

**ICANN BOARD OF DIRECTORS
SUBMISSION NO. 2023.03.16.1a**

TITLE: **Appointment of Root Server Operator
Organization Representative to the RSSAC**

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

EXECUTIVE SUMMARY:

Per Article 12, Section 12.2(c)(ii) of the ICANN Bylaws, the Chair of the Root Server System Advisory Committee (RSSAC) submits the following members for appointment to the RSSAC:

- John Augenstein, Defense Information Systems Agency (DISA)
- Hans Petter Holen, Réseaux IP Européens (RIPE) Network Coordination Centre

John Augenstein and Hans Petter Holen have been selected by their root server operator organizations to serve on the RSSAC.

RSSAC RECOMMENDATION:

The RSSAC Chair recommends the ICANN Board of Directors appoint John Augenstein and Hans Petter Holen as the RSSAC representatives of their respective root server operator organizations.

PROPOSED RESOLUTION:

Whereas, the ICANN Bylaws call for the establishment of the Root Server System Advisory Committee (RSSAC) with the role to advise the ICANN community and ICANN Board of Directors on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System.

Whereas, the ICANN Bylaws call for the ICANN Board of Directors to appoint one RSSAC member from each root server operator organization, based on recommendations from the RSSAC Chair.

Whereas, the RSSAC Chair has recommended to the ICANN Board of Directors the appointment of representatives from Defense Information Systems Agency (DISA) and Réseaux IP Européens (RIPE) Network Coordination Centre to the RSSAC.

Resolved (2023.03.16.XX), the ICANN Board of Directors appoints Hans Petter Holen as the representative of Réseaux IP Européens (RIPE) Network Coordination Centre, and John Augenstein as the representative of Defense Information Systems Agency (DISA) to the RSSAC through 31 December 2023 and 31 December 2025, respectively.

PROPOSED RATIONALE:

In May 2013, the root server operator organizations agreed to an initial membership of representatives for the RSSAC, each nominating an individual. The ICANN Board of Directors approved the initial membership of the RSSAC in July 2013 with staggered terms. The representative from Réseaux IP Européens (RIPE) Network Coordination Centre, Kaveh Ranjbar, resigned from RSSAC on 25 January 2023. The representative from Defense Information Systems Agency (DISA), Ryan Stephenson, resigned from RSSAC on 1 March 2023.

Today, the Board is taking action pursuant to Article 12, Section 12.2 (c)(ii) of the ICANN Bylaws to appoint members to the RSSAC.

The appointment of the RSSAC members is not anticipated to have any fiscal impact on the ICANN organization that has not already been accounted for in the budgeted resources necessary for ongoing support of the RSSAC.

This resolution is an organizational administrative function for which no public comment is required. The appointment of the RSSAC members contributes to the public interest and the commitment of the ICANN organization to strengthen the security, stability, and resiliency of the DNS in the public interest and in accordance with ICANN's mission.

Submitted by:	Wes Hardaker
Position:	RSSAC Liaison to the ICANN Board
Date Noted:	1 March 2023
Email and Phone Number	Contact Information Redacted

ICANN BOARD PAPER NO. 2023.03.16.1c

TITLE: Storage Area Network Equipment Replacement
PROPOSED ACTION: For Board Approval

EXECUTIVE SUMMARY:

Since 2010, ICANN has been using outsourced equipment for its Storage Area Network (SAN), where all ICANN's data resides. This equipment is now approaching its end of life and needs to be replaced. The initial estimated cost for replacing the aging components was included in the FY23 budget, but the price has significantly increased due to pandemic related supply-chain and inflationary pressures.

In early 2023 a Request for Quotation (RFQ) was conducted for this equipment replacement. ICANN received two bids. The bid submitted by the preferred vendor was Confidential Negotiation Information and, with taxes, the total is estimated to be approximately Confidential Negotiation Information. ICANN has done business with this vendor for several years and this relationship has been very beneficial.

Because the proposed equipment will cost more than US\$500,000, pursuant to ICANN's Contracting and Disbursement Policy the Board is required to approve entering into, and making disbursements pursuant to, the contract.

ICANN ORGANIZATION AND BOARD FINANCE COMMITTEE (BFC)

RECOMMENDATION:

Both ICANN organization and the BFC recommend that the Board authorize the Interim President and CEO, or her designee(s), to take all necessary actions to enter into, and make disbursement in furtherance of, the contract with the chosen vendor.

PROPOSED RESOLUTION:

Whereas, ICANN is dedicated to preserving the security, stability and resiliency of the Internet's Domain Name System.

Whereas, ICANN organization's current storage network equipment is reaching its end of life and needs to be replaced

Whereas, the chosen vendor has provided hardware to ICANN over the last several years.

Whereas, the chosen vendor has the solution that best addresses ICANN's technical requirements for storage area network equipment.

Whereas, ICANN organization and the Board Finance Committee has recommended that the Board authorize the Interim President and CEO, or her designee(s), to take all necessary actions to enter into, and make disbursement in furtherance of, the contract with the chosen vendor.

Resolved (2023.03.16.XX), the Board authorizes the Interim President and CEO, or her designee(s) to enter into, and make disbursement in furtherance of, a new storage system and support contract.

Resolved (2023.03.16.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 it is determined that the confidential information may be released.

PROPOSED RATIONALE:

ICANN org conducted a Request for Quotation (RFQ) to solicit bids for necessary storage area network equipment.

The infrastructure team has spent months researching and analysing the best options for this equipment replacement.

After review of the bids received, only Confidential Negotiation Information meets all of ICANN's requirements, caters to ICANN's market size, and is also a leader in the Primary Storage Gartner Magic Quadrant.

The chosen vendor submitted a bid of Confidential Negotiation Information which includes the new hardware and support for a period of Confidential Negotiation Information for both ICANN data centers. With taxes, the total estimate is approximately Confidential Negotiation Information of which approximately Confidential Negotiation Information is for support and the remaining cost is for hardware. Further, the relationship with this vendor has been beneficial to ICANN and has been a success over the years.

This decision is in the furtherance of ICANN's mission and the support of public interest to support the security, stability, and resiliency of the domain name system by

ensuring that the company can rely on a stable and highly available Storage Area Network.

This decision will have a fiscal impact, but most of the costs were budgeted and the remainder can be absorbed.

As noted above, this action is intended to have a positive impact on the security, stability, and resiliency of the domain name system.

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

Submitted by:
Position:

Ashwin Rangan; Xavier Calvez
SVP, Engineering and CIO; SVP, Planning Chief
Financial Officer

Date Noted:
Email:

6 March 2023
Ashwin.rangan@icann.org; xavier.calvez@icann.org

ICANN BOARD PAPER NO. 2023.03.16.1d

TITLE: **Thanking Departing Security and Stability Advisory
Committee (SSAC) Member**

PROPOSED ACTION: **Resolution for Consent Agenda**

EXECUTIVE SUMMARY:

The Chair of the Security and Stability Advisory Committee (SSAC) requests acknowledgement of the service of Jonathan Spring who was appointed to the SSAC on 22 July 2021 and resigned on 23 December 2022.

COMMITTEE RECOMMENDATION:

The Committee desires one action from the ICANN Board: to formally thank Jonathan Spring for his work while a member of the SSAC.

PROPOSED RESOLUTION:

Whereas, Jonathan Spring was appointed to the ICANN Security and Stability Advisory Committee on 22 July 2021.

Whereas, Jonathan Spring resigned from the SSAC on 23 December 2022.

Whereas, ICANN wishes to acknowledge and thank Jonathan Spring for his service to the community by his membership on the Security and Stability Advisory Committee.

Resolved (2023.03.16.xx), Jonathan Spring has earned the deep appreciation of the Board for his term of service to ICANN. The ICANN Board of Directors wishes him well in all future endeavors.

PROPOSED RATIONALE:

The SSAC is a diverse group of individuals whose expertise in specific subject matters enables the SSAC to fulfill its role and execute its mission. Since its inception, the SSAC has invited to its membership individuals with deep knowledge and experience in technical and security areas that are critical to the security and stability of the Internet's naming and address allocation systems.

The SSAC's continued operation as a competent body is dependent on the accumulation of talented subject matter experts who have consented to volunteer their time and energies to the execution of the SSAC mission.

Further, it is the practice of the SSAC to seek Board recognition of the service of Committee members upon their departure.

Signature Block:

Submitted by: James Galvin

Position: Liaison to the ICANN Board from the Security and Stability Advisory Committee

Date Noted: 1 March 2023

Email: james.galvin@board.icann.org

Please note that this draft has not been adopted by the ICANN Board (as of 13 March 2023). This document is subject to change pending Board discussion and resolution.

ICANN BOARD PAPER NO. 2023.03.16.2a

TITLE: Final Report on the new gTLD Subsequent Procedures Policy Development Process

PROPOSED ACTION: **For Board Decision**

EXECUTIVE SUMMARY:

The ICANN Board is in receipt of community-developed policy recommendations, an Operational Design Assessment (ODA), and other outputs to enable the further introduction of new generic top-level domains (gTLDs). The Board has maintained a longstanding intent to further the expansion of gTLDs, which is consistent with Commitments and Core Values in the ICANN Bylaws to enable and promote competition in the Domain Name System (DNS) space. The Board resolved [in 2015](#) to reaffirm ICANN's “commitment to opening an additional round of the New gTLD Program as expeditiously as possible.”

On 18 February 2021, the Generic Names Supporting Organization (GNSO) Council voted to approve, by a GNSO Supermajority, the Affirmations, Recommendations, and Implementation Guidance (collectively, referred to as “Outputs”) that received either “Full Consensus” or “Consensus” designations documented in the [Final Report on the New Generic Top-Level Domain \(gTLD\) Subsequent Procedures Policy Development Process](#) (Final Report). On 24 March 2021, the GNSO Council transmitted its [Recommendations Report](#) to the Board. A period of public comment to gather community input followed, which opened on 22 April 2021 and closed on 1 June 2021, with the ensuing [Staff Report](#) published on 15 June 2021.

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Following extensive community consultation, public comment, and the delivery of the Board-commissioned New gTLD Subsequent Procedures [Operational Design Assessment \(ODA\)](#) on 12 December 2022, the Board is now being asked to consider the Outputs. The Board’s adoption of these Outputs, or a subset thereof, would allow for the commencement of the implementation work that is required for the launch of a new round of gTLDs. The Board is also asked to release funds of up to USD 9 million to cover the implementation costs to be incurred through 31 October 2023. ICANN org is being directed to submit a comprehensive implementation plan by 1 August 2023, contingent on ICANN org, ICANN Board, and the ICANN community having delivered work plans and timelines for five key dependencies prior to ICANN77.

STAFF RECOMMENDATIONS:

As set out in further detail below and in the scorecard, “Scorecard: Subsequent Procedures SubPro Policy Development Process (PDP)” attached at Appendix A (“Scorecard”), ICANN org recommends that:

- (1) The Board should adopt a subset of the Outputs of the [Final Report on the New Generic Top-Level Domain \(gTLD\) Subsequent Procedures Policy Development Process](#) (Final Report),
- (2) The Board should defer its decision on a subset of the Recommendations and identify these as “pending”.

In particular, ICANN org recommends that the Board adopt a subset of the Outputs, as set out in section A of the Scorecard, and instruct ICANN org to commence the work required to implement the Outputs receiving Board approval.

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ICANN org recommends that the Board defer its decision on a subset of the Recommendations that have been identified as “pending” in section B of the Scorecard and to engage with the GNSO Council and wider community to work through the Board’s concerns.

ICANN org notes that implementation of the next round of new gTLDs, as detailed in the ODA, comprises four implementation streams: Policy Implementation, Program Design, Infrastructure Development, and Operationalization. The interdependence of these four streams means that Infrastructure Development and Program Design cannot be completed before Policy Implementation is finalized (i.e., until the Board has approved the updated Applicant Guidebook (AGB)), and Operationalization cannot be completed before Infrastructure Development and Program Design are finalized.

ICANN org recommends that with the Board’s approval of a significant number of recommendations during ICANN76, the Board should direct ICANN org to commence work on all four implementation streams and instruct ICANN org to issue a call for volunteers for membership of the Implementation Review Team (IRT) as soon as is practicable following the passing of this resolution.

