

Betting and Anti-Corruption

Appendix 5

A submission from the Chairman of the Constitution Committee

Purpose or Objective

Purpose: 'Housekeeping' to rationalize the text of Appendix 5 by removing those parts now covered by other Regulations and procedures adopted since it was first approved, and to update some of the technical language

Proposal

Delete current Appendix 5 – Betting and Anti-Corruption and replace with:

APPENDIX 5 – BETTING AND ANTI-CORRUPTION RULES

1. INTRODUCTION

ISAF has adopted these rules ("Rules") as a means of safeguarding the integrity of the sport of sailing by (i) prohibiting any conduct that may impact improperly on the outcome of its events and competitions and (ii) establishing a mechanism of enforcement and sanction for those who, through their corrupt conduct, place the integrity of the sport at risk.

2. DEFINITIONS

In addition to the definitions in ISAF Regulation In these Rules, the following terms have the following meanings:

- 2.1 "Athlete" means any athlete who participates or is selected to participate in an Event or Competition;
 - 2.2 "Athlete Support Personnel" means any coach, trainer, manager, athlete representative, agent, team staff member, official, medical or para-medical personnel, family member or any other person employed by or working with an Athlete or the Athlete's Member National Authority participating in a Competition.
 - 2.3 "Benefit" means the direct or indirect receipt or provision (as relevant) of money or money's worth (other than prize money and/or contractual payments to be made under endorsement, sponsorship or other contracts);
 - 2.4 "Bet" means a wager of money or any other form of financial speculation;
 - 2.5 "Betting" means making, accepting, or laying a Bet and shall include, without limitation, activities commonly referred to as sports betting such as fixed and running odds, totalisator/toto games, live betting, betting exchange, spread betting and other games offered by sports betting operators;
 - 2.6 "CAS" means the Court of Arbitration for Sport in Lausanne, Switzerland;
 - 2.7 "Competition" means an Event or series of Events conducted over one or more days under one or more organizing authorities;
 - 2.8 "Event" means a single race, match or contest in the sport of sailing.
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- 2.9 "Inside Information" means any information relating to any Competition or Event that a Participant possesses by virtue of his position within the sport. Such information includes, but is not limited to, factual information regarding the competitors, the conditions, tactical considerations or any other aspect of the Competition or Event, but does not include such information that is already published or a matter of public record, readily acquired by an interested member of the public or disclosed according to the rules and regulations governing the relevant Competition or Event;
- 2.10 "International Competition" means an International Event as defined by the ISAF Regulations.
- 2.11 "Member National Authority" has the meaning set out in Article 1.1 of the ISAF Constitution.
- 2.12 "Major Event Organisation" means any international multi-sport organisation that acts as the overall ruling body for any continental, regional or other International Competition.
- 2.13 "Participant" means any Athlete, Athlete Support Personnel, race official, delegate, commissioner, event official, national team or delegation member and any other accredited person;
- 2.14 "Person" shall include natural persons, bodies corporate and unincorporated associations and partnerships (whether or not any of them have separate legal personality);
- 2.15 "Sanction" means any sanction that ISAF has the right to impose in accordance with ISAF Regulation 35; and
- 2.16 "Violation" means a violation of these Rules as set out in Rule 3.

3. APPLICATION AND SCOPE

- 3.1 These Rules shall apply to all Participants who participate or assist in an International Competition and each Participant shall be automatically bound by, and be required to comply with, these Rules by virtue of such participation or assistance.
- 3.2 It shall be the personal responsibility of every Participant to make himself aware of these Rules including, without limitation, what conduct constitutes a Violation of the Rules and to comply with those requirements. Participants should also be aware that conduct prohibited under these Rules may also constitute a criminal offence and/or a breach of other applicable laws and regulations. Participants must comply with all applicable laws and regulations at all times.
- 3.3 Each Participant submits to the exclusive jurisdiction of ISAF to hear and determine any charges brought and to the exclusive jurisdiction of CAS to determine any appeal from any final decision made by ISAF.
- 3.4 Each Participant shall be bound by these Rules until a date six months following his last participation or assistance in a Competition. Each Participant shall continue to be bound by these Rules in respect of his participation or assistance in Competitions taking place prior to that date.
- 3.5 Member National Authorities shall use their best endeavours to assist ISAF in making immediate contact with the Participants on whom ISAF may wish to serve a notice under these Rules.

