

ICANN BOARD SUBMISSION NO. 2019-06-23-1b

TITLE: **Emergency Back-End Registry Operator Program
Contracts Approval**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

In conjunction with the community developed 2012 New generic Top-Level Domain (New gTLD) round, the ICANN org designed the Emergency Back-End Registry Operator (EBERO) program as a protection mechanism for domain name registrants. The EBERO program offers an additional layer of protection to the Domain Name System (DNS) by partnering with registry service providers to operate 24x7 standby services in the event of a gTLD registry failure. In the event a temporary transition is needed, the EBERO program may intercede and perform an emergency transition to a contracted EBERO service provider. EBERO providers have been ready to provide an emergency response since 2013.

On 17 October 2018, ICANN org published a Request for Proposal (RFP) to identify one or more providers suitable to support the ICANN org's ability to respond to and coordinate the emergency recovery of a TLD. ICANN org received and evaluated ten (10) proposals and subsequently identified a short-list of potential providers: Afilias Limited, Canadian Internet Registration Authority (CIRA), China Internet Network Information Center (CNNIC), Nominet UK, and Registry Services, LLC (wholly-owned subsidiary of Neustar). ICANN org is anticipating a selection of at least three providers, representing geographic diversity (i.e. North America, Europe, and Asia Pacific) in order to address regional considerations and provide alternate sites in the event of local disasters.

Pursuant to the ICANN Contracting and Disbursement Policy the Board is being asked to authorize staff to take all steps necessary to complete the contracting of at least three selected EBERO service providers.

ICANN ORG AND BOARD FINANCE COMMITTEE (BFC)

RECOMMENDATION:

Both ICANN Org and the BFC [*pending confirmation: 29 May*] recommend that the Board authorizes the President and CEO, or his designee(s), to take all necessary actions to enter into, and make disbursement in furtherance of, multiple contracts for terms of 60-66 months with total costs not to exceed ^{Confidential Negotiation} _{Information}

BACKGROUND:

While New gTLD program applicants are required to meet technical, operational and financial requirements, the community developed New gTLD program included a provision for an emergency backup process. In 2011, the ICANN org issued the initial Request for Information to identify potential EBERO providers. As a result of that Request for Information, there are currently three EBERO service providers who have partnered with the ICANN org to provide 24x7 on-call, emergency back-end registry services.

ICANN is responsible for declaring an event requiring EBERO emergency services and coordinating all emergency response activities. ICANN may declare an emergency event and an EBERO may be temporarily activated if a registry operator is at risk of failing to sustain any of the five critical registry functions. These functions are:

1. DNS resolution for registered domain names
2. Operation of Shared Registration System
3. Operation of Registration Data Directory Services
4. Registry data escrow deposits
5. Maintenance of a properly signed zone in accordance with DNSSEC requirements

In the case of an emergency event, an EBERO will provide these five critical registry functions required of a TLD. By design, an EBERO is limited in the services they can provide (e.g. EBEROs will not provide any additional services that a TLD operator may have offered its customers, such as web hosting or network analytics).

All New gTLD Registry Agreements and several Legacy TLD agreements have incorporated a provision providing ICANN org the right to perform an Emergency Transition, should one be needed.

On 08 December 2017, ICANN designated its first (and currently only) emergency interim registry operator for a generic top-level domain since the start of EBERO operations in September 2013.

Through the years, ICANN org has learned from shared experiences with the EBERO service providers and has worked to improve on the program and its processes. While ICANN org decides which EBERO provider it may designate for a TLD, should one be called, ICANN org understands regional providers may be better suited to meet regional challenges. Regional dispersion across EBERO providers is a fundamental consideration of the emergency program to allow ICANN to consider alternate locations in case of local disasters. In addition, with multiple EBERO providers ICANN org may facilitate concurrent events (i.e. multiple TLD failures) should that be necessary and available.

In order to ensure consistent availability of EBERO service, on 17 October 2018 ICANN org published an RFP to identify registry services providers that will support ICANN and the Internet to provide emergency back-end registry operator services. Interest was received from thirteen (13) providers and ten (10) submitted proposals. ICANN org reviewed these proposals and evaluated them based on proposed capabilities, technical infrastructure and performance, responsiveness and flexibility to work with ICANN org, as well as financial value.

Based on ICANN org's evaluation of the proposals to the RFP, the ICANN org has identified a short-list of potential providers (Afilias Limited, Canadian Internet Registration Authority (CIRA), China Internet Network Information Center (CNNIC), Nominet UK, and Registry Services, LLC (wholly-owned subsidiary of Neustar)) for further consideration. ICANN org anticipates three providers will be selected representing targeted ICANN regions (North America, Europe, and Asia Pacific), and that have demonstrated an ability to meet and exceed the needs identified. Thus, as a result of the RFP, ICANN org looks to contract with at least three providers for geographic diversity.

PROPOSED RESOLUTION:

Whereas, in conjunction with the community designed New gTLD Program, the ICANN org developed the Emergency Back-end Registry Operator program, providing for a temporary transition process for registry operators at risk of failing to sustain any of the five critical registry functions.

Whereas in September 2011, ICANN org published its initial Request for Information and the EBERO program has been in operation since September 2013.

Whereas, ICANN org has published a Request for Proposal in October 2018 to identify Emergency Back-end Registry Operators to meet the updated needs of the EBERO program.

Whereas, the ICANN org has evaluated the Request for Proposal and determined a short-list of bidders have demonstrated its capability to support the EBERO program.

Resolved (2019.06.23.xx), the Board authorizes the President and CEO, or his designee(s), to enter into, and make disbursement in furtherance of, multiple contracts for terms of at least 60 months with total costs not to exceed Confidential Negotiation Information

Resolved (2019.06.23.xx), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article 3, Section 3.5(b) and (d) of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

PROPOSED RATIONALE:

The ICANN Global Domains Division understands that since the original Request for Information in 2011, the industry has significantly matured and there is a need to better align existing registry operator requirements to an EBERO provider as well as gain efficiencies in the process, while offering geographic diversity. ICANN org issued a request for proposal on 17 October 2018 to identify one or more providers capable to service the EBERO program. ICANN org intended to find providers in regions where the largest number of New gTLD Program registries are currently based — the Asia Pacific, European, and North American regions.

As a result, ICANN org identified several bidders to have a clear understanding of the work involved, and the capability and infrastructure to perform at the appropriate service levels. In addition, these providers understand the current industry and of the ICANN's multistakeholder model.

Taking this step towards contracting is in the fulfilment of ICANN's mission and in the public interest to ensure that ICANN org is utilizing the right third-party providers, and to ensure that it is maximizing available resources in a cost-efficient and effective manner. This action will benefit ICANN's mission to ensure the security, stability and resiliency of the domain name system.

This action will have a fiscal impact on the organization as each EBERO results in an additional fixed cost. The EBEROs provide ICANN org greater geographic diversity at a more competitive pricing model. Confidential Negotiation Information

Signature Block:

Submitted by: Cyrus Namazi
Position: SVP, Global Domains Division
Date Noted: DD Jun 2019
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ICANN BOARD PAPER NO. 2019.06.23.1c

TITLE: **Board Consideration of SSAC Recommendations
from SAC101 Version 2**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Security and Stability Advisory Committee (SSAC) published SAC101 version 2 on 12 December 2018. This SSAC report contained seven advice items to the Board regarding access to domain name registration data. The Board is being asked to (a) accept one advice item, (b) accept part of another advice item, and (c) note and refer the remaining advice items to the GNSO Council.

STAFF RECOMMENDATION:

ICANN org recommends that the Board (a) accept advice item one, (b) accept part of another advice item, and (c) note and refer the remaining advice items to the GNSO Council.

PROPOSED RESOLUTION:

Whereas, the Security and Stability Advisory Committee (SSAC) published [SAC 101](#) on 14 June 2018.

Whereas, the Security and Stability Advisory Committee (SSAC) published [SAC101 version 2](#) on 12 December 2018 to “reflect evolving circumstances related to ICANN’s Temporary Specification for gTLD Registration Data, and the ongoing Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data.”

Whereas, the Security and Stability Advisory Committee (SSAC) stated in the Preface of [SAC101 version 2](#) that “Version 1 of SAC101 has been retired and version 2 is authoritative.”

Whereas, the ICANN org has evaluated the feasibility of the SSAC's advice and developed implementation recommendations for each advice item.

Whereas, the Board has considered the SSAC Advice and the ICANN org's implementation recommendations relating to this advice.

Resolved (2019.06.23.xx), the Board accepts advice item one relating to creation and execution of a plan to accomplish four objectives identified in the advice, and directs the ICANN CEO & President, or his designee, to create a plan that reports on ICANN org's and the community's progress toward the four objectives identified in the advice.

Resolved (2019.06.23.xx), the Board accepts advice item 2B relating to clarifying expectations for the use of rate-limiting under existing policy and agreements, and directs the ICANN CEO & President, or his designee, to work with the community to clarify existing contractual obligations relating to rate limits.

Resolved (2019.06.23.xx), the Board notes advice items 2A and three through seven and refers them to the GNSO Council for inclusion in the EPDP Phase 2 work.

PROPOSED RATIONALE:

Advice item one suggests that the ICANN Board oversee the creation and execution of a plan that accomplishes four tasks:

1. Domain registration data policy that includes purposes for the collection and publication of registration data.
2. Migration from WHOIS to RDAP.
3. Remaining thin registries to move to thick as per the Thick WHOIS consensus policy.
4. Creation of an accredited RDDS access program, with ICANN org ensuring the creation, support and oversight of the technical access mechanism.

The advice also suggests that the creation and execution of the plan is a priority for the Board, org, and community.

The Board accepts advice item one on the basis that a plan to track and report on the community's and ICANN org's progress toward the objectives listed in the advice would benefit the work of the community. In accepting advice item one, the Board notes that:

- 1) In relation to the Thick Whois policy, on 14 March 2019, the Board passed a [resolution](#) to defer contractual compliance enforcement. Due to this action, ICANN Contractual Compliance defers enforcing the following milestones until the dates listed below:
 - a) By 30 November 2019: The registry operator must begin accepting Thick Whois data from registrars for existing registrations in .COM, .NET, and .JOBS.
 - b) By 31 May 2019: All registrars must send Thick Whois data to the registry operator for all new registrations in .COM, .NET, and .JOBS.
 - c) By 30 November 2020: All registrars are required to complete the transition to Thick Whois data for all registrations in .COM, .NET, and .JOBS.

Additionally, the Board has asked that ICANN org work with the Implementation Review Team for the EPDP policy recommendations to “examine and transparently report on the extent to which the [EPDP Phase 1] Recommendations require modification of existing Consensus Policies. Where modification of existing Consensus Policies is required, we call upon the GNSO Council to promptly initiate a PDP to review and recommend required changes to Consensus Policies.”

In accepting advice item one, the Board further notes that the creation of an “accredited RDDS access program,” is a topic under discussion in the EPDP Phase 2. The Board cannot dictate outcomes of PDPs. Once the EPDP delivers its final Phase 2 report, the Board will consider the policy recommendations.

Advice item 2B suggests that the Board direct ICANN org to work with the community to “clarify current expectations for the use of rate limiting under existing policy and

agreements.” In accepting advice item 2B, the Board notes that the community should be involved in the discussion to clarify existing contractual obligations relating to rate limits.

