FANS WITHOUT SCARVES

FFP, Financial Statements and the SFA

A REPORT ON MATTERS RELATING TO THE UEFA 2011/2012 LICENCE GRANT ISSUES

24 November 2019

FANS WITHOUT SCARVES

Dear Sirs,

I write to you on behalf of the Scottish football fans organisation Fans Without Scarves. We have a particular interests in issues of financial risk and football governance issues.

We are a group formed of people of professional standing who share a common belief that the SFA as it is currently constituted requires fundamental reformation in order to be fit for the purposes it is intended to serve. Our clubs are in financial turmoil, the game suffers from the effects of poor governance at club and national levels and the potential to deliver social and economic benefits from the game is not being realised as a result. We campaign for greater representation for supporters' interests. We believe strongly in the European Parliament Report on the Dimension of Sport (the 'Fisas Report') views that transparency and democratic accountability at our clubs can be improved by the involvement of our supporters in the ownership and governance structures of their clubs and that our Government and football governing bodies should actively stimulate the social and democratic role of sport fans who support the principles of fair play, by promoting their involvement in the ownership and governance structures at both our clubs and as important stakeholders in the football governing bodies.

The following contents have been prepared by one of our founder members. He has been a qualified accountant for around 18 years and has worked for such firms as PKF and BDO (Celtic's previous and current auditors) and Grant Thornton (the auditors of Rangers Oldco). As well as his professional accountancy qualification he holds a Bachelor of Accountancy (with Honours) degree and a Diploma in International Financial Reporting and has written several published articles on accounting. He also holds relevant qualifications relating to Legal Studies and to Data Protection. He has worked in Data Protection. He has worked with numerous entities within sporting finance and has particular experience of the use of offshore trusts, having worked both as an employee of and a professional services provider to various Channel Island based regulated trust and company services providers. He has participated in discussion groups with regulators about legal and regulatory reform and represented his firms on Technical committees.

We were asked by a Celtic PLC shareholder to provide an experienced opinion on matters relating to matters due for discussion at their upcoming AGM. What follows is the question as put and our response with reasons, drawing strongly on matters relating to failures of governance relating to the oversight of the SFA on which we have strong concerns as to their capabilities to provide effective oversight of our game.

Question:

In respect of the granting of a UEFA licence to Rangers FC for the season 2011/2012, do you think the description of the liability as potential subject to discussions was an accurate presentation of the facts as known at 31st March, a period that according to TRFC is not under JPDT scrutiny?

Basis of Response:

In co-ordinating a response to the above, the following matters were taken into consideration:

- That during the relevant timeframe, The Rangers Football Club PLC ("TRFC"), were preparing financial statements under UK GAAP. It would not be for some years later that 'New UK GAAP' would come into play, therefore there is an assumption that there is no change in the accounting basis for the period under review, despite no financial statements covering the period actually being filed with Companies House;
- That certain factors relating to the time period were taken as correct as presented to us from a variety of sources. A large number were from information on the Resolution 12 website, the accuracy of which we cannot vouch for. Where possible reference has been made to the provenance of the items considered, but given a short time frame (2 days) in which to work, this is not as comprehensive as would be preferred in its cross-referencing and no responsibility can be taken for inaccuracy of the source material which has not been verified by us;
- That the question asked for an opinion on the accuracy (or fairness in accounting parlance) of the presentation but that the descriptions were used both in the financial statements and the supporting licence application and therefore so should the response; and
- That specific comment on the time frame of the JPDT scrutiny was requested and should be responded upon but briefly; and
- That it is simply our opinion on the matter that is being sought, without charge, in a non-professional capacity but with experienced consideration applied and therefore the contents of this should not be construed or taken as professional advice or relied upon by anyone as such including the person it is addressed to, but may be shared for information and discussion purposes only. It specifically does not represent in any way shape or form a review or assurance engagement under the umbrella of the assurance framework.

Key Findings:

1. The evidence viewed contradicts description of the liability as 'potential' as at 31 March 2011.
2. There appears to be evidence that the auditors had been misled produced in evidence at the First Tier Tax trial and consistent with reaching a conclusion which does not appear consistent with the evidence provided.
3. The financial statements produced and used for UEFA licencing appear to contain misstatements that may have mislead both the auditors and the SFA and are the responsibility of the old Board to present in a true and fair manner in contravention of FFP Annex VII.
4. Evidence viewed shows that the Board did know that there ought to have been a contingent liability in the financial statements prior to March 2011 and that by this time it ought to have been provided for with liability being accepted.
5. These misstatements appear to have facilitated the granting of a licence and conclusion reached at the time by the auditors and SFA that there was no overdue payable as at 31 December 2010, these persuasively if not conclusively determine that amounts were overdue at that date.
6. The misstated presentation did have the effect – whether intended or not - of making the onus of proof on the licence applicant considerably easier to achieve relating to whether the payables in respect of unpaid PAYE/NIC though omission in the full accounts to 30 June 2010 and only partial compliance with the accounting requirements in the interim accounts to 31 December 2010 but could only have been achieved by omitting necessary documentary evidence (not just accounting disclosure which was not full either) required by Article 50(8).
7. The evidence viewed suggests that omission of the agreed nature of the principal liability as at 31 March 2011 allowed this item to be explained as still under dispute (but probable it would result in payment by the club) when it was no longer under dispute and awaiting agreement of payment terms and therefore a 'payable'. The work done on this payable (whether overdue or not) by either the auditors or the SFA appears to have reached an outcome which appears inconsistent with the evidence viewed as to its status as claimed and in either case, the SFA is responsible for this stage of the process.
8. Regardless of treatment in the application, 'fair presentation' is an FFP requirement and would have brought further scrutiny to this item by the auditors and SFA which was avoided as a consequence.
9. The initial licence grant would seem to be of considerable importance to the overall consideration being given by the SFA at this time. Particularly so the accuracy of information provided to the SFA and auditors and fairness of the financial statements at that time. It is unclear the rationale for leaving that period out, but it may suit preferred outcomes to do so.

Further Notes:

Consequences or punishment are not considered relevant to this exercise and in no shape or form were given any consideration. We do note that certain people that may have an interest in these

matters may consider ability to punish Rangers to be important. For those that may misinterpret the conclusions within this, failure to notify at the June or September dates would not have led to Rangers being ejected from European competition. That holds no relevance to matters considered within.

Regardless of how the issue of becoming overdue would have been settled had the information submitted been a fair presentation, no other club can bring a case against Rangers (other than possibly against the liquidators pot) though there may be some case possible against other parties involved in the process (the SFA or auditors for example) based on complicity or negligence in the process should it be proven there was any wrong doing.

Furthermore, it is our considered opinion that Rangers Newco cannot be punished in any shape or form for any transgressions (real or imagined) relating to the Oldco in respect of this license application by the SFA. The agreements signed with the SFA and league bodies would seem to prevent it. Neither should they. An agreement was reached on entry to league competition and conference of the SFA Membership that capped the liabilities of the Newco and their new ownership and the new Board were entitled to seek to cap their liabilities for matters on which they bore no responsibility. The SFA and the league bodies did not have to agree to such terms but did. Additionally it was the Rangers supporters, particularly the debenture holders, who were possibly hurt most by the governance failures that allowed a takeover and reckless gamble on European success to turn around finances and the series of unsavoury characters in the game since. Under what appear to be the terms of the Five Way Agreement, the SFA only appear able to raise actions against 'CW Enduring Events' which would preclude most of the content within since the Whyte takeover occurred after the licence grant.

In short anyone with interest on this about 'punishing Rangers' will be left disappointed. It is however notable (see Appendix 7 & 8) that the SFA could be jointly or severally liable for failures of due diligence and failures to apply the FFP requirements properly. The main body of this report does not consider these further. Appendix 8 also includes some information relating to 'going concern' principles and reporting not considered further on grounds of scope but potentially relevant to the licence grant.

Any value going forward for any conclusions within can, in our opinion, only take the form of evaluation of mistakes that were made, how they were able to be made, where responsibility lies and what can be done to ensure that mistakes of the past are not repeated. This should take the form of scrutiny of those persons and organisations that may have transgressed in their handling of matters and better standards of governance and control environments going forward.

Expansion of Key Issues Considered:

A **Submission of misleading financial statements**

1	Under Article 47 the onus is on the Licence applicant to submit Annual financial statements that must be audited by an independent auditor which: "...[M]ust meet the minimum disclosure requirements as set out in Annex VI and the accounting principles as set out in Annex VII. Comparative figures in respect of the prior statutory closing date must be provided. " It may (and in this case does) need to also submit interim financial statements and these must: "follow the same accounting policies as those followed for the preparation of the annual financial statements, except for accounting policy changes made after the date of the most recent full annual financial statements that are to be reflected in the next annual financial statements – in which case details must be disclosed in the interim financial statements."	*[App. 3 & FFP Art. 47 and 48]*
2	In respect of this, the financial statements appear to contain potential misstatements that would result in difficulty in achieving this. There are two sets of financial statements that are relevant to the Licence Application. The full year financial statements to 30 June 2010 and the interim financial statements to 31 December 2010. The full accounts must be audited by an independent auditor. If the full accounts end more than 6 months before the deadline for submission for a License (since the date is 31 March 2011 in this case, the relevant cut off would be 30 September 2010) then an interim period of accounts is also required. As a PLC, Rangers would have needed to prepare these anyway for the six months to 31 December 2010 and so these were used. The interim accounts must be reviewed OR audited by an independent auditor. Typically a full audit is not done on these but instead an ISRE 2410 engagement.	*[App. 3 & FFP Art. 47, Art. 48 and Annex V]*
3	In the case of the audited financial statements for the year ended 30 June 2010, it is notable that while the payments by the Club into the Trust are disclosed (as indeed they had been in the preceding years) there continues to be no disclosure relating to the related liabilities relating to PAYE and NIC upon the payments (again consistent with the prior periods).	*[App. 1]*

