

**The ICANN Board Procedure Manual is a collection of the procedures and policies used by the ICANN Board. This is the first draft of these procedures and/or policies. Additionally policies and procedures are being added on a regular basis as they are prepared. They will also be updated as these policies and procedures evolve. This draft is currently undergoing review by the ICANN Board.**

## **Board Committee and Leadership Selection Procedures (adopted 26 June 2009)**

### **Procedures**

#### **BGC Tasks**

The Board Governance Committee (BGC) takes on the task to present a slate for the election of the Chairman and the Vice Chairman of the Board and to recommend the composition and chairs of Board committees.

This includes establishing criteria for the Chairman and the Vice Chairman of the Board and for committee membership, considering rotation of committee members, reviewing candidates' qualifications and any potential conflicts with the corporation's interests, assessing the contributions of current directors in connection with their re-nomination.

Among the criteria are matters such as integrity, effectiveness, decisiveness, common sense, insight, goal orientation, diligence, ability to collaborate, creativity, constructiveness, open-mindedness, ability to summarize vast amounts of data, ability to solve complex problems, communication skills, and leadership skills in the ICANN environment. So also is the capacity to give the time needed to work on the tasks assigned. Also to be considered is status within the term, i.e. new, in middle of term, about to complete term, in second term, in third term.

For the Board Chairman and Vice Chairman and committee chairs added to these criteria are: (i) ability to enunciate clearly the wishes of the Board/Committee after orderly debate; (ii) knowledge of the procedures governing the Board and willing to make judgments on issues regarding these procedures; and (iii) capacity and commitment to draw upon the wisdom of all Board Members to reach either a consensus or a majority of opinion on issues presented.

For all members of the committees, added to these criteria are: (i) knowledge of the issues before the committee; (ii) ability to speak clearly and concisely their opinion on these issues; (iii) ability to make contributions to debate based upon personal experience and wisdom using objective or subjective reasoning; (iv) consideration and respect for the ideas of other committee members; and (v) ability to visualize the outcomes and enunciate the consequences of proposed decisions and actions.

The task is to fit the people into the roles in a logical way that supports and serves as an incentive for good performance not only of the Committee members and the Committee Chairs, but also of the members who would subsequently serve on these committees.

Attention should be given to where overlap in membership among Committees would be valuable. For example, having the Vice Chairman of the Board serve on the BGC could be helpful. It would provide overlap of BGC and the Executive Committee. Other

Executive Committee members might or might not also serve on another Committee or even lead it.

There may be other committees for which overlap with the BGC would be helpful such as the Finance Committee. But the greatest need is for people who have knowledge and an interest in the activities and responsibilities of each Board Committee, and who are courageous, constructive, and diplomatic.

Board Directors and Board Liaisons (collectively "Board Members") shall be eligible to serve on Board committees except on that Board Liaisons shall not be eligible to serve on the Audit Committee, the Compensation Committee and the Executive Committee. Board Liaisons that are selected for committees shall be non-voting members and shall not be counted for purposes of quorum. Only Board Directors may be selected as Chair of a Board committee.

Normally a Director will not serve as Chair of more than one committee.

As a general rule no Board Member should serve more than three consecutive terms in the same committee position without a three-quarters majority vote of the Board.

In constructing the slate of Nominees for Board approval, careful consideration will be given to ICANN's mission and core values, to tending to geographical, functional, and cultural diversity, and also to the distribution of Supporting-Organization-selected and Nominating-Committee-selected members so as to avoid a two-class system.

### **BGC Consultations**

Members of the BGC will consult either by means of a questionnaire sent to Board Members or by discussions that the committee members will have privately with other Board Members, the CEO, and the Board Chairman. The focus of these consultations is threefold: (i) Board Member skills and interests in relation to tasks of the various Committees' roles and agendas for the coming year; (ii) Board Member credibility for leadership or membership in the committee areas or in leading the Board; and (iii) Board Member performance of the roles/duties assigned to date. This is an effort to align talent with tasks and to serve as an incentive for future good performance. A matrix can help to map what is needed with what is available.

Members of the BGC will also consult with the ICANN staff members who work closely with the various Board leaders and committee chairs to acquire their views about what is needed and about what has gone well or less well in the past.

For the positions of Board Chairman and Vice Chairman, members of the BGC will also consult with the proposed individuals to ascertain willingness to serve along with some conversation about any concerns that might have been raised about their past performing in these or other roles, i.e. if there have been shortcomings as well as

excellent performance, the BGC will identify these and ask whether the individual felt there could be improvements either in his/her own performance or in the structuring of tasks or staff support to overcome the matters at issue.

For the positions of Chairs of the Board committees, the BGC should look into past performance in these or relevant other roles, leadership capability, skills/knowledge base, credibility of leadership in the substantive areas of the role. The BGC members will explore with the proposed chairs about their willingness to serve, and their ideas for committee composition, but the determination of the committee membership slates will be the judgment of the BGC.

### **BGC Process**

After these consultations, the BGC will discuss the results and develop a proposed slate for Board Chairman, Board Vice Chairman, committee chairs, and committee members.

Once the proposed slate is ready, the whole package will be presented to the full Board for discussion (in private) and approval (in public). This is not a rubber stamp act: some conversation is expected; but since all concerned will have been consulted early in the process, there should be an easy path to consensus on the whole slate.

This process will take place in advance of the Annual Meeting. Consultations could start two to three months before the annual meeting, sometime in the third calendar quarter. The process will not conclude until after the next set of new Board Members has been selected, but quite a bit of thought could be done before the final word is in, because some Supporting-Organization-selected Board Members will be selected six months after the previous annual meeting and presumably will be placed on various committees after recommendation by the BGC, as they come onto the Board. The final balancing and alignment of talent and tasks will be done in the month before the annual meeting, ready for documentation and presentation at the annual meeting of the Board.

This process will have three outcomes: (i) the slate for the Board structure for the next year; (ii) better understanding among Board Members of the Board structure and roles in it; and (iii) a part of the Board self-assessment will have been accomplished. The three need to go hand in hand, but the last item is larger in scope than just the preparation for selection of leadership and committee structure and will require additional effort.

This process will also contribute to but not be sufficient for the consideration of the effectiveness of the relationship between the CEO and the Board, and the relationship between the CEO and the Chair of the Board.

## **Conflicts of Interest Policy (adopted 6 May 2012)**

### **ARTICLE I -- PURPOSE AND ADMINISTRATION**

Section 1.1. Internet Corporation for Assigned Names and Numbers ("ICANN") is committed to the highest levels of integrity. Covered Persons are expected to conduct their relationships with each other, ICANN and outside organizations with objectivity and honesty. Covered Persons are obligated to disclose ethical, legal, financial and other Conflicts of Interest involving ICANN and remove themselves from a position of decision-making authority with respect to any Conflict of Interest involving ICANN. The purpose of this Board Conflicts of Interest Policy ("COI Policy") is to prevent any Conflict of Interest or the appearance of a Conflict of Interest from affecting any decision-making involving ICANN, to ensure that the deliberations and decisions of ICANN are made solely in the interests of the global Internet community, as a whole, and to protect ICANN's interests when ICANN is contemplating entering into a transaction, contract or arrangement or approving a policy, program or other matter that might benefit the personal interests of a Covered Person.

Section 1.2. A Covered Person may not use his or her position with respect to ICANN, or confidential corporate information obtained by him or her relating to ICANN, in order to achieve a financial or other benefit for himself or herself or for a third person, including another nonprofit or charitable organization.

