

Unfit, improper ownership in UK football clubs

Arjun Medhi¹

Introduction

Money-laundering and the improper ownership of football clubs are considered among the main threats to the integrity of sport.² Money-laundering is a process whereby criminals disguise their illicitly gained wealth so it appears as though it came from a legitimate source, and in football it can involve multifaceted aspects.³ It is achieved through a variety of means, notably manipulating club accounts by inflating income from ticket sales, buying empty spectator seats, inventing a fake revenue stream and engaging in the developing of property near stadiums. The international market for transferring players can also be a vehicle for money-laundering, as the overvaluation of a player is similar to the money-laundering protocol of inflating invoices for goods and services.⁴ Another vehicle for money-laundering is the use of tax havens and the ability to use front companies and shadow directors as football club owners. Such fraud and corruption in football are frequently reported in the media, and they involve and affect the wider community, jeopardising the game and its brand value.

Football clubs, especially when they are in debt, can be attractive targets for criminals seeking to launder their dishonest income. Wealth and power are often not spread in football clubs, unlike large businesses in other sectors, leaving clubs vulnerable to the actions of one or two individuals. Football in the United Kingdom also lacks effective regulation, making it easier for criminals to outflank the systems of the football business. As a result of these factors, vulnerable clubs are more likely to accept (perhaps unwittingly) criminally laundered money.⁵ Furthermore, when it is impossible to identify their actual owners or their source of wealth, UK clubs are clearly at risk of being vehicles for money-

laundering. This raises the question as to why the country's football sector (its authorities and, to some extent, its fans) allows unidentified rich investors to own clubs.

Countering money-laundering and the illegal financing of clubs

There are various strategies available to counter money-laundering and the illegal financing of football clubs. These include establishing codes of conducts, introducing whistleblowing policies, setting up ethics committees, imposing sanctions, instituting training courses to raise awareness of fraud and corruption and ensuring accounts and records are audited. A key strategy the UK football authorities use to protect football from fraud and corruption, however, is the fit and proper person test. There are three such tests for potential club owners and directors, each operated by the Premier League (known as the owners' and directors' test), the Football League and the Football Association (FA), for their respective leagues. These tests aim to:

- prevent anyone who holds a criminal record from owning or directing a football club;
- protect football clubs from people who do not have the long-term business interests of the club;
- and
- prevent anyone who lacks integrity from becoming an owner or director of a club.

A potential owner or director who undergoes these tests will be disqualified if he or she is found to have:

- an unspent criminal conviction of fraud or dishonesty, in the United Kingdom or overseas;
- been declared bankrupt;
- been declared unlawful to act as a director of a UK-registered company;
- been a director of a football club that was declared insolvent more than twice;
- been banned from a sport ruling committee, accredited association or other regulator;

- breached FA rules on betting; or
- been, or still is, on the register of sex offenders.⁶

Questions have been raised about the validity of these tests, however. Given the substantial amount of unreported fraud in the country, clubs can appoint fraudsters unwittingly.⁷ The testing needs to check for spent convictions, expanding beyond the United Kingdom. If an individual has been disqualified from being a company director, he or she may still be able to purchase a club, given that it is possible to purchase a club through a company where it is sometimes impossible to identify its owner. The tests should also check owners or directors against any international data-sharing schemes and international media reports.

Most of these issues would be addressed if one were to open up a financial business in the United Kingdom. For example, one of the previous owners of Portsmouth FC, Vladimir Antonov, was considered a fit and proper person by the Football League even though the UK financial regulator would not allow Antonov's business to trade in the country (Antonov's business failed to provide the necessary information required by the UK financial regulator).⁸ There is insufficient information to know why the Football League allowed Antonov to own a UK football club when he was not allowed even to trade his financial services business in the country. Generally, leagues do not disclose information pertaining to fit and proper person tests in the public domain, and release information only when someone fails the test.⁹

Three people, so far, are known to have failed the test: (1) Dennis Coleman was twice declared insolvent and was not allowed to be the director of Rotherham United;¹⁰ (2) Stephen Vaughan, the previous owner of Chester City FC, failed the test and was forced by the Football Association to reduce his shareholdings because of involvement in a £500,000 (US\$840,000) VAT fraud;¹¹ and (3) Louis

Tomlinson, a member of the successful pop music group One Direction, failed along with a co-investor to pass the test and become a co-owner of Doncaster Rovers.¹²