ICANN org recommends that the Board consider directing ICANN org to submit no later than 1 August 2023 a comprehensive implementation plan containing a work plan including all relevant information for the Infrastructure Development, all relevant timelines, and all anticipated resource requirements to achieve the necessary work to open the next round of new gTLDs.

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Privileged and Confidential

The costs to be incurred through 31 October 2023 are estimated at no more than USD 9 million and ICANN org recommends that the Board approve funding to cover these costs for all four implementation streams. Such funding is recommended to come from the unspent application fees from the New gTLD Program 2012 round. The USD 9 million is to be considered part of the implementation development costs of the next round of new gTLDs.

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Funding requests for the implementation costs beyond 31 October 2023 should be based on the information contained in the comprehensive implementation plan and be submitted to the Board Finance Committee (BFC) in a timely manner so that the committee can make a recommendation on continued funding of the Program in time for the Board to resolve on the funding during ICANN78.

To ensure accountability and transparency, ICANN org also recommends that the Board provides direction on regular progress reporting concerning the implementation.

PROPOSED RESOLUTION:

Resolution Text Superseded

3. Whereas, the Board received input on the Final Report from the [Governmental Advisory Committee \(GAC\)](#), [At-Large Advisory Committee \(ALAC\)](#), and [Security and Stability Advisory Committee \(SSAC\)](#), which informed its deliberations on the Final Report Outputs.

Resolution Text Superseded

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Resolution Text Superseded

Resolution Text Superseded

7. Whereas, the Board has engaged with the community on the substance and detail of the Final Report and the ODA, including through the respective Advisory Committee Advice processes, correspondence¹, written updates, webinars, and at ICANN Public Meetings.
8. Whereas, the Board developed a Scorecard to facilitate its consideration of the Outputs, titled Resolution Text Superseded
9. Whereas, the Board notes the implementation analysis and proposed structure provided by ICANN org in the ODA, comprising four separate yet interdependent implementation streams: Policy Implementation; Program Design; Infrastructure Development; and Operationalization.

Resolution Text Superseded

¹ For the purposes of this paper correspondence to the Board on the subject of the draft Final Report was chosen as the earliest limit for inclusion, as by that time references to the Final Report Outputs had become stable and largely correspondent with the substance of the Final Report.

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Resolution Text Superseded

12. Whereas, the completion of the implementation of both Program Design and

Infrastructure Development streams are dependent on the finalization Resolution Text Superseded

Resolution Text Superseded

13. Whereas, the completion of the Operationalization stream is dependent on finalizing the

Resolution Text Superseded Program Design and Infrastructure Development streams.

Resolution Text Superseded

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Resolution Text Superseded

Resolution Text Superseded

18. Whereas, the Board Finance Committee (BFC) has considered ICANN org’s funding request to cover implementation work to be incurred through 31 October 2023, and has

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recommended that the Board approve funding of up to USD 9 million to cover implementation costs through that date.

Resolution Text Superseded

20. Whereas, the Board emphasizes a need to continue ICANN org’s outreach and communications strategy to promote the New gTLD Program to prospective applicants, with an emphasis on encouraging uptake from potential applicants in currently “underserved or underrepresented regions”,

1. Resolved (2023.03.16.xx),

2. Resolved (2023.03.16.xx), the Board directs the Interim President and CEO, or her designee(s), to proceed with the implementation of

3. Resolved (2023.03.16.xx), the Board directs the Interim President and CEO, or her designee(s), to issue, as soon as practicable, a call or volunteers for membership of the

Resolution Text Superseded IRT to assist ICANN org during the Policy Implementation.
Resolution Text Superseded

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Resolution Text Superseded

Resolution Text Superseded

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Resolution Text Superseded

13. Resolved (2023.03.16.xx), the Board directs the Interim President and CEO, or her designee(s), to continue ICANN org's outreach and communication strategy to promote the new gTLD program to prospective applicants, with an emphasis on encouraging uptake from potential applicants in “underserved or underrepresented regions”^{Resolution Text Superseded}

Resolution Text Superseded

Resolution Text Superseded

Resolution Text Superseded

PROPOSED RATIONALE:

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Why is the Board addressing the issue?

Rationale Text Superseded

The 2007 Board-adopted GNSO policy recommendations for the introduction of new gTLDs called for new gTLDs to be introduced in rounds until the scale of demand is clear. The Board adopted those recommendations, and ICANN noted the initiation of future rounds as a central objective in the [2012 Applicant Guidebook](#): “ICANN’s goal is to launch subsequent gTLD application rounds as quickly as possible.” The Board [explicitly committed in 2012](#) to “opening a second application window for the New gTLD Program as expeditiously as possible,” [reiterating this ambition in 2015](#).

Rationale Text Superseded

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Rationale Text Superseded

Rationale Text Superseded

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Rationale Text Superseded

Today’s resolution acknowledges the importance of the next round of new gTLDs to the ICANN community and supports the Board’s commitment to ICANN’s bottom-up Policy Development Process. The Board understands the importance of transparency about the planning for the implementation phase, including clarity on projected timelines and financial impacts entailed by this work, and has directed ICANN org to publish details of its implementation plan and provide regular updates to the Board and community on its status. The Board has also authorized ICANN org to continue its work on an enhanced outreach and communications strategy for the promotion of the New gTLD Program to prospective applicants, with an emphasis on encouraging uptake from potential applicants in “underserved or underrepresented regions”.² Finally, the Board emphasizes the need for all parties and community members to share knowledge and advice, and to work together constructively to implement the recommendations and resolve the remaining outstanding issues.

Background: History of the New gTLD Program

ICANN has maintained a longstanding commitment to introducing future rounds of new gTLDs, in line with the ICANN [Bylaws](#) Core Value to foster “competition in the registration of domain

² See [Final Report](#), p.73.

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names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process”.

In [2008](#), the Board adopted the 2007 [GNSO policy recommendations](#) that called for the introduction of new gTLDs in rounds until the scale of demand is clear, beginning a policy implementation process that resulted in the 2012 round of the New gTLD Program. The 2012 round opened in January 2012, and ICANN received 1,930 gTLD applications. In the decade since the launch of the New gTLD Program, more than 1,200 of these applied-for gTLDs have been delegated into the DNS root zone.

Deliberations by the Board on if, when, and how a subsequent round of the New gTLD Program might proceed were already taking place at the time of the launch of the 2012 round. In 2011, the Board approved the [gTLD AGB](#), which included an ambition for ICANN “to launch subsequent gTLD application rounds as quickly as possible”. That same year, the Board passed a [resolution](#) directing ICANN org to open a second application window “as expeditiously as possible”, in addition to the development of a “work plan... prior to initiating a second application window for the New gTLD Program”. Two years later, in November 2014, the Board passed a [resolution](#) on Planning for Future gTLD Application Rounds, directing ICANN org to work with the community on reviews of the 2012 round of the New gTLD Program and identifying a set of [topics](#) for potential GNSO discussion in the Policy Development Phase (PDP). This commitment was [reaffirmed](#) in May 2015, when the Board once again stated its aim to open an additional round of the New gTLD Program “as expeditiously as possible” and began to consider a process and timeframe for an additional round.

Precursory policy steps towards a new round were taken in June 2015, when the GNSO Council requested an Issue Report to explore potential changes or adjustments to procedures of new gTLDs. In August 2015, ICANN org published the [Preliminary Issue Report](#) on New gTLD

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Subsequent Procedures, which was subject to a public comment forum that opened on 31 August 2015, and closed on 30 October 2015.

In December 2015, ICANN org prepared and delivered the [Final Issue Report on New gTLDs Subsequent Procedures](#), which declared that any future Policy Development Process Working Group (PDP WG) on new gTLD Procedures should “work constructively towards new or modified policy recommendations for New gTLD subsequent procedures”. Later that same month, the GNSO Council [initiated](#) a PDP for New gTLD Subsequent Procedures. The New gTLD Subsequent Procedures Working Group (SubPro WG) was subsequently chartered by the GNSO Council in January 2016, with the objectives of clarifying, amending or overriding existing policy principles, recommendations, and implementation guidance; developing new policy recommendations; and supplementing or developing new implementation guidance.

In July 2018, the SubPro WG published the [Initial Report on the new gTLD Subsequent Procedures Policy Development Process](#) (Initial Report), containing the output of the SubPro WG on the Overarching Issues as well as preliminary recommendations from Work Tracks 1-4, for [public comment](#). In December 2018 the SubPro WG published a [Supplemental Report on the new gTLD Subsequent Procedures Policy Development Process \(Work Track 5\)](#) focused on Geographic Names at the Top-Level. Work Track 5 subsequently adopted its own Final Report by consensus and submitted it to the full SubPro WG in October 2019.

In September 2020, the [Draft Final Report on the new gTLD Subsequent Procedures Policy Development Process](#) was opened for [public comment](#), and subsequently published in full in September 2020. On 18 February 2021, the GNSO Council voted to approve, by a GNSO Supermajority, all of the outputs that were determined to have received either “Full Consensus” or “Consensus” designations documented in the [Final Report](#). On 24 March 2021, the GNSO Council transmitted its [Recommendations Report](#) to the ICANN Board to review and consider,

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requesting that the Board “initiate an Operational Design Phase on the Final Report of the SubPro Working Group and its outputs as soon as possible.” A period of public comment to gather community input followed, which opened on 22 April 2021 and closed on 1 June 2021, with the ensuing [Staff Report](#) published on 15 June 2021.

On 12 September 2021, the Board, in recognition of the complex operational requirements inherent in the implementation of the Final Report Outputs, directed the ICANN President and CEO to prepare to undertake an ODP to provide the ICANN Board with additional analysis to inform its decision on whether the Outputs contained in the Final Report represented the best interests of the ICANN community or ICANN, in accordance with the ICANN Bylaws, with Board questions framing the ODP, as well as a project timeline recorded in the [New gTLD Subsequent Procedures Operational Design Phase Scoping Document](#). On 12 December 2022, ICANN org delivered the resulting [New gTLD Subsequent Procedures Operational Design Assessment \(ODA\)](#) to the Board for its consideration.

What are the proposals being considered?

The Board is considering the [Final Report on the new gTLD Subsequent Procedures Policy Development Process](#), published on 20 January 2021 and transmitted to the Board for review on 24 March 2021.

The Final Report is divided into 41 topics and contains over 300 outputs and recommendations, classified by one of five types: Affirmation; Affirmation with Modification; Recommendation; Implementation Guidance; and No Agreement. It was the intention of the SubPro WG that the report and its recommendations be considered holistically by the Board. Of the topics considered by the SubPro WG, all but one of the topics were designated either “Full Consensus” or “Consensus”. More specifically, 25 received “Full Consensus”, 16 received “Consensus”, and

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one topic received “Strong Support but Significant Opposition”. The Output under Topic 23: Closed Generics was categorized as “No Agreement” in the Final Report.

On 18 February 2021, the GNSO Council voted to approve the Affirmations, Recommendations, and Implementation Guidance designated “Full Consensus” or “Consensus”. Nearly all of the Outputs in the Final Report were approved by the GNSO Council, with the exception of three Outputs, namely:

- The sole Output under Topic 23: Closed Generics, which was designated in the Final Report as “No Agreement”.
- Recommendations 35.2 and 35.4, under Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention, which were classified as obtaining “Strong Support but Significant Opposition” and were not approved by the GNSO Council.

Which stakeholders or others were consulted?

The Final Report is the product of a bottom-up, consensus-driven community policy development process involving all parts of the ICANN multistakeholder community. The Initial Report of the SubPro WG on the new gTLD Subsequent Procedures Policy Development Process was published for public comment on 3 July 2018. Following updates to the original Recommendations, the draft Final Report was published for an additional public comment period on 20 August 2020. A period of public comment on the Final Report was opened on 22 April 2021 and closed on 1 June 2021.

The Board is appreciative of the following input from the Advisory Committees on the Final Report Recommendations, which has informed its deliberation on this resolution:

- The Governmental Advisory Committee (GAC):

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- Governmental Advisory Committee Comment on Subsequent Rounds for New gTLDs Draft Final Report Public Comment Proceeding, [4 June 2021](#).
- The SSAC:
 - SAC114 SSAC Comments on the GNSO New gTLD Subsequent Procedures Draft Final Report, [14 February 2021](#);
 - Addendum to SAC114: Additional Context for Recommendation 1; Recommendation 3, Recommendation 7, and Additional References, [24 February 2022](#).
- The At-Large Advisory Committee:
 - Statement for Subsequent Procedures PDP Final Report, [18 January 2021](#);
 - Advice on the Final Report to the Board, [16 April 2021](#);
 - Public Comment: APRALO Statement on GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration, [1 June 2021](#);
 - Comments and Concerns on the SubPro Operational Design Assessment (ODA), [19 January 2023](#).