Advice item 2A suggests that the Board direct ICANN org to work with the community to “develop policy with clearly defined uniform purposes for RDDS rate-limiting and corresponding service level agreement requirements.” As policy is developed by the community and this topic is in the work plan for the EPDP Phase 2, the Board notes this advice and refers to the GNSO Council as the manager of PDPs. In taking this action, the Board also notes that in the Annex to the Temporary Specification for gTLD Registration Data, the Board asked that the topic of rate limit be discussed and resolved by the community as quickly as possible.

Advice item three suggests that the “Board and DPDP policy-makers should ensure that security practitioners and law enforcement authorities have access to domain name contact data, via RDDS, to the full extent allowed by applicable law.” As this is a policy matter and the topic is in the work plan for the EPDP Phase 2, the Board notes this advice and refers to the GNSO Council as the manager of PDPs.

Advice item four suggests that “initiation of charges for RDS access, or any significant future changes in fees for RDDS access, must include a formal assessment of user impacts and the security and stability impacts, and be conducted as part of a formal Policy Development Process (PDP).” As this is a policy matter and the topic is in the work plan for the EPDP Phase 2, the Board notes this advice and refers to the GNSO Council as the manager of PDPs.

Advice item five reiterates Recommendation 2 from SAC061 and suggests that “The ICANN Board should ensure that a formal security risk assessment of the registration data policy be conducted as an input into the Policy Development Process. A separate security risk assessment should also be conducted regarding the implementation of the policy.” The advice further suggests that “These assessments should be incorporated in PDP plans at the GNSO.” As the advice suggests that the assessments be incorporated into PDP plans and the GNSO is the manager of PDPs, the Board notes and refers this advice to the GNSO Council.

Advice item six suggests that the “ICANN Board should direct the ICANN Organization to work to ensure that all methods of access to RDDS data provide an equivalent response to the same query.” As this is a policy matter and the topic is in the work plan for the EPDP Phase 2, the Board notes this advice and refers to the GNSO Council as the manager of PDPs.

Advice item seven suggests that the “ICANN Board should direct the ICANN Organization to work to ensure that RDDS access is provided in a measurable and enforceable framework, which can be understood by all parties.” As this is a policy matter and the topic is in the work plan for the EPDP Phase 2, the Board notes this advice and refers to the GNSO Council as the manager of PDPs.

In considering these advice items, the Board reviewed the following materials:

- SSAC101 version 2 <<<https://www.icann.org/en/groups/ssac/documents/sac-047-en.pdf>>>
- Board Resolution 2019.03.14#1.c <<<https://www.icann.org/resources/board-material/resolutions-2019-03-14-en#1.c>>>

The Board’s acceptance of these advice items serve the public interest and is in furtherance of ICANN’s mission as it improves the security and stability of the DNS. Implementation of these advice items can be accomplished within ICANN org’s existing operating plan and budget.

Signature Block:

ICANN BOARD SUBMISSION No. 2019-06-23-1d

TITLE: Okta Identity Management Contract Renewal

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The Board is being asked to authorize the organization to take all steps necessary to complete contracting with Okta Identity Management (Okta Inc.), Confidential Negotiation Information

ICANN uses Okta Inc., an identity and access management company, to obtain both an internal and external user identification, access management and single sign-on solution. In addition to the name of the company, the name of the solution is also Okta.

The current contract for Okta support for the community is set to expire soon. In looking at the terms of the current contract, which did not seem consistent with current and actual usage of the Okta solution, the organization undertook to and successfully has negotiated a proposed new contract with Okta Inc. to replace the existing contract, with significantly better terms. This was done after the org conducted a review of other solutions that could replace Okta and concluded that it is in the best interests of the organization to stay with Okta, which is the recognized world-leader in its field.

The new terms help ensure that the org continues to support the ICANN community and internal ICANN personnel, reduce FY19 expenses, and keep costs contained on a going-forward basis for the next five years. Confidential Negotiation Information

Confidential Negotiation Information

ICANN ORGANIZATION RECOMMENDATION:

ICANN organization recommends that the Board authorize the President and CEO, or his designee(s), to take all steps necessary to contract with Okta Inc. for the Okta solution for a period of five-years, including replacing the remainder of the current year of the existing contract, and make all required expense disbursements pursuant to that contract, in an amount not to exceed Confidential Negotiation Information

BOARD FINANCE COMMITTEE (BFC) RECOMMENDATION

The Board Finance Committee recommends that the Board authorize the President and CEO, or his designee(s), to take all steps necessary to contract with Okta Inc. for the Okta solution for a period of five-years, including replacing the remainder of the current year of the existing contract, and make all required expense disbursements pursuant to that contract, in an amount not to exceed Confidential Negotiation Information

PROPOSED RESOLUTION:

Whereas, ICANN uses Okta for external and internal identity management, access management and single sign-on solution.

Whereas, the current contract terms with Okta Identity Management (Okta Inc.), are not consistent with current and actual usage of the Okta solution previously anticipated.

Whereas, the ICANN organization and the Board Finance Committee has recommended that the Board authorize the President and CEO, or his designee(s), to take all steps necessary to contract with Okta Inc. for the Okta solution for a period of five-years, including replacing the remainder of the current year of the existing contract, and make all required expense disbursements pursuant to that contract, in an amount not to exceed Confidential Negotiation Information

Resolved (2019.06.23.xx), the Board authorizes the President and CEO, or his designee(s), to take all steps necessary to contract with Okta Inc. for the Okta solution for a period of five-years,

including replacing the remainder of the current year of the existing contract, and make all required expense disbursements pursuant to that contract, in an amount not to exceed
Confidential Negotiation Information

Resolved (2019.06.23.xx), specific items within this resolution shall remain confidential for negotiation purposes pursuant to Article 3, section 3.5(b) of the ICANN Bylaws until the President and CEO determines that the confidential information may be released.

PROPOSED RATIONALE:

ICANN organization uses Okta Identity Management (Okta Inc.), an identity and access management company, to obtain a solution for both internal and external user identification, access management and single sign-on. In addition to the name of the company, the name of the solution is also Okta.

In January 2016, a three-year contract was negotiated with Okta Inc. This contract included estimates of number of user logins and annual growth. Initial estimates were based on a roadmap, accompanied by a set of assumptions including a certain pattern of usage and certain growth-factors impacting user-connect request. Subsequently, project roadmaps have been revised. Actual user-connect requests are lower and usage-pattern is different than compared with forecasts made in 2015 as reflected in the 2016 contract.

In re-evaluating the existing contract, the Engineering & IT team, in conjunction with Procurement, reviewed options to keep or replace the Okta solution. After concluding that continuing with Okta is best for ICANN, particularly since Okta is the recognized world-leader in their field, Procurement has been in negotiations with Okta Inc. to ensure that future licensing for the Okta solution reflects likely actual usage.

After extensive negotiation, ICANN organization received a proposal from Okta. The proposal includes ICANN org paying the existing contract pro rata for the period that has passed, and signing a new five-year contract at a much lower rate than before.

Specifically, the terms of the newly proposed contract calls for ICANN org to pay
Confidential Negotiation Information

through the end June 2020. The remaining four years of the contract, through 2024, would also
Confidential Negotiation Information The new proposed terms would allow ICANN org to
recognize a savings Confidential Negotiation Information and substantial savings in the
next five years, as compared with the current contract.

To be sure that ICANN was being quoted a reasonable set of terms, information was compared with other tools which serve a similar purpose. Costs being quoted by Okta Inc. are in-line with other comparable offerings. Further, the organization explained that switching tools would also come with a one-time switching cost of around \$150,000.00, as well as considerable resources and effort. Such a switch would also adversely affect timelines of on-going projects, without any visible benefits to ICANN.

After evaluation of the options, the organization and the BFC recommended that a continued contract with Okta Inc. best supports ICANN's current and anticipated needs over the next five years. The Board agrees.

This action is clearly with ICANN's mission as the solution at issue assists both external and internal stakeholders to access ICANN's systems and information, and it is in the public interest to decrease expenses if feasible and practicable.

Taking this decision will have a financial impact, and the required funds to cover licensing are accounted for in the FY20 budget. Similar funding will also be accounted for in the budgets for FY21 through FY24.

This action should have no negative impact on the domain name system.

This is an Organizational Administrative function that does not require public comment.

Submitted by: Ashwin Rangan
Position: SVP & CIO
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ICANN BOARD PAPER NO. 2019.06.23.2a

TITLE: **Adoption of ICANN Strategic Plan for Fiscal Years 2021-2025**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

As required by Section 22.5 (b) of the Bylaws, the Internet Corporation for Assigned Names and Numbers (ICANN) organization worked with the ICANN Board and the community to develop a strategic plan of ICANN for the next five fiscal years (the “Strategic Plan”). On 20 December 2018, a Draft Strategic Plan for Fiscal Years 2021 through 2025 was posted for public comment. Other consultations in the form of stakeholder groups workshops, org functional and regional sessions, webinars, Board caucus group and Board face-to-face meetings and calls and public sessions were held with ICANN organization, Board and community members both prior to and after this public consultation. All of the received comments have been taken into consideration, and where appropriate and feasible, have been incorporated into a revised draft. The strategic plan will be complemented by a five-year Operating and Financial Plan to be developed over the next few months.

The Board is now being asked to approve the ICANN Strategic Plan for fiscal years 2021–2025. After Board approval, the ICANN Empowered Community (EC) will have the opportunity to consider if it will use its rejection power over the Strategic Plan, and if it does, then the EC and consultation process will proceed. If there is no rejection petition raised, the ICANN Strategic Plan for fiscal years 2021–2025 will be ready to go into effect on July 1, 2020.

The affordability of this Strategic Plan will be considered as part of the Five-Year Operating and Financial Plan currently under development. If there are issues raised as to the feasibility of implementing this Strategic Plan, or if during the lifecycle of the Strategic Plan there is identification that it needs to be modified, the Board may need to direct ICANN organization on further action under the Board’s role of assuring that the Strategic Plan continues to meet ICANN’s needs.

BOARD CAUCUS GROUP RECOMMENDATION:

The Board Caucus Group on Strategic Planning, as supported by the ICANN organization and after careful consideration of the public comments received and the corresponding responses, recommend that the Board approves the ICANN Strategic Plan for fiscal years 2021–2025. The Board Caucus Group on Strategic Planning also recognizes that the Board has an obligation to assuring that the Strategic Plan continues to meet ICANN’s needs. Therefore, the Board Caucus Group recognizes that there may be future need to evolve this Strategic Plan, such as to address funding realities identified through the development of ICANN’s five-year Operating and Financial plan, or mid-course modifications during the life of the Strategic Plan. If change is needed, the Board can direct the ICANN org on the scope of further actions.

It is important that ICANN adopts its five-year strategic plan, in order to provide a stable foundation for developing the five-year operating and financial plan designed to implement that strategy, as well as the FY21 annual operating plan and budget.

PROPOSED RESOLUTION:

Whereas, following community, Board, and ICANN organization inputs received between November 2017 and June 2018 on key trends anticipated to impact ICANN in the coming years, the Board conducted an analysis and found significant similarities across all the trend sessions, that naturally converged into five primary focus areas: security; governance; unique identifier systems; geopolitics; and financials.

