Guardian*, January 9, 2015, last viewed on March 9, 2015, <http://www.theguardian.com/football/2015/jan/08/frank-lampard-manchester-city-premier-league-response-new-york-city-fc>

¹³ 'Frank Lampard: Man City stay prompts New York fans' outrage' BBC, January 1, 2015, last viewed January 13, 2015, <http://www.bbc.co.uk/sport/0/football/30648173>

of the announcement of the signing of Bony. Ahead of Arsenal's clash with Man City at the Etihad in January, Arsene Wenger admitted he was "[surprised](#)"¹⁴ that his opponents have been able to buy Bony from Swansea within the terms of the settlement agreement Man City entered into with UEFA last summer (the "[Settlement Agreement](#)").¹⁵

In a more recent press conference¹⁶, Jose Mourinho suggested that [Man City should not be allowed to be league champions](#) because they broke FFP Regulations: "*I don't think a team can be champions when you are punished because you didn't comply with [the] FFP [Regulations]*". When asked what sanctions ought to be applied to those that breach the FFP Regulations, Mourinho simply stated: "*Points*".¹⁷

Does Mourinho have a point?

First, it is worth clarifying that the regulations which Man City were being investigated under relate to European competition (not the Premier League). The Premier League has its own [financial regulations](#)¹⁸ [relating to sustainability and profitability](#), but Man City have not breached those regulations. Therefore, Mourinho is conflating the two regimes (perhaps knowingly). UEFA does not have the ability to enforce point deductions (or any other sanctions) other than against clubs that are participating in its competitions (and only in relation to those competitions).

Secondly, the FFP Regulations permit the Investigatory Chamber of the UEFA Club Financial Control Body ("**CFCB**") to conclude settlement agreements with clubs that were initially non-compliant with the FFP Regulations (Article 14(1)(b) and Article 15 of the [Procedural Rules governing the CFCB](#) ("**Procedural Rules**")¹⁹).

Although we are not privy to the precise terms of the Settlement Agreement, it is generally understood that Man City is required to comply with certain restrictions relating to, amongst other things, the level of expenditure on incoming transfers and the club's wage bill for the 2014-15 season. Therefore, the question as to whether or not the Bony transfer has caused Man City to breach the terms of the Settlement Agreement is a matter for the CFCB to determine. It has been reported that Man City are confident that the transfer will not be problematic, with the cost being offset by agreeing [the formal transfer of Alvaro Negredo to Valencia at the end of the season](#).²⁰

Should the CFCB determine that Man City is indeed in breach of the Settlement Agreement, Man City could be referred to the Adjudicatory Chamber of the CFCB. Indeed, [UEFA announced on 11 June](#)

¹⁴ C Wheeler, 'Jose Mourinho and Arsene Wenger cry foul over City's £25m Wilfried Bony signing and claim champions bend the rules', *Daily Mail*, January 16, 2015, last viewed on March 9, 2015, <http://www.dailymail.co.uk/sport/football/article-2914099/Jose-Mourinho-Arsene-Wenger-cry-foul-City-s-25m-Wilfried-Bony-signing.html>

¹⁵ MCFC Financial Fair Play Statement, MCFC, May 16, 2014, last viewed on March 9, 2015, <http://www.mcfc.co.uk/news/club-news/2014/may/club-statement-16-may>

¹⁶ Press Conference on 6 February 2015, ahead of Aston Villa game – available to view here: 'Jose Mourinho: FFP rule-breakers should not be league champions' BBC Sport, 6 February 2015, last viewed 10 March 2015, <http://www.bbc.co.uk/sport/0/football/31174879>

¹⁷ *ibid*

¹⁸ 'The new financial rules agreed by clubs explained', Premier League, February 7, 2013, last viewed March 9, 2015, <http://www.premierleague.com/en-gb/news/news/2012-13/feb/premier-league-new-financial-rules-explained.html>

¹⁹ Procedural Rules governing the UEFA Club Financial Control Body, Edition 2014, last viewed March 9, 2015, http://www.uefa.org/MultimediaFiles/Download/Tech/uefaorg/General/01/85/85/25/1858525_DOWNLOAD.pdf (see Article 14(1)(b))

²⁰ I Ladyman, 'Wilfried Bony's £30m move to Manchester City is being financed by £25m the club will receive from Valencia for Alvaro Negredo', *Daily Mail*, January 7, 2015, last viewed March 9, 2015, <http://www.dailymail.co.uk/sport/football/article-2901183/Wilfried-Bony-s-30m-Manchester-City-financed-25m-club-receive-Valencia-Alvaro-Negredo.html>