4	At the time of the preparation of the financial statements, TRFC would have been applying what is often termed "Old UK GAAP" - i.e. before UK General Accepted Accounting Practice made a wholesale switch to be broadly comparable to International Financial Reporting Standards. The standard under Old UK GAAP that would have been relevant to the accounting on this is FRS 12, Provisions Contingent Liabilities and Contingent Assets. A more full description of how this ought to have been applied is included in the Appendices including the years affected. In short though as the possibility of a liability was more than 'remote', several years of financial statements prior to the 30 June 2010 set were missing disclosures on contingent liabilities. This was identified also by Saffery Champness in their draft 'Project Charlotte' report in February 2011 as shown in Appendix 6.	*[App. 2 & 6]*
5	By the time of the 30 June 2010 financial statements there is little doubt that there should have been a full provision in the financial statements for the liability even if the amount could not be determined with absolute accuracy. It could with reasonable accuracy. That the full accounts failed to disclose this would have led to a misconception both by the auditors (who also appear to have been misled at this time according to the FFT), the general public and to the footballing authorities. Though it should have been a provision, it is incredible that not even a contingent liability note was included.	*[FRS 12]*
6	By the time the interim accounts to 31 December 2010 were prepared there was a full provision recorded in the accounts for the amount, but the disclosures necessary to comply with the accounting standard were either missing or intentionally misleading given the situation at this time. It would be required by the relevant accounting standard to include disclosures on what it is. It was described as 'potential' at a time when the Aberdeen Asset case had made it all but certain, HMRC had the side letters since 13 July 2009 and additionally on 26 November 2010 Donald McIntyre had already accepted that a liability was due according to the evidence presented in the Craig Whyte trial meaning an outflow of economic benefit (a payment) was certainly probable. To this end it is notable that in reflecting on the treatment in the interim accounts, HMRC in their Testimony to Points of Claim of 21st March 2012 both noted that HMRC's position on tax was agreed with Mr McGill of Rangers on 21 March 2011 and state: "Around this time, Murray Group and RFC were trying to improve relations with HMRC generally in terms of their HMRC risk status and interactions. Mr McGill was keen to impress upon me that they wished to be seen to be complying with their obligations and trying to bring their HMRC status towards low risk rather than, as was indicated to them by HMRC, high risk. The acceptance of the liability on the DOS position was in this spirit".	*[App. 1 & 2]*

7	Additionally disclosures are required (but were missing) on the expected timing of payment, what the uncertainties are and the main assumptions made. If being generous to the auditors it could be argued that they had been misled that things were in a much earlier state regarding the issue if they were not made aware that HMRC had asked for a response by 31 December 2010. Describing the liability as potential is entirely inconsistent with the statement made by HMRC that it was agreed on 21 March 2011 and Mr McGill's testimony in the Craig Whyte trial where he appears to put 'crystallisation' even earlier at 17 March 2011.	*[App. 1 & 2]*
8	Though the first offer to settle by HMRC was made on 26 November 2010, it had not been immediately accepted. The issue of grossing up then arose during January 2011 and at a meeting held on the 10th February at which HMRC presented the side-letters to RFC. Following this, that a liability existed was verbally accepted by phone by Mr McGill on the 18th February and HMRC's testimony indicates "By this he meant that he accepted that there was a liability to HMRC" and that Mr McGill was going back to the Board for authority to agree the amount as well. The revised computations were provided in a letter of 23 February 2011. Agreement on the figure was reached in March 2011 – whether it was 17th or 21st is of little consequence. Both dates were before the interim accounts were released and related to a liability originating before the period ends of both the June and December sets of accounts. It would be clear that the June 2010 financial statements omitted a clear provision ahead of the filing of the December interims. It would seem as well as recording it as 'potential' in the interim accounts when it had been agreed and omitting the necessary disclosures, this information must not have made available to the auditors or their position is hard to fathom.	*[App. 1]*
9	It would be 1 April 2011 before the Interim accounts to 31 December 2010 were released by which point the QC advice had been given and the liability accepted, though payment terms remained to be addressed and therefore the interest continued to accrue and penalties had yet to be resolved.	*[App. 1]*
10	The confusion relating to what this 'provision' represented may in part be explained by the breadth of what a provision can represent. A 'provision' is by definition a 'liability of uncertain timing or amount'. As noted in the Appendix, to record a provision it only needs to be 'probable' that an outflow will happen as a result of transactions of the past (the non-payment of PAYE and NIC). It does not need to have 'crystallised' into an accepted liability. By the accounting date of June 2010 when the last full years accounts had been prepared it had already certainly gone beyond this point. By the end of December it was a recognised liability, but one that the terms of repayment still had not been resolved and certainly not 'potential'.	*[FRS 12]*