Whereas, these trends were shared with the community leading into and during ICANN63 in Barcelona. Coming out of ICANN63 and following dialogue with and additional input from the community, the Board developed a draft of ICANN’s strategic plan for fiscal years 2021-2025, to present for community consultation. This document included ICANN’s mission, a vision of the future state of ICANN, and a set of strategic objectives and goals, along with desired outcomes and associated risks.

Whereas, a Draft Strategic Plan for Fiscal Years 2021 through 2025 was posted for public comment in accordance with the Bylaws on 20 December 2018.

Whereas, members of the ICANN Board and ICANN organization held two public sessions at ICANN63 and ICANN64 with community members, to collectively establish the priorities and strategic direction of ICANN for fiscal years 2021-2025, and to ensure that the comments received were adequately understood and appropriately considered.

Whereas, the public comments received were considered to determine required revisions to the Draft Strategic Plan for Fiscal Years 2021-2025.

Whereas, in addition to the public comment process, ICANN organization actively solicited community feedback and consultation with the ICANN Community by other means, including strategic outlook trend identification sessions with multiple stakeholder groups at ICANN61 and ICANN62, a webinar, blog posts, and regular updates on progress made towards the development of the next five-year strategic plan on its strategic planning web page.

Whereas, the Board formed a caucus group to lead the efforts towards the development of ICANN's next strategic plan, with the support of ICANN organization. The Board Caucus Group on Strategic Planning group played a central role in reviewing and analyzing the results of the trend work and their related opportunities, risks, and impacts on ICANN, and in articulating these into new strategic objectives and goals, and readying the plan for full-Board consideration.

Whereas, at each of its recent regularly scheduled workshops, the Board has discussed, and guided the Caucus Group and ICANN organization on the development of this Strategic Plan for Fiscal Years 2021-2025.

Resolved (2019.06.23.xx) the Board adopts the ICANN Strategic Plan for Fiscal Years 2021–2025.

Resolved, (2019.06.23.xx) the affordability of this Strategic Plan will be considered as part of the Five-Year Operating and Financial Plan currently under development. If any issues arise that impact the feasibility of the implementation of this Strategic Plan, the Board will direct further action at that time.

Resolved, (2019.06.23.xx) the Board directs that as part of the on-going annual planning cycle with the community, new trends or shifts in existing trends must be factored into the annual iteration of ICANN's plans as appropriate. To the extent that these reviews point to a need to significantly modify any of the Strategic Objectives within the FY21-25 Strategic Plan, the Board will direct the appropriate processes and actions at that time.

PROPOSED RATIONALE:

In accordance with Section 22.5 (b) of the ICANN Bylaws, the Board is to adopt a five-year strategic plan prior to the commencement of each five fiscal year period, with the first such period covering fiscal years 2021 through 2025 and publish it on the ICANN website. On 20 December 2018, a draft ICANN Strategic Plan for fiscal years 2021–2025 was posted for public comment.

The strategic plan that is being submitted to the Board for adoption is the result of a phased approach, which included four steps: trends identification, trend analysis, drafting of the strategic plan, and finalization of the strategic plan.

The strategic planning process was designed to ensure continuous participation of the ICANN community throughout the development of the plan. This included running strategic outlook trend identification sessions with stakeholder groups, information sharing via webinars, public sessions at ICANN meetings, and public comment opportunities to provide input on the development of the strategic plan.

Between November 2017 and June 2018, ICANN organization conducted 14 departmental and regional hub trend identification workshops within the organization and facilitated 11 sessions with the community and the Board, collecting more than 1,000 trend data inputs.

Between April 2018 and September 2018, the Board, and its caucus group tasked with overseeing the strategic planning process, reviewed and analysed the results of the trend work and their related opportunities, risks, and impacts on ICANN, with the support of ICANN organization.

Between September 2018 and March 2019, in addition to the public comment period, ICANN actively solicited community feedback and consultation with ICANN Supporting Organizations, Advisory Committees, and other stakeholder groups on multiple occasions:

- On 9 October 2018, a webinar was held, providing an overview of the strategic planning process, and presenting findings from the strategic outlook trend sessions and the subsequent analysis by the Board and ICANN org.
- At ICANN63, during a high-interest public session in Barcelona, members of the Board and org engaged in discussions with the community on approaches to addressing strategic issues and areas for prioritization in the development of ICANN's next 5-year strategic plan.
- At ICANN64, in Kobe, the community, the organization and the ICANN Board held another high interest open session on strategic planning, to ensure that the comments received were adequately understood and appropriately considered.

Between March and May 2019, all comments received in all manners were considered in finalizing the ICANN Strategic Plan for fiscal years 2021-2025. Where feasible and appropriate these inputs were incorporated into the ICANN Strategic Plan for fiscal years 2021-2025 proposed for adoption. Details of how each comment received was considered in the revised draft plan were posted on ICANN.org website.

The ICANN Strategic Plan for fiscal years 2021-2025 is a fundamental part of ICANN's governance, mandated by the organization's Bylaws. The ICANN five-year strategic plan is a core element of ICANN's threefold planning process cycle, along with a five-year operating and financial plan, and the annual operating plan and budget. The strategic plan sets a direction towards a desired future ("the vision") and lays out the critical outcomes and specific accomplishments identified as necessary to successfully serve ICANN's mission and fulfil the vision.

This decision will have a fiscal impact on ICANN and the Community as is intended. This should have a positive impact on the security, stability and resiliency of the

domain name system (DNS) with respect to any funding that is dedicated to those aspects of the DNS.

This resolution serves ICANN's mission in ensuring a secure and stable operation of the Internet's unique identifier systems. The ICANN Strategic Plan for fiscal years 2021-2025 builds upon ICANN's mission so that it may continue to effectively fulfil its aims and meet new and continuously evolving challenges and opportunities.

This resolution is in the public interest as the strategic plan will guide ICANN's activities and inform ICANN's operating plans and budgets to fulfil its mission in fiscal years 2021 through 2025. The strategic plan serves the public interest by articulating the path towards a new vision to be a champion of the single, open, and globally interoperable Internet. The strategic plan complies with ICANN's commitments and is guided by ICANN's core values.

This is an Organizational Administrative Function that has already been subject to public comment as noted above.

Signature Block:

Submitted by:	Theresa Swinehart
Position:	SVP, Multistakeholder Strategy and Strategic Initiatives
Date Noted:	DATE
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ICANN BOARD PAPER NO. 2019-06-23-2b

TITLE: Transfer of the .BJ (Benin) top-level domain to Autorité de Régulation des Communications Electroniques et de la Poste du Bénin (ARCEP BENIN)

PROPOSED ACTION: For Board Consideration on Approval

IANA REFERENCE: 1132351

EXECUTIVE SUMMARY:

As part of PTI's responsibilities under the IANA Naming Function contract with ICANN, PTI has prepared a recommendation to authorize the transfer of the country-code top-level domain .BJ (Benin) to Autorité de Régulation des Communications Electroniques et de la Poste du Bénin (ARCEP BENIN).

Sensitive Delegation Information

PROPOSED RESOLUTION:

Resolved (2019.06.23.xx), as part of the exercise of its responsibilities under the IANA Naming Function Contract with ICANN, PTI has reviewed and evaluated the request to transfer the .BJ country-code top-level domain to Autorité de Régulation des Communications Electroniques et de la Poste du Bénin (ARCEP BENIN). The documentation demonstrates that the proper procedures were followed in evaluating the request.

PROPOSED RATIONALE:

Why the Board is addressing the issue now?

In accordance with the IANA Naming Function Contract, PTI has evaluated a request for ccTLD transfer and is presenting its report to the Board for review. This review by the Board is intended to ensure that the proper procedures were followed.

What is the proposal being considered?

The proposal is to approve a request to transfer the country-code top-level domain .BJ and assign the role of manager to Autorité de Régulation des Communications Electroniques et de la Poste du Bénin (ARCEP BENIN).

Which stakeholders or others were consulted?

In the course of evaluating this transfer application, PTI consulted with the applicant and other significantly interested parties. As part of the application process, the applicant needs to describe consultations that were performed within the country concerning the ccTLD, and their applicability to their local Internet community.

What concerns or issues were raised by the community?

PTI is not aware of any significant issues or concerns raised by the community in relation to this request.

What significant materials did the Board review?

The Board reviewed the following evaluations:

- The domain is eligible for transfer, as the string under consideration represents Benin in the ISO 3166-1 standard;
- The relevant government has been consulted and does not object;
- The proposed manager and its contacts agree to their responsibilities for managing this domain;
- The proposal has demonstrated appropriate significantly interested parties' consultation and support;
- The proposal does not contravene any known laws or regulations;

- The proposal ensures the domain is managed locally in the country, and are bound under local law;
- The proposed manager has confirmed they will manage the domain in a fair and equitable manner;
- The proposed manager has demonstrated appropriate operational and technical skills and plans to operate the domain;
- The proposed technical configuration meets the technical conformance requirements;
- No specific risks or concerns relating to Internet stability have been identified; and
- Staff have provided a recommendation that this request be implemented based on the factors considered.

These evaluations are responsive to the appropriate criteria and policy frameworks, such as "Domain Name System Structure and Delegation" (RFC 1591) and "GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains".

As part of the process, Delegation and Transfer reports are posted at

<http://www.iana.org/reports>.

What factors the Board found to be significant?

The Board did not identify any specific factors of concern with this request.

Are there positive or negative community impacts?

The timely approval of country-code domain name managers that meet the various public interest criteria is positive toward ICANN's overall mission, the local communities to which country-code top-level domains are designated to serve, and responsive to obligations under the IANA Naming Function Contract.

Are there financial impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

The administration of country-code delegations in the DNS root zone is part of the IANA functions, and the delegation action should not cause any significant variance on pre-planned expenditure. It is not the role of ICANN to assess the financial impact of the internal operations of country-code top-level domains within a country.

Are there any security, stability or resiliency issues relating to the DNS?

ICANN does not believe this request poses any notable risks to security, stability or resiliency. This is an Organizational Administrative Function not requiring public comment.

SIGNATURE BLOCK:

Submitted by: Naela Sarras
Position: Director, IANA Operations
Date Noted: 7 June 2019
Email: naela.sarras@icann.org

ICANN BOARD PAPER NO. 2019-05-XX-XX

(Subject to OEC approval)

TITLE: **Adoption of the Operating Standards for Specific Reviews**

PROPOSED ACTION: **For Board Approval**

EXECUTIVE SUMMARY:

The Board is being asked to adopt the Operating Standards for Specific Reviews. The Operating Standards are mandated by the Bylaws (see [Section 4.6 \(a\) \(i\)](#)) and will guide the work of Specific Reviews. They have been drafted with significant community consultation and are based on best practices.

In line with its oversight responsibilities for Organizational Reviews, the Organizational Effectiveness Committee of the Board (OEC) has ensured that the Operating Standards were developed through community consultation, including public comment opportunities. The OEC also ensured that the Operating Standards are aligned with the guidelines detailed in the Bylaws.

Having reviewed all relevant documents, the OEC recommends to the Board to adopt the Operating Standards for Specific Reviews.

ORGANIZATIONAL EFFECTIVENESS COMMITTEE RECOMMENDATION

(subject to OEC approval):

In its capacity of overseeing Specific Reviews, the OEC, having reviewed all relevant materials, including the Operating Standards themselves, relevant public comments proceedings,¹ and other community feedback, recommends that the Board adopts the

¹ A [first draft](#) was published for [public comment in October 2017](#); an [updated draft](#) was published for [public comment in December 2018](#).