The Board has received the following input from the community and other interested parties on the Draft Final Report, Final Report, and ODA:

- Article 19:
 - [1 June 2021](#);
- Authentic Web Inc:
 - [1 June 2021](#);
- Brand Registry Group Inc:
 - [23 April 2021](#); [25 May 2021](#); [25 June 2021](#); [17 December 2021](#);
- Com Laude (Japan) Corporation:

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- [1 June 2021](#); [1 June 2021](#) (public comment);
- GNSO Council:
 - GNSO Council Review and Input for the SubPro Operational Design Assessment (ODA): [20 Jan 2023](#);
- The GNSO Intellectual Property Constituency (IPC):
 - IPC Comment on Final Report, [28 May 2021](#);
- GNSO Business Constituency (BC):
 - BC Comment, GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration, [1 June 2021](#);
- gTLD Registries Stakeholder Group (RySG):
 - Re. SAC114 – SSAC Comments on the GNSO New gTLD Subsequent Procedures Draft Final Report, [4 May 2021](#);
- I2 Coalition:
 - [20 November 2020](#);
- International Trademark Association (INTA):
 - [1 June 2021](#);
- Joint Contracted Party House (CPH) (The Registries Stakeholder Group (RySG) and Registrar Stakeholder Group (RrSG):
 - [1 June 2021](#);
- Mediterranean Federation of Internet Associations (FMAI):
 - [29 April 2021](#);
- Right of the Dot, LLC:
 - [28 May 2021](#);
- Uni Naming & Registry (UNR):
 - [1 June 2021](#);

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- Other Independent Parties:
 - [1 June 2021](#); [29 August 2021](#); [9 December 2021](#).

In the wake of the publication of the draft Final Report in September 2020, a number of information sessions, seminars, and updates on the new gTLD policy development process and ODP were held during the following ICANN Public Meetings:

- [ICANN69](#) - Virtual, Annual General Meeting (AGM) - 13-15 & 19-22 October 2020
- [ICANN70](#) - Virtual, Community Forum - 22-25 March 2021
- [ICANN71](#) - Virtual, Policy Forum - 14-17 June 2021
- [ICANN72](#) - Virtual, AGM - 25-28 October 2021
- [ICANN73](#) - Virtual, Community Forum - 7-10 March 2022
- [ICANN74](#) - Hybrid, Policy Forum - The Hague, Netherlands - 13-16 June 2022
- [ICANN75](#) - Hybrid, AGM - Kuala Lumpur, Malaysia - 17-22 September 2022

ICANN org communicated extensively with the ICANN community on status and progress of the ODP work. These efforts included several webinars, notably on [14 December 2022](#), following the delivery of the ODA to the Board, sessions at ICANN Public Meetings, and numerous blogs and written updates. A comprehensive list of ODP-focussed community engagements is detailed in [Appendix 18](#) of the ODA.

What concerns or issues were raised by the community?

Correspondence and dialogue between the Board and community identified numerous issues of concern related to the Final Report recommendations, including but not limited to:

- The necessity of further rounds and metrics to measure success;
- Lack of provisions on DNS abuse mitigation;
- Enforcement of Registry Voluntary Commitments/ Public Interest Commitments (PICs);

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- Lack of consensus on how to treat closed generic gTLD applications in future rounds;
- Lack of specific goals or provisions relating to the Applicant Support system;
- Absence of a clear policy for avoiding and handling new gTLD-related name collisions;
- Concerns relating to recommendations on auctions as a mechanism of last resort for the private resolution of contention sets;
- Lack of metrics on Universal Acceptance (UA) adoption;
- Issues relating to recommendations on Community Priority Evaluation (CPE);
- Insufficient protections for Geographic Names at the Top Level.

The Board acknowledges the community's concerns and considered them at length prior to deciding to adopt a subset of the Final Report Recommendations. The Board has taken considerable efforts to engage with the community to understand and address specific concerns, and responded to official correspondence, community comments, and Advice in line with the established [Correspondence](#) and [Board Advice](#) processes.

Rationale Text Superseded

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Rationale Text Superseded

What significant materials did the Board review?

To help facilitate the Board’s determination of whether the Outputs contained in the Final Report are in the best interest of the ICANN community or ICANN, as noted above, the Board considered the following factors to be significant:

The volume and complexity of the Final Report Outputs:

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Rationale Text Superseded

The value of assessing the Final Report Outputs as a whole rather than individually:

Rationale Text Superseded

The need to understand what resourcing is required to launch subsequent rounds of new gTLDs based on the Outputs contained in the Final Report:

Rationale Text Superseded

The ODA:

Rationale Text Superseded

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Rationale Text Superseded

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Rationale Text Superseded

Are there positive or negative community impacts?

The Board anticipates the overall impact of the New gTLD Program on the community to be positive. The Board believes the New gTLD Program, as envisaged in the Final Report and ODA, would be an inclusive program with predictable processes with procedures defined upfront for applicants. The New gTLD Program will help promote and sustain a competitive environment in the DNS market, including increased choice for a variety of users and communities, as well as furthering the universal acceptance of TLDs in multiple languages and scripts. The Board believes that the New gTLD Program will ultimately result in an improved DNS space, with enhanced competition, innovation and consumer choice, as well as introducing new safeguards to help support a secure, stable and resilient Internet.

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

As of December 2022, USD 7 million of the previously Board-approved USD 9 million ODP funds have been spent and ICANN org estimates the remaining USD 2 million of funds will be utilized by 31 March 2023. In order for ICANN org to develop a comprehensive implementation

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plan, ICANN org requested an additional USD 9 million of funding for implementation costs to be incurred through 31 October 2023.

SubPro Implementation Costs	Apr-Oct 2023	Notes
Personnel	\$3,300	ICANN org staff costs for implementation, IT Systems, research, community engagement
External Costs	\$2,100	Vendor costs: IT System Development, Socio Economic Report, Communications Outreach
Shared Services & Org Support	\$2,600	Support functions: Communications, Language Services, Human Resources, Finance, Legal, Facilities
Contingency	\$1,000	Placeholder for unknown and hard to predict costs
Total	\$9,000	

Rationale Text Superseded

ICANN org has incorporated into the strategic plan and operating plan and budget continued efforts and work related to implementation of the Subsequent Procedures. Program estimates take into account the number of current staff supporting this effort as well as required additional resources. The USD 9 million of funding for implementation costs to be incurred through 31 October 2023 differs from what was published in the Draft Fiscal Year (FY) 2024 Operating Plan and Budget that was posted for public comment on 14 December 2022. The Draft FY24 Operating Plan and Budget included USD 13.4 million for preparation phase work on the New gTLD Subsequent Procedures. These funds were intended to provide funding for the entire Fiscal Year 2024 (1 July 2023 - 30 June 2024) whereas the current amount that is approved via this

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resolution is intended only to cover 1 April 2023 through 31 October 2023. Revisions will be made to the FY24 budget before it is submitted for Board approval in order to align the FY24

Operating Plan and Budget with this approved funding. Rationale Text Superseded

Rationale Text Superseded

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

Part of ICANN's continued commitment in monitoring the impact of the introduction of new gTLDs includes the impact on the security and the stability of the DNS. While the Board does not believe that the action required in this resolution will intrinsically impact the security or the stability of the DNS, it is reassured that ICANN org has noted this issue in the ODA and has reviewed policies that can be used as resources, tools, and plans for addressing unforeseen DNS stability issues as part of its implementation planning. ICANN org acknowledged in the ODA that depending on the potential problem, additional unplanned resources may be needed to mitigate DNS instability.

The Board also notes that the SubPro WG emphasized the importance of conservatism and recommended mechanisms for tracking the rate of growth in the root zone, as reflected in its recommendations on Topic 26, Security and Stability. The principle of conservatism also applies to Implementation Guidance 26.4, which calls on ICANN org to limit the root zone's growth rate

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to approximately five percent per month. Implementation Guidance 26.5, which says ICANN org should, in case of string instability, “delay their addition to the root zone in case of DNS service instabilities” may be tied to the development of the pre-delegation and delegation process.

The Board further notes that the Internet Assigned Numbers Authority (IANA) function has identified approaches that may be used to address aspects of unforeseen DNS instability. The IANA function can maintain the ability to rate-limit growth of the root zone in order to stay within an algorithmic threshold or for emergency purposes to observe instabilities. ICANN org also noted that the roles of ICANN org and the IANA function should be similar to that of the previous round and should be able to adhere to systems, processes, and capabilities of handling compounding TLD delegation requests.

Finally, the Board believes the Outputs related to name collision, which are currently designated as pending, may, if adopted, further mitigate potential DNS stability issues. The Board notes that Recommendation 29.1, which states that ICANN org “must have ready prior to the opening of the application submission period a mechanism to evaluate the risk of name collisions in the New gTLD evaluation process”, and Affirmation 29.2, which affirms the continued use of the existing Name Collision Occurrence Management Framework (NCMF) unless and until a new mitigation framework is adopted by the Board, are both noted by ICANN org in the ODA as being capable of being implemented should the Board eventually decide to adopt them.

The NCMF, adopted by the Board in August 2014 and which continues to be in use, provides provisions for implementation by registries regarding name collision report handling, controlled interruptions, and interim emergency back-end registry operators. The Board is, however, aware that there is ongoing work regarding name collisions via the Name Collision Analysis Project (NCAP). The Board recognizes that the results of the NCAP studies may result in changes in how name collisions are managed and mitigated. The Board continues to monitor the progress of the NCAP and will take into consideration the results of the NCAP studies.

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Is this decision in the public interest and within ICANN’s mission?

This action is within ICANN's Mission and is in the public interest as it is important to ensure that, in carrying out its Mission, ICANN’s decisions and actions are guided by the following Core Values: “where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment in the DNS market” and “[i]ntroduc[e] and promot[e] competition in the registration of domain names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process.” (See ICANN Bylaws at 1.2 (b) (iv)).

The Board also appreciates and acknowledges that it has reviewed the incorporation of the Global Public Interest Framework in its consideration of the Final Report.

Under the ICANN [Bylaws](#), the Board is obligated to consider and adopt all Recommendations formally approved by a GNSO Council “unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN”. However, the Board’s interest in the expansion of the gTLD namespace is also consistent with ICANN’s role, as defined in the [Bylaws](#), to coordinate the development and implementation of policies relating to “the allocation and assignment of names in the root zone of the Domain Name System (“DNS”)” and promote competition in the DNS marketplace.

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?

This action by the Board fits under its fiduciary duty and oversight role of the organization, and is the next step in carrying out the Board’s previous commitment to opening subsequent procedures for gTLDs. It should be noted that the Final Report Outputs were the subject of

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public comment, and that the Final Report was developed in collaboration with the ICANN community, in accordance with the GNSO PDP.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

Pages 41-85 Removed - Superseded by Scorecard adopted by Resolution 2023.03.16.04, .
See Scorecard at <https://www.icann.org/en/system/files/files/scorecard-subpro-pdp-board-action-16mar23-en.pdf>.

ICANN BOARD PAPER NO. 2023.03.16.2b

TITLE: Acceptance of the Second Organizational Review of the Nominating Committee (NomCom2 Review) – Final Implementation Report and Initiation of Bylaws Amendment Process

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The NomCom Review Implementation Working Group (NomComRIWG) reports that it has concluded its role in implementation efforts on all 27 recommendations, as noted in its [Final Implementation Report](#) of the Second Organizational Review of the Nominating Committee (NomCom2 Review). Having reviewed relevant documents, the Organizational Effectiveness Committee (OEC) agrees with the NomComRIWG assessment that their implementation work is complete, and requests that the Board direct ICANN organization (org) to initiate a Standard and Fundamental ICANN Bylaws Amendment Process, including the Public Comment proceeding.

