

## **Changes to the 2021 World Anti-Doping Code impacting delegation of Doping Control activities and the use of ADAMS**

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Dear Colleagues,

As you may know, WADA is currently working, via its [Code Implementation Support Program \(CISP\)](#), to ensure that all Anti-Doping Organizations (ADOs) are well aware of the upcoming changes to the World Anti-Doping Program and are provided with the necessary guidance and resources to prepare accordingly for the advent of the 2021 World Anti-Doping Code (2021 Code). We hope that this work is progressing well for your organization.

The intention of this correspondence is to draw your attention to a number of changes to the 2021 Code and the International Standards that may have a significant impact on the conduct of your anti-doping program. You may already have identified these matters. However, we wish to highlight these changes and offer guidance towards how you might implement them.

The changes that we wish to bring to your attention are as follows:

### **1. Testing Authority, Results Management Authority and Delegation**

Under the 2021 Code, only a Signatory can act as the Testing Authority (TA) or Results Management Authority (RMA).

**Testing Authority:** *The Anti-Doping Organization that authorizes Testing on Athletes it has authority over. It may authorize a Delegated Third Party to conduct Testing pursuant to the authority of and in accordance with the rules of the Anti-Doping Organization. Such authorization shall be documented. The Anti-Doping Organization authorizing Testing remains the Testing Authority and ultimately responsible under the Code to ensure the Delegated Third Party conducting the Testing does so in compliance with the requirements of the International Standard for Testing and Investigations.*

**Results Management Authority:** *The Anti-Doping Organization responsible for conducting Results Management in a given case.*

This is an important change from the previous Code, where ADOs could fully delegate their authority to a third party. For example, many national or continental sports federations were listed in WADA's Anti-Doping Administration & Management System (ADAMS) as the TA. From 1 January 2021, only Code Signatory ADOs may act as a TA.

Under the 2021 Code, ADOs can continue to delegate aspects of Doping Control to third parties. However, the ADO retains the title and responsibility of TA and RMA. This change was made to ensure that Code Signatories remain accountable for all aspects of their anti-doping program.

The introduction in Part One of the 2021 Code outlines the following principles of delegation to a Delegated Third Party (DTP)<sup>1</sup>:

*“As provided in the Code, each Anti-Doping Organization shall be responsible for conducting all aspects of Doping Control. Any aspect of Doping Control or anti-doping Education may be delegated by an Anti-Doping Organization to a Delegated Third Party. However, the delegating Anti-Doping Organization shall require the Delegated Third Party to perform such aspects in compliance with the Code and International Standards, and the Anti-Doping Organization shall remain fully responsible for ensuring that any delegated aspects are performed in compliance with the Code.”*

In practice, this requires that all ADOs who delegate activities to a DTP, such as private service providers, other ADOs, or member federations, ensure that the activities of their delegate are conducted in line with the 2021 Code and all applicable International Standards. Common examples of delegation include:

- Regional Anti-Doping Organizations (RADOs) to whom groups of National Anti-Doping Organizations (NADOs) delegate testing and/or other anti-doping activities;
- Continental federations to whom International Federations (IFs) have delegated testing and/or other anti-doping activities for a specific region;
- National federations to whom IFs have delegated specific functions such as education or Whereabouts submission management;
- Private sample collection agencies to whom various ADOs have delegated sample collection functions; and
- Private organizations like the International Testing Agency (ITA) to whom ADOs have delegated most aspects of their anti-doping program.

For clarity, the delegated parties in these examples (e.g., national and continental federations) can no longer be TAs or RMAs under the 2021 Code.

To assist stakeholders in partnering with a DTP in compliance with the 2021 Code and International Standards, we have summarized the requirements and recommendations in a **Guide for Partnering with Delegated Third Parties** (see Annex A of this document below).

These important changes also impact the use of ADAMS by ADOs, their DTPs, and laboratories subject to the International Standard for Laboratories (ISL), as more fully described below.