Operating Standards for Specific Reviews to guide the conduct of current and future Specific Reviews, as mandated by the Bylaws (see [Section 4.6 \(a\)\(i\)](#)).

PROPOSED RESOLUTION:

Whereas, the ICANN organization (ICANN org), in consultation with the ICANN community, developed the Operating Standards to provide guidance on conducting Specific Reviews, as mandated by the ICANN Bylaws, [Article 4, Section 4.6](#).

Whereas, the ICANN org published a [first draft](#) of the Operating Standards for [public comment in October 2017](#) and an [updated draft](#) for [public comment in December 2018](#). The ICANN community provided input to the development of the Operating Standards via two public comment proceedings, via public sessions at [ICANN57](#), [ICANN58](#), [ICANN60](#), [ICANN63](#) and [ICANN64](#), and via webinars in [February 2017](#), [October 2017](#), and [October 2018](#).

Whereas, the ICANN org incorporated feedback from the ICANN community from the public comments, public sessions and webinars on the Operating Standards, as well as community input from the public comments on [Long-Term Options to Adjust the Timeline for Specific Reviews](#), and best practices from recent and ongoing Specific Reviews.

Whereas the Operating Standards address the guidelines detailed in the Bylaws (see [Section 4.6 \(a\) \(i\)](#)) pertaining to: candidate nomination, review team selection, size of the review team, conflict of interest policies, decision-making procedure, solicitation of independent experts, and review team access to confidential documentation subject to the Confidential Disclosure Framework.

Whereas, the OEC received substantive and procedural briefings from the ICANN org throughout the development of the Operating Standards.

RESOLVED (2019.06.23.xx), the Board thanks the ICANN community and the ICANN org for cooperating effectively throughout the process of developing the Operating Standards for Specific Reviews.

RESOLVED (2019.06.23.xx), the Board adopts the Operating Standards for Specific Reviews, developed for the conduct of reviews under Bylaws Section 4.6.

RESOLVED (2019.06.23.xx), the Board resolves that the Operating Standards adhere to the Bylaws requirements and directs ICANN org to publish the Operating Standards on the ICANN web site. Operating Standards shall be updated as needed and in accordance with Section 6 of the Operating Standards, to assure the document continues to meet the needs of the ICANN community, the ICANN Board, and the ICANN org by supporting the effective and efficient conduct of current and future Specific Reviews.

PROPOSED RATIONALE:

What is the proposal being considered?

The proposal being considered is for the Board to adopt the Operating Standards for Specific Review, as mandated by the Bylaws [Section 4.6](#).

Why is the Board addressing the issue?

Specific Reviews are an integral part of ICANN's accountability measures that derive from Article 4, [Section 4.6](#) of ICANN's Bylaws. Four such reviews are specified in the Bylaws: Accountability and Transparency Review; Security, Stability, and Resiliency Review; Competition, Consumer Trust and Consumer Choice Review; and Registration Directory Service Review.

Section 4.6 of the Bylaws calls for the development of Operating Standards to support the work of these reviews that are conducted by the ICANN community, facilitated by

ICANN org, and overseen by the ICANN Board. Specifically, section 4.6 indicates that the Operating Standards should adhere to Bylaws guidelines regarding candidate nomination, review team selection, size of the review team, conflict of interest policies, decision-making procedure, solicitation of independent experts, and review team access to confidential documentation subject to the Confidential Disclosure Framework. The Operating Standards address all of these issues adequately and conform with the Bylaws. Therefore, adherence to the Operating Standards will result in Specific Reviews being conducted in a transparent, consistent, efficient, and predictable manner, while supporting the community's work to derive the expected benefit and value from review processes.

Input from the ICANN Community

ICANN org has facilitated the development of these Operating Standards in close consultation with the ICANN community, via two public comment periods, three webinars, and five public sessions during ICANN meetings:

ICANN org first organized a public session during [ICANN57](#) for the community to share input on the development of the Operating Standards with the goal of making Specific Reviews more efficient, consistent and transparent.

In February 2017 ICANN org conducted a [webinar](#) to obtain community support on the process of how to develop the Operating Standards, as well as feedback on some of the key issues that the document will contain, such as the review team selection process.

Another public session was held during [ICANN58](#) in March 2017 to update the community and obtain additional input into substance and process of drafting the document.

In October 2017, ICANN org published the first full draft of the Operating Standards for [public comment](#). The release of the document was followed by a [webinar](#) to provide an overview of the document and allow for community feedback as well as an extended 'question and answer' session. ICANN org also presented the draft at a public session

during [ICANN60](#) in October 2017. Following the 90-day public comment period, ten comments were submitted, including from the GAC, GNSO Council and the ccNSO Council. Commenters provided constructive feedback, supporting some of the proposals and expressing reservations about others, including the proposed scope setting procedure as well as the selection process of review team members by the SO/AC Chairs.

ICANN org held a session at [ICANN63](#) in October 2018, during which the discussion focused on some components of the Operating Standards: scope setting, review team selection, and decision-making procedures for ICANN's specific reviews. In the run-up to the next iteration of the Operating Standards, ICANN org conducted another [webinar](#), to highlight proposed updates to the draft Operating Standards in several key areas and provided a proposed timeline for their adoption.

In December 2018, ICANN org [published an updated draft](#) of the Operating Standards for public comment. During the 65-day public comment period, six comments were received, providing constructive feedback in the form of mostly supportive comments. The six comments contained a combined 48 suggested edits to the draft Operating Standards, and ICANN org was able to incorporate 43 of these; the remaining five were not included because they were either individual suggestions that did not appear to have the support of the wider community or they were unfeasible in light of the Bylaws or existing best practices. ICANN org also conducted a final public session during [ICANN64](#) in March 2019, to provide an overview of the public comments and how they will be incorporated into the final document.

What concerns or issues were raised by the community?

During the two public comment periods, three webinars, and five sessions during ICANN meetings, the ICANN community raised a number of concerns about specific proposals contained in draft versions of the Operating Standards.

For example, the first draft of the document proposed a procedure to set the scope for review teams to which many commentators reacted negatively during the public comment. Similarly, the second public comment resulted in comments that proposed more detailed information regarding the roles and responsibilities of review teams and the review team leadership, as well as a more nuanced process for resolving conflicts among review team members. All of these inputs resulted in changes, which now feature a more simplified process for review teams to set their scope, a more detailed section on roles and responsibilities as well as a more detailed conflict resolution procedure. Therefore, the final document is based on broad community support.

What significant materials did the Board review?

The ICANN Board reviewed all relevant documents pertaining to the development of the Operating Standards, including draft documents and summaries of public comments. Board members also attended sessions during ICANN meetings and webinars.

Are there positive or negative community impacts?

This Board action is expected to have a positive impact on the community as the Operating Standards will support the work of the Specific Review teams and contribute to conduct of transparent, consistent, efficient, and predictable Specific Reviews.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

This Board action is anticipated to have no adverse fiscal impact. The adherence to Operating Standards is expected to contribute to streamlining the work of the community-led review teams and ICANN org’s support and facilitation of their work.

Are there any security, stability or resiliency issues relating to the DNS?

This Board action is not expected to have a direct effect on security, stability or resiliency issues relating to the DNS.

How is this action within ICANN's mission and what is the public interest served in this action?

The Board's action is consistent with ICANN's commitment pursuant to section 4 of the Bylaws to ensure ICANN's multistakeholder model remains transparent and accountable, as well as with Section 4.6 that calls for the development of Operating Standards through community consultation.

Is public comment required prior to Board action?

Draft versions of the Operating Standards were published twice for public comment ([October 2017](#), [December 2018](#)); no additional public comment prior to Board action is required.

Submitted by: Theresa Swinehart

Position: Senior Vice President, Multistakeholder Strategy and Strategic Initiatives

Date: 15 April 2019

Email: theresa.swinehart@icann.org

ICANN BOARD PAPER NO. 2019-06-23-2d

TITLE: **Acceptance of the Final Report and of the Feasibility Assessment and Initial Implementation Plan for the Second Organizational Review of the Security and Stability Advisory Committee**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board is being asked to accept the independent examiner's [final report](#) of the second review of the Security and Stability Advisory Committee (SSAC), and to accept the SSAC Review Work Party's¹ [Feasibility Assessment and Initial Implementation Plan](#) (hereafter: Feasibility Assessment). The Board is also being asked to instruct the SSAC to convene an implementation work group to develop a detailed implementation plan for the recommendations, including appropriate implementation costing, as presented in the Feasibility Assessment. The detailed implementation plan shall be completed within six (6) months from the adoption of this resolution. The implementation work group is to oversee the implementation process of these recommendations once the Board has accepted said detailed implementation plan.

In line with its oversight responsibilities for Organizational Reviews, the Organizational Effectiveness Committee of the Board (OEC) has ensured that the review process complied with the [Bylaws Section 4.4](#), and has reviewed all relevant materials, including the independent examiner's final report and the SSAC Review Work Party's Feasibility Assessment.

ORGANIZATIONAL EFFECTIVENESS COMMITTEE RECOMMENDATION

¹ Review work(ing) parties (RWPs) serve as liaisons in the organizational review process between the independent examiner, the organizational under review, and ICANN organization. Composition, meeting frequency, decision-making all other administrative and logistical issues related to the work of the group are determined by the organization under review, in this case the SSAC. The SSAC RWP's membership and all other relevant information can be found here: <https://community.icann.org/display/ACCSSAC/SSAC+Review+Work+Party>.

In its capacity of overseeing Organizational Reviews, the OEC, having reviewed all relevant materials², recommends that the Board accepts the SSAC Review independent examiner's final report, and accepts the SSAC Review Work Party's Feasibility Assessment and Initial Implementation Plan. The OEC also recommends that the Board instruct the SSAC to convene an implementation work group to develop a detailed implementation plan for the recommendations, as presented in the Feasibility Assessment and Initial Implementation Plan, including appropriate implementation costing. The detailed implementation plan shall be submitted to the OEC within six (6) months from the adoption of this resolution. Once the Board has accepted said detailed implementation plan, the OEC shall oversee the implementation process of these recommendations. The OEC notes to the Board that the Board's acceptance of the detailed implementation plan is a deviation from the [organizational review process flowchart](#) but this step is in accordance with standard practice for organizational reviews because the Board is exercising its fiduciary responsibility by reviewing and accepting said detailed implementation plan.³

PROPOSED RESOLUTION:

Whereas, the second Organizational Review of the SSAC commenced in February 2018, in accordance with the ICANN Bylaws, [Article 4, Section 4.4](#).

Whereas, the independent examiner that conducted the second SSAC Review produced an [assessment report](#) that was published for [public consultation](#) on 21 June 2018, a [draft final report](#) that was published for [public comment](#) on 15 October 2018 and a [final report](#), containing thirty (30) recommendations that was [submitted](#) on 17 December 2018.

² Relevant materials include: Independent examiner's final report and presentation to the OEC (23 May 2019); SSAC Review Work Party's Feasibility Assessment and Initial Implementation Plan and presentation to the OEC (23 May 2019); public comments and summary report of public comment proceeding on the draft final report; and feedback on the assessment report.

³ An update to the [flow chart](#) and [handbook](#) will be made in the standard process of reviewing and updating the ICANN process documentation.

Whereas the ICANN community provided input via public comment on the draft final report.