The proposed ICANN Board action includes five components:

1. Accept the Final Implementation Report of the Second Organizational Review of the Nominating Committee (NomCom2 Review).
2. Initiate a Standard and Fundamental ICANN Bylaws Amendment Process for the implementation of four NomCom2 Review recommendations (7, 9, 24, and 27) which relate to the ICANN Board of Directors, NomCom members, and implementation of the NomCom Standing Committee.
3. Direct ICANN org to include the [draft NomCom Standing Committee Charter](#) in the Public Comment proceeding, to allow the ICANN community an opportunity to express their views on the proposed charter that will have implications for ICANN's governance.
4. Acknowledge that the recommendation to rebalance the NomCom is not feasible at this time due to various dependencies, and that ICANN org should support the Board's engagement with the ICANN community on the issue of NomCom rebalancing, providing

an update on the results of the Board's engagement with the community in six months (est. September 2023).

5. Consolidated with initiating a Bylaws amendment process on the NomCom-related Bylaws amendments, initiate a Bylaws amendment process on Article 12.2 of the Bylaws relating to the Root Server System Advisory Committee (RSSAC), that removes the Board's role in selection of RSSAC membership. The RSSAC specifically requests this change in light of having an RSSAC-appointed delegate anticipated to serve as a voting member of the NomCom in the nomination of ICANN Board members.

[PROPOSED] ORGANIZATIONAL EFFECTIVENESS COMMITTEE RECOMMENDATION:

In its capacity of overseeing the Organizational Review process, the OEC recommends that the Board accept the Final Implementation Report issued by the NomComRIWG on 30 June 2022, with acknowledgement that the NomComRIWG's implementation work is complete. The OEC further recommends that the Board direct ICANN org to initiate the Standard and Fundamental ICANN Bylaws Amendment Process by opening a Public Comment proceeding for the proposed Bylaws amendments. The OEC recommends that the Board direct ICANN org to include the draft NomCom Standing Committee Charter in the Public Comment proceeding to provide the ICANN community an opportunity to express their views prior to Board approval. In addition, the Board is recommended to note the NomComRIWG's withdrawal of its proposal on rebalancing the NomCom (Recommendation 10), and to request ICANN org to monitor the potential implementation of the intent of this recommendation by the community as a part of the next Organizational Review of the NomCom, or as part of the Pilot Continuous Improvement Program.

PROPOSED RESOLUTION:

Whereas, on 7 November 2019 the ICANN Board [accepted](#) the NomCom2 Review Implementation Working Group (NomComRIWG) [Detailed Implementation Plan](#) on the Second Organizational Review of the Nominating Committee (NomCom2 Review) and directed the NomComRIWG to provide the Board with regular reporting on the implementation efforts.

Whereas, the NomComRIWG provided the Board via the Board Organizational Effectiveness Committee (OEC) with [semi-annual updates](#) on the progress of implementation efforts until such time that the implementation efforts concluded.

Whereas, the NomComRIWG submitted a [Final Implementation Report](#) on 30 June 2022, detailing the completion of implementation of the 27 recommendations arising out of NomCom2 Review, and documenting that one recommendation¹ will not be implemented by the NomComRIWG and four recommendations² will require a Standard and Fundamental ICANN Bylaws Amendment Process.

Whereas, as one of the NomCom2 recommendations proposes moving all NomCom delegates into voting roles, the Root Server System Advisory Committee (RSSAC) requests that a complementary Bylaws amendment be considered that removes the ICANN Board's role in comprising the RSSAC.

Whereas, the OEC recommends that the Board accept the NomCom2 Review [Final Implementation Report](#) issued by the NomComRIWG and approved on 30 June 2022, and requests that the ICANN Board direct ICANN org to initiate Standard and Fundamental ICANN Bylaws Amendment Processes.

Whereas, the OEC recommends that the Board direct ICANN org to include the publication of the draft NomCom Standing Committee Charter and the statement defining Unaffiliated Directors for Public Comment, to provide the ICANN community an opportunity to evaluate the sufficiency of inaugural Charter before Board Approval. The Board notes that because of the governance implications of the NomCom Standing Committee as well as the definition of Unaffiliated Directors, any future revisions to the NomCom Standing Committee Charter or the definition of Unaffiliated Directors will also require a Public Comment proceeding and Board approval.

Whereas, the OEC recommends that the Board acknowledges the NomComRIWG's withdrawal of its proposal on rebalancing the NomCom, and requests ICANN org to monitor the potential implementation of the intent of this recommendation by the community as a part of the next Organizational Review of the NomCom, or as part of the Pilot Continuous Improvement Program.

Resolved (2023.03.16.xx), the ICANN Board acknowledges the implementation work of the NomComRIWG aimed at improving the effectiveness, transparency, and accountability of the

¹ Recommendation 10

² Recommendations 7, 9, 24, 27

NomCom, in line with the findings and recommendations from the Independent Examiner and the subsequent Detailed Implementation Plan, and accepts the status of implementation of recommendations from NomCom2 Review as [reported](#) by the NomComRIWG.

Resolved (2023.03.16.xx), the ICANN Board directs ICANN's President and CEO, or her designee(s) to initiate both a Fundamental and a Standard ICANN Bylaws Amendment Process on Articles 7, 8, and 27 of the ICANN Bylaws, by opening a Public Comment proceeding on the proposed Bylaws amendments for the implementation of four NomCom2 Review recommendations (7, 9, 24, and 27), relating to composition of the ICANN Board of Directors, composition and terms of the NomCom, and implementation of the NomCom Standing Committee. The ICANN Board also directs ICANN's President and CEO, or her designee(s), to initiate a Standard ICANN Bylaws Amendment Process on amendments to Article 12 of the Bylaws relating to the Root Server System Advisory Committee.

Resolved (2023.03.16.xx) considering the important implications on ICANN's governance, the ICANN Board directs ICANN org to publish the draft NomCom Standing Committee Charter and the draft statement defining Unaffiliated Directors as part of the Public Comment proceeding, to provide an opportunity for the ICANN community to express their views prior to Board approval.

Resolved (2023.03.16.xx), the Board acknowledges the NomComRIWG's position that Recommendation 10 of NomCom2 Review, stating "Representation on the NomCom should be re-balanced immediately and then be reviewed every five years", is not feasible for implementation at this time, and has been withdrawn. Recognizing that the ICANN community has an important responsibility to address NomCom rebalancing, along with the ICANN Board and org, the Board directs ICANN's President and CEO, or her designee(s) to facilitate and support Board's engagement with the SO/ACs to understand community views on how the NomCom should be rebalanced, who should conduct this work and the level of priority that the SO/ACs would assign to this work within their planning efforts. The Board requests that ICANN org provide an update on the results of the Board's engagement with the SO/ACs within six months of this Board action.

PROPOSED RATIONALE:

Why is the Board addressing the issue?

To ensure the ICANN 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 the ICANN Bylaws.

Reviews are critical to maintaining an effective multistakeholder model and in helping ICANN achieve its mission, as detailed in Article 1 of the Bylaws. Reviews also contribute to ensuring that ICANN serves the public interest. The role of the ICANN Board is to ensure that the review process was in compliance with the relevant Bylaw provisions.

The Second Organizational Review of the Nominating Committee (NomCom2 Review) convened in 2017. ICANN's Organizational Effectiveness Committee (OEC) has been overseeing the progress of NomCom2 Review and implementation thereof, including consultations with the Independent Examiner that conducted the NomCom2 Review, and the community's NomCom Review Implementation Working Group (NomComRIWG).

This action completes the NomComRIWG's role in implementation efforts on all 27 recommendations, as noted in its [Final Implementation Report](#). The Board is also initiating the ICANN Bylaws Amendment Process on Fundamental and Standard portions of the ICANN Bylaws, and seeking Public Comment on the proposed Charter for a Nominating Committee Standing Committee. The NomComRIWG's Final Implementation Report notes the withdrawal of implementation on Recommendation 10 on the rebalancing of the NomCom, and this action acknowledges the withdrawal and directs ICANN org to continue monitoring whether the rebalancing is being addressed in other activities within the ICANN community.

Background

The NomCom2 Review commenced in June 2017 with the announcement of the selection of the Independent Examiner. The Independent Examiner conducting the NomCom2 Review produced a [Final Report in June 2018](#), which was received by the ICANN Board along with the NomCom2 Review Implementation Planning Team's [Feasibility Assessment and Initial Implementation Plan](#) (Feasibility Assessment) for all 27 of the recommendations in the Independent Examiner's Final

Report. The NomComRIWG was created in response to the [Board Resolution](#), and developed the Detailed Implementation Plan on 12 [September 2019](#). On [07 November 2019](#), the ICANN Board accepted the NomCom2 Review Detailed Implementation Plan and directed the NomComRIWG to commence implementation, and to provide periodic updates to the OEC. The NomComRIWG submitted [implementation progress reports](#) to the OEC on [30 June 2020](#), [21 December 2020](#), [25 August 2021](#), [17 December 2021](#), and a Final Implementation Report on [30 June 2022](#).

Recommendation 10: Rebalancing the NomCom

Recommendation 10 from the Independent Examiner stated that “Representation on the NomCom should be re-balanced immediately and then be reviewed every five years.” This recommendation related to the [finding](#) that “There is concern that the NomCom may not accurately represent constituencies (both across SOs/ACs and within SOs/ACs).” The NomComRIWG’s approach to the implementation of these recommendations focused on the GNSO in light of expressed concerns that led to the finding, proposing to remove hard-coding of GNSO NomCom members from the ICANN Bylaws and allow the GNSO to conduct an internal rebalancing exercise themselves. During the NomComRIWG’s discussions and engagement with the GNSO leadership on the proposed implementation path, it became clear that several constituencies in the GNSO held strong objections to conducting a rebalancing exercise themselves and thus objected to the proposed Bylaw changes, even if they did not necessarily result in any changes to the status quo. The NomComRIWG decided to withdraw its proposed Bylaws changes for Recommendation 10. The NomComRIWG noted that it devoted significant time and effort to resolve the rebalancing issue, but the ensuing conversations with the community, including the [Generic Names Supporting Organization \(GNSO\)](#), made clear that significantly more time needs to be devoted to this issue at a broader community level to address the representation issues raised by this recommendation. The OEC and community were informed that this recommendation will not be implemented by the NomComRIWG, via direct [communication](#), [public webinar\(s\)](#) and the [Implementation Status Report\(s\)](#).

The implementation of this recommendation is not feasible at this time, and has been withdrawn with justification by the NomComRIWG. To note, the original [Implementation Plan](#) recognized the need for a broad community agreement on how the NomCom is composed, and what it means to have diverse views represented. The process of rebalancing the NomCom is dependent on community work currently underway, including the evolution of Organizational

Reviews into a Continuous Improvement Program. An additional parallel effort that would inform the rebalancing of the NomCom is the Pilot Holistic Review, which results from community-issued recommendations by the Third Accountability and Transparency Review Team (ATRT3), approved by the Board and prioritized as important (P1) by the community. Recognizing that the community has an important responsibility to address NomCom rebalancing, along with the ICANN Board and org, the Board therefore directs ICANN org to facilitate and support Board's engagement with the SO/ACs to understand community views on how the NomCom should be rebalanced, who should conduct this work and the level of priority that the SO/ACs would assign to this work within their planning efforts. The Board also notes that the work related to the Pilot Holistic Review and Continuous Improvement Program could inform the rebalancing of the NomCom. The Board requests that ICANN org provide an update on the results of the Board's engagement with the SO/ACs within six months of this Board action.

What is the proposal being considered?

The Final Implementation Report indicates that all 27 recommendations accepted by the Board have now been completed, noting that four recommendations (7, 9, 24, 27) require amendments to the ICANN Bylaws. The proposed changes are limited to Article 7: Board of Directors and Article 8: Nominating Committees, along with a transition article (Article 27). The NomComRIWG further noted that implementation of Recommendation 10 has been withdrawn accordingly, with justification. Having reviewed relevant documents, the Board, after OEC recommendation, agrees with the NomComRIWG assessment that their implementation work is complete, and takes the following action accordingly:

1. Accept the Final Implementation Report of the Second Organizational Review of the Nominating Committee (NomCom2 Review).
2. Initiate a Standard and Fundamental ICANN Bylaws Amendment Process for the implementation of four NomCom2 Review recommendations (7, 9, 24, and 27) which relate to the ICANN Board of Directors, NomCom members, and implementation of the NomCom Standing Committee.
3. Direct ICANN organization (ICANN org) to include the draft NomCom Standing Committee Charter in the Public Comment proceeding, to allow the ICANN community an opportunity to express their views on the proposed charter that will have implications for ICANN's governance.