Section 1.3. This COI Policy is intended to supplement but not to replace any applicable laws governing conflicts of interest applicable to ICANN.

Section 1.4. ICANN will encourage Supporting Organizations and Advisory Committees and other ICANN-related bodies, as appropriate, to consider implementing the principles and practices of this COI Policy as relevant.

Section 1.5. The Board Governance Committee (together with any subcommittee thereof established by the Board, the "Committee") shall administer and monitor compliance with this COI Policy in accordance with the terms contained herein.

Section 1.6. Certain capitalized terms used in this COI Policy shall have the meanings set forth in Article VII of this COI Policy.

### **ARTICLE II -- PROCEDURES REGARDING CONFLICTS OF INTEREST**

#### **Section 2.1. Duty to Disclose.**

(a) In connection with any proposed transaction, contract, arrangement, policy, program or other matter being considered by ICANN, a Covered Person shall promptly disclose the existence of any Potential Direct Conflict that may give rise to a Conflict of Interest

with respect to the proposed transaction, contract, arrangement, policy, program or other matter. Such disclosure shall be made to the Office of the General Counsel setting forth, in writing, all relevant facts relating to the Potential Direct Conflict. When in doubt, Interested Persons shall disclose matters as Potential Direct Conflicts.

(b) Potential Perceived Conflicts can be seriously damaging to the multi-stakeholder community's confidence in ICANN. A Covered Person shall promptly disclose the existence of any Potential Perceived Conflict, which shall be treated as equivalent to a Potential Direct Conflict until such time as the doubt is removed and the matter is determined after investigation of all the relevant facts in accordance with this COI Policy. When in doubt, Interested Persons shall disclose matters as Potential Perceived Conflicts and disclose all relevant facts relating to the Potential Perceived Conflict to the Office of the General Counsel.

(c) If any Covered Person has reason to believe that another Covered Person has a Potential Conflict, the Covered Person with such belief shall inform the Office of the General Counsel, including disclosing all relevant facts relating thereto.

(d) The Interested Person shall provide the Office of the General Counsel with an updated Statement (as provided for in Article V below) at the time any disclosure is made pursuant to this Section 2.1. The disclosure to the Office of the General Counsel of a Potential Conflict shall be made promptly and pursuant to such procedures as the Board or the Committee may establish from time to time.

#### Section 2.2. Determining Whether a Conflict of Interest Exists.

(a) After disclosure of a Potential Conflict by an Interested Person, the Office of the General Counsel will promptly inform the Committee of the Potential Conflict and provide the Committee with all information provided by the Interested Person related thereto. At the discretion of the Disinterested members of the Committee, the Interested Person may present further information regarding, or otherwise discuss with such members, the Potential Conflict.

(b) Thereafter, in the absence of the Interested Person, the Disinterested members of the Committee shall determine whether or not the circumstances disclosed by the Interested Person regarding the Potential Conflict constitute a Conflict of Interest, and, subject to a contrary finding by a majority of the Disinterested Directors, the determination by Disinterested members of the Committee in this regard is conclusive and may not be challenged by the Interested Person. Such determination shall be recorded pursuant to Section 3.1 hereof. If the Interested Person is a Director or Board

Liaison, such determination shall be subject to ratification by, and reported to, the Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Potential Conflict.

Section 2.3. Procedures for Addressing a Conflict of Interest.

(a) If the Disinterested members of the Committee determine that a Conflict of Interest exists, the Conflicted Person may make a presentation to the Disinterested members of the Committee regarding the Conflict of Interest. After any such presentation, subject to Section 2.4(d), the Conflicted Person shall leave the meeting and shall not be present during any discussion of the Conflict of Interest.

(b) The Chair of the Committee (if Disinterested) or a majority of the Disinterested members of the Committee, shall, if appropriate, appoint a Disinterested person or committee to investigate alternatives or modifications, as applicable, to the proposed transaction, contract, arrangement, policy, program or other matter. If the Conflicted Person is a Director or Board Liaison, the findings shall be reported to Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(c) After investigating the proposed transaction, contract, arrangement, policy, program or other matter, the Disinterested members of the Committee shall determine whether ICANN can obtain with reasonable efforts a more advantageous transaction, contract, arrangement, policy, program or other matter in a manner that would not give rise to or would alleviate or mitigate a Conflict of Interest. If the Conflicted Person is a Director or Board Liaison, such determination shall be reported to the Disinterested Directors at the next Board meeting and prior to the Disinterested Directors approving or adopting, as applicable, the transaction, contract, arrangement, policy, program or other matter giving rise to such Conflict of Interest.

(d) If a more advantageous transaction, contract, arrangement, policy, program or other matter is not reasonably available to ICANN under circumstances not producing a Conflict of Interest, or the transaction, contract, arrangement, policy, program or other matter cannot be modified to alleviate or mitigate a Conflict of Interest, the Disinterested members of the Committee, and where the Conflicted Person is a Director or Board Liaison, the Disinterested Directors shall determine by a majority vote of the applicable Disinterested Directors whether the transaction, contract, arrangement, policy, program or other matter creating the Conflict of Interest is in ICANN's best

interest, for its own benefit, and whether it is fair and reasonable to ICANN. In conformity with those determinations, the Disinterested members of the Committee or Disinterested Directors, as applicable, shall make its decision as to whether ICANN should enter into the transaction, contract or arrangement or approve the policy, program or other matter.

Section 2.4. Duty to Abstain.

(a) After disclosing the existence of a Potential Conflict, Interested Persons shall refrain from using their personal influence (either at or outside a Board meeting) to influence ICANN's handling of the transaction, contract, arrangement, policy, program or other matter.

(b) No Director may vote on, and each Director must abstain from voting on, any matter in which the Director has a Conflict of Interest, except that a Director need not abstain from, and may vote on, whether to accept or to reject a recommendation to the Board by an Independent Valuation Expert contained in a Reasoned Written Opinion from such Independent Valuation Expert regarding a Compensation arrangement for services provided by the Director to ICANN in the Director's capacity as a member of the Board.

(c) In the event of such an abstention, the abstaining Director shall state the reason for the abstention, which shall be recorded pursuant to Section 3.1.

(d) Except as otherwise provided in Section 2.4(b) above regarding a compensation arrangement for services provided by the Director to ICANN in the Director's capacity as member of the Board, no Director may participate in Board committee or Board deliberations on any transaction, contract, arrangement, policy, program or other matter in which he or she has a Conflict of Interest without first disclosing the conflict (and otherwise complying with the requirements of this COI Policy) and until a majority of Disinterested members of the Committee or a majority of the Disinterested Directors present agree on whether and in what manner the Conflicted Person may participate.



Section 2.5. Violations of the Conflicts of Interest Policy.

- (a) If the Disinterested members of the Committee have reasonable cause to believe a Covered Person has failed to disclose a Potential Conflict, the Committee shall inform the Covered Person, and initiate the procedures described in Sections 2.1, 2.2 and 2.3.
- (b) If the Disinterested members of the Committee determine that a Director or Board Liaison has intentionally failed to disclose a Potential Conflict, the Disinterested members of the Committee shall make recommendations to the Disinterested Directors for corrective action. The Disinterested Directors shall review the Disinterested members of the Committee's recommendation and shall take such corrective action as they deem appropriate, including, but not limited to, removal of a non-disclosing Director or Board Liaison in accordance with ICANN's Bylaws and applicable law.

