

Compliance Checklist for CMOs

Provide IPOS an email address at which IPOS may serve documents for the purpose of regulation. **Reg 42**

1. MEMBERS' RIGHTS

Membership Agreement

- Before entering into an exclusive membership agreement, give a member: **Reg 6**
 - the option to enter into a non-exclusive membership agreement instead; and **Reg 6(b)**
 - a written explanation of the consequences of entering into an exclusive membership agreement. **Reg 6(a)**
- Give each member a copy of their membership agreement upon joining the CMO, upon the member's request (within 7 days), and whenever the membership agreement is amended. **Reg 7**
- Ensure that each membership agreement is in writing and at least: **Regs 8 and 9**
 - expressly incorporates the CMO policies (i.e., the membership policy, distribution policy, and dispute resolution policy); **Reg 9(1)**
 - provides that the CMO policies prevail over any inconsistent term in the membership agreement; **Reg 9(2)**
 - provides clarity on the works and performances that the CMO manages on behalf of the member; **Reg 8(1)**
 - specifies the nature of the rights that the CMO exercises over those works and performances; and **Reg 8(2)**
 - provides the conditions and process for terminating membership. **Reg 8(3)**

Membership Policy

- Establish a membership policy which provides at least: **Part 3, Div 3**
 - that it may be amended only by members and not inconsistently with the Regulations; **Reg 11**
 - the membership criteria (and that the CMO must not accept members in any other way); **Reg 12**
 - when members may continue to use their portfolios or authorise the CMO to waive tariff collection; **Reg 13**
 - a right of members to vary or terminate rights granted to the CMO; **Reg 14**
 - a right of members to be informed and request information; and **Reg 15**
 - a procedure for general meetings of members and a right of members to participate in them. **Reg 16**

2. DISTRIBUTION OF TARIFFS

Distribution Policy

- Establish a distribution policy which provides at least: **Part 3, Div 4**
 - that it may be amended only by members and not inconsistently with the Regulations; **Reg 19**
 - the method for calculating tariff distributions; **Regs 20(1) and 21**
 - the deductions to be made before distributions; **Reg 20(2)**
 - the frequency and mode of making distributions; **Reg 22**
 - for safeguarding and dealing with tariffs that cannot be distributed; **Reg 23**
 - a requirement for the CMO to do its best to collect and provide each member with accurate and timely information about the use of their portfolios; and **Regs 24 and 25**
 - a right of members to ask for information about, and dispute, the distributions they receive. **Reg 26**

3. DISPUTE RESOLUTION

Dispute Resolution Policy

- Establish a dispute resolution policy which provides at least: **Part 3, Div 5, Reg 30**
 - that it may be amended only by members and not inconsistently with the Regulations; **Reg 29**
 - the procedure for a member or user to raise a notice of dispute to the CMO; **Reg 30(2)**
 - a requirement for the CMO to investigate, decide on, and otherwise deal with the dispute in good faith and reasonably; **Reg 30(3)**
 - a requirement for the CMO to give its decision on a dispute in writing and, in the case of an adverse decision, with reasons; **Reg 30(4)**
 - the time period for the CMO to give its final decision on the dispute (this period must not be longer than 60 days, including any internal recourse); and **Reg 30(5)-(7)**
 - that the Dispute Resolution Policy does not affect any right of the parties, including the right to refer the dispute to a Copyright Tribunal. **Reg 30(9)**

4. GOVERNANCE

Constitutional Documents

<input type="checkbox"/>	Provide in the CMO's constitution for the members' right to approve appointment of directors and to remove directors. (applicable to companies only)	Reg 33(1)
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<input type="checkbox"/>	Provide in the CMO's constitutional documents the disqualification criteria for key officers.	Reg 33(2)-(3)
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Records and Reports