4. RULE VIOLATIONS

The following conduct shall constitute a Violation of these Rules (in each case whether effected directly or indirectly):

4.1 Betting:

- (a) Participation in, support for, or promotion of, any form of Betting related to:
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- (i) an Event or Competition in which the Participant is participating; or
- (ii) an event or competition that is taking place in another sport at an International Competition hosted by a Major Event Organisation in which the Participant is participating;

and this includes Betting with another Person on the result, progress, outcome, conduct or any other aspect of such an Event or Competition).

- (b) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.1.

4.2 Manipulation of results:

- (a) Fixing or contriving in any way or otherwise improperly influencing, or being a party to fix or contrive in any way or otherwise improperly influence, the result, progress, outcome, conduct or any other aspect of an Event or Competition.
- (b) Ensuring or seeking to ensure the occurrence of a particular incident in an Event or Competition which occurrence is to the Participant's knowledge the subject of a Bet and for which he or another Person expects to receive or has received a Benefit.
- (c) Failing in return for a Benefit (or the legitimate expectation of a Benefit, irrespective of whether such Benefit is in fact given or received) to perform to the best of one's abilities in an Event or Competition.
- (d) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.2.

4.3 Corrupt Conduct:

- (a) Accepting, offering, agreeing to accept or offer, an undue Benefit (or the expectation of a Benefit, irrespective of whether such Benefit is in fact given or received) to fix or contrive in any way or otherwise to influence the result, progress, outcome, conduct or any other aspect of an Event or Competition.
- (b) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation as set out in this Rule 3.3.

4.4 Inside Information:

- (a) Using Inside Information for Betting purposes or otherwise in relation to Betting.
- (b) Disclosing Inside Information to any Person with or without Benefit where the Participant might reasonably be expected to know that its disclosure in the circumstances could be used in relation to Betting.
- (c) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.4

4.5 Other Violations:

- (a) Any attempt by a Participant, or any agreement by a Participant with any other person, to engage in conduct that would culminate in the commission of any Violation of this Rule 3 shall be treated as if a Violation had been committed, whether or not such attempt or agreement in fact resulted in such Violation. However, there shall be no Violation under this Rule 3 where the Participant renounces his attempt or agreement prior to it being discovered by a third party not involved in the attempt or agreement.
 - (b) Knowingly assisting, covering up or otherwise being complicit in any acts or omissions of the type described in Rule 3 committed by a Participant.
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- (c) Failing to disclose to ISAF or other competent authority (without undue delay) full details of any approaches or invitations received by the Participant to engage in conduct or incidents that would amount to a Violation as set out in this Rule 3
- (d) Failing to disclose to ISAF or other competent authority (without undue delay) full details of any incident, fact or matter that comes to the attention of the Participant that may evidence a Violation under this Rule by a third party, including (without limitation) approaches or invitations that have been received by any other party to engage in conduct that would amount to a Violation of this Rule;
- (e) Failing to cooperate with any reasonable investigation carried out by ISAF or other competent authority in relation to a possible breach of these Rules, including failing to provide any information and/or documentation requested by ISAF or competent authority that may be relevant to the investigation.

4.6 The following are not relevant to the determination of a Violation of these Rules:

- (a) Whether or not the Participant was participating, or a Participant assisted by another Participant was participating, in the specific Event or Competition;
- (b) The nature or outcome of any Bet in issue;
- (c) The outcome of the Event or Competition on which the Bet was made;
- (d) Whether or not the Participant's efforts or performance (if any) in any Event or Competition in issue were (or could be expected to be) affected by the acts or omissions in question;
- (e) Whether or not the results in the Event or Competition in issue were (or could be expected to be) affected by the acts or omissions in question.