ARTICLE III -- RECORDS OF PROCEEDINGS

Section 3.1. The written or electronic records of the Board and the Committee relating to Conflicts of Interest shall contain:

- (i) The names of Covered Persons who disclosed or otherwise were found to have a Potential Conflict in connection with a proposed contract, arrangement, policy, program or other matter;
- (ii) The nature of the Potential Conflict;
- (iii) Any action taken to determine whether a Conflict of Interest was present;
- (iv) The Board's or the Committee's, as applicable, decision as to whether a Conflict of Interest in fact existed;
- (v) The names of the persons who were present for discussions and votes relating to the transaction, contract, arrangement, policy, program or other matter;
- (vi) The content of the discussion, including any alternatives to the proposed transaction, contract, arrangement, policy, program or other matter; and
- (vii) A record of any votes taken in connection therewith.

ARTICLE IV -- COMPENSATION

Section 4.1. Except to the extent permitted under Section 2.4(b), a Director who receives Compensation, directly or indirectly, from ICANN for services may not vote on matters pertaining to the Director's Compensation.

Section 4.2. A Director may not vote on matters pertaining to Compensation received, directly or indirectly, from ICANN by a member of the Director's Family or by an individual with whom a Director has a close personal relationship, including, but not limited to, any relationship other than kinship, spousal or spousal equivalent that establishes a significant personal bond between the Director and such other individual that in the judgment of the Committee could impair the Director's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

Section 4.3. No Covered Person who receives Compensation, directly or indirectly, from ICANN, either individually or collectively, is prohibited from providing information to the Board or to any Committee regarding the Covered Person's Compensation.

#### ARTICLE V -- ANNUAL STATEMENTS

Section 5.1. Each Covered Person shall annually, or promptly upon becoming a Covered Person, sign a Statement which affirms such Covered Person: (i) has received a copy of the COI Policy; (ii) has read and understands the COI Policy; (iii) has agreed to comply with the COI Policy; and (iv) understands ICANN is a tax-exempt organization described in § 501(c)(3) of the Internal Revenue Code and that in order to maintain its federal tax exemption, ICANN must engage primarily in activities which accomplish one or more of ICANN's tax-exempt purposes.

Section 5.2. On an annual basis, all Covered Persons shall disclose on their Statement a list of all organizations in which he or she has a Financial Interest or Duality of Interest.

Section 5.3. On an annual basis, the Committee shall review the Statements of the Covered Persons to determine whether any Covered Person has a Conflict or Conflicts of Interest that is, or in the aggregate are, so pervasive that the Conflicted Person should no longer serve in his or her respective role.

#### ARTICLE VI -- PERIODIC REVIEWS

Section 6.1. To ensure ICANN operates with the highest levels of integrity and in a manner consistent with its tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, ICANN's Office of the General Counsel and Finance Department shall conduct periodic reviews of its purposes and activities.

Section 6.2. These periodic reviews shall, at a minimum, include the following subjects:

(i) Whether activities carried on by ICANN are consistent with and in furtherance of one or more of ICANN's tax-exempt purposes;

- (ii) Whether ICANN follows policies and procedures reasonably calculated to prevent private Inurement more than incidental private benefit, excess benefit transactions, substantial lobbying, and participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office;
- (iii) Whether compensation arrangements and benefits are reasonable, are based on appropriate data as to comparability, and are the result of arm's length bargaining; and
- (iv) Whether partnerships, joint ventures, and arrangements with organizations that provide management personnel or management services conform to ICANN's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax-exempt purposes, and do not result in private Inurement more than incidental private benefit, or in an excess benefit transaction.

Section 6.3. When conducting the periodic reviews, ICANN may, but need not, use outside experts and/or advisors. If outside experts and/or advisors are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted in the manner prescribed in this Article.

#### ARTICLE VII -- DEFINITIONS

Section 7.1. As used in this COI Policy, the following terms shall have the meanings set forth below.

- (i) "Advisory Committees" means the Governmental Advisory Committee, the At-Large Advisory Committee, the Security and Stability Advisory Committee and the Root Server System Advisory Committee.
- (ii) "Board" means the ICANN Board of Directors.
- (iii) "Board Governance Committee" means the Board Governance Committee of the Board.
- (iv) "Board Liaison" shall mean those liaisons to the Board appointed in accordance with ICANN's Bylaws.
- (v) "Compensation" includes direct and indirect remuneration as well as gifts or favors that are material in nature or amount. Compensation does not include reimbursement of properly documented travel and other appropriate business expenses.
- (vi) A "Conflict" or "Conflict of Interest" arises when the Board or the Committee, as applicable, following the procedures set forth in Articles II and III of this COI Policy, determines that a Covered Person has disclosed a Potential Conflict that may in the judgment of a majority of the Disinterested Directors or Disinterested members of the

Board or the Committee, as applicable, adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(vii) "Conflicted Person" means a Covered Person who has been determined by the Board or the Committee to have a Conflict of Interest.

(viii) "Covered Person" shall mean an Officer, Director, Board Liaison or Key Employee of ICANN.

(ix) A "Director" is any voting member of the Board.

(x) "Disinterested" means not having a Potential Conflict with respect to a transaction, contract, arrangement, policy, program or other matter being considered by ICANN.

(xi) "Domestic Partner" shall mean an individual who resides at the same residence as the Covered Person as his or her spousal equivalent.

(xii) A "Duality of Interest" arises when, with respect to a transaction, contract, arrangement, policy, program or other matter, a Covered Person or a member of a Covered Person's Family has a fiduciary relationship with another party to a proposed transaction, contract or arrangement which gives rise to a circumstance in which the fiduciary duties of the Covered Person to ICANN and the fiduciary duties of the Covered Person, or the fiduciary duties of the Family member of the Covered Person, to the other party may be in conflict. A Duality of Interest does not constitute a Conflict of Interest if ICANN and all other parties to the transaction, contract or arrangement being in possession of all material facts, waive the conflict in writing.

(xiii) The "Family" of any Covered Person shall include the Covered Person's spouse; Domestic Partner; siblings and their spouses or Domestic Partners; ancestors and their spouses or Domestic Partners; and descendants and their spouses or Domestic Partners. Family shall also include anyone (other than a domestic employee or service provider) who shares the Covered Person's home.

(xiv) A "Financial Interest" exists whenever a Covered Person has or is engaged in discussions to have, directly or indirectly, through business, investment, or Family: (a) an ownership or investment interest in any entity with which ICANN has a transaction, contract, arrangement, policy, program or other matter; (b) a Compensation arrangement with any entity or individual with which ICANN has a transaction, contract, arrangement, policy, program or other matter; and (c) a potential ownership or investment interest in, or Compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, arrangement, policy, program or

other matter. As used herein, "transactions, contracts, and arrangements" include grants or other donations as well as business arrangements, approvals or endorsements. Additionally, as used herein "policies, programs or other matters" include, but are not limited to, the application for or the registration of top level domains. A Financial Interest is a Potential Conflict but is not necessarily a Conflict of Interest. A Financial Interest does not become a Conflict of Interest until the Board or the Committee, following the procedures set forth in Articles II and III of this COI Policy, determines that the Financial Interest constitutes a Conflict of Interest.