4. Acknowledge that the recommendation to rebalance the NomCom is not feasible at this time due to various dependencies, and that ICANN org should support the Board's engagement with the ICANN community on the issue of NomCom rebalancing, providing an update on the results of the Board's engagement with the community in six months (est. September 2023).
5. Consolidated with initiating a Bylaws amendment process on the NomCom-related Bylaws amendments, initiate a Bylaws amendment process on Article 12.2 of the Bylaws relating to the Root Server System Advisory Committee (RSSAC), that removes the Board's role in selection of RSSAC membership. The RSSAC specifically requests this change in light of having an RSSAC-appointed delegate anticipated to serve as a voting member of the NomCom in the nomination of ICANN Board members.

Most elements of NomCom2 Review recommendations pertain to and will be incorporated into the NomCom operating procedures, and some will be addressed through the proposed NomCom Standing Committee. For the four recommendations requiring ICANN Bylaws Amendments, the following changes would be implemented:

- Recommendation 7: "NomCom members, except for leadership positions, should serve two-year terms, and be limited to a maximum of two terms."
- Recommendation 9: "All NomCom members should be fully participating and voting members, except for NomCom leadership."
- Recommendation 24: "An empowered body of current and former NomCom members should be formed to ensure greater continuity across NomComs, and in particular, to recommend and assist in implementing improvements to NomCom operations."
- Recommendation 27: "Provide clarity on desire for independent directors and designate three specific seats for 'Unaffiliated Directors'."

Implementation of Recommendation 24 resulted in the proposed NomCom Standing Committee, and its draft Charter will be included in the ICANN Public Comment proceeding for community input.

Implementation of Recommendation 27 resulted in a definition of a proposed Statement setting forth principles for a higher standard associated with "Unaffiliated Directors" which will apply to three out of the eight seats that the NomCom nominates to the ICANN Board.

There are certain objective measures that can help demonstrate that a candidate for the Board has no prior affiliation with ICANN. These are provided to inform the NomCom during its selection process when evaluating whether a candidate is able to be appointed as “Unaffiliated” Directors. The NomComRIWG developed a proposed statement defining what “Unaffiliated” could mean, with an emphasis on bringing new perspectives to the ICANN Board demonstrated by a lack of formal involvement in ICANN.

If approved, those seeking appointment to the ICANN Board as an Unaffiliated Director shall attest to the NomCom that, upon review of the ICANN Conflicts of Interests Policy in force at the time of their candidacy, they have a good faith belief that they would not be identified as having an actual or perceived conflict of interest for matters that routinely come before the Board.

The proposed Statement on Unaffiliated Directors will also be posted for Public Comment alongside the proposed Bylaws amendments. Once the Statement is adopted by the Board, the Statement cannot be amended unless approved by the Board after Public Comment(s). The Board notes that it has not performed a substantive review and evaluation of the proposed ICANN Bylaws Amendments. As with all Bylaws amendment processes, the Board initiates the Standard and Fundamental Bylaws Amendment Process so that it can hear from the community on the viability of the proposals, and will consider all community inputs when it evaluates whether it will accept the amendments. Unless and until the Bylaws amendments are approved and in force, the obligations of the NomCom are not altered. The Bylaws amendments will include appropriate transition procedures to incorporate any new or changed requirements.

The Board is also, at the request of the Root Server System Advisory Committee, including proposed revisions to Article 12 of the ICANN Bylaws within the Standard Bylaws Amendment Process. The RSSAC identified that if its appointed delegate to the NomCom becomes a voting delegate participating in ICANN Board nominations, the RSSAC wishes to remove the ICANN Board’s role in appointing RSSAC membership. The Board notes its expectation that if this appointment responsibility is returned to the RSSAC, the RSSAC should maintain document procedures on how these appointments are to be made, for example within the RSSAC Operating Procedures.

Which stakeholders or others were consulted?

The Board, through the OEC, regularly consulted with the Independent Examiner and the NomComRIWG, which was responsible for the implementation of recommendations. The OEC monitored the progress of the NomCom2 Review as well as the progress of the implementation of review recommendations as reported by the NomComRIWG.

The NomComRIWG consulted regularly with the ICANN community and provided several updates during the review implementation phase through [public webinars, engagement sessions, bilateral sessions, and a blog post](#).

What concerns, or issues were raised by the community?

The implementation work conducted by the NomComRIWG followed its standard best practices to ensure transparency and accountability.

After extensive [engagement](#) with the ICANN community, the NomComRIWG acknowledged that Recommendation 10 of the NomCom2 Review, “Representation on the NomCom should be re-balanced immediately and then be reviewed every five years”, is not feasible at this time, and has been withdrawn accordingly, with justification.

No other concerns were voiced by the ICANN community.

What factors did the Board find to be significant?

The Board found several factors to be significant, contributing to the effective completion of the implementation work:

- Convening a dedicated group that oversees the implementation of Board-accepted recommendations.
- Adherence to the implementation plan that included a timeline for the implementation, definition of desired outcomes, as well as ways to measure current state and progress toward the desired outcome.
- Timely and thorough reporting on the progress of implementation.

Are there positive or negative community impacts?

The completion of the implementation of NomCom2 Review recommendations results in the improvement in overall effectiveness of the NomCom.

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 additional fiscal impact to that noted in the Board's [acceptance](#) of the NomCom2 Review [Implementation Plan](#). The ramifications of this resolution on ICANN org, the community and the public are anticipated to be positive, as this Board action signifies an important milestone for Organizational Reviews and improvements in the effectiveness of the NomCom.

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 the ICANN multistakeholder model remains transparent and accountable, and to improve the performance of its Supporting Organizations, Advisory Committees and the NomCom. This action will serve the public interest by contributing to the fulfillment of ICANN's commitment to maintaining and improving its accountability and transparency.

Is Public Comment required prior to Board action?

Public Comment proceeding is not required. However, the Board is being asked to initiate a Standard and Fundamental ICANN Bylaws Amendment Process (see [Article 25](#)) for proposed Bylaws amendments, which will initiate an ICANN Public Comment proceeding.

Submitted by: Theresa Swinehart

Position: Senior Vice President, Global Domains and Strategy (GDS)

Date Noted: 01 March 2023

Email: theresa.swinehart@icann.org

ICANN Nominating Committee (NomCom) “Unaffiliated” Director Statement

This document provides a proposed statement that could give effect to the principles embodied within Recommendation 27 (on “Unaffiliated” Directors) and the Nominating Committee Review Implementation Working Group (NomComRIWG) efforts towards implementation. The document also includes background on Recommendation 27 from the Independent Examiner performing the Second Organizational Review of the Nominating Committee (NomCom2 Review), as well as the NomComRIWG proposal to implement that recommendation.

The finding of the Independent Examiner is helpful in guiding the intent of Recommendation 27:
“The extent to which NomCom appointees are independent and prioritize the interests of the global Internet community in their decision-making is an area of concern within ICANN.”

If the proposed statement for “Unaffiliated” Directors is appropriate, it will then be presented as part of the package proposed for Public Comment on the implementation of a group of recommendations arising from the NomCom2 Review. The proposed statement would be incorporated into the Nominating Committee (NomCom) Operating Procedures, and once adopted, future changes would be subject to Public Comment and Board approval.

A Proposed Statement on “Unaffiliated” Directors:

The ICANN Nominating Committee (NomCom) serves an important role in assuring that the ICANN Board of Directors remains predominated by persons that meet the U.S. Internal Revenue Service definition of independence, which focuses on specific financial transactions and relationships. This regulatory definition already excludes those:

- Compensated as an officer or employee of ICANN or Public Technical Identifiers (PTI), or compensated by another company for services provided to ICANN or PTI;
- Receiving in excess of US\$10,000 from ICANN or PTI as an independent contractor (amount subject to change);
- Involved, or has a family member involved, in a reportable transaction on ICANN or PTI's Form 990 (annual U.S. regulatory filing).

The NomCom also serves an important role in bringing a wide range of viewpoints and experience to the ICANN Board, including the nomination of Board Directors who bring inputs and experience from outside of the ICANN Community. The NomCom is expected to bring a balance to the Board when viewed alongside those Directors selected by the ICANN Supporting Organizations and the At-Large community. In this role, the NomCom is empowered to and expected to identify Directors that bring a certain level of separation or independence from those participating within ICANN's multistakeholder model beyond the financial review to meet the IRS definitions of independence.

To achieve this objective, the NomCom shall assure that a minimum of three of the eight seats on the ICANN Board of Directors that are nominated by the NomCom are filled by persons who have limited or no prior experience or affiliation with ICANN. At all times, those appointed to the ICANN Board of Directors are expected to be competent to serve the role and to meet all qualifications set out at Sections 7.3 and 7.4 of the ICANN Bylaws.

There are certain objective measures that can help demonstrate that a candidate for the Board has limited or no prior affiliation with ICANN. These are provided to inform the NomCom during their selection process when evaluating whether a candidate is able to be appointed as

“Unaffiliated” Directors. Any candidate named to this position shall be able to demonstrate that they:

1. Meet the U.S. IRS definition of independence in force at that time.
2. Have not served within a leadership capacity within, as a councilor/member of the governing or managing body of, or appointed to any liaison or rapporteur (or equivalent role of influence) within an ICANN Supporting Organization (SO), Advisory Committee (AC), Stakeholder Group, Constituency, Cross-Community Working Group (CCWG), Policy Development Process (PDP) Working Group or other community groups, Task Force, or a Regional At-Large Organization (RALO).
3. Have not been nominated or appointed by the ICANN Board of Directors, ICANN SO, AC, Stakeholder Group, Constituency or RALO to serve on a Review Team, Committee or other similar group developed to provide recommendations, advice, or input to ICANN or the ICANN Board¹.
4. Have not been on the board of, employed by, a shareholder of, or served as a contractor to a customer of the Internet Assigned Numbers Authority (IANA) Functions, a Root Server Operator, or entities accredited by ICANN.
5. Have not received payment as a representative, agent, or consultant for any entity for the purpose of participating with ICANN processes.
6. Have not served in any role on the ICANN Nominating Committee (NomCom).
7. Have not served as a liaison to the ICANN Board of Directors.
8. Have not been a candidate to serve as a director on the ICANN Board of Directors through a selection process other than the NomCom selection process.
9. Have not been an employee or contractor of ICANN or PTI.
10. Have not been an employee or contractor of a member of an ICANN SO, AC, Stakeholder Group, Constituency, or RALO.

Those seeking appointment as an Unaffiliated Director shall attest to the NomCom that, upon review of the ICANN Conflicts of Interests Policy in force at the time of their candidacy, they have a good faith belief that they would not be identified as having an actual or perceived conflict of interest for matters that routinely come before the Board.

A candidate’s ability to serve as an Unaffiliated Director shall be assessed for the start of the candidate’s initial appointment to the Board, and upon the start of each subsequent term for which the Unaffiliated Director seeks to serve. For avoidance of doubt, service on the Board as an Unaffiliated Director shall not impact that Director’s ability to serve as an Unaffiliated Director for any successive subsequent terms. Similarly, election to receive compensation for service on the ICANN Board of Directors shall not disqualify an Unaffiliated Director from being reappointed as an Unaffiliated Director for any successive subsequent terms.

The highest priority for the NomCom shall always be to fill the ICANN Board with competent Directors. The concept of an Unaffiliated Director brings with it a preference that a certain

¹ Across RALOs, there are differing titles and definitions of leadership roles. For clarity, service in any RALO leadership role is indicative of prior affiliation.

amount of seats on the ICANN Board should be reserved for those with no prior experience or affiliation with ICANN.² This preference might not always be possible to meet.

In any cycle for which the NomCom is required to select an Unaffiliated Director to the ICANN Board, if after a full search no competent candidate can be located that meets the Unaffiliated Director requirement, the NomCom may select an otherwise qualified candidate for the seat that has met all of the objective measures specified above for a period of at least two years prior to the start of the Board term for which the NomCom is making its selections. When exercising this exception, the NomCom is encouraged to select the candidate with the longest time period away from ICANN. This exception should be used sparingly, and the exception shall not be exercised if there are already three Unaffiliated Directors serving on the ICANN Board.