## 2. Impact on Use of ADAMS

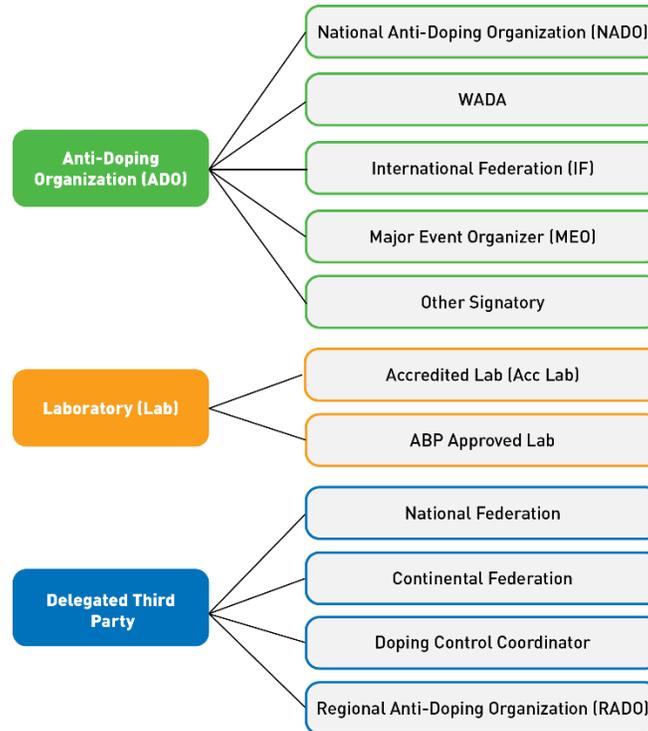
As mentioned, the changes described above will impact the use of ADAMS by ADOs, their delegates, and laboratories. In particular, WADA will be making adjustments to ADO and DTP accounts to ensure the ADAMS account structure reflects the 2021 Code. Changes will also be made to the rules regarding laboratory reporting into ADAMS to ensure that only laboratory results that fall under the World Anti-Doping Program are included.

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<sup>1</sup> Code Definition: **DTP**: Any Person to which an Anti-Doping Organization delegates any aspect of Doping Control or anti-doping Education programs including, but not limited to, third parties or other Anti-Doping Organizations that conduct Sample collection or other Doping Control services or anti-doping Educational programs for the Anti-Doping Organization, or individuals serving as independent contractors who perform Doping Control services for the Anti-Doping Organization (e.g., non-employee Doping Control officers or chaperones). This definition does not include the Court of Arbitration for Sport (CAS).

In addition to aligning ADAMS with the rules of the Code and International Standards, we believe these changes will help bring ADAMS into its next generation by improving data quality and integrity.

The following diagram provides a visual representation of the organizational structure being implemented within ADAMS for 2021:



In practice, this new account structure means that national and continental federations, as well as RADOs, will use DTP accounts rather than ADO-type accounts in ADAMS. Concurrent changes to DTP accounts are being made to ensure stakeholders using these accounts continue to be able to carry out the full range of anti-doping activities delegated to them by an ADO. These are more fully described below. This new account structure will also enable ADOs who work with a variety of partners (including member federations, RADOs, and private agencies) to more easily monitor the totality of their anti-doping program and be accountable for this program, as required by the 2021 Code and International Standards.

### **3. New Access Permissions for Delegated Third Parties**

Currently, DTP accounts in ADAMS (previously known as Service Provider accounts) can only access the following modules: athlete profile management, Whereabouts, test planning, and Therapeutic Use Exemptions (TUEs).

Moving forward, to enable ADOs to more effectively partner with DTPs and to tailor this partnership to their specific circumstances, we are pleased to confirm that DTP accounts will no longer be limited in this way (as of 1 January 2021). ADOs will be able to give DTPs access to all ADAMS modules (including the Athlete Biological Passport (ABP), Results Management, and Whereabouts failures).

Moreover, ADOs will have complete control over the management of these access permissions and accounts in ADAMS.<sup>2</sup> This will facilitate the easier management of DTPs for ADOs and will allow ADOs to monitor the compliance of their DTP partners with the 2021 Code and International Standards, in accordance with the Code requirements for delegation.

For clarity, DTPs will not be able to be designated as Whereabouts Custodian, Passport Custodian, TA or RMA in ADAMS, since these roles are reserved for Signatories under the 2021 Code and International Standards. Instead, delegates can be identified as the Doping Control Coordinator within ADAMS and on Doping Control Forms, which will allow them to perform the delegated roles on behalf of the Signatory.