(xv) An "Independent Valuation Expert" means a Person retained by ICANN to value compensation arrangements that: (a) holds itself out to the public as a compensation consultant; (b) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for Persons other than ICANN; (c) is qualified to make valuations of the type of services involved in any engagement by and for ICANN; (d) issues to ICANN a Reasoned Written Opinion regarding a particular compensation arrangement; and (e) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (a) through (d) of this definition.

(xvi) An "Interested Person" is a Covered Person who has a Potential Conflict with respect to a particular transaction, contract, arrangement, policy, program or other matter under consideration by ICANN.

(xvii) "Internal Revenue Code" shall mean the United States Internal Revenue Code of 1986, as amended, or any future revenue statute replacing the 1986 Code.

(xviii) "Inurement," as used in this COI Policy, shall mean: (a) a transaction in which ICANN provides an economic benefit, directly or indirectly, to or for the use of any Covered Person where the value of that economic benefit exceeds the value of the consideration (including the performance of services) that ICANN receives in exchange; or (b) any transaction or arrangement by or through which a Covered Person receives a direct or indirect distribution of ICANN's net earnings (other than payment of fair market value for property or the right to use property and reasonable compensation for services).

(xix) A "Key Employee" is an employee of ICANN designated as a member of the executive management team of ICANN, but who is not an Officer or Director.

(xx) An "Officer" is an individual holding a position designated as an Officer by ICANN's Bylaws or by resolution of the Board and includes, without limitation, the President of ICANN.

(xxi) A "Person" includes an individual, corporation, limited liability company, partnership, trust, unincorporated association or other entity.

(xxii) A "Potential Conflict" means either a Potential Direct Conflict or a Potential Perceived Conflict.

(xxiii) A "Potential Direct Conflict" means any one or more of the following: (a) a direct or indirect Financial Interest in a transaction, contract or arrangement being considered by ICANN, by a Covered Person or a member of a Covered Person's Family; (b) a Duality of Interest by a Covered Person or a member of a Covered Person's Family with respect to another party to a transaction, contract or arrangement being considered by ICANN that has not been waived in writing by all parties to the transaction, contract or arrangement; or (c) a close personal relationship between the Covered Person, or a member of a Covered Person's Family, with an individual who is, directly or indirectly through business, investment, or Family, a party to a transaction, contract or arrangement being considered by ICANN.

(xxiv) A "Potential Perceived Conflict" exists when a reasonable person, knowing the relevant facts, could conclude that the Covered Person's private interests could adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers, or is not opposed to, the best interests of ICANN.

(xxv) "Regulations" means treasury regulations promulgated under the Internal Revenue Code.

(xxvi) "Reasoned Written Opinion" means a written opinion of a valuation expert who meets the requirements of Section 7.1(xv)(a) through (d) of this COI Policy. To be reasoned, the opinion must be based upon a full disclosure by ICANN to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the

applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

(xxvii) "Statement" means the annual statement required by Article V hereof.

(xxviii) "Supporting Organizations" mean the Adverse Supporting Organization, the Generic Names Supporting Organization and the Country Codes Name Supporting Organization.

Section 7.2. Where terms used in this COI Policy, such as Reasonable Compensation (which shall have the meaning set forth in § 53.4958-4(b)(1)(ii) of the Regulations), have a particular meaning under the Internal Revenue Code and/or any Regulations issued thereunder, this COI Policy shall be construed to incorporate that meaning as the context requires.

Section 7.3. All other terms used in this COI Policy shall be given their ordinary, everyday meaning.

### **Board Member Induction & Exiting Procedures**

When the information regarding selection of a new Board member sent to Secretary@icann.org from either the Nominating Committee or the Supporting Organization, the Board Support department will take the following action:

- Confirm that the Chairman of the Board and the CEO have been notified. The Chairman of the Board will notify the members of the Board.
- If coming from a Supporting Organization/Advisory Committee, the Notice to the Secretary of the selection will be posted on the ICANN Website as required by the Bylaws.
- The Board Support department will send a welcome letter to the new Board member, signed by the President and CEO and the Chairman of the Board
- The Board Support department will send a welcome letter from the General Counsel and Secretary, attaching the Directors' Guidelines, the Conflicts of Interest Policy and Disclosure Form, the new gTLD conflict questionnaire and the Code of Conduct and Affirmation Form.
- The Board Support department will then send the following information to the new Board member:
  - Board Member Information Form
  - Information on Travel Arrangements & Reimbursements
  - Information on Business Cards
  - ICANN Jacket
  - ICANN email address and jabber account if requested
  - Dates of upcoming board events
  - Contact Information for Board members
- When the completed Conflicts of Interest Disclosure Form and the new gTLD conflict questionnaire have been received and reviewed by the General Counsel and Secretary, the new Board members will be added to the appropriate mailing lists.
- The Board Support department will arrange for BoardVantage access and training for each new Board member.
- The Board Support department will receive a biography and picture for use on the ICANN website from either the Nominating Committee or new Board member.



- At first face-to-face meeting after announcement of selection to the Board is made, the new Board member will meet with the General Counsel and Secretary to review the Director Guidelines.
- The Board Support department will provide the basic induction materials to the new Board member and discuss further training/information that may be useful to the new Board member.

If notice is received that a Board member has been selected to serve an additional term, the Board Support department will take the following action:

- Post the notice on the ICANN website if needed
- Notify the Chairman, as well as the President and CEO; the Chairman will notify the Board
- Update the information on the ICANN Board website regarding the term of the Board member
- Provide the Board member with their Board Member Information Form to update

At the end of the term of the Board Member, the Board Support department will take the following actions:

Email address – if the Board member is using an ICANN email address, it will be deactivated. Updated contact information will be distributed.

Mailing lists – the Board member will be removed from all board mailing lists. The Board member will be added to the alumni directors' mailing list.

ICANN Jabber account – deactivated

Access to BoardVantage – terminated

Website – the Board member will be moved from current Board member to Former Board member on the Board website and the Board member will be removed from the membership of all Board Committees.

### **Board of Directors' Code of Conduct (adopted 6 May 2012)**

The Board of Directors (the "Board") of the Internet Corporation for Assigned Names and Numbers ("ICANN") has adopted the following Code of Conduct ("Code") for its voting directors ("Directors") and non-voting liaisons ("Liaisons", collectively with the Directors, the "Board Members"). This Code is intended to focus Board Members on areas of ethical risk, provide guidance to help them recognize and deal with ethical issues, provide mechanisms to report unethical conduct, foster a culture of honesty and accountability, deter wrongdoing and promote fair and accurate disclosure and financial reporting. The Code is not intended to override any applicable laws or any obligations pursuant to ICANN's Bylaws, Conflicts of Interest Policy, Governance Guidelines or any other applicable policies.

No code can anticipate every situation that may arise. Accordingly, this Code is intended to serve as a source of guiding principles and not absolute directives. Generally, however, the goal is to ensure that ICANN Board Members strive to foster ICANN's Mission and Core Values in an ethical manner. ICANN Mission and Core Values set forth below can also be found in Article I of ICANN's Bylaws at <http://www.icann.org/en/about/governance/bylaws#I>.

#### **MISSION**

ICANN's mission is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. Specifically, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are
  - a. Domain names (forming a system referred to as "DNS");
  - b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and
  - c. Protocol port and parameter numbers.
2. Coordinates the operation and evolution of the DNS root name server system.
3. Coordinates policy development reasonably and appropriately related to these technical functions.

