

FEI ATYPICAL FINDINGS POLICY

This FEI Atypical Findings Policy (the **Policy**) was approved by the FEI Board on 20 October 2020 and will take effect as of 1 January 2021¹. It is issued in accordance with Articles 7.2 of the FEI Equine Anti-Doping Rules and the Equine Controlled Medication Rules (the **EADCMR**)².

All capitalised terms used in this Policy and not defined herein have the meaning given to such terms in the EADCMRs.

This Policy sets out the process by which the FEI will decide whether or not an Atypical Finding (**ATF**) will be pursued as an Adverse Analytical Finding (**AAF**). Changes to this Policy can only be made with the express approval of the FEI Board. National Federations must be informed of any changes to this Policy before the updated Policy comes into effect.

As per Articles 7.2 of the EADCMRs, ATFs occur when the laboratory provides the results of their testing of a Sample to the FEI and more investigation/review is needed to determine whether or not it should be treated as an AAF.

1. ATF Panel

1.1 Decisions on ATF cases will be taken solely by a panel (the **ATF Panel**) comprised of the following individuals:

- Independent Chair to be appointed by the FEI Board on an annual basis, subject to a maximum term of four (4) years;
- FEI Veterinary Director (or, a member of the FEI Veterinary Department appointed by the Director)
- FEI Legal Director (or a member of the FEI Legal Department appointed by the Director)
- Chair FEI List Group (or a member of the List Group appointed by the Chair).

In the event of an equality of votes, the Independent Chair will have the casting vote.

1.2 Any changes to the membership of the ATF Panel can only be made with the express written permission of the FEI Board.

1.4 Subject to the notification requirements set out in Clause 5 (*Conclusion of Investigation*) below, the deliberations of the ATF Panel shall be confidential.

¹ Subject to the approval of the proposed changes to Articles 7.2 of the FEI Equine Anti-Doping and Controlled Medications Regulations at the FEI General Assembly 2020.

² 3rd edition, effective 1 January 2021. References to Articles 7.2 of the EADCMRs means Article 7.2 of the EAD Rules and Article 7.2 of the ECM Rules.

2. Prohibited Substances to be treated as ATFs

2.1 FEI Headquarters must publish a document identifying the Prohibited Substances that will be treated as ATFs. It is the sole responsibility of the List Group to identify these substances, subject to the approval of the FEI Board. The decision of the FEI Board is final and not subject to appeal. The document is subject to review by the List Group and Prohibited Substances may be added or removed, subject to approval by the FEI Board. National Federations must be informed of any changes to this document before any changes comes into effect.

3. Preliminary Steps

3.1 Initial Review

The FEI shall first conduct a review to determine whether there is any apparent departure from any provision of the EADCMRs that caused the ATF. If that review does not reveal any departure that caused the ATF, the ATF Panel shall conduct the required investigation in accordance with this Policy. The precise nature of the investigation depends on the Prohibited Substance(s) associated with the ATF and the level of cooperation by the PR.

3.2 Notification to PR and his/her National Federation

The FEI will promptly inform the PR and his/her National Federation in writing of the ATF and any relevant information, such as the Event to which the ATF relates, and the PR will have the opportunity to provide any information that he/she believes may assist the ATF Panel in deciding whether or not to pursue the ATF as an AAF further to the criteria set out below. Such information must be provided to the FEI by deadlines set by the FEI in order for it to be taken into account by the ATF Panel.

3.3 Request for Additional Information

Further to a review by the ATF Panel of the information submitted by the PR, the ATF Panel reserves the right to request the PR to provide such additional information/explanations as the ATF deems necessary.

4. Criteria

In deciding whether or not to pursue an ATF as an AAF, the ATF Panel will have regard to the following criteria:

4.1 Source of the Prohibited Substance(s)

It is a precondition of the ATF Panel proceeding to decide whether or not to treat the ATF as an AAF that it is established, to the comfortable satisfaction of the ATF Panel, how the substance(s) giving rise to the ATF entered the body of the Horse. For the avoidance of doubt, where the source of the Prohibited Substance(s) in question has been established, the ATF Panel is not obliged to treat an ATF as an AAF but if the source is not established, the ATF Panel shall treat the ATF as an AAF. The burden of proving how the Prohibited Substance(s) entered the body of the Horse rests with the PR.