There may be times where a Director selected as an Unaffiliated Director has a changed circumstance (employment, financial relationship, etc.) during their term. If appropriate, such Director may complete their term on the ICANN Board and the NomCom will not have an immediate obligation to appoint a new Unaffiliated Director during the pendency of the term. However, when the seat occupied by such Director comes up for selection, even if such Director is eligible for another term on the ICANN Board, such Director shall not be eligible for selection to a subsequent term as an Unaffiliated Director.³

All Directors, whether or not appointed under this heightened standard, are required to comply with the ICANN Board Conflicts of Interest Policy, including provision of Annual Statements and providing updates in the event of changed circumstances.

Putting the Statement into Practice

The statement is currently envisioned to be approved alongside amendments to ICANN's Bylaws that incorporate that the NomCom will impose heightened requirements on some nominees.

A proposed path to transition could be included in a transition article such as: "Upon the Bylaws going into effect reflecting the Nominating Committee's obligation to appoint three directors meeting the Unaffiliated Director standard, the Nominating Committee shall make a selection for [1] seat within each annual appointment cycle assigned to meet this heightened standard. Nothing precludes the Nominating Committee from using the Unaffiliated Director standards in selecting additional directors."

² To establish the degree of independence and ability to prioritize the interests of the global Internet community, previously serving in various capacities in ICANN org, Board, and community would preclude one from being considered "Unaffiliated." For example, a Board member who served a term during the inception of ICANN, even though they have not been active in ICANN since that time (ex. 20 years ago), would still have deep knowledge of ICANN processes. Similarly, an ICANN community member who has since left the community, or an ICANN org employee who has since left the organization.

³ To provide the NomCom with flexibility in meeting the requirement to select Unaffiliated Directors to the ICANN Board, there are no assigned Seats from among the Seats 1-8 that the NomCom selects that are reserved to Unaffiliated Directors. As an example, if the Director serving in Seat 7 is eligible for re-appointment to the Board but no longer is eligible to serve as an Unaffiliated Director, such Director could, in the NomCom's discretion, be re-appointed to serve in Seat 7 and then the NomCom could select a new Unaffiliated Director to serve in Seat 8. This also allows the NomCom the discretion to identify more than one Unaffiliated Director within a single selection cycle, and assuming that there are already at least three Unaffiliated Directors on the Board, the NomCom could have a selection cycle where it determines to not seat any Unaffiliated Directors.

Transition considerations, such as potential impact to sitting directors, may need to be addressed.

BACKGROUND

Recommendation 27:

Recommendation 27 from the NomCom2 Review states:

Provide clarity on desire for independent directors and designate three specific seats for “Independent Directors.”

Our recommendation recognizes the challenges inherent in identifying and selecting fully independent directors. There is also some ambiguity among NomCom members in regards to selecting individuals with limited or no prior experience with ICANN. **We suggest that Independent Directors are those with limited prior ICANN experience, for the purpose being 1) to find highly strategic directors that bring an outside perspective to ICANN, and 2) to provide a duty of loyalty to ICANN overall versus the perception of duty to an ICANN constituency.** [emphasis added]

We recommend that **three seats** [emphasis added] be designated for Independent Directors, with three year terms so that one seat is considered each year. We do not suggest that all eight NomCom directors be independent. Our recommendation for designating three seats is an acknowledgement that it could be difficult to find completely unaffiliated directors and that appointing people to the ICANN Board with previous experience at ICANN (who otherwise meet the NomCom’s goal of finding people who act in the best interests of the global Internet community) can be a benefit. Of course, the NomCom would be free to fill other Board seats with individuals that meet this definition of independent. ([NomCom2 Review Final Report](#), p. 45)

The Independent Examiner provided additional detail to guide implementation of the recommendation:

The implementation process should start by clearly defining the term ‘independent’ in the context of ‘independent directors’. In doing so, the following IPT suggestion shall be taken into consideration:

- a. IPT’s guidance for definition of “independent”:
 1. Corporate boards/corporate governance guidelines
 1. Not a customer, supplier, or shareholder to the entity
 2. No financial interest
 2. Applicable ICANN community guidelines/definitions
 3. ICANN Legal department
 4. California law, although the definition is very narrow
- a. Definition should state the difference between an independent director and a representational director, i.e. a SO/AC appointed director who is generally a (current or former) member of the appointing SO/AC.
- b. Independent directors should have appropriate governance experience/knowledge and bring a fresh, outside perspective.

- c. Definition should address desired candidates' prior activity level in ICANN's policy development, membership in a constituency, relationship with the ICANN org structure, and/or a certain number of ICANN meetings attended.

NomComRIWG Implementation Efforts:

In 2021, the NomComRIWG produced a proposed definition of this "independence" using the word "Unaffiliated" to replace the word "independent" from Recommendation 27. The NomComRIWG was concerned about causing confusion with IRS definitions of independence. The NomComRIWG also proposed that instead of three directors, all eight directors appointed by the NomCom should be disqualified from eligibility from NomCom appointment processes if any of the following apply:

- A current contract or employment or any sort of compensation received from any body in the ICANN community that appoints to the ICANN Board disqualifies a candidate from being eligible for a NomCom-appointed ICANN Board position.
- In addition, any actual or perceived conflict of interest that is likely to occur due to serving in any leadership role, decision-making capacity or receiving reimbursement from a part of the ICANN community or ICANN org also disqualifies a candidate for a NomCom-appointed Board position.
- If an applicant was previously disqualified from serving on the ICANN Board based on the above definition, there must be a minimum of a two year gap before they would be considered eligible to serve on the ICANN Board.
- If the candidate is not disqualified based on the above definition, they may be identified as an "Unaffiliated" applicant for the ICANN Board.
- Re-applying Board candidates are not considered ineligible due to their Board membership.

ICANN org Involvement:

Upon review of the NomComRIWG's proposed disqualification bases, ICANN org identified that these would need to be refined in order to better track to the intent of Recommendation 27 and be sufficiently clear for enforcement. As a result, ICANN org, together with the NomComRIWG, distilled Recommendation 27 and the NomComRIWG efforts to some core principles that could be achieved in order to implement Recommendation 27.

Principles:

- Bring people to the Board that are not likely to carry conflicts into their service.
- Goal of maintaining those available to vote on potential high conflict issues.
- Goal of bringing other views/experience to the Board.
- Keep in mind a view of past participation in the ICANN community.
- Maintains the NomCom as its own path to the Board, as opposed to an alternative path for those who might be available for selection to the Board through other processes.
- Support the IRS definition of independence that focuses on financial relationships/predominance of independence.
- Maintain acknowledgement that familiarity with ICANN is also a valued perspective.

After agreement on these principles, ICANN org drafted the Proposed Statement.

Nominating Committee Standing Committee Charter (Draft)

Preamble

Recognizing the Nominating Committee (NomCom) Standing Committee has a role to play in supporting continuous improvement of the NomCom and that various NomCom2 Review recommendations and subsequent implementation steps (Recommendations 2-9; 12, 14, 15, 16; 18-23; 25-27) indicate potential roles for the NomCom Standing Committee, those implementation steps have been deferred to be considerations for a work plan once the NomCom Standing Committee it is established.

I. Background

In the final report of the Second Organizational Review of the Nominating Committee (NomCom2 Review), published on 5 June 2018, the independent examiner conducting the review found that there was a lack of continuity in process across different years in NomCom such that the operational performance of any individual NomCom was routinely impacted. The independent examiner recommended that a Standing Committee be formed to suggest and assist in implementing changes to NomCom processes since the NomCom itself operates on a tight timeline and needs to focus on its recruiting and evaluation activities.

For reference, the Nominating Committee (NomCom) is responsible for appointing a number of seats to the ICANN Board of Directors, the Public Technical Identifiers Board of Directors, the At-Large Advisory Committee (ALAC), and the Councils of the Country Code Names Supporting Organization (ccNSO) and the Generic Names Supporting Organization (GNSO). The NomCom is an independent body that acts on behalf of the interests of the global Internet community and within the scope of ICANN's mission and its responsibilities in the Bylaws. The NomCom consists of 15 voting delegates along with a number of non-voting leaders, advisors, and delegates.

II. Purpose

The purpose of the NomCom Standing Committee is to:

- Support continuous improvement to the NomCom Operating Procedures and associated processes to increase the effectiveness and efficiency of the NomCom while enhancing the NomCom's transparency and accountability to the overall ICANN community.
- Provide continuity across annual NomCom cycles and to build the institutional memory of the NomCom.

The NomCom is ultimately responsible for ongoing coordination and communication across ICANN. The NomCom Standing Committee is an external complement to support the NomCom's continuous improvement. The NomCom and NomCom Standing Committee are supported by ICANN org NomCom support staff, who focus on standardization of NomCom processes and also provide continuity. In serving its purpose, the NomCom Standing Committee may coordinate with other entities within ICANN to inform a set of processes to standardize.

The NomCom Standing Committee is not intended to be involved in the work of each annual NomCom. For the avoidance of doubt, the NomCom Standing Committee does not participate in, oversee, or influence the decision-making processes of the NomCom's annual candidate evaluation and selection activities. The NomCom Standing Committee is also prohibited from participation in, oversight of, or influencing the NomCom delegate selection process which is the sole responsibility of the appointing bodies. The NomCom Standing Committee will not have access to any confidential information available to the NomCom.

III. Scope of Responsibilities

A. Provide continuity across annual NomCom cycles

In collaboration with ICANN org NomCom support staff (section III.C), the NomCom Standing Committee will support the standardization of the work across NomCom cycles including but not limited to the planning, documentation, and the review of the NomCom's processes. Examples of this work could include:

- Providing input on the publication of process maps and reports regarding the goals and accomplishments of the NomCom's Continuous Improvement program.
- Reviewing, assessing, and providing inputs on updates to documentation or on NomCom process enhancements.

The NomCom Standing Committee is also charged with participating in ICANN's annual budget and planning processes on behalf of the NomCom.

B. Build the institutional memory of the NomCom

In collaboration with ICANN org NomCom support staff, the NomCom Standing Committee will be responsible for reviewing, assessing, and providing input on the website and systems used for maintaining a historical archive for processes and procedures used by the NomCom.

The NomCom Standing Committee will be responsible for reviewing, assessing, and providing input to NomCom support staff and NomCom on:

- (a) The website and systems used for maintaining a historical archive for processes and procedures used by the NomCom.
- (b) The process for community outreach on proposed changes to the NomCom Operating Procedures.
- (c) The processes of identifying, collecting and timely publication of publicly available data on the candidate pool.
- (d) The publication of regular reports regarding the goals and accomplishments of the NomCom's Continuous Improvement program.

C. NomCom Standing Committee engagement with ICANN org

In fulfilling its purpose and responsibilities with ICANN org NomCom support staff, especially with regard to the review of each NomCom cycle, the NomCom Standing Committee will work in

consultation with ICANN org NomCom support staff to help assess the previous NomCom cycle. This will be based upon all end-of-cycle feedback received by NomCom support staff, not designated as confidential. The NomCom Standing Committee will provide feedback on whether processes worked properly and determine any potential changes needed for future NomCom cycles. Activities encompassed in the relationship between the NomCom Standing Committee and ICANN org NomCom support staff may include but not be limited to:

- (a) In coordination with ICANN org NomCom support staff, reviewing the previous NomCom planning cycle projects against the adopted budget to inform the NomCom Standing Committee's recommendations into future budgeting cycles.
- (b) Reviewing the end-of-cycle feedback and providing recommendations for improvements.
- (c) Supporting the assessment and effectiveness of NomCom training to improve training of incoming NomCom delegates and Leadership.
- (d) Supporting the continuous improvement of the NomCom online knowledge base and tools.
- (e) Engagement within the ICANN annual budgeting and planning cycles.

D. NomCom Standing Committee Role with Respect to Bodies That Appoint Delegates to the NomCom

In fulfilling its purpose and responsibilities, the NomCom Standing Committee will be available to provide information/guidance to bodies appointing delegates to the NomCom regarding the diversity needs, in line with the ICANN community agreed upon definitions and goals for diversity considerations.

IV. Composition

The NomCom Standing Committee shall be composed of five seats: four members and one ex-officio observer. The four members will be selected from a pool of eligible candidates (see VII (h) for Membership Requirements) based upon a public Expression of Interest (EOI).