11	By 1 April when the interim accounts were released, there ought to have been enough information made available to the auditors to understand that there was a crystallised liability originating before the period end, of which the timing of payment was uncertain. While the principal had been agreed, the only uncertainty on amount related to the total quantum for settlement when including penalties which are often depended on goodwill in resolving the tax position – that is separate items to the core defaulted tax. For the Auditors to have signed off on interims calling this potential would suggest they had been misled as to the agreed nature and that this may have also affected the representations made to the SFA.	*[App. 1]*
12	The result of this would appear to be that a misleading position appears to have been given to the auditors by the directors - this itself could be considered a breach of the Companies Act [CA 2006 s418(3) defines the relevant information required to be provided to a company's auditor]. More directly however, it causes a problem for compliance with Article 47(4) and Annex VII (3)(a) of the FFP requirements. These articles require the financial statements to give a fair presentation. The situation would suggest that the submitted financial statements did not.	*[App. 3 & FFP Art. 47 and Annex VII]*
13	There is as it happens some case precedent (see Giannina case in the appendix) in relation to this and co-incidentally it also involved certain non-disclosed 'private agreements' with players. While the circumstances are considerably different in a number of ways in that case it is clear that UEFA considered the 'fairness' of presentation to be a serious consideration and that regardless of whether full settlement was made, if the financial statements did not contain full information on the amounts required to achieve this, the disclosure was not considered fair. In the case of Rangers historic financial statements, the payments into the Trust were routinely included in the financial statements but the necessary tax element accruing had not been. While it could be considered appropriate to not include this during periods on which the threshold criteria explained in Appendix 2 are not met, certainly in the later years it would have been appropriate to bring first the disclosures (contingent liability) and latterly the transaction (provision for the liability) meaning that the accounts - particularly in the later periods give a misleading view. It would not be for us to determine the materiality of any such misstatement **but the gravity of misstatement certainly appears to escalate in the later years.** In relation to comparability with the Aberdeen Asset Management case, further information can be found within Appendix 9 but it should be noted that concepts of materiality and timing are relevant as to what would have been disclosed and when.	*[App. 1, 2, 4 & 9]*

B	**Proving there is no overdue payables towards employees and social/tax authorities as at 31 December 2010**	***Ref.***
1	Under Article 50 the onus is on the Licence applicant to: "prove that as at 31 March preceding the licence season it has no overdue payables (as defined in Annex VIII) towards its employees or social and tax authorities as a result of contractual and legal obligations towards its employees that arose prior to the previous 31 December"	*[App. 3 & FFP Art. 50]*
2	As described in Part A, there are inherent problems already with this given the financial statements themselves are misleading and it appears that the auditors have been misled - a topic which was raised in the First Tier Tax Tribunal dissenting opinion which described the auditors as appearing to have been treated with the same lack of candour as HMRC. As also described in Part A and in Appendix 1, it would appear that ahead of June 2010 it was highly probable that a tax liability was due causing an outflow of economic benefit. By end of December 2010 it would appear that this liability was agreed in principle and only the penalties and payment scheduling (with interest dependent upon the latter) still had to be determined.	*[App. 1]*
3	In order for the Licence applicant to prove that it has no overdue payables, Article 50 provides that the licence applicant must submit to the auditor and/or the licensor the "necessary **documentary evidence** showing the amount payable (if any), as at 31 December of the year preceding the licence season as well as **any payable** as at 31 March (rolled forward from 31 December), to the competent social/tax authorities as a result of contractual and legal obligations towards its employees". It follows to this that given the December accounts presented the DOS liability within these figures that some information on the computation of this part of the outstanding balance must have been provided to either the auditor or the SFA for this purpose for licensing. Should no information have been provided on this despite it appearing prominently in the accounts, the SFA/auditors would seem to be negligent in not requesting the missing evidence. It is possible that this was explained away as not being a 'payable' but again the SFA/auditors ought to check the evidence this is correct. Despite this though the SFA (as shown in Mr Regan's later aborted press release and Mr Broadfoot reportedly briefing press that such a dispute was evidenced) appeared to believe that the amount was potential and still under dispute, despite the evidence now available that suggests there was no such dispute and it was agreed at both sides. It certainly appears that the SFA believed this to be the case, but it could be a continuation of the misleading of the auditors discussed in Part A. By 31 March the DOS liability clearly met the definition in FFP Art.50(2) of a payable. Providing documentary evidence as at March does not depend on it being overdue (it says 'any payable') and documentary evidence goes	*[App. 3, 9 & FFP Art. 50]*