<input type="checkbox"/>	Keep proper financial records that include:	Reg 34(1)
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<input type="checkbox"/>	the tariffs received;	Reg 34(1)(a)
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<input type="checkbox"/>	the deductions made from those tariffs; ³ and	Reg 34(1)(b)
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<input type="checkbox"/>	the distributions made from those tariffs.	Reg 34(1)(c)
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<input type="checkbox"/>	Keep the financial records for 6 financial years.	Reg 34(2)
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<input type="checkbox"/>	Allow members to inspect, upon request, the CMO's financial records at least once every financial year.	Reg 35
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<input type="checkbox"/>	Make a transparency report for each financial year which provides at least:	Reg 36
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<input type="checkbox"/>	the CMO's financial statements;	Reg 36(2)(a)
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<input type="checkbox"/>	information on the CMO's activities;	Reg 36(2)(b)
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<input type="checkbox"/>	information on the tariffs collected;	Reg 36(2)(c)
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<input type="checkbox"/>	information on the total remuneration paid to the CMO's officers and employees; and	Reg 36(2)(d)
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<input type="checkbox"/>	information on the CMO's partner collecting societies.	Reg 36(2)(e)
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<input type="checkbox"/>	Present the transparency report to a general meeting of members within the next financial year.	Reg 36(1)
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5. INFORMATION TO THE PUBLIC

Public Information

<input type="checkbox"/>	Set up and maintain a public website.	Reg 37
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<input type="checkbox"/>	Create a mechanism for providing confirmation and proof about the CMO's portfolio, including:	Reg 40
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<input type="checkbox"/>	specifying on the CMO's website the email address to which people can send requests for confirmation or proof that a particular work or performance is part of a CMO's portfolio; and	Reg 40(2) and (5)
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<input type="checkbox"/>	stating on the CMO's website the time within which the CMO will ordinarily respond to such requests (which must not exceed 14 days).	Reg 40(5)
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<input type="checkbox"/>	Publish the following key information and documents on the CMO's website:	Reg 41
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<input type="checkbox"/>	the CMO policies;	Reg 41(1)(a), (i)-(j)
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<input type="checkbox"/>	information on the membership application process;	Reg 41(1)(b)
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<input type="checkbox"/>	all the CMO's tariff schemes, including details on the classes of cases and the standard terms of each scheme;	Reg 41(1)(c)-(d)
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<input type="checkbox"/>	every transparency report for the last 6 financial years;	Reg 41(1)(e)
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<input type="checkbox"/>	the names of the key officers;	Reg 41(1)(f)
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<input type="checkbox"/>	the constitutional documents; and	Reg 41(1)(g)
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<input type="checkbox"/>	an up-to-date list of all representation agreements.	Reg 41(1)(h)
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Portfolio Information Option (1): Publish Works-Based Portfolio Information

* CMOs must comply with either this option or Option 2.

<input type="checkbox"/>	Publish on the CMO's website the following up-to-date information about each work and performance in the CMO's portfolio:	Reg 38
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<input type="checkbox"/>	its title or a description;	Reg 38(3)(a)
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<input type="checkbox"/>	its author or performer;	Reg 38(3)(b)
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<input type="checkbox"/>	its rights owner;	Reg 38(3)(c)
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<input type="checkbox"/>	the categories of rights managed by the CMO (including any restriction on those rights); and	Reg 38(3)(d)-(e)
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<input type="checkbox"/>	whether the CMO is managing it on an exclusive basis.	Reg 38(3)(f)
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Portfolio Information Option (2): Publish Members-Based Portfolio Information and Indemnify Users

* CMOs must comply with either this option or Option 1.

<input type="checkbox"/>	Publish on the CMO's website, up-to-date information on:	Reg 39(2)-(5)
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<input type="checkbox"/>	every member of the CMO;	Reg 39(2)(a)
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<input type="checkbox"/>	every partner collecting society for whom the CMO manages works or performances; and	Reg 39(2)(b)
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<input type="checkbox"/>	any works or performances that are not part of the CMO's portfolio.	Reg 39(3)
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<input type="checkbox"/>	Provide, in licence agreements with users, an indemnity against liability for infringement arising from use of a work or performance that is apparently within the CMO's portfolio based on the information published on its website.	Reg 39(6)-(12)
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