THE BACKGROUND OF UEFA'S FINANCIAL FAIR PLAY REGULATIONS

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Who said there's a crisis in football? We have witnessed the transfer of Gareth Bale to Real Madrid in exchange for €101 million – a fantastical amount in a country in crisis, as Spain is. Such huge quantities only serve to extend the distance between the rich teams and the rest, who suffer the consequences and must survive as they can. The European clubs have spent €737 million on players this summer. We know that football is a business, and a lot of money is moved around in the transactions made each season. The powerful owners of different clubs in Europe carelessly spend money just to get the desired player.

Among the Europe's biggest spenders in transfers for this season are the premier leagues in England, Italy, France, Spain and Germany. During the 2013 transfer window, Real Madrid spent more than any other team: it was Bale's hiring that pushed them into the top spot, with a total of €183 million invested overall.

When it appears that, in terms of the economic crisis, Europe is seeing the light at the end of the tunnel, it would make sense that investments would be adjusted to fit the general situation; however, in football it seems that the opposite is true. The biggest clubs are strengthened and the rest are in danger of disappearing, and need to sell their best players to survive. In a market that seems limitless, football spending continues to soar – and for some teams, that means spending more than they can manage. The most logical solution would be equal revenue-sharing among clubs; however the problem is structural. The current business model is not viable in times of crisis and only a few can survive. Proponents of this model affirm that "you pay it because it's worth it"; however, it is not a bad idea to establish a cap and try to limit the excessive and irrational spending in football.

This was precisely the idea that the European Union of Football Associations (UEFA) began to pursue in 2009. To try and stop excessive expenditure, UEFA established the concept of financial fair play (FFP), which involves assessing a club's economic situation, penalising them and even excluding them from competitions if they break the financial rules. Clubs are beginning to accept this trend, as reflected in the reduction of transfer costs and an increasing use of existing resources.

According to UEFA reports, clubs are beginning to contain losses. As is well known, a club's three main sources of income are TV broadcast rights; tickets and goods sold inside the stadium; and business income derived from sponsorships and licensing. However, one reason that clubs spend more than they earn is the high wages: on average, €60 out of every €100 are spent on players' salaries. It doesn't help that some transfers cost more than the player is really worth.

In February, UEFA released the fifth Club Licensing Benchmarking Report on European football, which revealed that over 760 clubs competing in the European premier leagues had an average growth of 5.6 per cent over the past five years. As UEFA's general secretary Gianni Infantino, presenting the report, asked: what other industry in the economic crisis has grown 5.6 per cent per year?

In the current context, it is astonishing that numerous clubs are in debt. But while the entire planet suffers an economic crisis and adjusts spending accordingly, it is understandable that clubs can have huge losses. The practice of spending more than one earns is not a sensible one: a view shared by UEFA, hence their establishment of the FFP regulations. UEFA essentially aims to prevent clubs going into debt, even applying sanctions that include exclusion from European competitions between 2014 and 2015.

In observing a need for financial control UEFA created the FFP regulations, thereby imposing legal obligations – compliance with which is necessary to obtain a UEFA licence, which clubs must have in order to participate in European competitions. On 21 December 2012, it was announced that Malaga FC would not be able to play in the next season of the Europa League, in accordance with the sanction imposed by UEFA for failing to meet FFP requirements. In June 2013, the Court of Arbitration for Sport (CAS) dismissed an appeal against the sanction, because of the club's debts.

THE STRUCTURE OF FFP

The concept of FFP was agreed upon in 2009, based on the principle that clubs should not spend more than they earn and are able to balance their books. The aim is to help reduce the deficit and force clubs to invest real money, rather than money they don't have.

On 27 May 2010, the UEFA executive committee approved the FFP project, and agreed that it should enter into force gradually before being fully established in 2014.