Whereas, the SSAC Review Work Party, serving as a liaison between the SSAC, the independent examiner and the ICANN Board's Organizational Effectiveness Committee (OEC), analyzed the independent examiner's recommendations for feasibility and usefulness, considered provisional budget implications, and anticipated resources to propose a prioritized implementation timeline in its [Feasibility Assessment and Initial Implementation Plan](#) (hereafter: Feasibility Assessment).

Whereas, in its Feasibility Assessment, the SSAC RWP supports nineteen (19) issues and their corresponding recommendations; the SSAC RWP supports six (6) issues but not the corresponding recommendations but it provided alternative recommendations instead; the SSAC RWP supports one (1) issue but not the corresponding recommendation and does not provide an alternative recommendation and provides detailed rationale for this; the SSAC RWP does not support four (4) issues and consequently also does not support the corresponding recommendations.

Whereas, the SSAC [approved](#) the Feasibility Assessment on 13 May 2019.

Whereas, the OEC received briefings from the independent examiner on its final report and the SSAC Review Work Party on its Feasibility Assessment during the OEC meeting on 23 May 2019.

Whereas, the OEC considered the final report, the Feasibility Assessment, and the public comment input in order to reach a recommendation to the Board for how to proceed with the second SSAC Review. The OEC recommended that the Board accepts both the SSAC Review independent examiner's final report and the SSAC Review Work Party's Feasibility Assessment. The OEC also recommended that the Board instruct the SSAC to convene an implementation work group to develop a detailed implementation plan for the recommendations, as detailed in the Feasibility Assessment, within six (6) months from the adoption of this resolution. The detailed implementation plan shall also contain appropriate implementation costing. The OEC further recommends to the Board that the

implementation work group is to oversee the implementation of these recommendations, once the Board has approved said detailed implementation plan, including appropriate implementation costing.

Resolved (2019.06.23.XX), the Board accepts the final report from the independent examiner.

Resolved (2019.06.23.XX), the Board accepts the Feasibility Assessment.

Resolved (2019.06.23.XX), the Board directs the SSAC to convene an SSAC review implementation work group that drafts a detailed implementation plan of the recommendations, as presented in the Feasibility Assessment, including appropriate implementation costing.

Resolved (2019.06.23.XX), the detailed implementation plan shall be submitted to the Board as soon as possible, but no later than six (6) months after the adoption of this resolution. The detailed implementation plan should contain a realistic timeline for the implementation, a definition of desired outcomes, an explanation of how the implementation addresses underlying issues identified in the final report, and a way to measure current state as well as progress toward the desired outcome. The working group shall also work with the ICANN organization to include expected budgetary implications for each of the implementation steps into its detailed implementation plan. The implementation plan shall incorporate a phased approach that allows for easy-to-implement and least costly improvements to be implemented first, with those items with more significant budget implications to be addressed later in the implementation process.

Resolved (2019.06.23.XX), the Board directs the SSAC Review implementation work group to oversee the implementation process, once the Board has accepted the detailed implementation plan. Any budgetary requests resulting from the implementation shall be made in line with the ICANN organization's annual budgeting processes.

Resolved (2019.06.23.XX), The Board directs the SSAC review implementation work group to provide the OEC with implementation reports every six (6) months on progress against the implementation plan, including, but not limited to, progress toward metrics detailed in the implementation plan and use of allocated budget.

PROPOSED RATIONALE:

Why is the Board addressing the issue?

To ensure ICANN's multistakeholder model remains transparent and accountable, and to improve its performance, ICANN conducts Organizational Reviews of its Supporting Organizations, Advisory Committees (other than the Governmental Advisory Committee) and the Nominating Committee, as detailed in Article 4, Section 4.4 of its Bylaws. The second SSAC Review commenced in February 2018. The independent examiner conducting the review produced a final report that was published in December 2018. The SSAC Review Work Party, based on its detailed review of the independent examiner's final report, prepared its Feasibility Assessment, [approved](#) by the SSAC on 13 May 2019.

Independent Examination

Analysis Group Consulting Group, LLC was [appointed](#) as the independent examiner for the SSAC Review in February 2018, in accordance with ICANN's procurement process that involved ICANN organization personnel and the Organizational Effectiveness Committee of the Board (OEC), which is responsible for overseeing the organizational review process. During its work, Analysis Group reviewed relevant documentation, conducted 42 interviews with members of the SSAC, the wider ICANN community, the ICANN Board and the ICANN organization, and gathered 52 individual responses to its online survey. In addition, Analysis Group held [regular meetings](#) with the SSAC Review Work Party throughout the review, including public meetings at [ICANN61](#),⁴ [ICANN 62](#) and [ICANN63](#).

The SSAC Review Work Party provided direct feedback to Analysis Group on an initial draft of the assessment report and an initial draft of the draft final report. Analysis Group considered the feedback and incorporated those elements that it deemed appropriate based on its independent role and professional judgement.

⁴ This was a closed session that was not recorded.

The [draft final report](#) was published for [public comment on 15 October 2018](#), following the standard ICANN process. Analysis Group hosted a community [webinar](#) on the draft final report on 22 November 2018.

Analysis Group submitted its final report on 17 December 2018. The final report included a narrative of underlying issues identified by the independent examiner, and thirty (30) recommendations designed by the independent examiner as proposals to address those issues.

SSAC Review Work Party

In its Feasibility Assessment, the SSAC RWP provided a detailed rationale of all its concerns and agreements with the thirty (30) issues in the final report. The SSAC RWP analyzed the independent examiner's recommendations for feasibility and usefulness, considered provisional budget implications, and anticipated resources to propose a prioritized implementation timeline. As a result, the SSAC RWP supports nineteen (19) issues and their corresponding recommendation; the SSAC RWP supports six (6) issues but not the corresponding recommendations but it provided alternative recommendations instead; the SSAC RWP supports one (1) issue but not the corresponding recommendation and does not provide an alternative recommendation, providing detailed rationale for this; the SSAC RWP does not support four (4) issues and consequently also does not support the corresponding recommendations.

Of the four issues that the SSAC RWP rejected, three (#17, #22, #23) are concerned with the need for additional outreach and/or increased communication within the wider ICANN community. The SSAC RWP rejected these due to the SSAC's narrow remit and the fact that its small membership size – important for its effective functioning – prevents it from increasing its current outreach levels. The fourth issue that was rejected (#13) related to the call for a secure data storage location for SSAC analyses, something, the SSAC RWP explained, that the SSAC has no need for at this moment.

In cases in which the SSAC RWP proposed alternative recommendations, it adapted the independent examiners recommendations to better suit the SSAC's needs. For example,

instead of creating an internship position for a graduate student to assist with research projects (Recommendation #12), the SSAC RWP proposed instead to create a fellowship position to attract more seasoned support and also to rely more often on ICANN technical staff. In other cases, the SSAC RWP rejected the independent examiners suggestion to create a more detailed recruitment plan (Recommendations #21, #24, #25), a concept with which the SSAC RWP is ‘uncomfortable’. Instead the SSAC RWP proposes that the “SSAC should develop a formalized process to estimate the non-technical expertise required for anticipated future work and thereby identify any skills gaps in the current membership.” And that the “Membership Committee should take non-technical expertise gaps into consideration when assessing new member applications.”

Overall, the SSAC RWP explained its concerns and rationales for not supporting the independent examiner’s recommendations; and provided detailed context about their proposed alternative recommendations.

Input from ICANN Community

In addition to the responses collected by Analysis Group through interviews and online surveys and through the public consultation on the assessment report, during the public comment on the draft final report, six (6) comments were submitted; two (2) authored by individual contributors, and four (4) by organizations (see [summary report](#) of public comment proceeding). Contributors to the public comment proceeding from the ICANN community were supportive of the draft final report, apart from one commentator who argued the review was out of scope. All other contributors particularly welcomed recommendations pertaining to the continuing purpose of the SSAC. For example, the Registry Stakeholder Group (RySG) noted that they “value the SSAC’s demonstrated ability and effectiveness in filling the crucial role of providing technical advice to the ICANN Board, and believe that the decisions made by the ICANN Board are generally improved by SSAC’s technical input.” Contributors also supported recommendations pertaining to the SSAC’s advice generation and provision of advice to the ICANN Board,

the At-Large (ALAC) commented “that while it appreciates the SSAC prepares advice in a format to better communicate with the Board, the SSAC should also simultaneously attempt to write advice in such a way that the rest of the ICANN community more easily understands them, too”. Contributors strongly supported recommendations pertaining to the SSAC’s integration with SO/ACs and the ICANN community, where, for example, Business Constituency (BC) noted: “SSAC should focus effort on increasing the interactions with other SO/AC groups”. Moreover, while a majority of contributors expressed support for recommendations about SSAC’s size, membership, and term length, the Non-Commercial Stakeholder Group (NCSG) maintained “its position that non-leadership member term limits should continue to apply”. Finally, no indication of support or rejection was submitted with regards to recommendation pertaining to the SSAC’s prior review implementation and continuing efforts for self-improvement.

OEC and Board Considerations and Actions

The OEC, as the ICANN Board committee overseeing organizational reviews, reviewed all relevant documents pertaining to the SSAC review in detail. Specifically, it considered the final report and the Feasibility Assessment, the public comment input, and the presentations and input received from the independent examiner and the SSAC Review Work Party, respectively. The OEC recommended that the Board take this action to continue with the SSAC Organizational Review process.

In taking this action, the Board accepts that the Feasibility Assessment provides an appropriate response to the issues raised by the independent examiner during the review. Implementing the SSAC Review Work Party-proposed improvements will be a significant step in assuring the post-review SSAC is able and capable to fulfil its Bylaws-mandated role and responsibilities.

In order to confirm that the SSAC proceeds appropriately, the Board is directing the SSAC to convene an implementation work group to provide it with a detailed implementation plan, including a concise overview of the current state for each of the SSAC Review Work Party’s implementation proposals, a clearly defined goal of the

implementation objectives, appropriate implementation costing, prioritization and resource implications, and a methodology of how to measure implementation progress on an ongoing basis. The Board believes that these metrics will help ensure an accountable and transparent implementation process, leading to meaningful, budget-conscious improvements to further enhance the SSAC's crucial role of advising the ICANN Board on matters relating to the security and integrity of the Internet's naming and address allocation systems.

The organizational review process is an iterative process and the Board hopes that all parts of the ICANN community will continue to work productively to understand the unique roles and viewpoints that each SO/AC brings to ICANN, to its policy development work and cross-community efforts. The Board looks forward to the outcome of the [streamlining of organizational review process](#), to be completed before the next iteration of reviews, to further improve and refine the organizational review process.

As part of the OEC consideration of the SSAC's Feasibility Assessment, it came to light that there might be other ways that the ICANN organization could support the SSAC, specifically with regard to the SSAC's interaction with the wider community as well as the issue of providing 'quick looks' on particular issues to the Board. The latter is part of recommendation #7 of the final report and the Feasibility Assessment. The Board noted that that providing adequate ICANN organization support in these cases is an issue that the ICANN organization and President will take on separately and concurrently to the wider SSAC review implementation work. The Board encourages to start conversation about this process in concurrence with, but separate from, the drafting of the detailed implementation plan as outlined in the Board resolution above.

The Board also noted that the OEC and the SSAC discussed the value of linking strategic priorities of the SSAC to the ICANN Strategic Plan.

What is the proposal being considered?