[2014](#) that it had concluded settlement agreements with nine clubs (of which Man City was one) who had not fully complied with the break-even requirements of the FFP Regulations:

“All nine clubs which have signed settlement agreements will be subject to ongoing monitoring, and any case of non-compliance with the terms of their agreement will be automatically referred to the Club Financial Control Body (CFCB) Adjudicatory Chamber as per Article 15(4) of the Procedural Rules governing the CFCB”²¹

It is in the Adjudicatory Chamber that the most severe sanctions can be meted out for non-compliance of FFP Regulations. Indeed, in December 2014, [four clubs](#)²² were subjected to a range of sanctions, including exclusion from competing in future UEFA club competitions due to presence of overdue payables balances²³ (although CFR 1907 Cluj and FC Astra Giurgiu were both given a grace period within which to rectify their overdue payables). More recently, on 16 January 2015, Finnish club Pallohonka Oy (FC Honka) was also sanctioned due to the existence of overdue payables. FC Honka has been excluded from the next UEFA club competition for which it would otherwise qualify in the next three seasons (unless the club is able to prove by 15 June 2015 that it has paid the amounts that were identified as overdue payables). The club has also been subjected to [a EUR 20,000 fine](#).²⁴

If the Bony transfer has indeed caused Man City to breach a term of the Settlement Agreement, it is probable that the Investigatory Chamber of the CFCB would be compelled to refer the club to the Adjudicatory Chamber of the CFCB in accordance with Article 15(4) of the Procedural Rules.²⁵

It has been reported that [City sought assurances from the CFCB](#) regarding its compliance with the Settlement Agreement.²⁶ These reports, along with the inclusion of Bony in Man City's updated European squad in February indicate that UEFA are satisfied that Man City's latest transfer dealings are within the terms of the restrictions to which they are subject.

With the press largely focused on the headline-grabbing issues related to Frank Lampard and the Bony transfer, perhaps a more interesting story has received less attention; that is, the publication of the financial statements of two loss-making companies associated with Man City.

Loss-making subsidiaries?

On 24 December 2014, financial statements of City Football Services Limited (“CFSL”) and City Football Marketing Limited (“CFML”) were published. City Football Group Limited wholly owns these companies and – although the position is unknown to the author - there has been some speculation in the mainstream press that these entities are being used by Man City to [under-report the club's losses](#).²⁷

²¹ ‘Settlement player list principles confirmed’, UEFA, June 11, 2014, last viewed March 5, 2015, <http://www.uefa.org/protecting-the-game/club-licensing-and-financial-fair-play/news/newsid=2116154.html>

²² FK Ekranas, CFR 1907 Cluj, FC Astra Giurgiu and Buraspor

²³ Pursuant to Article 65 and 66 of the FFP Regulations, a Licence Applicant must prove at 30 June of the year in which the UEFA club competitions commence that the club has no overdue payables towards other football clubs, employees and or social/tax authorities.

²⁴ UEFA Club Financial Control Body, Adjudicatory Chamber, Decision in the case of AC-01/2015 Pallohonka Oy, February 27, 2015, last viewed on March 17, 2015, http://www.uefa.org/MultimediaFiles/Download/OfficialDocument/uefaorg/ClubFinancialControl/02/21/72/89/2217289_DOWNLOAD_OAD.pdf

²⁵ Ibid at 19. [See Article 15, ‘Settlement Agreement’]

²⁶ S Mullock, ‘UEFA sought FFP assurances before allowing Wilfried Bony to join Man City's Champions League squad’, *Mirror*, February 7, 2015, last viewed March 9, 2015, <http://www.mirror.co.uk/sport/football/news/uefa-sought-ffp-assurances-before-5123728>

²⁷ N Harris, ‘After Frank Lampard debacle, are these just more mistakes from Manchester City? UEFA probe accuracy of their club accounts’, *Daily Mail*, January 10, 2015, last viewed on March 9, 2015, <http://www.dailymail.co.uk/sport/football/article->

The business model for both CFML and CFSL is the provision of services to the clubs in the City Football Group. Both companies' turnover is generated from transactions with Man City, New York FC and [Melbourne City Football Club \("Melbourne City", City Football Group's Australian team\)](#).²⁸

CFML, whose principal activity is the "*provision of commercial and marketing services to professional sports clubs and organising bodies*", sold services totalling £6.025m to Man City.²⁹ Similarly, CFSL (whose principal activity is the "*provision of scouting services, performance analysis and other sporting advice to professional sports clubs and organising bodies*"), sold services totalling £4.106m to Man City.³⁰