## **CORE VALUES**

In performing its mission, the following core values should guide the decisions and actions of ICANN:

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.
2. Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
3. To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.
4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
5. Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.
6. Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.
11. While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many

factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. Any ICANN body making a recommendation or decision shall exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values.

## *CODE OF CONDUCT*

### **A. General Statement of Expectation**

Each Board Member is expected to adhere to a high standard of ethical conduct and to act in accordance with ICANN's Mission and Core Values. The good name of ICANN depends upon the way Board Members conduct business and the way the public perceives that conduct. Unethical actions, or the appearance of unethical actions, are not acceptable. Board Members are to be guided by the following principles in carrying out their responsibilities. Note, however, that this Code summarizes such principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which the Board Members must comply.

***Loyalty.*** Board Members should not be, or appear to be, subject to influences, interests or relationships that conflict with the interests of ICANN or ICANN's ability to operate for the benefit of the Internet community as a whole. Board Members shall act so as to protect ICANN's interests and those of its employees, assets and legal rights, and Board Members shall serve the interests of ICANN over those of any other person or group or constituency of ICANN.

***Care.*** Board Members shall apply themselves with seriousness and diligence to participating in the affairs of the Board and its committees and shall act prudently in exercising management oversight of ICANN, and shall be attentive to legal ramifications of his or her and the Board's actions. Board Members are expected to be familiar with ICANN's business and the environment in which the company operates, and understand ICANN's principal business plans, policies, strategies and core values.

***Inquiry.*** Board Members shall take such steps as are necessary to be sufficiently informed to make decisions on behalf of ICANN and to participate in an informed manner in the Board's activities. Board Members are expected to

attend all meetings of the Board, except if unusual circumstances make attendance impractical.

***Prudent Investment.*** Board Members shall avoid speculation with ICANN's assets by giving primary consideration to the probable income and probable safety of ICANN's capital assets and the relation between ICANN's assets and its present and future needs.

***Compliance with Laws, Rules and Regulations.*** >Board Members shall comply with all laws, rules and regulations applicable to ICANN.

***Observance of Ethical Standards.*** Board Members must adhere to the highest of ethical standards in the conduct of their duties. These include honesty, fairness and integrity.

**B. Integrity of Records and Public Reporting**

Board Members should promote the accurate and reliable preparation and maintenance of ICANN's financial and other records. Diligence in accurately preparing and maintaining ICANN's records allows ICANN to fulfill its reporting obligations and to provide stakeholders, governmental authorities and the general public with full, fair, accurate, timely, understandable, open and transparent disclosure.

**C. Conflicts of Interest**

Board Members must act in accordance with the Conflicts of Interest Policy adopted by the ICANN Board, and as amended from time to time.

**D. Corporate Opportunities**

Board Members are prohibited from: (a) taking for themselves personally opportunities related to ICANN's business; (b) using ICANN's property, information, or position for personal gain; or (c) competing with ICANN for business opportunities. Board Members shall exercise judgment to avoid the appearance of improper influence when offered opportunities, gifts or entertainment.

**E. Confidentiality**

Board Members should maintain the confidentiality of information entrusted to them by ICANN and any other confidential information about ICANN, its business, customers or suppliers, which comes to them, from whatever source, except when disclosure is authorized or legally mandated. For purposes of this Code, "confidential information" includes all non-public information relating to ICANN, its business, customers or suppliers.

Process surrounding maintenance of confidential information can be found in the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate.

**F. Board Interaction with Internet Community and Media:**

The Board recognizes that members of the Internet community, ICANN constituency groups and the public at large have significant interests in ICANN's actions and governance and therefore the Board seeks to ensure appropriate communication, subject to concerns about confidentiality.

The Board notes that the President speaks for ICANN, consistent with applicable policy.

If comments from the Board to the Internet Community and/or Media on behalf of ICANN are appropriate, they should be reviewed and discussed by the Board in advance, and, in most circumstances, come from the Chair of the Board.

**G. Enforcement**

Board Members will discuss with the Chair of the Board Governance Committee any questions or issues that may arise concerning compliance with this Code. Breaches of this Code, whether intentional or unintentional, shall be reviewed by the Board Governance Committee (excluding any Board Members whose breaches are under review), which, if necessary, shall make recommendations to the full Board for corrective action. To the extent appropriate, review of breaches of this Code shall be in accordance with the Board Governance Committee Code of Conduct Guidelines developed and amended from time to time, as the Board deems appropriate. Serious breaches of this Code may be cause for dismissal of the Board Member committing the infraction in accordance with ICANN's Bylaws and applicable law.

**H. Affirmation**

All Board Members shall read this Code at least annually, and shall certify in writing that they have done so and that they understand the Code.

**I. Review**

This Code will be reviewed annually by the Board Governance Committee, which shall make recommendations to the full Board regarding changes to or rescinding of the Code.

**Board Governance Committee: Code of Conduct Guidelines (updated April 21, 2011)**

The following are suggested guidelines when dealing with adherence to and breaches or apparent breaches of the Code of Conduct. These guidelines are a work in progress and shall be amended, supplemented or enhanced from time to time as appropriate. Further, these are guidelines only, and shall not inhibit the Board's need to take action as required.

1. Confidentiality.

The Code of Conduct ("Code") states as follows:

Board members should maintain the confidentiality of information entrusted to them by ICANN and any other confidential information about ICANN, its business, customers or suppliers, which comes to them, from whatever source, except when disclosure is authorized or legally mandated. For purposes of this Code, "confidential information" includes all non-public information relating to ICANN, its business, customers or suppliers.

<http://www.icann.org/en/committees/board-governance/bod-code-of-conduct-21apr11-en.htm>

- a. Training: As part of the Board member Induction Program, all Board members will receive training on the Code, including information relating to the requirement for confidentiality as set out in the Code. In addition to initial training, there should be refresher training periodically.
- b. Specific Handling of Confidential Information:
  - i. Any document that is submitted to a Board mailing list or in BoardVantage shall be considered confidential, and for ICANN Board and staff only, until it is published on the ICANN website or the Board is otherwise informed that the document should no longer be considered confidential.
  - ii. Any staff matters shall be considered confidential until either a responsible ICANN staff member has made a public announcement or the information has been posted on the ICANN website.
  - iii. Where a Director or Liaison is providing a public briefing on a particular topic or has been asked by a member of the community for specific information - the Board member should refer the party or parties to the relevant publicly available material, and



may assist with providing context for that material. Providing context does not include detailing the individual views of Board members on a particular topic, or revealing otherwise confidential information, but could involve explaining related activities at ICANN (such as position papers from other parties, etc.) that have been considered when making a particular decision.

- iv. Where specific information being sought by a community member is not publicly available (e.g. the location for the next ICANN meeting), the Director or Liaison should check with relevant staff to determine if the material can be shared, and generally encourage the relevant ICANN staff function to make the material public before the Director or Liaison should make further comment. In some cases, information may be able to be shared on a limited "non-public" basis -e.g. with members of SSAC if related to a security issue, with members of the GAC if it relates to the location for a Board/GAC meeting, etc., but that information should not be disclosed before consulting with relevant staff.

c. Response to Disclosure of Confidential Information.