WADA recognizes that at present, some testing is conducted by non-Signatories which contributes to a robust global anti-doping program. WADA recommends that any ADOs that wish to permit member national or continental federations to continue to conduct testing put in place the necessary delegation authorization in accordance with their rules (and preferably in a separate agreement) and follow the steps described in the **Guide for Partnering with a Delegated Third Party** (included below as Annex A) to allow this testing to continue. Signatories will be responsible for providing their non-Signatory delegates with access to the relevant athlete information in ADAMS for the non-Signatory to carry out its anti-doping work within the scope of its delegated authority.

#### **4. Adjusted Reporting Rules for Laboratories**

Under the 2021 ISL, rules regarding the reporting of test results in ADAMS will be adjusted. Moving forward, only tests where a Signatory ADO is the TA will be reported into ADAMS.

Laboratories that are subject to the ISL are free to continue to accept and analyze samples that are not collected under the testing authority of a Signatory. However, the analysis performed by the laboratory will not be represented as having been conducted under its WADA accreditation (or WADA approval for the ABP). Common examples of test results that will no longer be reported into ADAMS include:

- Samples collected by an ADO on behalf of a non-Signatory organization; and
- Samples collected at events that do not fall under the responsibility of a Signatory.

Since the samples in these scenarios do not have a Signatory as TA, the WADA laboratory can analyze these samples but will need to report the test results back to the relevant organization using an agreed-upon communication channel outside of ADAMS.

This change will benefit laboratories and overall data quality in ADAMS by simplifying reporting rules and by removing the burden on laboratories to assess whether test results associated with a non-Signatory can be uploaded to ADAMS. It will also ensure that only testing conducted under the authority of a Signatory and subject to the World Anti-Doping Program is entered into ADAMS.

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<sup>2</sup> ADO will be able to create and activate contracts with any DTP that has an active ADAMS account directly within ADAMS. The "Schedule A-Request for Third Party Setup" form will no longer be required, and WADA's involvement will no longer be needed for activation of a delegation.

## **5. Anticipated Updates to Agreements Governing the Use of ADAMS**

Although the various agreements governing the use of ADAMS between WADA and its stakeholders (ADOs, service providers and laboratories) were updated in 2019, these will need to be adjusted to reflect the new organizational structure in ADAMS in some instances. For example, a non-Signatory currently using an ADO-type ADAMS account in order to carry out the full scope of activities delegated to it by a Signatory will instead be using a DTP account in 2021. As a result, this non-Signatory may need to sign a new agreement governing its use of ADAMS. This will be the case for RADOs, as well as national or continental federations who were previously permitted to use an ADO-type ADAMS account to carry out their duties (with the permission of the Signatory ADO that wishes for the non-Signatory to continue activities under their authority).

Importantly, Signatories will need to set up the access permissions for each non-Signatory with which they wish to partner directly within ADAMS. Non-Signatories will need this access granted from Signatories in order to continue to use ADAMS and carry out anti-doping activities under the Code and International Standards. WADA will communicate directly with any relevant stakeholders separately in this regard.

## **6. Conclusion**

WADA understands that the changes described in this letter may have significant impact on the activities of a number of Signatory ADOs depending upon the nature of their relationship with service providers, sample collection agencies, and member federations.

Please rest assured that we are available to assist you with your transition to the 2021 World Anti-Doping Program; and, would encourage you to contact your relevant WADA contact with any specific questions you may have.

Thank you for your continued commitment to doping-free sport.

Sincerely,

World Anti-Doping Agency

## **Annex A – Guide for Partnering with a Delegated Third Party**

The following Guide summarizes the requirements under the Code and International Standards that must be met by a Signatory when working with a Delegated Third Party (DTP). We have supplemented these requirements with practical implementation guidance where applicable.

Generally, because the ADO remains the accountable entity under the Code, we recommend that you set out the complete details of a delegation by way of a delegation agreement covering the various obligations described in this Annex.

### **Step 1: Document the delegation to a DTP**

- ✓ The 2021 International Standard for Testing and Investigations (ISTI) requires that an ADO documents its decision to authorize a DTP to conduct testing in accordance with its rules.

*How?*

WADA recommends that ADOs provide for the possibility of delegation of testing to a DTP in their rules and further specify specific delegation arrangements in separate agreements or documents that can be easily updated and adjusted. For clarity, the 2021 Model Rules are aligned with this recommended approach.

*What if ADOs want to delegate other anti-doping activities to a DTP?*

Although not expressly required by the Code and International Standards, WADA recommends that ADOs provide for the possibility of delegating other aspects of Doping Control (e.g. TUE management, education, etc.) in their rules.