What City Group appears to have effected is the outsourcing of certain work functions (e.g. scouting) from their three football clubs to CFML and CFSL. Indeed, it has been reported that the 135 staff who ceased to be employed by Man City in FY 31 May 2014 [subsequently became employees of these subsidiaries](#).³¹

The accounts for CFML and CFSL also refer to the purchase of certain intangible assets from Man City. CFML purchased assets which are referred to as video distribution channels and assets, white label application products and research materials. CFSL purchased intangible assets which are defined in CFSL's accounts as a comprehensive scouting database and player profiles, video training aids and academy development plans from Man City.³²

In both companies' accounts, these transactions are reported as related party transactions due to the fact that the companies and Man City all share the same parent company (City Football Group Limited).

Therefore, the question arises as to whether or not this corporate structuring has the effect of reducing Man City's losses for the purposes of the FFP Regulations. This question is particularly pertinent given that the subsidiaries posted combined losses of £25.9m in that period. If, as appears to be the case, Man City is hiving-off certain loss-making activities to subsidiary companies which then provide services to which those activities relate back to Man City at a price which does not reflect the totality of the cost of those activities, is that permitted under the FFP Regulations?

Financial Information

The first issue to consider is whether Man City is required to consolidate its financial information in any particular way, because it is largely from this financial information that the 'break-even result'³³ is based. [Annex VII](#)³⁴ of the FFP Regulations appears to anticipate this type of corporate structuring, as it requires a club applying for a UEFA Licence (a "**Licence Applicant**") to combine or consolidate the financial information of all entities included in its "**Reporting Perimeter**" (meaning the entity or combination of entities in respect of which financial information has to be provided to UEFA) as if they were a single company.

[2904891/After-Frank-Lampard-debacle-just-mistakes-Manchester-City-UEFA-probe-accuracy-club-accounts.html](#)

²⁸ Melbourne City Football Club, MCFC, <http://www.melbournecityfc.com.au>

²⁹ Ibid at 4

³⁰ City Football Marketing Limited: Director's Report and Financial Statements Period from 14 January 2013 to 31 May 2014

³¹ N. Harris, 'After Frank Lampard debacle, are these just more mistakes from Manchester City? UEFA probe accuracy of their club accounts', The Daily Mail, January 10, 2015, last viewed March 13, 2015, <http://www.dailymail.co.uk/sport/football/article-2904891/After-Frank-Lampard-debacle-just-mistakes-Manchester-City-UEFA-probe-accuracy-club-accounts.html>

³² Ibid at 30

³³ A detailed explanation of the 'break-even result' concept is outside the scope of this article, but is the part of the FFP Regulations which requires clubs competing in UEFA competitions to minimise their losses over particular monitoring periods.

³⁴ Ibid at 5, see pg. 61-64

Pursuant to [Article 46bis \(2\)\(a\)](#),³⁵ the Reporting Perimeter must include all entities in whose books compensation paid to certain '*specified employees*' is accounted for. These '*specified employees*' are: the professional players, general manager, finance officer, media officer, medical doctor, physiotherapist, security officer, supporter liaison officer, head coach of first squad, assistant coach of first squad, head of youth development and youth coaches (one qualified coach for each mandatory youth team).³⁶ Therefore, if CFSL or CFML employ any '*specified employees*', then those entities should be included within the Reporting Perimeter.

[Article 46bis \(3\)](#)³⁷ also requires that the Reporting Perimeter include all entities included in the legal group structure³⁸ and in particular all entities which generate revenues and or perform services and/or incur costs in respect of certain functions.³⁹

It is worth noting that an entity may be excluded from the Reporting Perimeter if it is immaterial compared with the overall group made by the Licence Applicant or the main activity is not related to the activities, locations, assets or brand of the football club (Article 46bis (4)).

However, pursuant to [Article 46bis \(1\)](#) of the FFP Regulations,⁴⁰ a Licence Applicant essentially determines its own Reporting Perimeter in accordance with the FFP Regulations and, unfortunately, we are not privy to whether Man City includes CFSL and CFML within its Reporting Perimeter. As CFSL and CFML provide services to New York FC and Melbourne City, Man City would have an argument that the activities of the CFSL and CFML should not be included in its Reporting Perimeter because their main activities are not related to the activities, locations, assets or brand of the football club (Article 46bis (4)) and activities related to New York FC and Melbourne City should fall outside the scope of the FFP Regulations.