- i. Board Discussion: If it is discovered that Confidential Information has been disclosed outside of the Board or the staff, that matter should be addressed at the next Board meeting. This discussion shall be used as an opportunity to remind Directors and Liaisons of their responsibility to maintain confidentiality and duty to abide by the Code of Conduct.
- ii. Board Governance Committee Discussion with Discloser: If the Board becomes aware that a particular Director or Liaison disclosed the Confidential Information, the BGC shall address the matter with the discloser as it deems appropriate in accordance with Section II.D. of its Charter.

## **Board Training Program**

The ICANN Board is committed to providing training to Board members to help enhance them function effectively and efficiently in a complex environment. Acknowledging that the Board members come from a diverse set of backgrounds and experiences, the following paper details the training provided to the ICANN Board members.

The Board Governance Committee as part of its annual slating of committee members, will poll the Board members on their current skill levels in different tasks undertaken by the Board. This information will inform the planning of training for the upcoming year.

The components of the Board Training Program are:

### **Induction of New Board Members:**

- **Materials Provided:**
  - Basic materials, regarding history of ICANN, the ICANN decision-making process and other ICANN-related topics, are being developed and will be updated on a regular basis as needed, will be provided to all new Board members. These will be supplemented as needed.
  - The General Counsel and Secretary also provides materials and direct information relating to the conflicts of interest, fiduciary responsibilities, duties, confidentiality and others items relating to an ICANN Board Member's service.
- **Identification of Additional Training Needed:**
  - New Board members will be provided with the Training Matrix to identify any specific areas in which they need further information.
  - Additionally, they will be provided with the slating document that also requests them to identify the level of their skills sets.
- **Leadership Training:**
  - ICANN is developing a Leadership training program for the ICANN community; participation in this program will be incorporated into the Board Training Program.

### **Training for Board Members:**

Board members have diverse backgrounds and language skills, live in geographically diverse locations, and learn in different ways. Accordingly, the Board Training Program, where practicable, will be provided in various formats to broaden participation in the training. Suggested formats are: self-study reference materials, on-line webinars, face-to-face sessions tailored for the ICANN Board and seminars conducted by non-ICANN groups. These various formats have been taken into account when preparing the budget for Board training. The Board Support

department will liaise with individual Board members to provide the training that best fits their needs. Board members are encouraged to participate in various training that will help them fulfill their duties as Board members.

The training matrix shown below has been developed as guidance for the basic areas of training provided to Board members. Training of Board members is not limited to the topics in the training matrix. Additional topics will arise as the issues facing ICANN evolve.

<b>CORPORATE GOVERNANCE</b>	
<b>BOARD/CORPORATE GOVERNANCE</b>	<b>Pertains to duties &amp; responsibilities of Board Members</b>
	Conflicts of Interest
	Ethics
	Fiduciary Duties and Responsibilities
	Board Dynamics – Communication & Decision Making
	Conflict Resolution
	Risk Analysis & Mitigation Confidentiality and Limitations on Disclosure of Information
	Procedures:
	Meeting Operation Procedures
	Committees & Role of Chairs
	Communication Effectiveness

<b>ICANN ENVIRONMENT</b>	
<b>FINANCE</b>	<b>Subject Matter Expertise to Support Decision Making</b>
	Financial Statement Review & Analysis
	Audit Process
	Budgeting
	Strategic Planning
<b>TECHNICAL</b>	<b>Subject Matter Expertise to Support Decision Making</b>
	Industry Knowledge
	Registrar/Registry Operations
	Unique Identifiers:
	DNS
	Routing
	IP Address

<b>BOARD RESOURCES</b>	<b>Tools and Resources That Support Board Members' Participation</b>
	BoardVantage
	Adobe Connect
	Instant Messaging
	Board Email Lists
	Telephone Connectivity
	NACD Tools
	ICANN Staff

<b>ICANNA</b>	<b>ICANN Related Topics/Tasks</b>
	Core Mission & Vision
	Model – SO's and AC's
	Policy Development within SO's
	Strategic Plan & Operating Plan
	Government Advisory Committee
	Organization – Staff/Board
	Board Role & Function
	Public Outreach
	Stakeholder Communications
	Nominating Committee
	ICANN's Board Committees
	Ombudsman Function
	Contractual Compliance
	IANA Function
	Organizational Reviews
	Accountability & Transparency
	ICANN's Role in Security & Stability
	ICANN's Global Presence

## **Corporate Governance Guidelines (adopted 6 May 2012) <sup>1</sup>**

### Introduction

Over the course of the existence of Internet Corporation for Assigned Names and Numbers ("ICANN"), the Board of Directors (the "Board") has developed corporate governance policies and practices to help it fulfill its responsibilities to ICANN and its stakeholders. These Corporate Governance Guidelines ("Guidelines") provide a structure within which the Board and management can effectively pursue ICANN's mission. The Board intends that these Guidelines serve as a flexible framework within which the Board may conduct its business, not as a set of binding legal obligations. These Guidelines should be interpreted in the context of all applicable laws, and ICANN's Articles of Incorporation, Bylaws, policies and processes. The Guidelines are subject to future refinement or changes as the Board may find necessary or advisable.

### Role of the Board

The mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. The fundamental responsibility of Directors (as defined below) is to exercise their business judgment to act in what they reasonably believe to be the best interests of ICANN. It is the duty of the Board to oversee management's performance to ensure that ICANN operates in an effective, efficient and ethical manner. The following core values should guide the Board's decisions and actions:

- Preserving and enhancing the operational stability, reliability, security and global interoperability of the Internet.
- Respecting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.
- To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties.
- Seeking and supporting broad, informed participation reflecting the functional, geographic and cultural diversity of the Internet at all levels of policy development and decision-making.
- Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment.

- Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.
- Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
- Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
- Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
- Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.
- While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations.

These core values are deliberately expressed in very general terms, so that they may provide useful and relevant guidance in the broadest possible range of circumstances. Because they are not narrowly prescriptive, the specific way in which they apply, individually and collectively, to each new situation will necessarily depend on many factors that cannot be fully anticipated or enumerated; and because they are statements of principle rather than practice, situations will inevitably arise in which perfect fidelity to all eleven core values simultaneously is not possible. The Board will exercise its judgment to determine which core values are most relevant and how they apply to the specific circumstances of the case at hand, and to determine, if necessary, an appropriate and defensible balance among competing values. (See Bylaws, Article I, Section 2.)

Directors are individuals who have the duty to act in what they reasonably believe are the best interests of ICANN and are not representatives of the entity that selected them, their employers, or any other organizations or constituencies. (See Bylaws, Article VI, Section 7.)

### Board Composition and Selection; Independent Directors

1. **Board Size.** The Board has 16 voting members ("Directors") and five non-voting liaisons ("Liaisons" and, together with the Directors, the "Board Members"). The Board periodically evaluates whether a larger or smaller Board would be preferable.

2. **Selection of Board Members.** Board Members are selected in accordance with the procedures set forth in Article VI, Section 2 of ICANN's Bylaws.
3. **Board Membership Criteria.** The Nominating Committee, Supporting Organizations and the At-Large Community (as these terms are used in ICANN's Bylaws) seek to ensure that the Board is composed of members who in the aggregate display diversity in geography, culture, skills, experience and perspective. In accordance with Article VI, Section 3 of ICANN's Bylaws, the Board is to be comprised of individuals that meet the following requirements:
  - Persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and a demonstrated capacity for thoughtful group decision-making.
  - Persons with an understanding of ICANN's mission and the potential impact of ICANN decisions on the global Internet community, and committed to the success of ICANN.
  - Persons who will produce the broadest cultural and geographic diversity on the Board.
  - Persons who, in the aggregate, have personal familiarity with the operation of gTLD registries and registrars, with ccTLD registries, with IP address registries, with Internet technical standards and protocols, with policy-development procedures, legal traditions, and the public interest and with the broad range of business, individual, academic, and non-commercial users of the Internet.
  - Persons who are able to work and communicate in written and spoken English.