*Should you delegate Results Management to a member federation?*

WADA does not recommend that ADOs delegate Results Management to member federations given the importance of independence in this process. If delegation does occur, the delegating ADO should pay particular attention to the requirement to ensure the case is heard by a fair, impartial and operationally independent hearing panel at first instance and that appeals are heard by a fair, impartial and operationally independent and institutionally independent hearing panel.

### **Step 2: Make sure the DTP respects the International Standard for the Protection of Privacy and Personal Information (ISPPPI)**

- ✓ The ISPPPI requires that ADOs assess their DTPs to ensure they have sufficient technical and organizational security measures in place, taking into account the nature of the processing of personal information being delegated to the DTP by the ADO.

*How?*

We recommend that ADOs review WADA's ISPPPI resources on the Agency's Anti-Doping e-Learning Platform (ADeL) for guidance.

### **Step 3: Enter into an agreement with your DTPs**

- ✓ The Code and International Standards require ADOs to subject their DTPs to certain contractual controls:
  - The DTP must agree to comply with the Code and International Standards;

- The DTP must be required to notify any findings of non-compliance it is responsible for to the ADO;
- Subject to applicable law, the DTP must be obliged to require its board members, directors, officers, and employees to be bound by anti-doping rules as persons, in conformity with the Code for direct and intentional misconduct (or by comparable rules and regulations of the ADO);
- The DTP must be subject to appropriate contractual and technical controls to protect the confidentiality, privacy and security of the personal information processed by the DTP under the instructions of ADOs.

*How?*

Because each contract will be unique to the specific relationship between an ADO and a DTP, WADA does not plan to provide a template Delegation Agreement. We recommend that ADOs consult with their legal advisors to create an appropriate agreement. We also recommend that in drafting this agreement, ADOs consider issues such as:

- How they will meet their obligation to demonstrate the compliance of anti-doping activities delegated to a DTP (see Step 5 for guidance);
- The cost of the services to be provided by the DTP;
- The term of the agreement;
- Liability in the event of failures by a DTP (remember that when it comes to the use of ADAMS, ADOs are responsible for failures by their DTPs);
- The specific personal information processing activities that the DTP is authorized to conduct on the instructions of the ADO (including the ADAMS access permissions that the ADO plans to grant to the DTP);
- Whether the DTP must be made subject to additional requirements under data protection laws (for example, the European Union's General Data Protection Regulation contains requirements for processors that go beyond the ISPPPI in this regard);
- Laws that will govern the agreement and any relevant dispute mechanisms.

#### **Step 4: Set up ADAMS access for your DTPs**

Specific instructions will be communicated to ADOs in due course. For now, ADOs should keep in mind that even if they already work with DTPs in ADAMS, they will be asked to reconfigure all DTP contracts in ADAMS in the coming months.

ADOs' DTPs must have an active DTP account in ADAMS. Once that is done, the ADO will be able to select the relevant DTP, choose the ADAMS modules that should be accessible to the DTP (e.g. testing, Whereabouts, etc.) and set the duration of the delegation. ADOs are reminded that they are responsible for only granting the access permissions the DTP needs to carry out its functions. A number of access filters are available in ADAMS to enable ADOs to appropriately manage DTP access.

#### **Step 5: Monitor the compliance of your DTPs**

- ✓ ADOs are fully responsible for ensuring delegated anti-doping activities are performed in compliance with the Code.

*How?*

We recommend that ADOs and their DTPs agree on mechanisms that will allow the ADO to verify the DTP's compliance with the Code and International Standards. These mechanisms could include ad hoc monitoring via ADAMS; periodic reporting requirements; periodic audits; or a combination of measures. At a minimum, we recommend that ADOs require DTPs to provide them with all information necessary to enable them to demonstrate that the delegated anti-doping activities were performed in compliance with the Code and International Standards. Please remember that ADOs must be able to respond to Code Compliance Monitoring processes, regardless of any delegation. We recommend that these compliance monitoring mechanisms be documented in the ADO's agreement with its DTPs (see Step 2).

### **Step 6: Make the most of your partnership**

To enhance partnerships with DTPs and facilitate the interaction of other anti-doping stakeholders with these partners, we recommend that Signatories:

- Take steps to inform any concerned stakeholders of the delegation. This includes affected athletes, contracted laboratories and WADA; and
- Ensure a DTP tasked with testing responsibilities receives relevant intelligence and information to appropriately target athletes for testing.