The proposal being considered is for the Board to accept the independent examiner's final report and to accept the SSAC RWP's Feasibility Assessment. The Board is also to

direct the SSAC to convene an implementation work group to draft a detailed implementation plan, to oversee the implementation of the recommendations as detailed in the SSAC Review Work Party in its Feasibility Assessment, and to submit every six (6) months a written report to the OEC detailing the implementation progress.

What significant materials did the Board review?

The Board has considered the relevant Bylaws provisions, the independent examiner's final report, the SSAC Review Work Party's Feasibility Assessment, and community feedback on the independent examiner's assessment report and draft final report, and took onboard the OEC's considerations when making this decision.

Are there positive or negative community impacts?

This Board action is expected to have a positive impact on the community as it supports the continuing process of facilitating periodic review of ICANN's Supporting Organizations and Advisory Committees, as mandated by the Bylaws. Moreover, the implementation of the recommendation will lead to improved transparency, accountability, and effectiveness of the SSAC, in the spirit of continuous improvement.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

This Board action may have fiscal implications, which will be catalogued in the forthcoming detailed implementation plan, which in itself will be subject to a future Board consideration. The detailed implementation plan shall outline how any budgetary requirements are going to be incorporated into future ICANN budgeting cycles.

Are there any security, stability or resiliency issues relating to the DNS?

This Board action is not expected to have a direct effect on security, stability or resiliency issues relating to the DNS.

How is this action within ICANN's mission and what is the public interest served in this action?

The Board's action is consistent with ICANN's commitment pursuant to section 4 of the Bylaws to ensure ICANN's multistakeholder model remains transparent and accountable, and to improve the performance of its supporting organizations and advisory committees.

This action will serve the public interest by fulfilling ICANN's commitment to maintaining and improving its accountability and transparency.

Is public comment required prior to Board action?

The independent examiner's draft final report was published for public comment. No additional public comment prior to Board action is required.

Submitted by: Theresa Swinehart

Position: Senior Vice President, Multistakeholder Strategy and Strategic Initiatives

Date: _____ 2019

Email: theresa.swinehart@icann.org

ICANN BOARD PAPER NO. 2019.06.23.2e

TITLE: **Approval of GNSO Registrar Stakeholder Group Amendments**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The ICANN Bylaws (Article 11, Section C) state, " Each Stakeholder Group identified in Section 11.3(a) and each of its associated Constituencies, where applicable, shall maintain recognition with the ICANN Board." The ICANN Board follows a process through which it formally approves any GNSO Stakeholder Group and/or Constituency Charter amendments.

In late June 2018, the Registrar Stakeholder Group (RrSG) approved amendments to its governing documents and availed itself of the four-phase Board [*Process For Amending GNSO Stakeholder Group and Constituency Charters*](#) (hereinafter "Process" - see Appendix A accompanying this paper).

Having determined that all necessary steps of the Process to this point have been satisfied (see Appendix B accompanying this paper), this paper reflects the recommendation of the Board's Organizational Effectiveness Committee (OEC) that the full Board approve the proposed RrSG Charter amendments.

OEC's RECOMMENDATION:

The OEC, having reviewed all relevant materials, recommends that it is appropriate to move this item for Board consideration, and that the Board should consider whether it is prepared to approve the proposed amendments to the RrSG Charter in line with the [*Process For Amending GNSO Stakeholder Group and Constituency Charters*](#) adopted

by the ICANN Board in 2013, notwithstanding the persisting legal and fiduciary concerns raised during the process.

BACKGROUND

The proposed amendments reflect an effort to improve the RrSG's internal processes, as well as the group's structure itself with a focus on clarifying membership eligibility matters. The RrSG also included new provisions about GNSO Council Representatives; Nominating Committee Representative; an added section on decision-making, clarifying the process for any decision-making scenario in the RrSG, elections and drafting of policy comments/positions; the creation of a new vice chair role, bringing vice chairs to two – V. Chair for Technical Operations, and V. Chair for Policy Coordination; an added chapter on functioning of additional committees within RrSG and on communications; added chapters outlining processes for: Membership Meetings, Outreach and Finances; and the general expansion of the RrSG governance document to include processes for members to refer to and a definitions section defining terms used within the document.

The Policy and Legal staff teams at ICANN organization reviewed the entire document and worked with the RrSG to clarify potential fiscal or liability concerns contained within the amended Charter. ICANN Org notes that most of the concerns previously raised in the initial review of potential legal or fiduciary concerns have been addressed through an updated document.

However, some of the legal and fiduciary concerns previously raised by ICANN Org persisted through to phase III of the Charter Amendment Process (public comment):

- 1) May not be aligned with the clarity required under GNSO operating procedures, particularly where there is significant discretion provided to making such a determination as to who can vote and may not (see terms such as "non-exhaustive list" "entities whose primary business activity derives from an accredited TLD registry or registry operator" "entities who are directly or indirectly operated/owned by governments");
- 2) Lack of representation at the Council level: If the Registrar Stakeholder Group is going to maintain its practice of reaching a voting position (as noted on recently

filed GNSO Council Abstention Forms), then there is no ability for these otherwise eligible entities to have votes raised at the Council level. If otherwise eligible registrars are not allowed to have their voice considered during Council votes on items such as consensus policies, ICANN org is concerned with how that might impact the future applicability of those policies and the ability to enforce against disenfranchised registrars. In addition, ICANN org is concerned with how this disenfranchisement may impact Council votes on the exercise of Empowered Community powers.

- 3) Lack of clarity on non-voting participation in consensus calls on policy statements/voting positions. Further, if non-voting members do not support a consensus call, they then automatically excluded from any simple majority vote on the policy statements issued in the name of the group of which they are members. (See Item (2) above)
- 4) Lack of clarity in how the otherwise eligible non-voting members will participate in Empowered Community processes originating within the RrSG (prior to the Council votes).

The RrSG submitted a comment via the public comment process addressing concerns from ICANN Org following several discussions during the Charter Amendment Review process. During this phase, the RrSG made several changes to the proposed Charter prior to submitting it to public comment. Some concerns from ICANN Org remain to be resolved (see: Appendix C) and the RrSG already commented on said concerns via a letter posted on the Public Comment Proceeding page (see: Appendix D). On the comment submitted by the RrSG, the RrSG expressed their views in support of the amended Charter which was approved by the RrSG Membership via a majority vote and discussed during a 2-year amendment process. Particular attention was brought to section 2.2.3 of the amended RrSG Charter.

During the public comment process, a total of five (5) comments were received from the ICANN community. Four (4) comments received were submitted to express support for the updated RrSG Charter, and the final comment was submitted on behalf of the RrSG Executive Committee to further address and respond to the items raised by

ICANN Org during Phase II of the GNSO Charter Amendment Process. There were no comments submitted raising concerns or issues with any of the sections of the updated RrSG Charter.

The RrSG commented flagging that *“the RrSG is committed to the ICANN multi-stakeholder model and decision making methodology by consensus. However, it is inevitable that conflicts of interest may arise in the RrSG as the domain ecosystem evolves. The RrSG firmly believes §2.2.3 of the New Charter is prudent and necessary. In the spirit of a bottom-up governance environment in ICANN, each group is empowered to determine its charter, including rules around admission and voting rights. Considering that the New Charter has been duly approved by the RrSG members in June 2018 and has been in operation since, [they] urge ICANN Board to recognize the proposed charter amendments as reflected in the New Charter.”*

PROPOSED BOARD RESOLUTION

Whereas, the ICANN Bylaws (Article 11, Section 11.5 c) state, " Each Stakeholder Group identified in Section 11.3(a) and each of its associated Constituencies, where applicable, shall maintain recognition with the ICANN Board”;

Whereas, the Board has established a *Process For Amending GNSO Stakeholder Group and Constituency Charters (hereinafter “Process”)*;

Whereas, the GNSO Registrar Stakeholder Group (RrSG), ICANN Org, and the Organizational Effectiveness Committee (OEC) have completed all steps identified in the Process to date, and the OEC has recommended that the Board approve the proposed changes.

RESOLVED (2019.06.23.XX), the ICANN Board approves the Registrar Stakeholder Group Charter Amendments as documented in this paper and attachments. The ICANN President and CEO (or his designee) is directed to communicate this resolution with the leadership of the RrSG, and the RrSG and the ICANN President and CEO (or his

designee) is directed to provide access to the updated RrSG Charter on the appropriate ICANN and RrSG web pages.

PROPOSED RATIONALE:

Why is the Board addressing this issue now?

The ICANN Bylaws (Article 11, Section 11.5 c) state, " Each Stakeholder Group identified in Section 11.3(a) and each of its associated Constituencies, where applicable, shall maintain recognition with the ICANN Board;" The ICANN Board follows a process through which it formally approves any GNSO Stakeholder Group and/or Constituency Charter amendments in order to support the maintenance of recognition.

In September 2013, the Board established a [*Process For Amending GNSO Stakeholder Group and Constituency Charters*](#) ("Process") to provide a streamlined methodology for compliance with the Bylaws requirement.

In June 2018, the Registrar Stakeholder Group (RrSG) of the GNSO approved amendments to its governing documents and availed itself of the Process.

What are the proposals being considered?

The Registrar Stakeholder Group (RrSG) has substantially amended its existing Charter document to adjust to an evolving composition of membership and to enable it to more effectively undertake its policy development responsibilities. Among a number of amendments, the most substantial charter changes are in the following areas:

- Reordered and reformatted document, aligning with other "best-of-breed" charters for the GNSO, including information as per the GNSO Operating Procedures and ICANN Bylaws;
- Clarified areas of RrSG membership eligibility – particularly the definition of eligible members, voting status vs. non-voting status, and matters regarding non-eligible applicants;

- Additional membership representatives, outlining different status for Member Representatives, Alternate Member Representatives and Member Participants.
- Expanded provisions regarding Executive Committee roles, responsibilities, and eligibility and created new Vice Chair position;
- Added details on GNSO Council Representatives and Nominating Committee Representative, specifically regarding eligibility and responsibilities towards RrSG;
- Added section on decision-making, clarifying the process for any decision-making scenario in the RrSG, elections and drafting of policy comments/positions;
- Creation of a new vice chair role, bringing vice chairs to two –V. Chair for Technical Operations, and V. Chair for Policy Coordination;
- Added chapter on functioning of additional committees within RrSG;
- Added chapter on communications: RrSG Web Presence, Distribution List and Publication Policies;
- Added chapters outlining processes for: Membership Meetings, Outreach and Finances;
- General expansion of governance document to include processes for members to refer to and a definitions section defining terms used within the document.

What stakeholders or others were consulted?

In addition to extensive community deliberations within the RrSG, the proposed amendments were subjected to a 50-day Public Comment period (18 December 2018 – 5 February 2019). When the period was completed, ICANN org produced a Summary Report for community and Board OEC review on 7 February 2019.

What significant materials did the Board review?

Board members reviewed of the proposed charter amendments, a copy of the red-lined version of the proposed charter amendments following the initial staff review prior to the public comment proceeding, a copy of the Staff Summary Report summarizing community comments, the public comment Issue Tracking Checklist, and supporting documentation from the RrSG Executive Committee and ICANN Org addressing the concerns previously expressed by ICANN Org.

What factors did the Board find to be significant?