No official of a national government or a multinational entity established by treaty or other agreement between national governments may serve as a Director, and no person who serves in any capacity (including as a liaison) on any Supporting Organization council will simultaneously serve as a Director or Liaison. In addition, persons serving in any capacity on the Nominating Committee will be ineligible for selection to positions on the Board. (See Bylaws, Article VI, Section 4.)

4. **Board Composition – Mix of Management and Independent Directors.** Only the President may be both an ICANN employee and a Board Member. No other

Board Member may be an employee of ICANN. (See Bylaws, Article VI, Section 2.)

5. **Removal.** Any Director may be removed, following notice to that Director, by a three-fourths (3/4) majority vote of all Directors; provided, however, that the Director who is the subject of the removal action will not be entitled to vote on such an action or be counted as a voting Director when calculating the required three-fourths (3/4) vote; and provided further, that each vote to remove a Director will be a separate vote on the sole question of the removal of that particular Director. If the Director was selected by a Supporting Organization, notice must be provided to that Supporting Organization at the same time notice is provided to the Director. If the Director was selected by the At-Large Community, notice must be provided to the At-Large Advisory Committee at the same time notice is provided to the Director.

With the exception of the Liaison appointed by the Governmental Advisory Committee, any Liaison may be removed, following notice to that Liaison and to the organization by which that Liaison was selected, by a three-fourths (3/4) majority vote of all Directors if the selecting organization fails to promptly remove that Liaison following such notice. The Board may request the Governmental Advisory Committee to consider the replacement of the Liaison appointed by that Committee if the Directors, by a three-fourths (3/4) majority vote of all Directors, determines that such an action is appropriate. (See Bylaws, Article VI, Section 11.)

6. **Term Limits.** The Board has determined that it is in the best interest of ICANN and its stakeholders to strike a balance between Board continuity and Board evolution. Board Members who serve on the Board for an extended period of time are able to provide valuable insight into the operations and future of ICANN based on their experience with, and understanding of, ICANN's mission, history, policies and objectives. However, term limits ensure that the Board will continue to evolve with the infusion of fresh ideas and new perspectives. At present, Board Members are not allowed to serve more than three consecutive, three-year terms on the Board, other than the President. A person selected to fill a vacancy in a term shall not be deemed to have served that term. The term as Director of the person holding the office of President and CEO will be for as long as, and only for as long as, such person holds the office of President. (See Bylaws, Article VI, Section 8.)



7. **President; Board Chair and Vice-Chair.** The Board selects ICANN's President and CEO, Chair and Vice-Chair in the manner that it determines to be in the best interests of ICANN. The President and CEO, who serves as an ex officio Director, is not eligible to be the Chair or Vice-Chair of the Board. (See Bylaws, Article VI, Section 2.)
8. **Post-Service Limitation.** The Board has determined that any and all Board members who approve any new gTLD application shall not take a contracted or employment position with any company sponsoring or in any way involved with that new gTLD for 12 months after the Board made the decision on the application. (See Resolution 2011.12.08.19.)

Board Meetings; Involvement of Senior Management and Independent Advisors

9. **Board Meetings – Frequency.** The Board will generally hold regularly scheduled meetings throughout the year and will hold additional special meetings as necessary. In addition, the Board generally has informal meetings from time to time to review and discuss ICANN's operations and policy matters. Each Board Member is expected to attend both scheduled and special meetings, except if unusual circumstances make attendance impractical.
10. **Board Meetings – Agenda.** At least seven days in advance of each Board meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting will be posted on the ICANN website. Board meeting agendas will be set by the Chair of the Board, following consultation with ICANN management and taking into account suggestions from other members of the Board.
11. **Advance Distribution of Materials.** All information relevant to the Board's understanding of matters to be discussed at an upcoming Board meeting should be distributed in writing or electronically to all members in advance, whenever feasible and appropriate. Each Board Member is expected to review this information in advance of the meeting to facilitate the efficient use of meeting time. The Board recognizes that certain items to be discussed at Board meetings are of an extremely sensitive nature and that the distribution of materials on these matters prior to Board meetings may not be appropriate.
12. **Access to Employees.** The Board should have access to ICANN officers to ensure that Board Members can ask all questions and glean all information necessary to fulfill their duties. The President and CEO, together with the Board, have

developed a protocol for making such inquiries. Management is encouraged to invite ICANN personnel to any Board meeting at which their presence and expertise would help the Board have a full understanding of matters being considered.

13. **Access to Independent Advisors.** The Board and its committees have the right at any time to retain independent outside auditors and financial, legal or other advisors. Individual Directors may not retain outside advisors without prior Board or committee approval, as applicable. ICANN will provide appropriate funding, as determined by the Board or any committee, to compensate those independent outside auditors or advisors, as well as to cover the ordinary administrative expenses incurred by the Board and its committees in carrying out their duties. It is expected that ICANN staff will assist the Board and committees in retaining outside advisors.
14. **Compensation Consultant Independence.** The Compensation Committee has sole authority to retain and terminate compensation consultants that advise the Compensation Committee, as it deems appropriate. It is the policy of the Compensation Committee that any compensation consultant retained by the Compensation Committee must be independent of ICANN management. It is expected that ICANN staff will assist the Compensation Committee in retaining outside advisors.
15. **Executive Sessions of Non-Management Directors.** The non-management Board Members will meet regularly in executive session, i.e., without management present. These executive sessions will be called and chaired by the Chair of the Board. These executive session discussions may include such topics as the Chair determines.

#### Accountability and Review; Public Meetings

16. **Ombudsman.** Pursuant to Article V of the Bylaws, ICANN maintains an Office of Ombudsman, to be managed by an Ombudsman and to include such staff support as the Board determines is appropriate and feasible. The principal function of the Ombudsman is to provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, the Board or an ICANN constituent body has treated them unfairly. The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible resolve complaints about unfair or

inappropriate treatment by ICANN staff, the Board, or ICANN constituent bodies, clarifying the issues and using conflict resolution tools such as negotiation, facilitation and "shuttle diplomacy" to achieve these results. The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. The annual report will be posted on ICANN's website. (See Bylaws, Article V.)

17. **Requests for Reconsideration.** Subject to the provisions of ICANN's Bylaws, any person or entity materially affected by any ICANN staff action or inaction if such affected person or entity believes the action contradicts established ICANN policies, or by actions or inactions of the Board that such affected person or entity believes has been taken without consideration of material information, may request review or reconsideration of that action or inaction. (See Bylaws, Article IV, Section 2.)
18. **Independent Review.** Any person or entity materially affected by a Board decision or action may submit a request for independent review of any such decision or action alleged to be inconsistent with ICANN's Articles of Incorporation or Bylaws. (See Bylaws, Article IV, Section 3.)