The purpose of this new system is to improve the financial capacity of European clubs to reach a viable business model in the medium and long term. This means that football clubs must spend their money in accordance with their income and not, as was previously the case, with ludicrous budgets and, in many cases, losses.

The FFP regulations require that clubs cannot exceed a certain level in the budget for players and coaches, and the cost of amortisation of the transfers. If they do exceed this level, they may be penalised. The maximum penalty is disqualification from European competitions, but other punishments include fines, retention of monies won in competitions and a ban on transfers.

The FFP regulations, in essence, are a collection of rules whose basic premise is to stabilise the deteriorating state of football financial management. (A 2011 study, for example, showed that 56 per cent of European clubs had financial losses.)

THE OBJECTIVES OF FFP

Article 2 of the UEFA Club Licensing and Financial Fair Play Regulations clearly states their key aims:

- to promote and continuously improve the standard of football in Europe and to prioritise the training and care of young players in every club;
- to ensure that a club has adequate levels of management and organisation;
- to adapt clubs' sporting infrastructure so as to provide players, spectators and media representatives with safe, suitable and well-equipped facilities;
- to protect the integrity and smooth running of UEFA club competitions; and
- to allow the development of benchmarking for clubs against financial, sporting, legal, personnel, administrative and infrastructure-related criteria throughout Europe.

The regulations also aim to achieve financial fair play in UEFA club competitions. These particular aims are:

- to improve the economic and financial capability of the clubs, increasing their transparency and credibility;
- to place the necessary importance on the protection of creditors by ensuring that clubs settle their liabilities with players, social/tax authorities and other clubs in a timely manner;
- to introduce more control and discipline in club football finances;
- to encourage clubs to operate on the basis of their own revenues;
- to encourage responsible spending for the long-term benefit of football; and
- to protect the long-term viability and sustainability of European club football.

WHO CONTROLS THE APPLICATION OF FFP REGULATIONS?

As part of the application of the FFP regulations, in June 2012 UEFA created a special body called the Club Financial Control Body (CFCB), a bicameral disciplinary panel. It is responsible for issuing licences and concessions for teams to participate in UEFA competitions, but also penalises clubs that do not comply with FFP requirements.

The CFCB's Investigatory Chamber is responsible for research and inquiries. It can adopt interim measures and refer cases to the Judicial Chamber, which may impose appropriate disciplinary measures and accept (as well as reject) club applications to European competitions. Any decisions taken by the Judicial Chamber may be appealed before the CAS.

However, UEFA has encountered problems in applying the FFP regulations and their introduction has been delayed. The decision to impose the regulations gradually has given clubs more time to adjust to the new climate. For the 2013/2014 and 2014/2015 seasons, UEFA will tolerate deficits of up to €45 million. The regulations will be applied in full in 2015 (having been originally scheduled for 2012). This is when the second stage of the project, in which deficits should not exceed €30 million, will come into force. It is intended that by 2017 all clubs will have healthy, debt-free accounts.

THE BREAK-EVEN RULE

Another key aspect of the FFP regulations is the "break-even" rule. This seeks to stabilise and rationalise, in the long term, clubs' spending by means of evaluation for a renewable three-year period. Article 60 of the UEFA Club Licensing and Financial Fair Play Regulations defines the break-even concept as "the difference between relevant income and relevant expenses" and adds: "If a licensee's relevant expenses are less than relevant income for a reporting period, then the club has a break-even surplus. If a club's relevant expenses are greater than relevant income for a reporting period, then the club has a breakeven deficit."

This means that spending must be equal to income. There is a deviation accepted (losses) – but what expenses are taken into account?

UEFA does not consider all expenses as losses. On the one hand, UEFA does take into account signings and salaries; on the other hand, however, expenses relating to training, club infrastructure, the youth sector and investment in social projects will not be considered losses.