beyond disclosure in the accounts (that is reporting/disclosure not evidence). Had the evidence discussed in Part A regarding agreement on the principal amount been part of this and the detailed calculation of the figures, along with clarity that there was no written agreement in place to extend payment; at the very least this should have raised a significant conversation with the SFA and detailed documented considerations on the matter being recorded. Given the duty of confidentiality in the UEFA licensing process it cannot be externally determined whether this happened. However, given the financial statements were approved with a misleading description, omitted disclosures and no correction to the June figures; it would raise even more questions about intent to mislead if this had happened and those accounts were accepted regardless. For this reason alone questions must be asked of why the SFA according to reports dropped the grant period from the complaint raised regarding the UEFA license application.

4 On the basis of the above we turn to the necessary procedures on payables. Annex IX to the FFP regulations describes the requirements upon the Licensor (in this case the SFA). It must under [B(1)(b)] "Assess the information (annual and interim financial statements that may also include supplementary information) submitted to form a basis for his licensing decision". This would include the overdue, but now made disclosures in relation to the DOS liability in the interim accounts on which they ought to have full documentary disclosure of evidence. The SFA have a responsibility to assess the adequacy of the submission. The SFA appear to have been satisfied that the information submitted was fine but the grounds of this never made clear. To be clear, this is the SFA's responsibility and cannot be delegated to the auditor – the SFA's consideration of the audit report is separate. Despite the SFA grounds for considering it acceptable coming close to being announced in December 2011, only to be called "crazy" by Craig Whyte and noted that it would "only cause issues for themselves as much as Rangers" by Ramsey Smith (PR at Rangers); it would never be directly made public and in fairness could not without RFC permission given the requirement of confidentiality in the process.

[App. 3 & FFP Annex IX]

5	Being satisfied with the submission, specifically with regards to the issue of overdue payables, the Licensor (SFA) has a choice to make: "In respect of the overdue payables towards employees and social/tax authorities, **the licensor may decide**: a) to assess himself the information submitted by the licence applicant, in which case he must perform the assessment according to paragraph 2 below; or b) to have independent auditors carry out the assessment procedures, in which case he **must review the auditor's report and, in particular, verify that the sample selected by the auditor is satisfactory, and he may carry out any additional assessment he believes necessary**, i.e. extend the sample and/or request additional documentary evidence from the licence applicant.	*[App. 3 & FFP Annex IX]*
6	It is not known with certainty whether the Auditors or the SFA provided this work. The SFA has the option to conduct the work itself. The press release that Stewart Regan wished to put out some time later, but demurred after objections from RFC, would suggest it had been conducted by the Auditors, without noting that the SFA are responsible for both deciding who would do it and considering the submission in whole which had that item flagged as an exceptional item, then determining whether the work done by the auditors was satisfactory and did everything that was necessary. In other words it can pass on the ticking and checking but not the responsibility.	*[App. 1]*

7 Regardless of who performed it, there are additional responsibilities in respect of tax payables: *[App. 3 & FFP Annex IX]*

"**The licensor** must assess the information submitted by the licence applicant, in particular the list of employees and other corresponding supporting documents, as detailed below. If the assessment is carried out by an auditor the same steps may be performed by the auditor:

a) Obtain the list of employees prepared by management.

b) Agree the total payable in the list of employees with the 'Accounts payable to employees' amount in the annual or interim financial statements as at 31 December.

c) Obtain and inspect a randomly selected sample of employee confirmation letters and compare the information to that contained in the list of employees.

d) If, according to the licensor, there is an amount due as at 31 March that refers to payables in respect of contractual and legal obligations towards its employees that arose before the previous 31 December, examine that, by 31 March at the latest:

- **i) an agreement has been reached as per Annex VIII(2 b); or**
- **ii) a dispute has arisen as per Annex VIII(2 c or d).**

e) Examine a selection of bank statements in support of payments.

f) If applicable: examine documents, including agreements with the relevant employee(s) and/or correspondence with the competent body, in support of the representations under d(i) and/or d(ii) above.

