NUOVOIMAIE
i diritti degli artisti

MANAGEMENT OF REMUNERATION AFFECTED BY ANOMALIES – DISCIPLINARY PROCEEDINGS

ARTICLE 1) SUBJECT MATTER

1.1 Nuovo IMAIE intends to adopt a procedure governing cases in which anomalies, as specified in Article 2.1 below, emerge during the distribution of proceeds.

1.2 Nuovo IMAIE intends to prevent remuneration from being allocated to performers where there are circumstances that render the allocation of such remuneration doubtful and/or uncertain and/or suspicious.

1.3 Nuovo IMAIE acknowledges that the allocation to performers of remuneration exceeding the amounts due to them would inevitably result in a reduction in the remuneration allocated to other performers. Nuovo IMAIE adopts this procedure for the purpose of preventing such risk.

ARTICLE 2) DEFINITION

2.1 For the purposes of this document, "**Anomalies**" shall mean the occurrence, during the distribution of proceeds, of any of the following circumstances.

A) In the music sector

a) the allocation to an artist (or a group of artists) of remuneration significantly higher than the average remuneration historically received by the same artist (or the same group of artists), where this is not justified by known circumstances, such as the widely known public dissemination of tracks that achieved considerable commercial success during the relevant year; b) the submission of artist-related data by the same phonogram producer and/or by persons connected, in any capacity, with the same phonogram producer and/or by a person who also acts as the domiciliary agent of one or all of the artists concerned, where such data contain elements giving rise to doubts as to whether certain data or information are truthful;

c) the submission of conflicting and/or contradictory information concerning phonogram data;

d) reports received from member artists and/or principals indicating that the artistic cast of the phonogram does not correspond to that declared by the phonogram producer;

e) notification that a particularly high number of copies of the media containing the phonograms has been manufactured (DRM), where, for the same relevant year, there is no correspondingly high frequency of public dissemination or adequate commercial justification.

B) In the audiovisual sector

a) the allocation to an artist (or a group of artists) of remuneration significantly higher than the average remuneration historically received by the same artist (or group of artists), where this is not justified by the widely known public dissemination of cinematographic or equivalent works that achieved considerable commercial success during the relevant year;

b) particularly with regard to the dubbing sector, the submission, through the Portal, of dubbingrelated data and information containing contradictory and/or incompatible elements or elements that appear to be untruthful.

ARTICLE 3) PROCEDURE FOR THE SUSPENSION OF PAYMENTS

3.1 Without prejudice to the Internal Audit procedures previously approved by the Board of Directors, which the offices shall comply with, where the General Manager identifies a possible Anomaly during the distribution of proceeds, he/she shall immediately notify the Chairperson thereof, setting out the reasons for the Anomaly.

3.2 Where the Chairperson determines that the anomaly exists, he/she shall temporarily suspend the payments relating to the artists concerned and shall report the matter to the Board of Directors, placing it on the agenda of the first available meeting of the Board of Directors.

3.3 The Board of Directors, having heard the General Manager and the Chairperson:

a) confirms the suspension of payments and instructs the General Manager to carry out all appropriate investigations in accordance with Article 4 below; or, alternatively,

b) where it finds no grounds precluding payment, resolves, by means of a reasoned decision, that such payments shall be made, albeit subject to reservation.

ARTICLE 4) INVESTIGATION PROCEDURE

4.1 Where the Board of Directors has taken the decision referred to in Article 3.3(a) above, the General Manager, in agreement with the Chairperson, shall obtain all information necessary to ascertain the nature of the Anomalies and the reasons therefor, in order to verify the truthfulness and existence of the circumstances that gave rise to the anomalous remuneration.

4.2 The information referred to in Article 4.1 shall be obtained as promptly as possible. In any event, the verification process shall be completed within six months of the meeting of the Board of Directors at which the measure suspending payments was confirmed.

4.3 Upon completion of the verification referred to in Article 4.2, the General Manager shall immediately notify the Chairperson, so that the latter may report to the Board of Directors at its first available meeting and place the matter on the agenda.

4.4 Having considered the General Manager's report and the Chairperson's opinion, the Board of Directors shall adopt the measures deemed most appropriate and, accordingly, shall alternatively:

a) resolve to proceed with payment of all or part of the remuneration, on the basis of any proposal submitted by the General Manager in agreement with the Chairperson;
or, alternatively,

b) determine that the conditions for payment of the remuneration have not been met and refer the matter to the Disciplinary Committee.