In any case, as a separate obligation, Man City would be likely to have to report CFSL and CFML as part of their legal structure (Article 46(2) and Article 46bis (3)), and would be required to justify "*in detail*" the exclusion of these entities from the Reporting Perimeter to the CFCB (Article 46bis (5)(b)).

If CFSL and/or CFML are included in the consolidated financial information provided by Man City, there is then the difficult task of determining whether these companies' revenues and expenses are '*relevant income*' and '*relevant expenses*' for the purposes of the FFP Regulations. Man City could feasibly argue that at least part of the losses incurred in CFSL and CFML relate to the business of providing services to New York FC and Melbourne City, and therefore should not be included in calculating Man City's break-even result. Indeed, it has been reported that [City has had this structure approved by UEFA](#) on the basis that so many of CFSL and CFML's staff have a global remit,⁴¹ although there has been no official confirmation that this is the case.

³⁵ Ibid at 5, see pg. 24

³⁶ Ibid at 5, see Article 50, 28 to 33 and 35 to 39

³⁷ Ibid at 5, see pg. 24

³⁸ The legal group structure includes subsidiaries, associated entities, controlling entities up to the ultimate parent company and ultimate controlling party and any associated company or subsidiary of such parent (Article 46 of the FFP Regulations)

³⁹ The following non-exhaustive list of functions is listed: ticketing; sponsorship and advertising, broadcasting, merchandising and hospitality, club operations (e.g. administration, match day activities and travel); financing (including financing secured or pledged against the assets of the Licence Applicant); use and management of the stadium and training facilities; and, youth sector.

⁴⁰ Ibid at 5, see pg. 24

⁴¹ S Wallace, 'Manchester City Financial Fair Play regulations: UEFA approves of spreading losses', *The Independent*, January 12, 2015, last viewed March 9, 2015, <http://www.independent.co.uk/sport/football/premier-league/manchester-city-financial-fair-play-regulations-uefa-approves-of-spreading-losses-9973985.html>

Related Party Transactions

If Man City have agreed with the CFCB that CFSL and CFML's financial results do not need to be consolidated into the financial information provided to UEFA by the club, the author would assume that the CFCB would still be required to assess whether the transactions recorded between Man City and CFSL and CFML (i.e. for the provision of services, and the sale of intangible assets) were made at 'fair value' in accordance with [Annex X \(E.7\)](#) of the FFP Regulations:

*"A related party transaction may, or may not, have taken place at fair value. Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable willing parties in an arm's length transaction. An arrangement or a transaction is deemed to be 'not transacted on an arm's length basis' if it has been entered into on terms more favourable to either party to the arrangement than would have been obtained if there had been no related party relationship."*⁴²

As pointed out in my [previous article](#),⁴³ this rule would usually be engaged in scenarios where the owners of clubs attempt to artificially inflate a club's revenues. However, the provisions would also be relevant to circumstances where a club is undercharged for services by a related party and would apply regardless of whether a price has been charged.⁴⁴ In respect of the intangible asset transactions referred to earlier, it is worth noting that, as part of the Settlement Agreement, [the CFCB agreed with Man City](#) that revenues from intra-group asset sales would not be included in future break-even calculations⁴⁵. It is not clear whether this will continue to apply to Man City beyond the term of the Settlement Agreement itself, but it does suggest that the CFCB is monitoring such transactions closely.

Conclusion

The FFP Regulations are still in an early, formative phase and, at this stage, both clubs and UEFA are exploring the ways in which the FFP Regulations will be applied to particular situations. The trend for agreeing confidential settlement agreements may work in practice (from both clubs' and UEFA's perspective), but it does mean that there is currently an absence of useful precedents of UEFA decisions to provide guidance to clubs, as well as practitioners and commentators. Therefore, the process of understanding, interpreting and applying the FFP Regulations is (and needs to be) a co-operative, iterative process between the clubs and UEFA.

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⁴² Ibid at 5, see pg. 85

⁴³ Ibid at 6

⁴⁴ Ibid at 5, see pg. 85

⁴⁵ 'Decision of the Chief Investigator of the CFCB Investigatory Chamber: Settlement Agreement with Manchester City Football Club Limited', UEFA, May 16, 2014, last viewed on March 17, 2015, http://www.uefa.org/MultimediaFiles/Download/OfficialDocument/uefaorg/ClubFinancialControl/02/10/69/00/2106900_DOWNLOAD.pdf