8 The data examined in Appendix 1 suggests that there is certainly a matter of concern that this ought to have identified in relation to item (d) by the SFA, whether or not had it been properly described. There was an amount due in respect of legal and contractual obligations (it was clearly set out in the side-letters dated 2000 and 2001) that had 'arose' before the previous 31 December. The SFA sets the scope of this work whether the auditors carry it out or not. An assessment had been raised in September 2007 and been on hold until November 2010. *[App. 1 & 9]*

The word 'arose' however can be interpreted in two ways. The period it originated from or the period in which it became undisputable. In either case it met neither (d)(i) nor (d)(ii) to pass this requirement without deception so the crux of any consideration would seem to be how the SFA interpreted the word 'arose'.

9	In ordinary accounting techniques (which is after all the figures being examined) the key to the period it arose would be when the 'obligating event' a term defined in FRS 12 took place. This is when a past event gave rise to a present obligation. FRS 12 states "For an event to be an obligating event, it is necessary that the entity has no realistic alternative to settling the obligation created by the event". In other words 'the event' is in the years 2000-2003 when PAYE and NIC were not applied to payments to players. This would be clearly be an 'obligating event' before both 30 June and 31 December 2010 and hence why it should have been reflected in both accounts when the clarification did come. The rationale being that later events are just clarifying a condition that pre-existed. Notably this doesn't necessarily make the amount a 'payable' though (because for recognition it just has to be probable it will crystallise). So the threshold point of crystallisation would come when the liability was agreed. Either 17th March or 21st March 2011 at which point it is a 'payable' and is overdue immediately because it should have been deducted at source and for that reason is attracting interest from when it <u>should</u> have been paid. It is perhaps helpful to look at how regular way PAYE deductions would be accounted for to understand this properly. When you know PAYE has been deducted and you are just holding it for onward payment to HMRC you 'accrue' the liability without any demand being sent. You normally have until the 22nd of the month to pay it without incurring interest and penalties as it becomes overdue. In this case the admission being made on agreement of the liability is that the PAYE regime should have been applied but wasn't and therefore there's a backlog of missed payments to clear that's long overdue. Further detail on this can be found in Appendix 9.	*[FRS 12 & App. 1 & 9]*
10	The second interpretation of the date the liability became indisputable would be later. The liability had certainly been accepted in principle in February, with amounts agreed before end-March where the obligation was no longer in dispute or going to be challenged. Negotiations had continued on a payment plan though. HRMC eventually tired of the delays and scheduled it for payment at its ultimate amounts on 20th May 2011. It might be a stretch but an argument can be made that it 'arose' when it became due for payment then. This is contrary to normal accrual accounting however, a requirement of FFP Annex VII (3)(c) and long after it became a 'payable' as the FFP rules define it. It also ignores the previous assessment of September 2007 which was now active again.	*[App. 1]*

11 To look only at the date at which it was scheduled for payment is to ignore the effect of the way things would have been accounted for in an ordinary manner which - according to UK GAAP - is designed to give a true and fair view, the same objective the UEFA FFP seeks to achieve. In a practical sense it is simply arranging new payment terms that are more suitable to this delayed settling of a liability originating a long time ago and now long overdue – the liability is already arisen. While the accounts to June did not contain 'fair presentation' under Annex VII of FFP as discussed in Part A, for the auditors to reach the conclusion they apparently did, it would seem when it comes to this testing under FFP rules (as clearly no agreement was reached with HMRC at end March 2011) that it was resolved through evidence presented that showed there was a dispute arisen as per Annex VIII (2 c or d). Given by March 2011 the liability had been accepted this would suggest omission of the later discussions (e.g. selective provision omitting the agreement and QC advice etc) when providing evidence to the auditors on the true nature, or worse, fabrication of evidence to the contrary. This may or may not have been a continuation of the same process that led to the accounts giving a misleading impression.

Art. 50 (8) contains that "the licence applicant must submit to the auditor and/or the licensor (SFA) the necessary documentation evidence showing the amount payable" and evidence is not accounting disclosure alone. Any auditor can tell you that. It therefore follows that can be seen as compounding an FFP breach on providing evidence on a similar basis to the 'fair presentation' breach mentioned earlier. Additionally though, the club must submit management representations on the completeness and accuracy of its financial statement submission for licensing.

[App. 2]

12 A further matter for consideration on this can be found in Annex VIII on determining whether it is overdue or not: "Payables are considered as overdue if they are not paid according to the agreed terms." This in itself leads to something of a quandary. The ultimate findings on DOS and agreement to the liability would indicate acceptance that the 'agreed terms' ought to have been deduction of PAYE and NIC back in 2000-2003 and that in the absence of any alternate payment plan, it ought to be considered overdue once liability has been accepted as described in paragraph 9. This does appear consistent with how UEFA and CAS interpreted it in the Giannina case set out in Appendix 4 based on when the contractual and legal obligations arose.