The ATF Panel will take a number of factors into account when considering whether or not the source of the ATF has been established including, but not limited to:

- If there were ATFs for the same Prohibited Substance(s) arising from other Samples taken at the relevant Event;
- If there were ATFs for the same Prohibited Substance(s) arising from other Samples taken at previous Events held at the same Venue and/or same region;
- If samples taken from feed/bedding at the relevant Event (if such samples are available) test positive for the Prohibited Substance(s) in question;
- If there were other non-ATF Prohibited Substance(s) in the Sample;
- The concentration level of the particular Prohibited Substance(s) in the Sample.

In addition, the ATF Panel may, in accordance with Articles 7.2.2 of the EADCMR, conduct the B Sample analysis.

Endogenous Substances

If the ATF concerns a Prohibited Substance(s) that is an endogenous substance, the ATF Panel will invite the PR to provide any veterinary information that would assist in establishing if the result is due to a physiological or pathological condition and such information shall be taken into account by the ATF Panel.

Consultation with Experts

When trying to establish the source of the Prohibited Substance(s) in question, the ATF Panel can consult with veterinary, scientific, pharmacological and laboratory experts (at the FEI's own cost) to obtain further information on the Prohibited Substance(s) in order to assess:

- Whether or not the explanations/information (if any) provided by the PR are plausible; and/or
- Whether or not, the presence of the Prohibited Substance(s) in the Sample is likely to be due to contamination.

4.2 What measures the PR has taken to avoid Prohibited Substances entering the body of the Horse

The ATF Panel will have regard to the measures (if any) that the PR has in place to prevent Prohibited Substances entering the body of his/her Horse(s). The following factors will be taken into consideration:

- Whether or not the PR keeps a medication logbook;
- Whether or not the PR keeps a record of the feed/feed supplements given to his/her Horses and whether samples of such feed/feed supplements are stored for potential future analysis;
- The security measures put in place by the PR at his/her stables and when travelling to/attending Events;
- Other measures taken by the PR to prevent Prohibited Substances inadvertently entering the body of his/her Horses.

4.3 Other Factors

The ATF Panel may also have regard to other factors, which the ATF Panel, in its sole discretion, deems necessary/relevant including, but not limited to:

- The security measures in place at the relevant FEI Event;
- The report(s) of the Testing Veterinarians and FEI Officials at the relevant Event;
- The prevalence of the use of the Prohibited Substance(s) in the relevant discipline;
- Whether or not the PR has had previous violations of the EADCMRs on the basis that previous violations where the PR has been found to have No Fault or Negligence will not be taken into consideration.

5. Conclusion of the Investigation

- 5.1 Following the ATF Panel's investigation of the ATF in accordance with the criteria above, the ATF shall decide whether or not to pursue the ATF as an AAF.
- 5.2 The decision of the ATF Panel to pursue or not pursue an ATF as an AAF is final and is not subject to appeal. If the FEI pursues the case as an AAF, the matter will be referred to the FEI Tribunal for decision.
- 5.3 The FEI will inform the PR and his/her National Federation in writing of the ATF Panel's decision and a short summary of the basis for that decision.
- 5.4 If the ATF Panel decides not to pursue the ATF as an AAF, no further action is necessary and no case will be opened against the PR.
- 5.5 If the ATF Panel does decide to bring the ATF forward as an AAF, the procedure shall follow the provisions of Clause 7.1.4 of the EADCMR (regarding notification).
- 5.6 The FEI may rely on any information submitted or obtained when investigating the ATF in the subsequent AAF case.

6. Publication of ATFs

- 6.1 At the end of each year, the FEI will publish a report setting out the following information, on an anonymised basis:
 - How many ATF cases were reported to the FEI that year;
 - How many ATF cases were pursued as AAFs and the Prohibited Substances in question;
 - How many ATF cases were not pursued as AAFs and the Prohibited Substances in question;
 - How many ATF cases are still under investigation.

7. Public Comment

- 7.1 Unless there are compelling reasons, neither the ATF Panel nor the FEI nor the PR (or his/her National Federation or representatives) may make any public comment on the specific details of an ATF while the investigation is ongoing.
- 7.2 If an ATF is not pursued as an AAF, the FEI may only confirm this to third parties, such as the media, provided it has received the prior consent of the PR.

Prohibited Substances that will be treated as Atypical Findings as of 1 January 2021

- Any substance identified as a “Specified Substance” on the FEI Equine Prohibited Substance List;
- Endogenous substances;
- Ractopamine
- Zilpaterol