

General principles for the use of non-distributable funds

Pursuant to Section 14 (2) clause 3 VerwGesG 2016 (Collecting Societies Act 2016), the general assembly (Members' General Meeting) shall resolve, amongst others, the *general principles of the use of non-distributable funds*.

These shall be made publicly available on the website, pursuant to Section 44 clause 10 VerwGesG 2016 (Collecting Societies Act 2016).

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Legal regulation

Section 35 VerwGesG 2016 (Collecting Societies Act 2016) provides for the following procedure in relation to non-distributable royalties:

(1) If rights holders cannot be identified or located within the period set out in Section 34 (3) and (4), the amounts to which the rights holders are entitled to, shall be disclosed separately in the accounting of the Collecting society.

(2) Collecting societies shall examine their lists of members and other easily available records and take all other steps necessary to identify and locate these rights holders. For this purpose, they have until no later than three months after the end of the period set out in Section 34 (3) and (4) to provide information on works and other protected properties of the rights holders concerned to the following persons and institutions:

- 1. Their beneficiaries and their members who represent beneficiaries, and*
- 2. All collecting societies, with which they have concluded contracts on the granting of collective rights management.*

(3) The information according to (2) shall include the following, if available:

- 1. The title of the work or other objects under protection,*
- 2. The name of the rights holder,*
- 3. The name of the publisher or producer concerned and*

4. All other relevant information, which could assist in the identification of the rights holder.

(4) If these steps are not successful, the collecting societies shall publish the information under (3) on their websites at the latest one year after the end of the period set out in (2).

(5) If the funds to which the rights holders are entitled are not distributed after three years after the end of the financial year in which the income from the rights was collected, despite all necessary measures having been taken to identify and locate the rights holders, then these funds are considered as not distributable.

A transitional provision (Section 90 (2) VerwGesG 2016 (Collecting Societies Act 2016) provides for income which was earned in the financial year beginning after December 31st, 2016.

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General principles

The legally regulated procedure provides for a period of three months after the end of the periods of distribution (9 months for domestic royalties and 6 months for foreign royalties) and an active duty to provide information to the beneficiaries and to collecting societies connected by virtue of contracts.

Moreover, a period of one year (after the end of the 3-month period) has been determined within which the data must be published on the website. The funds shall be considered as not distributable three years after the end of the financial year, and the general assembly (Members' General Meeting) shall decide on the use of the funds.

For this decision, the following options may be considered in principle, according to a resolution of the general assembly (Members' General Meeting) on June 21st, 2016:

- a. return to the distribution budget, or
- b. allocation to the social and cultural institutions (SKE), or
- c. other uses.

The general assembly (Members' General Meeting) shall pass a resolution on the use of non-distributable funds in each financial year, based on a recommendation by the Board of Directors and the Supervisory Board.

Vienna, June 21st, 2016