An alternative interpretation though is that 'agreed terms' means agreed settlement terms. As noted previously the relevant date for that consideration is that the final terms were issued on May 20 and at the expiry of 30 days any appeal would be out of time, meaning in March it would have become due before UEFA are informed of which clubs to monitor and if May it would become overdue in the monitoring period if SFA not notified of arrival of 20th May letter as required by UEFA FFP and not as at 31 December 2010 or the 31 March 2011 submission date if looked at this way. This argument does have some merit. It ignores though that in the absence of settlement terms and with the liability already agreed, the amount is attracting interest simply because it is overdue. It does also depend on HMRC being willing to negotiate rather than make demands that might have forced an earlier insolvency and, had it not been for 'fair presentation' not being achieved, would have received greater scrutiny.

[App. 3, 4 & FFP Art. 50 and Annex VIII]

13 Some further guidance is also available in the same Annex VIII:

"Payables are **not considered as overdue**, within the meaning of these regulations, if the licence applicant/licensee (i.e. debtor club) is able to **prove by 31 March** (in respect of Articles 49 and 50) and by 30 June and 30 September (in respect of Articles 65 and 66) respectively that:

a) it has paid the relevant amount in full; or

b) it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline (note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline); or

c) it has brought a legal claim which has been deemed admissible by the competent authority …; however, if the decision-making bodies (licensor and/or Club Financial Control Panel) consider that such claim has been brought or such proceedings have been opened for the sole purpose of avoiding the applicable deadlines set out in these regulations (i.e. in order to buy time), the relevant amount will still be considered as an overdue payable; or

d) it has contested a claim which has been brought or proceedings which have been opened against it … which have been opened are manifestly unfounded."

[App. 3 & FFP Art. 50 and Annex VIII]

14	Clearly items (a), (c) and (d) here are not of immediate relevance. Item (b) however may give some further guidance as to how the requirements in paragraph 12 above are intended to be read. The onus is on the club to prove it is not overdue. Item (b) gives an exception to considering an item to be overdue (the default position under the first interpretation) if the Licence applicant had concluded an agreement in writing to extend the deadline for payment beyond the applicable deadline – **it is very clear that failure to schedule payments is not an extension**. By default the tax authority can issue a demand for immediate payment. The intent behind this would be to ensure that where agreement is reached (no default on tax due) clubs are not unreasonably held back from participation in UEFA competition, while the monitoring period would enable monitoring of compliance with the terms from those who might seek to subvert the intended application. If the latter of the two interpretations described in Paragraph 10 were to be taken, then it could be deduced that by stringing along scheduling payment of the liabilities in absence of agreed time frames the amounts could not be considered overdue. This would seem to be something of a loophole to the intention in that it permits the non-settling of liabilities and agreement of old unpaid tax to pass the logistics of the test without meeting the intention. It also seems to conflict with the part of (b) reading "Note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline". However direction can be taken from the two cases of tax overdue payables involving Giannna FC and Malaga FC against which UEFA's intent can be read. It seems clear the intention was that if no agreement on payment is present then it is due for payment.	*[App. 3 & FFP Art. 50 and Annex VIII]*
15	It should be noted that the onus on the club 'proving' it was not overdue was clear in the Gyori case (Appendix 7). It would seem that 'proving' there was no overdue payable using the latter approach also depends on misstating the financial statements to make sure there was no suggestion that it was an agreed liability, misleading the auditors on the same and of course the onus is then on the Licence applicant to prove it is not the case, then apply this interpretation without subjecting it to the appropriate level of scrutiny as to whether it is correct. If this proof was achieved by misleading auditors/SFA and misstating the financial statements to avoid more detailed scrutiny it would seem that any licence was granted on the basis of other grounds that also broke the FFP requirements. **For these reasons it would seem strange that the SFA would later drop the initial licence grant from their scrutiny under the judicial process as reported on merit, though there may be other reasons for this (see part C).**	*[App. 7 & 3 & FFP Art 47]*
16	In the event there is any doubt as a contentious interpretation would seem destined to cause if treated objectively, there is provision within the Champions League Regulations 2.09 for expedited addressing of the issue, but that would depend upon full and frank disclosure and abiding by the decision (Appendix 5). It would therefore appear	*[App. 5]*

that by misstatement and stringing along HMRC on settlement informed resolution of this issue was avoided in even the kindest of interpretations.