The GNSO Registrar Stakeholder Group, ICANN Org, and the Organizational Effectiveness Committee completed all steps identified in the Process and publication of the amendments for community review and comment. The OEC has recommended to the Board that the RrSG Charter amendments be approved, despite concerns presented by ICANN Org regarding the updated charter. The rationale for this recommendation stems from the lack of community comments or concerns presented via the public comment process, where ICANN org's concerns were publicly posted, and no comments in disfavor of the proposed amendments were received by the ICANN community.

Are there Positive or Negative Community Impacts?

The RrSG has amended its existing Charter document to adjust to an evolving composition of membership and to enable it to more effectively undertake its policy development responsibilities. No concerns were raised by ICANN community members regarding the provisions outlined in the newly drafted RrSG Charter throughout the 50-day public comment proceeding.

Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?

There are no anticipated fiscal impact/ramifications on ICANN or individual community members within the amendments supplied. The amendments supplied align with ICANN's mission and meet the public interest by way of updating the

fundamental governance document for one of the ICANN Board-recognized constituency groups.

Are there any Security, Stability or Resiliency issues relating to the DNS?

There is no anticipated impact from this decision on the security, stability and resiliency of the domain name system as a result of this decision.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

The proposed RrSG Charter amendments were subjected to a 50-day Public Comment period (18 December 2018 – 5 February 2019). No additional public comment prior to Board action is required.

Signature Block:

Submitted by: David Olive; Benedetta Rossi

Position: Senior Vice President, Policy Development Support; Manager, Policy Support and Community Services

Date Noted: 31 May 2019

Email: David.olive@icann.org; benedetta.rossi@icann.org

APPENDIX A

SUMMARY OF GNSO CHARTER AMENDMENT PROCESS (Excerpts)

On 28 September 2013, the ICANN Board established a process for the amendment of GNSO Stakeholder Group and Constituency Charters. That process is as follows:

Phase I: Amendment Preparation

GNSO Stakeholder Groups (SGs) and Constituencies should formulate charter amendments through their own internal processes and notify ICANN Staff as early as practicable (at policy-staff@icann.org) upon initiation and completion (approval) of such efforts.

Phase II: Staff Review

Upon formal receipt of the proposed amendment(s) approved by the community group, ICANN staff will analyze the proposal and, within 10 business days, submit the community proposal with a report to the appropriate Board committee identifying any fiscal or liability concerns.

Phase III: Public Comments

After Board committee review of the Staff report and the proposed charter amendments, the Board committee will direct the opening of a Public Comment Forum. Upon completion of the Forum, within 30 calendar days, staff will provide a report to the Board committee summarizing the community feedback.

Phase IV: Board Review

At the next available opportunity after the delivery and publication of the staff report, the appropriate Board committee shall review the proposed charter amendments, the staff report and any community feedback and make a recommendation to the Board.

After receiving a recommendation from the committee, the Board shall either:

- I. Recognize the proposed charter amendment by a simple majority vote; or
- II. Reject the proposed amendment by a supermajority (2/3) vote and provide a specific rationale for its concerns.

III. If neither above condition is met, the Board will ask for further explanation of the proposed amendments by the community.

In its review of the proposed amendments, the ICANN Board may ask questions and otherwise consult with the affected SG or Constituency. If it is not feasible for the Board to take action on the proposed amendments after two meetings, the Board shall report to the affected SG or Constituency the circumstance(s) that prevented it from making a final action and its best estimate of the time required to reach an action. That report is deemed an "action" under this process. If it is not feasible for the Board to take action on the proposed amendments after four meetings (or after a total of six scheduled meetings), the proposed community amendments will be deemed effective.

APPENDIX B

Specific Registrar Stakeholder Group Amendment Process Steps

A. PROCESS TO DATE

- 1) The RrSG has completed **Phase I** of the Process, voted to amend its governing Charter on 28 June 2018.
- 2) Formally advised Staff via email on 6 July 2018.
- 3) Policy Staff was actively involved in supporting the redrafting of the RrSG Charter from the start of the process.
- 4) As part of its **Phase II** process responsibilities, ICANN org staff conducted a review of the document, with policy staff further examining the language, form and structure of the document and the legal team making an assessment of any potential fiscal or liability concerns in the proposed changes. As part of the Phase II process, the ICANN org provided inputs back to the RrSG of potential fiscal or liability concerns. While most issues were addressed, ICANN org identified that there are some potential fiscal or liability concerns that persist, and that those were flagged for the OEC during Phase III (public comment).
- 5) As part of its **Phase III** process, a 50-day Public Comment period (18 December 2018 – 5 February 2019) was completed and ICANN Org produced a Summary Report for community and Board review on 7 February 2019, and an Issue Tracking Checklist.
- 6) The OEC directed staff to post the proposed amendments to an ICANN Public Comments Forum for community review and comment (**Phase III** of the Process).

SUMMARY OF AMENDMENTS

Attached you will find a document *RrSG Charter (6.0)* which reflects the RrSG's proposed new charter documentation. The document is the culmination of extensive

work by the RrSG Charter Drafting Team in partnership with ICANN staff, from July 2016 to May 2018, and the product of over 50 virtual meetings and 4 face-to-face meetings at ICANN58 Copenhagen, ICANN59 Johannesburg, ICANN60 Abu Dhabi and ICANN61 San Juan.

There is also a redline version attached to show the difference between this final version and the version of the currently in force charter, also attached for your convenience.

Also attached is a copy of the Staff Summary Report that reviews and summarizes the community feedback submitted during the public comment forum, as well as an Issue Tracking Checklist Document outlining all issues, comments or recommendations flagged during the public comment proceeding. All issues raised by commenters and ICANN Org. have been reviewed and responded through a review and written responses provided by the RrSG Executive Committee.

Among a number of changes noted by staff, the amended charter:

- Reordered and reformatted document, aligning with other “best-of-breed” charters for the GNSO, including information as per the GNSO Operating Procedures and ICANN Bylaws;
- Clarified areas of RrSG membership eligibility – particularly the definition of eligible members, voting status vs. non-voting status, and matters regarding non-eligible applicants;
- Additional membership representatives, outlining different status for Member Representatives, Alternate Member Representatives and Member Participants.
- Expanded provisions regarding Executive Committee roles, responsibilities, and eligibility and created new Vice Chair position;
- Added details on GNSO Council Representatives and Nominating Committee Representative, specifically regarding eligibility and responsibilities towards RrSG;

- Added section on decision-making, clarifying the process for any decision-making scenario in the RrSG, elections and drafting of policy comments/positions;
- Creation of a new vice chair role, bringing vice chairs to two –V. Chair for Technical Operations, and V. Chair for Policy Coordination;
- Added chapter on functioning of additional committees within RrSG;
- Added chapter on communications: RrSG Web Presence, Distribution List and Publication Policies;
- Added chapters outlining processes for: Membership Meetings, Outreach and Finances;
- General expansion of governance document to include processes for members to refer to and a definitions section defining terms used within the document.

Reviewers of the new revised governance document should consider scrutinizing it as though it were freshly created.

III. REPORT OF FISCAL OR LIABILITY CONCERNS

The Policy and Legal staff teams at ICANN organization reviewed the entire document and worked with the RrSG to clarify potential fiscal or liability concerns contained within the amended Charter. ICANN Org notes that most of the concerns previously raised in the initial review of potential legal or fiduciary concerns have been addressed through an updated document.

However, some of the concerns previously raised by ICANN Org persisted through to phase III of the Charter Amendment Process (public comment), specifically, as it relates to the development of a grouping of registrars that have non-voting status within the RrSG even if they are not exercising a vote in any other part of the GNSO, as set out in Section 2.2.3. As previously noted to the OEC, these concerns do not apply

where an otherwise eligible member elects to vote through a different SG in the GNSO, or is part of a registrar family.

The RrSG submitted a comment via the public comment process (see Appendix D) addressing concerns from ICANN Org (see Appendix C) following several discussions during the Charter Amendment Review process. During this phase, the RrSG made several changes to the proposed Charter prior to submitting it to public comment. Some concerns from ICANN Org remain to be resolved (see: Appendix C) and the RrSG already commented on said concerns via a letter posted on the Public Comment Proceeding page (see: Appendix D). On the comment submitted by the RrSG, the RrSG expressed their views in support of the amended Charter which was approved by the RrSG Membership via a majority vote and discussed during a 2-year amendment process. Particular attention was brought to section 2.2.3 of the amended RrSG Charter.

Provision Language:

§2.2.3 Non-Voting Members: The following is a non-exhaustive list of entities which, although they meet the primary membership eligibility requirements in 2.2.1, are considered eligible for membership only as Non-Voting Members:

- a. Not-for-profit entities excepting trade associations or coalitions representing for-profit entities;
- b. Entities whose primary business activity derives from an accredited TLD registry or registry operator; and
- c. Entities who are directly or indirectly operated/owned by governments.

The RrSG commented flagging that “the RrSG is committed to the ICANN multi-stakeholder model and decision making methodology by consensus. However, it is inevitable that conflicts of interest may arise in the RrSG as the domain ecosystem evolves. The RrSG firmly believes §2.2.3 of the New Charter is prudent and necessary. In the spirit of a bottom-up governance environment in ICANN, each group is empowered to determine its charter, including rules around admission and voting rights. Considering that the New Charter has been duly approved by the RrSG

members in June 2018 and has been in operation since, [they] urge ICANN Board to recognize the proposed charter amendments as reflected in the New Charter.”

Please refer to the issue tracking list document attached to view the full report on specific issues brought forward by the RrSG in an effort to resolve ICANN Org’s concerns.

Both Policy and Legal staff members can be available to discuss any aspects of their work on this matter to date and to address any questions or comments that Board members may have regarding this matter. ICANN org staff notes that the full scope of concerns identified under the legal and fiduciary concerns have not been fully addressed, but no community comments were received against the proposed amendments and for this reason the OEC voted in favor to move this item forward on the basis of the public comment proceeding and supporting documentation provided by the RrSG, availing itself of the bottom-up process set forth by the ICANN Board as a [Process For Amending GNSO Stakeholder Group and Constituency Charters](#) to provide a streamlined methodology for compliance with the Bylaws requirement.

#

APPENDIX C: ICANN Org Fiscal Concerns Presented to Board OEC

To: Organizational Effectiveness Committee

Date: 14 December 2018

From: Samantha Eisner, Deputy General Counsel

ICANN Legal provided the following information to the Registrar Stakeholder Group Charter Drafting Team, which was presented to the OEC for its 4 December 2018 meeting:

ICANN org has reviewed the updates to the RrSG proposed charter. We note that some of the concerns previously raised in our review of potential legal or fiduciary concerns have been addressed through the update. However, some of the concerns previously raised by ICANN org persist in this update, specifically, as it relates to the development of a grouping of registrars that have no voting status within the RrSG even if they are not exercising a vote in any other part of the GNSO, as set out in Section 2.2.3. As previously noted, these concerns do not apply where an otherwise eligible member elects to vote through a different SG in the GNSO, or is part of a registrar family.