- (i) Each of the four member seats will be filled on a rotational basis as follows:
 - (1) The initial term for Seats 1-4 shall begin upon the conclusion of ICANN's Annual General Meeting [TBD] and rotate as follows:
 - a) Seats 1 and 3 will conclude after year two.
 - b) Seats 2 and 4 will conclude after year three.
 - (ii) The current NomCom Associate Chair serves ex-officio in the fifth seat as a non-voting liaison between the NomCom Standing Committee and the current NomCom.
- (b) The existence of any vacancies shall not affect the ability or obligation of the NomCom Standing Committee to carry out the responsibilities assigned to it in this Charter.
- (c) NomCom Standing Committee Chair:
- (i) Once formed, the NomCom Standing Committee will select a Chair from the NomCom Standing Committee membership. The Chair will convene and facilitate

NomCom Standing Committee meetings and support the will of the group to ensure no unilateral or minority led action. A Chair will be selected annually.

(d) Membership Requirements:

- (i) NomCom Standing Committee members shall have each completed at least one full term on the NomCom prior to being appointed to the NomCom Standing Committee.
- (ii) There cannot be overlap between service on the NomCom Standing Committee and service on the NomCom, other than the NomCom Associate Chair who serves only as a liaison and observer between the NomCom Standing Committee and on behalf of the current NomCom.
- (iii) No person who is an employee of or paid consultant to ICANN (including the Ombudsman) shall serve on the NomCom Standing Committee.
- (iv) Preference for new member appointments will be given to:
 - (1) Prior experience on a NomCom Leadership Team (comprised of the NomCom Chair, Chair-elect, and NomCom Associate Chair).
 - (2) Incoming members who are not currently involved in the same SO/AC as outgoing members.
 - (3) Consideration of the WS2 diversity recommendation.

(e) Selection of NomCom Standing Committee members

(i) The ICANN Board, or a subset thereof, is responsible for the review and selection of candidates to the NomCom Standing Committee members. Each candidate must provide a conflict of interest statement as part of the information provided to the ICANN Board for NomCom Standing Committee member selection

V. Terms

1. The term of all four members, excluding the liaison, shall be three years, with initial terms staggered as described above in Composition (VII; ii).
2. All regular terms shall start upon the conclusion of an ICANN Annual General Meeting.
3. A member may serve at most two successive three-year terms, after which at least two years must elapse before the individual is eligible to serve another term.
4. The initial staggered terms are considered a full term. Non-performing members may be removed by an affirmative vote of all other members of the Committee. The determination of Non-Performance can be due to a variety of factors, including, but not limited to, attendance and participation in the NomCom Standing Committee. When a NomCom Standing Committee member fails to attend two regularly scheduled meetings consecutively without prior notification to the group, NomCom Standing Committee ICANN org NomCom support staff shall reach out to the absent member, on behalf of the NomCom Standing Committee, to confirm if the absent member is able to continue participation on the NomCom Standing Committee. Any vacancy that arises during a term shall be filled according to the selection process under IV. Composition. A person elected to fill a vacancy in a term shall not be deemed to have served that term.

5. The NomCom Associate Chair shall serve in their liaison capacity on the NomCom Standing Committee coinciding with their Associate Chair term.¹

VI. Meetings

1. The NomCom Standing Committee will meet by remote participation (using appropriate technology) as frequently as necessary, but no fewer than six times per year.
2. Regular meetings may be called upon no less than fourteen (14) days' notice by either (i) the Chair or (ii) any two members of the NomCom Standing Committee acting together.
3. Meetings to address urgent issues may be called in a manner calculated to provide as much notice as possible to the members of the NomCom Standing Committee.
4. NomCom Standing Committee meetings require a majority of members, in order to achieve quorum and proceed to hold a meeting.
5. Outcomes and actions of the NomCom Standing Committee shall be taken by consensus. All outcomes and actions will strive for full consensus, or unanimous agreement. Where full consensus is not possible, outcomes and actions require a majority of NomCom Standing Committee members' support in order to proceed, as opposed to a decision by the Chair.
6. Email discussions do not replace regular meetings, though outcomes and actions can be determined via internet-based discussions (email).
7. The NomCom Standing Committee may elect to meet face-to-face but there will be no travel support associated with this activity.

VII. Accountability and Transparency

The NomCom Standing Committee shall operate openly and transparently. NomCom Standing Committee meetings shall be recorded. The meeting recording, minutes, and other records of the meetings shall be publicly posted to a publicly available webpage as soon as possible following approval by the committee.

Outcomes and actions shall be documented and may be determined via Internet-based discussions without the need for a meeting. The NomCom Standing Committee will use a public mailing list for any matters related to its remit.

NomCom Standing Committee members must adhere to ICANN's conflict-of-interest policy by providing and updating statements of interest that identify potential conflicts of interest in their NomCom Standing Committee service.

VIII. Review & Continuous Improvement

Any entity that appoints delegates to the NomCom, or receives appointees from the NomCom, may propose amendments to this Charter. All proposed changes shall be subject to ICANN's Public Comment processes and Board approval of charter amendments.

¹ There is no obligation for the Nominating Committee Chair to appoint an Associate Chair. If there is no Associate Chair selected, then the Chair-Elect could serve as the Standing Committee liaison for that term.

This Charter of the NomCom Standing Committee shall be reviewed at least every 5 years, preferably as part of the NomCom's Organizational Review as per Section 4.4 of the Bylaws (or successor section).

Discussion Draft as of 24 February 2023

ARTICLE 7 BOARD OF DIRECTORS

Section 7.1. COMPOSITION OF THE BOARD

The ICANN Board of Directors ("**Board**") shall consist of sixteen voting directors ("**Directors**"). In addition, four non-voting liaisons ("**Liaisons**") shall be appointed for the purposes set forth in Section 7.9. Only Directors shall be included in determining the existence of quorums, and in establishing the validity of votes taken by the Board.

Section 7.2. DIRECTORS AND THEIR SELECTION; ELECTION OF CHAIR AND VICE-CHAIR

(a) As of the effective date of the amendment and restatement of these Bylaws on 1 October 2016, the EC shall be the sole designator of ICANN and shall designate, within the meaning of Section 5220 of the CCC, all Directors except for the President ex officio. The EC shall notify promptly the Secretary in writing of the following designations:

(i) Eight Directors nominated by the Nominating Committee to be designated as Directors by the EC. These seats on the Board are referred to in these Bylaws as Seats 1 through 8.

(ii) Two Directors nominated by the ASO to be designated as Directors by the EC. These seats on the Board are referred to in these Bylaws as Seat 9 and Seat 10.

(iii) Two Directors nominated by the ccNSO to be designated as Directors by the EC. These seats on the Board are referred to in these Bylaws as Seat 11 and Seat 12.

(iv) Two Directors nominated by the GNSO to be designated as Directors by the EC. These seats on the Board are referred to in these Bylaws as Seat 13 and Seat 14.

(v) One Director nominated by the At-Large Community to be designated as Directors by the EC. This seat on the Board is referred to in these Bylaws as Seat 15.

In addition to the Directors designated by the EC, the President shall serve ex officio as a Director. The seat held by the President on the Board is referred to in these Bylaws as Seat 16.

(b) In carrying out its responsibilities to nominate the Directors for Seats 1 through 8 for designation by the EC, the Nominating Committee shall:

(i) ensure that the Board is composed of Directors who, in the aggregate, display diversity in geography, culture, skills, experience, and perspective, by applying the criteria set forth in [Section 7.3](#), [Section 7.4](#) and [Section 7.5](#).

(ii) ensure that at least three of Directors nominated to fill Seats 1 through 8 on the Board qualify as “unaffiliated Directors” as that term is defined in the Nominating Committee Operating Procedures. Director qualification as “unaffiliated” is measured upon the beginning of the Director’s term, as set forth in Section 7.8. Unless otherwise specified in Transition Article 27.xx, only Directors initially nominated as “unaffiliated” Directors may be nominated for consecutive subsequent terms of service as “unaffiliated” Directors.

(iii) assess the geographic diversity of the Board. At no time when it makes its nomination shall the Nominating Committee nominate a Director to fill any vacancy or expired term whose designation would cause the total number of Directors (not including the President) from countries in any one Geographic Region to exceed five; and the Nominating Committee shall ensure when it makes its nominations that the Board includes at least one Director who is from a country in each ICANN Geographic Region ("**Diversity Calculation**"). For purposes of this [Section 7.2\(b\)](#), if any candidate for director maintains citizenship of more than one country, or has been domiciled for more than five years in a country of which the candidate does not maintain citizenship ("**Domicile**"), that candidate may be deemed to be from either country and must select in his or her Statement of Interest the country of citizenship or Domicile that he or she wants the Nominating Committee to use for Diversity Calculation purposes. For purposes of this [Section 7.2\(b\)](#), a person can only have one Domicile, which shall be determined by where the candidate has a permanent residence and place of habitation.

Section 7.4. ADDITIONAL QUALIFICATIONS

(a) Notwithstanding anything herein to the contrary, no official of a national government or a multinational entity established by treaty or other agreement between national governments may serve as a Director. As used herein, the term "official" means a person (i) who holds an elective governmental office or (ii) who is employed by such government or multinational entity and whose primary function with such government or entity is to develop or influence governmental or public policies.

(b) No person who serves in any capacity (including as a liaison) on any Supporting Organization Council shall simultaneously serve as a Director or Liaison to the Board. If such a person is identified by, or presents themselves to, the Supporting Organization Council or the At-Large Community for consideration for nomination to serve as a Director, the person shall not thereafter participate in any discussion of, or vote by, the Supporting Organization Council or the committee designated by the At-

Discussion Draft as of 24 February 2023

Large Community relating to the nomination of Directors by the Council or At-Large Community, until the Council or committee(s) specified by the At-Large Community has nominated the full complement of Directors it is responsible for nominating. In the event that a person serving in any capacity on a Supporting Organization Council is considered for nomination to serve as a Director, the constituency group or other group or entity that selected the person may select a replacement for purposes of the Council's nomination process. In the event that a person serving in any capacity on the At-Large Advisory Committee is identified as or accepts a nomination to be considered for nomination by the At-Large Community as a Director, the Regional At-Large Organization or other group or entity that selected the person may select a replacement for purposes of the At-Large Community's nomination process.

(c) Persons serving in any capacity on the Nominating Committee shall be ineligible for nomination or designation to positions on the Board as provided by [Section 8.8](#).

(d) No person who serves on the EC Administration while serving in that capacity shall be considered for nomination or designated to the Board, nor serve simultaneously on the EC Administration and as a Director or Liaison to the Board.

(e) As specified at Section 7.3(b)(ii) above, at least three of the Directors nominated by the Nominating Committee shall qualify as "unaffiliated Directors" as that term is defined in the Nominating Committee Operating Procedures. Any change to the definition of "unaffiliated Directors" shall require public comment and ICANN Board approval. Acceptance of compensation for service as an ICANN Board Director shall not disqualify any candidate from meeting the definition of "unaffiliated".

ARTICLE 8 NOMINATING COMMITTEE

Section 8.1. DESCRIPTION

There shall be a Nominating Committee of ICANN ("**Nominating Committee**"), responsible for nominating all Directors except the President and those Directors nominated by Decisional Participants; for nominating two directors of PTI (in accordance with the articles of incorporation and bylaws of PTI); and for such other selections as are set forth in these Bylaws. Notification of the Nominating Committee's Director nominations shall be given by the Nominating Committee Chair in writing to the EC Administration, with a copy to the Secretary, and the EC shall promptly act on it as provided in [Section 7.25](#). Notification of the Nominating Committee's PTI director nomination shall be given to the Secretary.

Section 8.2. COMPOSITION

The Nominating Committee shall be composed of the following persons:

Discussion Draft as of 24 February 2023

- (a) A non-voting Chair, appointed by the Board;
- (b) A non-voting Chair-Elect, appointed by the Board as a non-voting advisor;
- (c) One voting delegate each selected by the following entities:
 - i. The Address Council of the Address Supporting Organization established by Section 9.2;
 - ii. The Council of the Country Code Names Supporting Organization established by Section 10.3;
 - iii. The Governmental Advisory Committee established by Section 12.2(a)
 - iv. The Security and Stability Advisory Committee established by Section 12.2(b);
 - v. The Root Server System Advisory Committee established by Section 12.2(c);
and
 - vi. The Internet Engineering Task Force.