Several owners and directors who are alleged to have committed fraud and corruption have passed the test without explanation, however. Thaksin Shinawatra, a business tycoon and former prime minister of Thailand, passed the Premier League's fit and proper person test to own Manchester City FC in 2007. Shinawatra had been ousted as prime minister in a military coup the previous year following allegations of corruption and human rights violations, and he was later charged with corruption and his assets of some £800 million (around US\$1.2 billion) stored in Thai banks were frozen.¹³ Despite this, and being criticised by Human Rights Watch, Amnesty International and Transparency International,¹⁴ the Manchester City board of directors and the Premier League allowed Shinawatra to become the owner of a football club. It is believed that Shinawatra passed the test because he had not been criminally convicted; moreover, Richard Scudamore, the Premier League chief executive, proclaimed that the League was unable to prevent an individual who faced criminal charges from an unelected military government from owning a club.¹⁵ Shinawatra was eventually sentenced for corruption by a democratically elected government in Thailand, and there is a warrant for his arrest.¹⁶ Although he had promised long-term investment in Manchester City, in 2008 he sold the club to Abu Dhabi United Group, making a profit of some £20 million (around US\$30 million) in just over a year.¹⁷ The fit and proper person test should consider disqualification of an individual from owning or directing a football club if he or she is subject to a fraud or corruption investigation or prosecution anywhere in the world.

Another possible mechanism for countering money-laundering of football clubs is the Financial Fair Play rule, introduced in 2013 by the Union of European Football Associations (UEFA). The rule is a directive to football clubs to operate their business so as to break even. This rule therefore restricts spending at football clubs, which should make it less easy, and therefore less attractive, to launder

money through football. It is not clear, however, whether this is being properly enforced, as money-laundering involves disguising financial flows. To bypass Financial Fair Play regulations and to encourage dishonest investment, creative accounting techniques are required, such as inflating assets (for example, players, stadiums and properties) and hiding liabilities.

Recommendations for reform

Although information on the application of the fit and proper person test is not in the public domain, it is uncertain whether these tests are broad enough to protect football clubs. There is no evidence that they verify the source of a prospective owner's wealth, which is one of the most important financial checks for countering money-laundering.

The United Kingdom has strong money-laundering regulations, and, as a result, organised criminals are deterred from laundering their wealth through the country's banking sector.¹⁸ Accordingly, some features of the financial sector's regime should be extended to football. The UK banking sector focuses on prevention, and an effective prevention strategy can be underpinned by enhanced vetting. This could be incorporated into the fit and proper person tests. Enhanced vetting involves a combination of objective and subjective checks, which would also help to prevent fraudsters and corrupt individuals from entering the market and to detect money-laundering at an early stage. Therefore, the fit and proper person and the owners' and directors' tests should be expanded.

As with anti-money-laundering and enhanced vetting procedures, the tests must incorporate:

- substantiated identity checking of owners, directors and other key senior staff;
- establishing the owner's source of wealth, through the use of forensic accountants

- for foreign investors, conducting checks against politically exposed person (PEP) databases (PEPs are individuals, including his or her associates/family, who are entrusted with a prominent public function by a country other than the United Kingdom, the European Union or another international body);¹⁹
- conducting checks with information-sharing schemes, nationally and internationally, with other football authorities and with law enforcement authorities;
- considering checks with information-sharing schemes about individuals currently being investigated for fraud or corruption;
- considering internet searches, bearing in mind that the results would need to be verified;
- conducting ethics and honesty checks (involving, for example, Amnesty International and Transparency International); and
- carrying out a face-to-face meeting with the potential owner.

Given the lack of transparency in the football sector, the risk of corruption at UK football clubs is high. Although an enhanced vetting strategy might deter money-launderers, further research into the vetting strategies adopted in other sports sectors and other business sectors is critical. Every effort needs to be made to try and ensure that only fit and proper persons own and run football clubs in the United Kingdom.

Notes

¹ Arjun Medhi is Technical and Development Manager at the UK's Chartered Institute for Public Finance and Accountancy.

² Oxford Research, *Examination of Threats to the Integrity of Sports* (Frederiksberg, Denmark: Oxford Research, 2010), p. 15,

www.eusportsplatform.eu/Files/Filer/examination%20of%20threats%20to%20sports%20integrity.pdf.

³ Financial Action Task Force (France), 'What Is Money Laundering?', www.fatf-gafi.org/pages/faq/moneylaundering.