C	**The time frame of the JPDT scrutiny**	***Ref.***
1	It was not until the Craig Whyte trial revelations that any complaint was raised in relation to the actions of any party relating to the licence application. After an 8 and a half month investigation the SFA charged Rangers on two counts of noncompliance of their Articles in respect of the granting of a UEFA Licence in 2011. Rangers are reported as responding that the SFA accepted they complied with UEFA FFP in respect of the granting at end of March 2011, that accusations made against the club were groundless and consequently the charges relating to the granting period were dropped and Rangers would fiercely resist the reconstructed notice of complaint relating to the monitoring period.	
2	It is not clear why the entire granting period was removed from scrutiny - particularly given concerns identified within this report of how accounting matters in the earlier period should be considered relevant to the entire process. This appears to be a matter the Resolution 12 'Requisitioners' are uncertain on also but concerned about. There seems little doubt under the Article 13.3 and Article 67 subsequent event duties, Rangers ought to have notified the SFA of the arrival of the demand of 20 May 2011 and the presence of charges indicates they did not. Strangely given the charges were only launched after the Craig Whyte trial disclosures, the evidence given that the liability was agreed before the 31 March 2011 license cut-off has been ignored.	*[App. 3 & FFP Art 67 and 13.3]*
3	It is noted that jurisdiction of the SFA has been disputed in relation to the alleged offences. It would appear that the SFA's ability to bring charges in relation to this may be restricted by agreements it made in what has come to be known as the Five Way Agreement. It would appear under this agreement the SFA has restricted ability to bring charges against Rangers Newco in respect of actions of the Oldco other than with regards to footballing debts and 'CW enduring Acts', while the license grant pre-dates Whyte's involvement with the club. Without a definitive copy of this agreement or explanation from the SFA this conclusion cannot be confirmed but certainly raises questions of competency if the SFA has restricted its own ability to govern compliance with footballing rules.	
4	In order to advance the charges now it would seem that UEFA or CAS must become involved. An update was promised by Christmas. There is potentially scope for a Compliance Audit to be requested by UEFA as this can be done at any time under Article 71 of the FFP Requirements.	*[App. 3 & FFP Art. 71]*

5 A number of the matters identified in the timeline used suggest that at various points relating to the DOS liability itself, and later the UEFA licence grant, indicate the presence of dishonesty, misleading statements or fraud. This is a matter on which we offer no opinion as a specialist legal opinion would be better suited. We do note though that under Article 10 of the UEFA Disciplinary Regulations, there is no statute of limitations for match fixing, bribery and corruption while if fraud were proven it may come under the latter. *[App. 1]*

6 Within the above however there are a number of matters related to the SFA, particularly relating to the license grant that would suggest either complicity or incompetence. Both are concerning. It is notable that one effect of removing scrutiny of the grant period from charges despite the concerns noted within this report is that the SFA's role in the license period falls out of scrutiny and any consequences in the amended monitoring period only charges would seem to relate to the following years UEFA tournament, a period in which Rangers were ineligible to play in any case. The decision not to look at the grant period must be considered a self-interest for the SFA, who stand to gain from avoiding scrutiny of its own role despite a number of serious concerns over the handling.

Further it is noted that several SFA staff members, including Rod Petrie and Andrew Dickson who were part of the licensing committee and Rangers directors including Alastair Johnston, who would have been responsible for the submission of the licence documentation, are still involved with football with such questions unresolved.

7 The SFA would seem to be aware that if Rangers Oldco are held liable for any/all infractions relating to the monitoring period (relatively minor in comparison) then all the concerns identified in this report relating to the SFA, the auditors and the actions of the former Board of Rangers will never be heard.

For Celtic shareholders the question of recompense if deception occurred is also avoided, even if a decision not to seek it were taken by Celtic after reaching agreement with the SFA to examine not only how to tighten the SFA licensing procedures but avoid a repeat of the conditions that caused not only the need to deceive but the demise of Rangers Football Club in 2012.

8 While it is clear this report was requested by Celtic shareholders - and although it has not been written with any particular teams needs in mind - the possibility of licences being granted where fair presentation of accounts requirements were not met might be something for third place teams to consider viz: Hearts twice, Hibernian, Aberdeen, Motherwell Hearts, Dundee United, Hearts and Motherwell from 2002/2003 to 2011/2012. Not for the purposes of any sort of reparations, but because it is in the interests of all teams that issues of sporting fairness and the principles of sport are upheld and FFP works in the cumulative interest of all clubs. As noted earlier, recriminations ought not to be the goal but for improvements going forward to be recognised and made a full analysis of what appears to have gone wrong and the roles of any persons still involved in football need be considered.

APPENDICES