ARTICLE 5) TRANSPARENCY

5.1 When the Chairperson orders the temporary suspension referred to in Article 3 above, he/she shall immediately notify:

a) the Supervisory Body;

b) all the artists concerned, explaining to them the terms of the procedure to be followed thereafter and the reasons for the suspension.

5.2 The artists concerned shall be informed of the outcome of the procedure referred to in Article 4.

ARTICLE 6) CONFIRMATION OF THE EXISTENCE OF ANOMALIES UPON COMPLETION OF THE PROCEDURE

6.1 Where the checks carried out pursuant to the procedure described above reveal that a Member has provided the Institute with data and/or information and/or documentation that fail to meet the standards of fairness and truthfulness, the Chairperson shall report the matter to the Compliance Supervisory Body and the Disciplinary Committee.

ARTICLE 7) DISCIPLINARY COMMITTEE

7.1 The Disciplinary Committee shall be specifically appointed by the Board of Directors in relation to each individual matter arising and shall consist of three members: a legal expert, a technical expert appointed upon the recommendation of the General Manager, and an expert in the relevant sector, whether audiovisual or musical.

7.2 Having obtained the documentation from the offices through the General Manager, the Disciplinary Committee shall determine whether the reported circumstances constitute a breach by the Member or Principal of the duties of loyalty and fairness incumbent upon him/her and of the obligation to comply with the Code of Ethics.

7.3 The Committee, which shall ensure that the person concerned is afforded the right to be heard and all rights of defence, shall issue its decision within 30 days of its establishment.

7.4 Upon completion of its investigations, the Committee shall communicate the outcome to the Board of Directors.

ARTICLE 8) DISCIPLINARY SANCTIONS

8.1 Where the Disciplinary Committee finds that the Member or Principal has breached the provisions referred to above, it shall, applying the principle that the sanction must be proportionate and by means of a reasoned decision, propose to the Board of Directors:

a) in cases of a minor infringement, a formal warning only;
b) in the event of an infringement, a financial penalty to be deducted from the proceeds accrued or accruing to the Member or Principal and/or exclusion from eligibility for the mutual assistance activities referred to in Article 7 of Law No. 93/1992;
c) in the most serious cases, expulsion from Nuovo IMAIE in the case of a Member, or termination of the mandate relationship due to a material breach by the Principal in the case of a mandate.

At its first available meeting, the Board of Directors shall examine the Committee's decision and adopt the consequent resolution.

ARTICLE 9) APPEAL TO THE BOARD OF ARBITRATORS

9.1 The resolution of the Board of Directors and the decision of the Disciplinary Committee shall be transmitted without delay to the Member or Principal, together with notice that he/she shall have 30 days within which to lodge an appeal before the Board of Arbitrators by means of a reasoned notice of appeal to be sent to the email address specifically designated for that purpose, and with the further notice that, upon expiry of such period, the decision may no longer be appealed except before the Ordinary Courts.
9.2 The Board of Arbitrators shall rule on any appeal lodged by the Member or Principal, obtaining all documentation relating to the proceedings conducted before the Committee and ensuring that the appellant is afforded the right to be heard and all rights of defence.
9.3 The Board of Arbitrators may obtain any documentation deemed necessary for the purposes of its decision. The decision shall be issued within 30 days of notification of any appeal lodged by the Member or Principal. The decision of the Board of Arbitrators shall be communicated to the Board of Directors, which shall adopt the consequent resolution at its first available meeting. The resolution shall be communicated to the appellant Member or Principal, who shall remain free to bring proceedings before the Ordinary Courts.

ARTICLE 10) PUBLICATION OF THIS PROCEDURE

10.1 The adoption of this procedure shall be reported by the Chairperson to the next Assembly of Delegates.
10.2 This document shall be published on the Institute's website in the institutional section.

ARTICLE 11) TRANSITIONAL PROVISION

11.1 At the meeting of the Board of Directors following the adoption of this procedure, the General Manager shall present any Anomalous circumstances relating to previous distributions in respect of which the circumstances referred to in Article 2 exist, and the Board of Directors shall decide whether to initiate the procedure described above.

ARTICLE 12) CODE OF ETHICS

12.1 The Recipients of these Regulations acknowledge that they are aware of the Code of Ethics and, in particular, of the conduct they are required to adopt pursuant thereto and of the sanctions provided for under Article 17.7 in the event of a breach of the provisions contained therein.