⁴ Transparency International, 'Sport', www.transparency.org/topic/detail/sport; Graham Johnson, *Football and Gangsters: How Organised Crime Controls the Beautiful Game* (Edinburgh: Mainstream, 2006), p. 199; Financial

Action Task Force, *Money Laundering through the Football Sector* (Paris: FATF, 2009), pp. 15, 20, 21, www.fatf-gafi.org/media/fatf/documents/reports/ML%20through%20the%20Football%20Sector.pdf.

⁵ Financial Action Task Force (2009); Johnson (2006); John Beech, 'Written Evidence Submitted by Dr John Beech, Head of Sport and Tourism, Applied Research Centre for Sustainable Regeneration, Coventry University (FG69)', in House of Commons Culture, Media and Sport Committee, *Football Governance: Written Evidence – at 28 March 2011* (London: The Stationery Office, 2011), www.publications.parliament.uk/pa/cm201011/cmselect/cmcmds/writev/792/792we.pdf.

⁶ Sean Hamil and Geoff Walters, 'Financial Performance in English Professional Football: "An Inconvenient Truth"', *Soccer and Society*, vol. 11 (2010), p. 355; Rachel Baird, Andrew Hogg, Nick Mathiason and Alex Cobham, *Blowing the Whistle: Time's Up for Financial Secrecy* (London: Christian Aid, 2010), p. 10; All Party Parliamentary Football Group, *English Football and Its Governance* (London: Thales, 2009), p. 2, www.levelplayingfield.org.uk/sites/default/files/contentfiles/apfg_report_on_english_football_its_governance_april_20091.pdf; Supporters Direct, *Developing Football Regulation to Encourage Supporter Community Ownership in Football*, Briefing Paper no. 2 (London: Supporters Direct, 2011), p. 25, www.supporters-direct.org/wp-content/uploads/2012/07/Developing-Football-Regulation-to-Encourage-Supporter-Community-Ownership-in-Football-Briefing-2.pdf; Geoff Walters and Sean Hamil, 'Ownership and Governance', in Simon Chadwick and Sean Hamil (eds.), *Managing Football: An International Perspective* (Oxford: Butterworth-Heinemann, 2010), p. 27.

⁷ City of London Police, 'Tightening the Net', www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/nfib/nfib-news/Pages/Tightening-the-net.aspx.

⁸ *The Baltic Times* (Latvia), 'Snoras barred from the UK', 11 February 2009, www.baltictimes.com/news/articles/22305.

⁹ Baird et al. (2010), p. 14.

¹⁰ *Ibid.*

¹¹ *Ibid.*; *The Guardian* (UK), 'Chester City chief becomes first owner to fail fit and proper person test', 18 November 2009, www.theguardian.com/football/2009/nov/18/chester-city-fit-proper-person-test.

¹² *The Guardian* (UK), 'One Direction's Louis Tomlinson "mised" as Doncaster takeover bid fails', 18 July 2014, www.theguardian.com/football/2014/jul/18/one-direction-louis-tomlinson-mised-doncaster-takeover-john-ryan.

¹³ Walters and Hamil (2010); Football Supporters' Federation, 'Written Evidence Submitted by the Football Supporters' Federation (FG37)', in House of Commons Culture, Media and Sport Committee (2011).

¹⁴ BBC (UK), 'A fit and proper Premiership?', 31 July 2007,

http://news.bbc.co.uk/sport2/hi/football/teams/m/man_city/6918718.stm; *The Guardian* (UK), 'City blinded by money in race to bind Thais', 23 May 2007, www.theguardian.com/sport/blog/2007/may/23/cityblindedbymoneyinrace.

¹⁵ Walters and Hamil (2010).

¹⁶ *Ibid.*

¹⁷ *Ibid.*, pp. 27–28, citing *The Daily Telegraph* (UK), 'Soap opera involving Thaksin Shinawatra and Manchester City damaging our game', 12 August 2008, www.telegraph.co.uk/sport/football/teams/manchester-city/2542658/Soap-opera-involving-Thaksin-Shinawatra-and-Manchester-City-damaging-our-game-Football.html; Football Supporters' Federation (2011).

¹⁸ Jackie Johnson and Desmond Lim, 'Money Laundering: Has the Financial Action Task Force Made a Difference?', *Journal of Financial Crime*, vol. 10 (2002).

¹⁹ Financial Services Authority, *Bank's Management of High Money-Laundering Risk Situations: How Banks Deal with High-Risk Customers (Including Politically Exposed Persons), Correspondent Banking Relationships and Wire Transfers* (London: FSA, 2011), p. 16, www.fca.org.uk/static/documents/fsa-aml-final-report.pdf.