5. REPORTS CONCERNING VIOLATIONS

- 5.1 Any report concerning a Violation (or alleged Violation) shall be made to the Chief Executive Officer. ISAF Regulation 35 shall then apply to the report. The Disciplinary Commission may investigate the report, conduct any relevant hearing and impose sanctions on a Participant for any proven Violations in accordance with Regulation 35.
 - 5.2 ISAF may conduct an investigation into the activities of any Participant that it believes may have committed a Violation of these Rules and may appoint one or more Persons for this purpose. Such investigation may be conducted in conjunction with relevant competent national or international authorities (including criminal, administrative, professional and/or judicial authorities) and all Participants must co-operate fully with such investigations. ISAF shall have discretion, where it deems it appropriate, to stay its own investigation pending the outcome of investigations conducted by other competent authorities.
 - 5.3 As part of any such investigation, if ISAF reasonably suspects that a Participant has committed a Violation of these Rules, it may make a written demand to such Participant for information that is related to the alleged Violation and/or require the attendance of such Participant for interview, or a combination of the two. Any interview shall be at a time and place to be determined by ISAF and the relevant Participant shall be given reasonable notice in writing of the requirement to attend. Interviews shall be recorded and the Participant shall be entitled to have legal counsel and an interpreter present.
 - 5.4 By participation in a Competition, each Participant shall be deemed to have agreed for the purposes of applicable data protection laws and other laws, and for all other purposes, to have consented to the collection, processing, disclosure or any other use of information relating to his activities (including without limitation personal information) to the extent permitted under these Rules and shall confirm such agreement in writing upon demand.
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6. DISQUALIFICATION OF RESULTS

- 6.1 Subject to Rule 5.2, a Violation of these Rules by a Participant automatically leads to disqualification of the result obtained by a boat of which the Participant is a crewmember in that Competition with all resulting consequences, including forfeiture of any medals, points and prizes.
- 6.2 If a Participant is a crew member of a boat having a crew of more than three crewmembers and he is found to have committed a Violation of these Rules during an Event or Competition, Rule 5.1 does not apply. Instead the boat may be subject to such disciplinary action by ISAF as it deems appropriate if there have been Violations of these Rules by more than one Participant who is a crew member of (or is associated with) the boat and ISAF is satisfied there has been a resulting material advantage to such boat in breach of these Rules, or such breaches have been organized or condoned by other Participants being crewmembers of the boat or those charged with managing the boat and/or its crewmembers.

7. RECOGNITION OF DECISIONS

- 7.1 Member National Authorities shall comply with, recognise and take all necessary and reasonable steps within their powers to enforce and give effect to these Rules and to all decisions and Sanctions imposed hereunder.
- 7.2 Final decisions of a Major Event Organisation in relation to a Participant that are within the Major Event Organisation's jurisdiction and based on the same or similar betting and anti-corruption rules as these Rules shall be recognised and respected by ISAF upon receipt of notice of the same. Any disciplinary process, so far as determining a Participant's Sanction beyond the sanction imposed by the Major Event Organisation is concerned, shall be determined by ISAF in accordance with these Rules.

Current Position

Current Appendix 5 – Betting and Anti-Corruption

Reasons

- 1. At the time the Code was originally published it had to both be both comprehensive and not reliant on any other Regulation or Code.
 - 2. Subsequently some changes have been made elsewhere in the Regulations, or are expected to adopted this November, and therefore the text of Appendix 5 consequently needs to be updated to reflect, be consistent with, and not contradict those changes and other Regulations.
 - 3. An undertaking was also given at the time the code was first adopted that the wording generally would be reviewed and several consequential but technical and relatively minor changes are now included.
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