~~A non-voting liaison appointed by the Root Server System Advisory Committee established by Section 12.2(c);~~

~~(d) A non-voting liaison appointed by the Security and Stability Advisory Committee established by Section 12.2(b);~~

~~(e) A non-voting liaison appointed by the Governmental Advisory Committee;~~

~~(df) Five voting delegates selected by the At-Large Advisory Committee established by Section 12.2(d);~~

~~(eg) Seven voting delegates to the Nominating Committee shall be selected by from the Generic Names Supporting Organization established by Article 11, as follows:~~

- ~~(i) One delegate from the Registries Stakeholder Group;~~
- ~~(ii) One delegate from the Registrars Stakeholder Group;~~
- ~~(iii) Two delegates from the Business Constituency, one representing small business users and one representing large business users;~~
- ~~(iv) One delegate from the Internet Service Providers and Connectivity Providers Constituency (as defined in Section 11.5(a)(iii));~~
- ~~(v) One delegate from the Intellectual Property Constituency; and~~

Discussion Draft as of 24 February 2023

~~(vi) One delegate from consumer and civil society groups, selected by the Non-Commercial Users Constituency.~~

~~(h) One voting delegate each selected by the following entities:~~

~~(i) The Council of the Country Code Names Supporting Organization established by Section 10.3;~~

~~(ii) The Council of the Address Supporting Organization established by Section 9.2; and~~

~~(iii) The Internet Engineering Task Force.~~

~~(f) A non-voting Associate Chair, who may be appointed by the Chair, at his or her sole discretion, to serve during all or part of the term of the Chair. The Associate Chair may not be a person who is otherwise a member of the same Nominating Committee. The Associate Chair shall assist the Chair in carrying out the duties of the Chair, but shall not serve, temporarily or otherwise, in the place of the Chair.~~

Section 8.3. TERMS

~~(a) The term for eEach voting delegate shall be serve a one~~two~~-year term. No individual A delegate may serve as a delegate for more than two at most two successive one-year terms. In addition, no individual may serve in consecutive terms, regardless of the entity selecting them to the Nominating Committee. An individual will only be eligible to serve a second term as a delegate on the Nominating committee if a minimum of two years has elapsed between the end of their first term and the beginning of the term for which they are being selected., after which at least two years must elapse before the individual is eligible to serve another term.~~

~~(b) The regular term of each voting delegate shall begin at the conclusion of an ICANN annual meeting and shall end at the conclusion of the ~~immediately following~~ ICANN annual meeting in two years, subject to the Transition Article Section 27.xx.~~

~~(c) Non-voting liaisons shall serve during the term designated by the entity that appoints them.~~The Chair, the Chair-Elect, and any Associate Chair shall serve as such until the conclusion of the next ICANN annual meeting.

~~(d) It is anticipated that upon the conclusion of the term of the Chair-Elect, the Chair-Elect will be appointed by the Board to the position of Chair. However, the Board retains the discretion to appoint any other person to the position of Chair. At the time of appointing a Chair-Elect, if the Board determines that the person identified to serve as~~

Discussion Draft as of 24 February 2023

Chair shall be appointed as Chair for a successive term, the Chair-Elect position shall remain vacant for the term designated by the Board.

(e) Vacancies in the positions of delegate, ~~non-voting liaison, Chair or Chair-Elect~~ shall be filled by the entity entitled to select the delegate, subject to the details in the approved Nominating Committee Standard Operating Procedures, ~~non-voting liaison, Chair or Chair-Elect involved~~. If a delegate is selected to fill a vacancy and less than eight months have elapsed in that term, the delegate will be considered to have served a full term for the purposes of Section 8.3(a). If more than eight months have elapsed in the term at the time the delegate is selected to fill a vacancy, such service will not be considered a full term pursuant to Section 8.3(a).

(f) For any vacancy in the position of Chair, the Board shall appoint a replacement. For any term that the Chair-Elect position is vacant pursuant to Section 8.3(d), or until any other vacancy in the position of Chair-Elect can be filled, a non-voting advisor to the Chair may be appointed by the Board from among persons with prior service on the Board or a Nominating Committee, including the immediately previous Chair of the Nominating Committee. A vacancy in the position of Associate Chair may be filled by the Chair in accordance with the criteria established by Section 8.2(i).

~~(g)~~ The existence of any vacancies shall not affect the obligation of the Nominating Committee to carry out the responsibilities assigned to it in these Bylaws.

Section 8.4. CRITERIA FOR SELECTION OF NOMINATING COMMITTEE DELEGATES

Delegates to the ICANN Nominating Committee shall be:

(a) Accomplished persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and with experience and competence with collegial large group decision-making;

(b) Persons with wide contacts, broad experience in the Internet community, and a commitment to the success of ICANN;

(c) Persons whom the selecting body is confident will consult widely and accept input in carrying out their responsibilities;

(d) Persons who are neutral and objective, without any fixed personal commitments to particular individuals, organizations, or commercial objectives in carrying out their Nominating Committee responsibilities;

Discussion Draft as of 24 February 2023

(e) Persons with an understanding of ICANN's mission and the potential impact of ICANN's activities on the broader Internet community who are willing to serve as volunteers, without compensation other than the reimbursement of certain expenses; and

(f) Persons who are able to work and communicate in written and spoken English.

Section 8.5. DIVERSITY

In carrying out its responsibilities to nominate Directors to fill Seats 1 through 8 (and selections to any other ICANN bodies as the Nominating Committee is responsible for under these Bylaws), the Nominating Committee shall take into account the continuing membership of the Board (and such other bodies), and seek to ensure that the persons it nominates to serve as Director and selects shall, to the extent feasible and consistent with the other criteria required to be applied by [Section 8.4](#), be guided by [Section 1.2\(b\)\(ii\)](#).

Section 8.6. ADMINISTRATIVE AND OPERATIONAL SUPPORT

ICANN shall provide administrative and operational support necessary for the Nominating Committee to carry out its responsibilities.

Section 8.7. PROCEDURES

The Nominating Committee shall adopt such operating procedures as it deems necessary, which shall be published on the Website. [The Nominating Committee and the NomCom Standing Committee, while ensuring confidentiality, will ensure that they maintain transparency and accountability to the ICANN Community for all their processes.](#)

Section 8.8. INELIGIBILITY FOR SELECTION BY NOMINATING COMMITTEE

No person who serves on the Nominating Committee in any capacity shall be eligible for nomination by any means to any position on the Board or any other ICANN body having one or more membership positions that the Nominating Committee is responsible for filling, until the conclusion of an ICANN annual meeting that coincides with, or is after, the conclusion of that person's service on the Nominating Committee.

Section 8.9. INELIGIBILITY FOR SERVICE ON NOMINATING COMMITTEE

No person who is an employee of or paid consultant to ICANN (including the Ombudsman) shall simultaneously serve in any of the Nominating Committee positions described in [Section 8.2](#).

Discussion Draft as of 24 February 2023

ARTICLE 12 ADVISORY COMMITTEES

Section 12.2. SPECIFIC ADVISORY COMMITTEES

There shall be at least the following Advisory Committees:

(c) Root Server System Advisory Committee

(i) The role of the Root Server System Advisory Committee ("**Root Server System Advisory Committee**" or "**RSSAC**") is to advise the ICANN community and Board on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System. It shall have the following responsibilities:

(A) Communicate on matters relating to the operation of the Root Servers and their multiple instances with the Internet technical community and the ICANN community. The RSSAC shall gather and articulate requirements to offer to those engaged in technical revision of the protocols and best common practices related to the operation of DNS servers.

(B) Communicate on matters relating to the administration of the Root Zone with those who have direct responsibility for that administration. These matters include the processes and procedures for the production of the Root Zone File.

(C) Engage in ongoing threat assessment and risk analysis of the Root Server System and recommend any necessary audit activity to assess the current status of root servers and the root zone.

(D) Respond to requests for information or opinions from the Board.

(E) Report periodically to the Board on its activities.

(F) Make policy recommendations to the ICANN community and Board.

(ii) The RSSAC shall be led by a chair. ~~The RSSAC chair and members shall be appointed by the Board.~~

(A) RSSAC membership appointment shall be for a three-year term, commencing on 1 January and ending the second year thereafter on 31 December. Members may be re-appointed, and there are no limits to the number of terms the members may serve. ~~The RSSAC chair shall provide recommendations to the~~

Discussion Draft as of 24 February 2023

~~Board regarding appointments to the RSSAC. If the Board declines to appoint a person nominated by the RSSAC, then it will provide the rationale for its decision. The RSSAC chair shall stagger appointment recommendations so that approximately one-third (1/3) of the membership of the RSSAC is considered for appointment or re-appointment each year. The Board shall also have the power to remove RSSAC appointees as recommended by or in consultation with the RSSAC.~~

~~(B) The RSSAC shall recommend the appointment of the chair to the Board following a nomination process that it devises and documents.~~

~~(iii) The RSSAC shall annually appoint a Liaison to the Board according to Section 7.9(a)(ii)jm.~~

ARTICLE 27 TRANSITION ARTICLE

Section 27.xx Nominating Committee ~~Two-Year Term Transition Period~~ Delegate Terms

- (a) For the Nominating Committee with a term commencing at the conclusion of the ICANN General Meeting in 202[], the delegates shall be selected in accordance with Section 8.3 of these Bylaws as adopted on [insert date of adoption]. To effectuate the introduction of the two-year terms and support the goal of staggering delegate terms, the following delegates will serve a one-year term:
- i. The delegates appointed pursuant to:
 - i. Section 8.2.(c)(i) (ASO);
 - ii. Section 8.2 (c)(iii) (GAC); and
 - iii. Section 8.2 (c)(v) (RSSAC).
 - ii. Three of the delegates appointed by the At-Large Advisory Committee pursuant to Section 8.2(d).
 - iii. Three of the delegated appointed by the Generic Names Supporting Organization pursuant to Section 8.2(e).
- (b) The At-Large Advisory Committee and the Generic Names Supporting Organization are responsible for identifying which delegates are assigned to the one-year terms identified above.
- (c) All other seats identified at Section 8.2 of these Bylaws shall be seated for two-year terms.
- (d) No person who served on either or both of the two prior Nominating Committees (with terms ending at the ICANN Annual General Meeting in 20[] or 20[]) is eligible for appointment to the Nominating Committee term commencing at the conclusion of the ICANN General Meeting in 202[].
- (e) For the Nominating Committee with a term commencing at the conclusion of ICANN General Meeting in 202[+1], only those seats as identified in this Section 27.x(a)(1)-(iii) shall be filled, each for a two-year term. No person who served on either or both of the Nominating Committees with terms ending at the ICANN Annual General Meeting in 202[] or 202[] shall be eligible for appointment to this term.

Commented [SE1]: Insert the year commensurate with when the Bylaws amendments are approved.

Commented [SE2]: match with the commencement date in [a]

Commented [SE3]: The year after t

(f) For the purposes of calculating and filling vacancies under Section 8.3(e), the following rules shall apply for the one-year terms specified in this Transition Article:

- i. Service in all or part of a one-year term shall not be counted towards the total time served on the Nominating Committee, and the persons remain eligible to serve two two-year terms pursuant to Section 8.3.
- ii. One-year terms vacated with less than four months remaining in the term shall not be replaced, regardless of the reason for vacancy. The seat shall remain vacant until the commencement of the Nominating Committee with a term commencing with the conclusion of ICANN's Annual General Meeting in 202[+1].

Section 27.xy Directors and Their Selection, incorporating "Unaffiliated Directors"

(a) To effectuate the introduction of "unaffiliated Directors" as specified in Section 7.2(b)(ii) of the Bylaws as adopted on [insert effective date], the Nominating Committee shall apply the following:

- a. The Nominating Committee shall nominate a single "unaffiliated Director" within each nomination cycle for the 202[x], 202[x+1] and 202[x+2] nominating cycles.
- b. The Nominating Committee may, within its discretion, nominate additional "unaffiliated Directors" within each of these cycles.
- c. Starting in 202[x+3], the Nominating Committee shall be required to assess its compliance with Section 7.2(b)(ii) without limitation or impact from this Transition Article.
- d. Directors serving on the ICANN Board prior to [Bylaws effective date] and seeking a successive consecutive term on the Board are not eligible to qualify as an "unaffiliated Director".