The idea of FFP is a club gradually acclimatising to not spending more than it earns. So the level of acceptable deviation varies considerably across the next few years. In the first stage (between 2013 and 2014) an owner may invest up to €45 million in two seasons. After this, the club may only invest €15 million, in a single year, in new transfers and wages. This figure is reduced to €10 million per season (€30 million in total) between 2015 and 2016. If an owner does not invest in the club, the maximum deviation tolerated is €5 million over a period of three years.

Article 61 of the UEFA Club Licensing and Financial Fair Play Regulations states that acceptable deviation "is the maximum aggregate break-even deficit possible for a club to be deemed in compliance with the break-even requirement". As stated above, the acceptable deviation is €5 million. However, a club can exceed this level to reach the following amounts (but only if such excess is entirely covered by contributions from equity participants and/or related parties):

- €45 million for the first monitoring stage (the 2013/14 and 2014/15 seasons);
- €30 million for the second monitoring stage (the 2015/2016, 2016/2017 and 2017/2018 seasons); and
- a lower amount for the following monitoring periods.

Likewise, the onus is on the licensee to demonstrate the substance of the transaction, which must have been completed in all respects and without any conditions attached. The mere intention or commitment from owners to make a contribution is not sufficient for such contribution to be taken into consideration.

The FFP regulations always refer to "deficits", rather than "debts", because the FFP will not admit overdue payables towards employees and/or social/tax authorities, banks, clubs, players, shareholders etc (Articles 65 and 66 of the UEFA Club Licensing and Financial Fair Play Regulations). Despite appearances, debt and deficit are not the same. Debt forces the club into a refund, which affects the financial balance. How do we structure a club's economy? Undoubtedly through capital increases or donations; never with a loan.

In our opinion, UEFA provides an adequate framework for "patrons" in football, whose money can have an impact on the market. When a club owner gives money to the club, there is a difference between it being a loan and a donation. If the owner decides to leave the club, they can enforce repayment of a loan; but this is not possible in the case of donation, which is a gift that can restore the financial balance without forcing a refund. A debt, however, will affect the balance.

From the 2017/2018 season onwards, clubs may invest only money they have raised. UEFA will also control donations made by sponsors, and ensure that they do not exceed the set limits. If there is any illegal activity, UEFA may punish the club with exclusion from tournaments.

CONCLUSION

UEFA reports that over the past year, losses among first division clubs in Europe have been reduced by €600 million; the FFP regulations, it seems, are working. Awareness has increased among clubs with exorbitant wage bills. Making revenue equal to expenses allows a fair market with fair economic conditions. Clubs must use the resources they have in their young players and make careful choices about how they spend their money.

The financial control of football clubs was an absolutely necessary measure. However, we believe that UEFA should adjust the level of control with the arrival of Russian and Arab tycoons in the football market. For example, Sheik Mansour bin Zayed bin Sultan Al Nahyan, a member of Abu Dhabi's royal family, owns Manchester City FC, which has a £400 million sponsorship contract with Etihad Airways – also owned by members of Abu Dhabi's royal family. Despite a Council of Europe committee calling this deal "improper", it is not prohibited by the FFP regulations. In our opinion, UEFA should control sponsors who overpay and prohibit such closely connected ownership deals, thus avoiding "improper" transactions. Moreover, UEFA should also ban state aid for clubs. Successful prohibition of state aid would require strict application of the ban.

The UEFA president, Michael Platini, has promised that the next financial review will have a particular focus on controversial clubs like Paris Saint-Germain and Manchester City. Surprisingly, Monaco FC is not on UEFA's radar. Recently promoted to the French premier league, the club has spent hundreds of millions of euros on players thanks to the financial support of Russian tycoon Dmitry Rybolovlev. When Monaco qualifies for European competitions, the club's investments will be controlled by the FFP regulations. If UEFA does not establish its FFP regulations in sufficiently fine detail, and enforce the regulations fully, then they may be easily evaded – which may ultimately mean that just a few rich clubs survive. Whatever happens, one thing is clear: a new age in football awaits us.