

GENERAL POLICY FOR
ROYALTIES RECEIVED AND ANY OTHER
RETURN ON THEIR INVESTMENT

(2019)

English Version Only
For Information Only

Spanish Law 2/2019 of 1 March that amends the Spanish Revised Intellectual Property Law Text (hereinafter, the TRLPI), entails considerable changes. The changes include new transparency obligations for collective management organisations (CMOs) to their members.

In this regard, Article 160 of the TRLPI, with the heading “General Meeting”, highlights that, as part of its role, this body is to agree the general policy for royalties received and any other return on their investment.

Pursuant to section e) of the aforementioned Article, such policy should always observe the principles and recommendations set forth in the codes of conduct governed by the 5th additional provision of the Spanish Revised Securities Market Law Text and its regulations, passed by Spanish Royal Legislative Decree 4/2015 of 23 October.

As general principle, royalties received by the CMO are a significant source of operating revenue for the producers of the phonograms and music videos they own.

The CMO, under Article 175.4 of the TRLPI, will only be allowed to use the royalties received or the return on their investment to pay the holders of the rights unless they are used to withhold or offset the management fees and the amounts allocated to fund the activities and services foreseen in Article 178 of the TRLPI and pursuant to the General Assembly Meeting’s resolutions.

Consequently, such royalties, upon their collection, should remain in the CMO’s accounts for the shortest time possible before being distributed to their holders. The time will rather depend on the procedure used to identify the holders of the protected benefits whose royalties have been received and the level of complexity of such procedure. As a result, the return on the investment of such royalties will also be negligible.

Nevertheless, despite aiming to pay the royalties as soon as possible to their holders, the CMO may at times have a cash surplus that may be used to earn a return in compliance with the principles and restrictions described below.

¹ 5th Additional Provision. Restrictions on temporary financial investments by nonprofit organisations.

1. The Spanish National Securities Market Commission (CNMV), the Bank of Spain and the Spanish Ministry of Economy, each within their own jurisdiction, will approve codes of conduct that include the specific rules applied to temporary financial investments made by nonprofit foundations, organisations, institutions and associations, chartered institutes, job promotion funds, mutual insurance companies, friendly societies, friendly societies attached to Social Security and, where appropriate, all other entities eligible for reduced tax rates on Corporate Tax that do not have a special investment diversification system aimed at optimising the return on the amounts available to allocate them for a return under their operating rules.

2. The governing, administration and management bodies of entities mentioned in the section above must file a yearly report on the level of compliance with such codes of conduct to inform the Supervisory Authority of Foundations or its stakeholders, partners or members.

Last 5 March 2019, the Spanish Official Gazette published the Agreement of 20 February of 2019 of the Council of the National Securities Market Commission passing, under the 5th additional provision of the Spanish Revised Securities Market Law Text, passed by Spanish Royal Legislative Decree 4/2015 of 23 October, the code of conduct regarding investments made by nonprofit organisations. Its contents were approved by AGEDI's General Assembly Meeting, held on 12 June 2019, as the summary of AGEDI's general investment policy.

Contents of the Code of Conduct:

Resources and organisation.

- 1.1 The CMO will count with human/material resources and methods to select and manage its investments in financial instruments that are suitable for and proportionate to the volume and nature of the investments made or intended.
- 1.2 In particular, the CMO will make sure that the people in the organisation deciding the investments have the necessary technical knowledge and expertise or rely on satisfactory professional advice.
- 1.3 It is generally advisable to seek external advice that should offer satisfactory guarantees of professional competence and independence and does not pose any conflicts of interest.
- 1.4 Should the volume of the financial instruments portfolio be considerable, the Financial Commission will take on the role of an Investment Committee that will be made up of a minimum three members, two of these should at least have the necessary technical knowledge and expertise. This Committee should meet up on a regular basis, at least four times a year.

For the purposes of this document, a considerable volume of investment portfolio will be volumes of 10 million euros in excess.

- 1.5 When the investment portfolio has a considerable volume, the CMO should have an internal control function to check compliance with its investment policy and ensure that there is always an appropriate system for the registration and documentation of the investment operations and custody.

Such function should have sufficient authority and independence and be carried out by employees with the necessary expertise or be delegated to expert organizations.

Investment policy and investments.

- 1.6 The CMO will define an investment policy that meets its foundational purpose and specifies the targets and risks of its investments, showing the type of assets, the risk concentration, the term of the investments, the geographic or other types of diversification (environmental, social, etc.) that is considered relevant. It should also include the rules set forth in Article 175 of the TRLPI.
- 1.7 In order to select the investments in financial instruments, the CMO will assess the safety, liquidity and return offered by the different investments available always seeking the necessary balance between these three goals and considering the market situation at the time of the investment.
- 1.8 The CMO will consider the following principles applied to the investment in financial instruments:
 - 1.8.1 Consistency Principle. The investment strategy should be consistent with the profile and term of the liabilities and the cash forecast.
 - 1.8.2 Principle of Liquidity. As a general rule, the CMO should invest in reasonably liquid financial instruments.

In this regard, the investment in securities traded on regulated markets or multilateral trading systems and the investment in Undertakings for the Collective Investment of Transferable Securities (UCITS) with daily redemptions and harmonised throughout Europe or equivalent instruments are considered as particularly appropriate.

When investing, the depth of market for the relevant securities and instruments must be taken into account considering their usual trading.
 - 1.8.3 Principle of Diversification. The CMO will diversify the risks of its investments, selecting a portfolio made up of multiple non-correlated assets from different issuers and with different characteristics in terms of risk.

From this point of view, it is also particularly advisable to have a policy for the investment in harmonised undertakings for the collective investment of transferable securities or other similar ones, given the principle of diversification these are subject to.
 - 1.8.4 Principle of Preservation of Capital. The investment policy should always pay special attention to the preservation of capital.

It is generally inadvisable for the CMO to carry out leveraged transactions or operations that only aim to make short-term gains.

If these were carried out, the following operations must be especially justified, including without limitation:

- Intraday trading.
- Trading on the derivatives markets for purposes other than hedging risks.
- Short-term sales for purposes other than hedging risks.
- Contracts for difference (CFDs).

Compliance with the Code of Conduct.

- 2.1 The Board is to prepare a detailed and clear report every year on the level of compliance with the principles and recommendations set forth in this Code of Conduct. The Committee will submit the report to the competent authorities, where applicable, and will make it available to its members and the general public.
- 2.2 The report will be published on the CMO's website.
- 2.3 The report should specify which operations, if any, deviated from the recommendations of this Code of Conduct and explain the reasons thereof.

Enforcement of this Code of Conduct.

- 3.1 The first yearly report to be prepared upon the approval of this Code of Conduct, must include an exact transcription of the agreements reached by the organisation's governing bodies in order to publish them and adopt, if necessary, the measures required to follow its principles and recommendations.