#### Performance Evaluation; Development and Succession Planning

19. **Annual CEO Evaluation.** The Chair of the Compensation Committee leads the Compensation Committee in conducting a review of the performance of the President at least annually. The Compensation Committee establishes the evaluation process for the review of the President's performance. The evaluation results are reviewed and discussed with the non-management Board Members, and the results are communicated to the President. The Board Governance Committee, from time to time, is to review and advise on the effectiveness of the relationship between the President and the Board.
20. **Development and Succession Planning.** A primary responsibility of the Board is planning for President succession and overseeing the identification and development of executive talent. The Board, with the assistance of the Compensation Committee and working with the President and CEO and human resources department, oversees executive officer development and corporate succession plans for the President and other executive officers to provide for continuity in senior management.

The Board will maintain an emergency succession contingency plan should an unforeseen event such as death or disability occur that prevents the President and CEO from continuing to serve. The plan will identify the individuals who would act in an emergency and their responsibilities. The contingency plan is to be reviewed by the Board annually and revised as appropriate.

The Board may review development and succession planning more frequently as it deems necessary or desirable.

21. **Board and Committee Self-Evaluation.** The Board Governance Committee is responsible for conducting periodic evaluations of the performance of the Board and each of its members. In addition, each committee is responsible for conducting an annual performance evaluation. Evaluation results are reported to the Board. The Board Governance Committee's report should generally include an assessment of the Board's compliance with the principles set forth in these guidelines, as well as identification of areas in which the Board could improve its performance. Each committee's report generally should include an assessment of the committee's compliance with the principles set forth in these Guidelines, the committee's charter and identification of areas in which the committee could improve its performance.
22. **Reviews of Supporting Organizations and Advisory Committees.** The Board will cause a periodic review of the performance and operation of each Supporting Organization, each Supporting Organization council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee by an entity or entities independent of the organization under review. The goal of the review, to be undertaken pursuant to such criteria and standards as the Board directs, will be to determine: (i) whether that organization has a continuing purpose in the ICANN structure; and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness. These periodic reviews will be conducted no less frequently than every five years, based on feasibility as determined by the Board. (See Bylaws, Article IV, Section 4.)

#### Board Compensation

23. **Board Compensation Review.** The Board will periodically review the compensation paid to Directors, and whether it is in the best interest of ICANN to increase or decrease the amount of such compensation. In doing

so, the Board will follow a process that is calculated to pay an amount for service as a Director that is in its entirety reasonable compensation for such service under the standards set forth in §53.4958-4(b) of the Treasury Regulations. As part of the process, the Board will retain an independent compensation expert to consult with and to advise the Board regarding Director compensation arrangements and to issue to the Board a reasoned written opinion from such expert regarding the ranges of reasonable compensation for any such services by a Director. After having reviewed the expert's written opinion, the Board will meet with the expert to discuss the expert's opinion and to ask questions of the expert regarding the expert's opinion, the comparability data obtained and relied upon, and the conclusions reached by the expert. The Board will adequately document the basis for any determination the Board makes regarding a Director compensation arrangement concurrently with making that determination. (See Bylaws, Article VI, Section 22.)

#### Board Committees

- 24. Number, Type and Composition of Committees.** The Board may establish or eliminate committees of the Board as it deems appropriate. Each committee will perform its duties as assigned by the Board in compliance with ICANN's Bylaws and the committee's charter. The composition of each committee will be determined from time to time by the Board, provided that only Directors may be appointed to a committee of the Board as voting members. If a person appointed to a committee of the Board ceases to be a Board Member, such person will also cease to be a member of any committee of the Board. The Board may designate one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee. Committee members may be removed from a committee at any time pursuant to the provisions of ICANN's Bylaws. Unless appointed by the Board, the selection process for each committee chair will be set forth in each committee charter. (See Bylaws, Article XII.)
- 25. Committee Meetings and Agenda.** The chair of each committee is responsible for developing, together with relevant ICANN managers, the committee's general agenda and objectives and for setting the specific agenda for committee meetings. The chair and committee members will determine the frequency and length of committee meetings consistent with the committee fulfilling its obligations as set forth in the committee's charter.

Board Education

**26. Board Member Orientation and Continuing Education.** The Board Governance Committee and management are responsible for Board Member orientation programs and for Board Member continuing education programs to assist Board Members in maintaining skills necessary or appropriate for the performance of their responsibilities.

- a. Orientation programs are designed to familiarize new Board Members with ICANN's businesses, strategies and policies and to assist new Board Members in developing the skills and knowledge required for their service.
- b. Continuing education programs for Board Members may include a combination of internally developed materials and presentations, programs presented by third parties, and financial and administrative support for attendance at qualifying university or other independent programs.

Review

**27. Review of Governance Guidelines.** The policies and practices memorialized in these Guidelines have developed over a period of years. The Board expects to review these Guidelines at least every two years, as appropriate.

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<sup>1</sup> This version of the Corporate Governance Guidelines is largely based on existing ICANN policies, procedures and processes. Counsel is recommending that the Board also discuss including additional provisions in these Guidelines, including: (i) Director independence standards; (ii) limitations on the number of boards (other than ICANN) on which a Director may serve; (iii) a notification and conflict evaluation process if a Director experiences a change of employment; (iv) expansion of the policy adopted by the ICANN Board of Directors in December 2011 relating to ICANN's gTLD program and a Director's subsequent employment opportunities (including cooling-off periods during which former Directors would not participate in ICANN related matters at any future employer); and (v) enforcement mechanisms to encourage compliance with the Guidelines and other ICANN governance policies.

### **Posting and Translation of ICANN Board Actions & Materials on the ICANN Website**

Notice of an ICANN meeting and, to the extent known, an agenda for the meeting is to be posted on the ICANN website at least **seven days** in advance of each Board meeting if practicable.

Resolutions approved by the Board are to be posted on the ICANN website by midnight the **second business day** following Board approval per the ICANN Bylaws.

Minutes that are approved by the Board are posted on the ICANN website within **one business day** following Board approval per the ICANN Bylaws.

Draft rationales of Board actions are generally provided to the Board for their review when the resolution is presented to the Board for approval, absent special circumstance. These remain draft rationales until the minutes of the meeting during which the action was taken are approved.

Resolutions and Minutes are sent for translation into the five other UN languages for return within a **21-day** window.

Submit translations to Web Admin for posting. (Current process is submission in PDF and word form, to have PDFs posted as quickly as possible, and html versions posted as available in Web Admin staff timing.)

The Board Briefing Materials are posted contemporaneously with the minutes as specified in the Guidelines for posting Board briefing materials (<http://www.icann.org/en/minutes/board-briefing-materials-guidelines-21mar11-en.htm>). These Guidelines include the process and grounds for redaction of Board Briefing Materials.

Preliminary Reports of ICANN Board meetings are posted by midnight by the **seventh business** day following Board approval per the ICANN bylaws.

Minutes of a Board meeting will be prepared no later than **28** days after the Board meeting.

**Process for Providing Skill Set Advice Annually to NomCom**

The Board Governance Committee (BGC) will annually prepare advice to be sent to the Nominating Committee (NomCom) with respect to specific skill sets of the Current Board and those skills that the NomCom should seek during their recruiting of new Board members.

After BGC discussion, the BGC Chair, with staff assistance as requested, will draft advice relating to Board member skill sets and send to BGC for further review and input.

Upon BGC agreement on the advice to be sent to the NomCom, the BGC Chair will distribute it to the Board for review.

Following the Board review, the BGC Chair will forward the advice to the NomCom Chair.

The advice will be posted on the NomCom website in the documents relating to the work of the current NomCom and to be listed as part of the search and selection criteria for Board candidates by that NomCom.