The persisting legal and fiduciary concerns we have with this are:

(1) May not be aligned with the clarity required under GNSO operating procedures, particularly where there is significant discretion provided to making such a determination as to who can vote and may not (see terms such as "non-exhaustive list" "entities whose primary business activity derives from an accredited TLD registry or registry operator" "entities who are directly or indirectly operated/owned by governments");

(2) Lack of representation at the Council level:

If the Registrar Stakeholder Group is going to maintain its practice of reaching a voting position (as noted on recently filed GNSO Council Abstention Forms), then there is no ability for these otherwise eligible entities to have votes raised at the Council level. If otherwise eligible registrars are not allowed to have their voice considered during Council votes on items such as consensus policies, ICANN org is concerned with how that might impact the future applicability of those policies and the ability to enforce against disenfranchised registrars. In addition, ICANN org is concerned with how this disenfranchisement may impact Council votes on the exercise of Empowered Community powers.

(3) Lack of clarity on non-voting participation in consensus calls on policy statements/voting positions. Further, if non-voting members do not support a consensus call, they then automatically excluded from any simple majority vote on the policy statements issued in the name of the group of which they are members. (See Item (2) above)

(4) Lack of clarity in how the otherwise eligible non-voting members will participate in Empowered Community processes originating within the RrSG (prior to the Council votes).

ICANN org understands that the RrSG is interested in moving the proposed Charter to the OEC for further consideration. As noted in our prior communication, we'll provide the OEC with a copy of this note for consideration along with the Charter.

The OEC requested further information on the specific sources that ICANN org flagged as part of its review of potential legal or fiscal concerns.

The Registrar Stakeholder Group is defined in the ICANN Bylaws, Section 11.4(b), as “representing all registrars accredited by and under contract to ICANN.”

The GNSO Operating Procedures are available at: <https://gns0.icann.org/en/council/op-procedures-18jun18-en.pdf/>

Item (1) above focuses on the potential lack of clarity in the definition of non-voting registrars, through the inclusion of language granting significant discretion in defining which entities might be deemed non-voting. such as "non-exhaustive list" "entities whose primary business activity derives from an accredited TLD registry or registry operator" or "entities who are directly or indirectly operated/owned by governments".

The clauses that ICANN org relies upon out of the Operating Procedures regarding this lack of clarity include:

7.1.1a (Participation Principles): “These rules and any other rules governing participation should be objective, standardized and clearly stated.”

7.1.2b (Membership): “All Groups should abide by rules governing membership, which are based on common principles. All Group members should have rights, duties and responsibilities and in particular, rights to vote as applicable as per Group membership rules.”

7.1.2e (Membership): “Admission criteria should be predictable and objective and not arbitrary or discretionary.”

Item (2) above discusses the potential impacts to ICANN’s ability to enforce Consensus Policies on registrars that are excluded from developing a voting position in the event the Registrar Stakeholder Group cannot reach consensus and takes the issue to an internal vote. While the Drafting Team suggests this is not really an issue for concern, there remains the possibility for there to be disagreement on the impact of a proposed Consensus Policy amongst those with voting rights and those without, and for that disagreement to force a vote within the Registrar Stakeholder Group’s internal processes in which the non-voting registrars couldn’t participate. Because those registrars also are not participating in any other part of the GNSO, they would effectively not have the ability to participate in a decision on whether to support a Consensus Policy, and seems likely to give rise to a challenge against enforcement. ICANN’s ability to uniformly enforce Consensus Policy is essential.

The ability for ICANN to enforce consensus policies arises through the Registrar Accreditation Agreement (<https://www.icann.org/resources/pages/approved-with-specs->

[2013-09-17-en](#)) and Bylaws, which require Consensus Policies to be approved through a GNSO Supermajority vote, which is defined as: “(A) two-thirds (2/3) of the Council members of each House, or (B) three-fourths (3/4) of the Council members of one House and a majority of the Council members of the other House.” (Article 11.3 (i)(xix)). The three Council Members appointed by the Registrar Stakeholder Group sit alongside three from the Registry Stakeholder Group and a Nominating Committee appointee to form the Contracted Parties House.

Item (2) also discusses similar issues with allowing ICANN understanding the scope of support at the Council level for Empowered Community actions, if there is underlying ability for the Registrar Stakeholder Group to require a vote on internal voting positions or actions supporting the powers of the Empowered Community, as defined within the Bylaws.

Items (3) and (4) are inherently related to the items already discussed above.

Appendix D: RrSG Cover Letter to RrSG Charter for OEC Review

TO: Organizational Effectiveness Committee
(OEC of the ICANN Board)

TITLE: GNSO Registrar Stakeholder Group Charter
Cover Letter for OEC Review

Submitted by: Zoe Bonython, on behalf of the Registrar
Stakeholder Group

First of all, we appreciate ICANN org’s thorough review of the new RrSG Charter and our sincere thanks for the opportunity to discuss ICANN org’s legal and fiduciary concerns with Sam Eisner, Deputy General Counsel of ICANN via a conference call on 8 October 2018.

Based on our conference call, ICANN org’s primary concern appears to be twofold: Firstly, Section 2.2.3 of the Charter has the ability to exclude on an unpredictable basis a group of registrars from voting in the RrSG; which in turn may impact ICANN’s ability to enforce its bylaws and contracts.

We address those two areas of concern as follows:

GNSO Operating Procedures:

We understand one of ICANN’s main concerns is that Section 2.2.3 of the Charter “may not be aligned with the clarity required under GNSO Operating Procedures (“Procedures”) particularly where there is significant discretion provided to make such a determination as to who can vote, it may not determine such a non-exhaustive list”.

In terms of the clarity requirement under the Procedures, we submit a distinction should be drawn between admission and voting rights. While 6.1.2.e.i of the

Procedures provides “Admission criteria should be predictable and objective and not arbitrary or discretionary”, the right to vote in a group is governed by each group’s charter (6.1.2.b, “...rights to vote as applicable as per Group membership rules”).

We would note that 6.1.2.j provides “No legal or natural person should be a voting member of more than one Group” but 6.1.2.b does not make any reference to 6.1.2.j. This indicates the Procedures indeed allow each group to develop its own rules around voting rights. Thus, we do not believe the criteria and rules around admission and voting rights in the Charter are inconsistent with the Procedures.

Enforceability of ICANN Bylaws and contracts

From a legal perspective, the enforceability of ICANN consensus policies is based on the contract between ICANN and accredited registrars and not on participation in the PDP or voting within the RrSG. When a registrar signs the RAA, it is bound by those policies. Section 4.1 of the RAA states:

4.1 Compliance with Consensus Policies and Temporary Policies. During the Term of this Agreement, Registrar shall comply with and implement all Consensus Policies and Temporary Policies in existence as of the Effective Date found at <http://www.icann.org/general/consensus-policies.htm> [icann.org], and as may in the future be developed and adopted in accordance with the ICANN Bylaws, provided such future Consensus Policies and Temporary Policies are adopted in accordance with the procedures and relate to those topics and subject to those limitations set forth in the Consensus Policies and Temporary Policies Specification to this Agreement.

ICANN-accredited registrars are not obliged, and many choose not, to be members of the RrSG. Participation in GNSO Policy Development Process (PDP) is also voluntary. Therefore it seems inconceivable that a registrar could claim that an ICANN consensus policy is non-binding because they were a non-voting member of the RrSG or not part of a PDP.

The RrSG extensively discussed and reviewed its charter before membership overwhelmingly voted in favour of accepting it in its current form. We are confident that the Charter allows the RrSG to best represent the interests of ICANN accredited registrars and that any restrictions placed on members’ voting rights are there to ensure registrar business interests will be upheld above the interests of other parties both now and in the future.

As such, unless we are given other reasons not to, the RrSG plans to move forward with presenting the Charter to the OEC without any amendment.

Kind regards,
Zoe Bonython
On behalf of the RrSG

AGENDA – 23 JUNE 2019 REGULAR BOARD MEETING – 60 minutes

Last Updated 22 June 2019

Time, etc.	Agenda Item	Shepherd
Assembly, Roll Call & Consent Agenda Vote	1. Consent Agenda	
	1.a. Approval of Board Meeting Minutes	John Jeffrey
	1.b. Emergency Back-End Registry Operator Program (EBERO) Contracts Approval	Ron da Silva
	1.c. Consideration of SSAC Advisory Regarding Access to Domain Name Registration Data (SAC101)	Merike Kaeo
	1.d. Contract Renewal and Disbursement for Access & Identity Management Software (Request to add to the Board Meeting Agenda)	Ron da Silva
	1.e. Thank You to Local Host of ICANN 65 Meeting	Cherine Chalaby
	1.f. Thank You to Sponsors of ICANN 65 Meeting	Cherine Chalaby

AGENDA – 23 JUNE 2019 REGULAR BOARD MEETING – 60 minutes

Last Updated 22 June 2019

	1.g. Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN 65 Meeting	Cherine Chalaby
Discussion & Decision	2. Main Agenda	
	2.a. Adoption of ICANN Strategic Plan for Fiscal Years 2021 – 2025	Maarten Botterman
	2.b. Transfer of the .BJ (Benin) top-level domain	Chris Disspain
	2.c. Adoption of Operating Standards to provide guidance on conducting Specific Reviews, as mandated by the ICANN Bylaws, Article 4, Section 4.6	Avri Doria
	2.d. Acceptance of the Final Report and Feasibility Assessment and of the Initial Implementation Plan for the Second Organizational Review of the Security and Stability Advisory Committee	Avri Doria
	2.e. GNSO Registrar Stakeholder Group Amendments	Avri Doria
	2.f. AOB	
Discussion & Decision	3. Executive Session	

Directors and Liaisons,

Attached below please find Notice of date and time for a Regular Meeting of the ICANN Board.

23 June 2019 – Regular Meeting of the ICANN Board of Directors - at 10:00 WEST / 09:00 UTC. This Board meeting is estimated to last approximately 60 minutes.

<https://www.timeanddate.com/worldclock/fixetime.html?msg=Regular+Meeting+of+the+ICANN+Board+-+ICANN+65+Marrakech&iso=20190623T10&p1=1996&ah=1>

Some other time zones:

23 June 2019 – 02:00 am PDT Los Angeles

23 June 2019 – 05:00 am EDT Washington, D.C.

23 June 2019 – 11:00 am CEST Brussels

23 June 2019 – 06:00 pm JST Tokyo

REGULAR MEETING OF THE ICANN BOARD

Consent Agenda

- Approval of Board Meeting Minutes
- Emergency Back-End Registry Operator Program (EBERO) Contracts Approval
- Consideration of SSAC Advisory Regarding Access to Domain Name Registration Data (SAC101)
- Thank You to Local Host of ICANN 65 Meeting
- Thank You to Sponsors of ICANN 65 Meeting
- Thank You to Interpreters, Staff, Event and Hotel Teams of ICANN 65 Meeting

Main Agenda

- Adoption of ICANN Strategic Plan for Fiscal Years 2021 – 2025
- Transfer of the .BJ (Benin) top-level domain

- Adoption of Operating Standards to provide guidance on conducting Specific Reviews, as mandated by the ICANN Bylaws, Article 4, Section 4.6
- Acceptance of the Final Report and Feasibility Assessment and of the Initial Implementation Plan for the Second Organizational Review of the Security and Stability Advisory Committee
- GNSO Registrar Stakeholder Group Amendments
- AOB

Executive Session

- President and CEO At-Risk Compensation for second half of FY19 and Goals for FY20
- Officer Compensation
- AOB

MATERIALS – You can access the Board Meeting materials, when available, in Google Drive here:

Contact Information Redacted

If you have trouble with access, please let us know and we will work with you to assure that you get access to the documents.

If call information is required, it will be distributed separately.

If you have any questions, or we can be of assistance to you, please let us know.

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