ICANN | GNSO

Generic Names Supporting Organization

Initial Report on the Transfer Policy Review Policy Development Process - Phase 1(a)

Status of This Document

This is the Phase 1(a) Initial Report of the GNSO Transfer Policy Review Policy Development Process Working Group that has been posted for public comment.

Preamble

The objective of this Initial Report is to document the working group's (i) deliberations on charter questions, (ii) preliminary recommendations, and (iii) additional identified issues to consider before the working group issues its Final Report. After the working group reviews public comments received in response to this report and completes Phase 1(b) of the PDP, the working group will submit its combined Phase 1 Final Report to the GNSO Council for its consideration.

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1 Executive Summary

1.1 Introduction

The Transfer Policy, formerly referred to as the Inter-Registrar Transfer Policy (IRTP), is an ICANN consensus policy that went into effect on 12 November 2004. The policy governs the procedure and requirements for registrants to transfer their domain names from one Registrar to another, also referred to as an inter-Registrar transfer. The goal of the Transfer Policy was to provide for enhanced domain name portability, resulting in greater consumer and business choice and enabling registrants to select the Registrar that offers the best services and price for their needs.

The Transfer Policy has been the subject of previous policy development work, and the most recent working group that reviewed the Transfer Policy recommended a comprehensive review of the policy-based changes to assess their efficacy and impact.[1] In addition to the policy recommendation directing a review of the policy-based changes, sweeping and significant changes to various data privacy laws affected the then current requirements related to gTLD registration data, including portions of the Transfer Policy. Accordingly, the ICANN Board adopted the Temporary Specification for gTLD Registration Data, which established temporary requirements that allowed Contracted Parties to comply with ICANN contracts and consensus policies.

In light of the policy recommendation to review the Transfer Policy and the changes to the Policy from the Temporary Specification, on 18 February 2021, the GNSO Council initiated a two-phased policy development process (PDP) to review the Transfer Policy. The PDP is tasked with addressing the following topics:

- Phase 1(a): Form of Authorization (FOA) (including EPDP Phase 1, Recommendation 27, Wave 1 FOA issues[2]) and AuthInfo Codes
- Phase 1(b): Change of Registrant (including EPDP Phase 1, Recommendation 27, Wave 1 Change of Registrant issues)
- Phase 2: Transfer Emergency Action Contact and reversing inter-Registrar transfers, Transfer Dispute Resolution Policy (including EPDP Phase 1,

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[1] See Final Report on the Inter-Registrar Transfer Policy - Part D Policy Development Process, Recommendation 17, pp. 6-7. For more information on the policy development history, please refer to Annex A of this report.

[2] For additional information about the EPDP Phase 1, Recommendation 27, Wave 1 Report, please see pages 52-56 of the Final Issue Report.

68   Recommendation 27, Wave 1 TDRP issues), Denying (NACKing) transfers[3],
69   ICANN-approved transfers
70
71   The working group charter was approved by the GNSO Council on 24 March 2021. The
72   Phase 1(a) working group held its first meeting on 14 May 2021.
73
74   For additional background on this PDP, please refer to Annex A of this report.
75

1.2 Preliminary Recommendations

76
77
78   In Phase 1(a) of the PDP, the working group was tasked to provide the GNSO Council
79   with recommendations on the following topics:
80
81   • Losing and Gaining FOAs
82   • AuthInfo Codes
83   • Denying (NACKing) transfers
84   • EPDP Phase 1, Recommendation 27, Wave 1 as they relate to FOA
85
86   Following its analysis of each of the questions outlined in its charter related to this task,
87   the working group has arrived at a set of preliminary recommendations and conclusions.
88
89   The working group will not finalize its responses to the charter questions and
90   recommendations to the GNSO Council until it has conducted a thorough review of the
91   comments received during the public comment period on this Initial Report and
92   completed Phase 1(b) of its work. At this time, no formal consensus call has been taken
93   on these responses and preliminary recommendations, but this Initial Report did receive
94   the support of the working group for publication for public comment.
95
96   Notwithstanding the above, the working group is putting forward preliminary
97   recommendations on the following topics for community consideration:
98
99   **Preliminary Recommendation 1:**   **Gaining FOA**
100
101   **Preliminary Recommendation 2:**   **Losing FOA**
102
103   **Preliminary Recommendation 3:**   **Notification of TAC Provision**
104

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[3] The topic of denying (NACKing) transfers was later moved to Phase 1(a) by Project Change Request to
ensure that the working group could examine all elements of the security model for domain name
transfers in a holistic manner as part of its Phase 1 deliberations.

149   ## 1.3 Conclusions and Next Steps
150
151   This Initial Report will be posted for public comment for ==xx== days. The working group will
152   review the public comments received on this Initial Report and consider whether any
153   changes need to be made to its Phase 1(a) recommendations. The working group will
154   complete Phase 1(b) of its work, including a Phase 1(b) Initial Report followed by a
155   public comment period on the Phase 1(b) Initial Report. The working group will finalize
156   all Phase 1 recommendations in a single Phase 1 Final Report to be sent to the GNSO
157   Council.
158

159   ## 1.4 Other Relevant Sections of this Report
160
161   The following sections are included within this report:

162   ■   Explanation of the working group's methods and process
163   for reaching preliminary recommendations;

164   ■   Responses to the charter questions, preliminary
165   recommendations, ==and questions for community input==;

166   ■   Background on the PDP and issues under consideration;

167   ■   Documentation of who participated in the working
168   group's deliberations, including attendance records, and
169   links to Statements of Interest as applicable;

170   ■   Documentation on the solicitation of community input
171   through formal Supporting Organization /Advisory
172   Committee and Stakeholder Group/Constituency
173   channels and responses.

174

2 Working Group Approach

This section provides an overview of the working methodology and approach of the working group. The points outlined below are meant to provide the reader with relevant background information on the working group's deliberations and processes and should not be read as representing the entirety of the efforts and deliberations of the working group.

2.1 Project Plan

The working group's first deliverable was to provide the GNSO Council with a Phase 1(a) project plan. To develop the project plan, the leadership team sought input from members about the sequence in which to address topics and the amount of time each topic would take to discuss. This input was used to develop the project plan, which was delivered to the GNSO Council for its consideration during the 22 July 2021 Council meeting.

As deliberations progressed, the working group agreed that it was important to examine all elements of the security model for domain name transfers in a holistic manner as part of its Phase 1 deliberations. The working group determined that the topic denying (NACKing) transfers should be addressed in Phase 1(a) rather than Phase 2 as originally included in the charter. As a result, the working group leadership team submitted a Project Change Request to the GNSO Council, which Council adopted on 16 December 2021. The expanded scope did not impact its target delivery dates to which the working group committed.

2.2 Early Community Input

In accordance with GNSO policy development process requirements, the working group sought written input on the charter topics from each Supporting Organization, Advisory Committee and GNSO Stakeholder Group / Constituency. The input received was incorporated into the working group's deliberations as each topic was discussed. Since all groups that provided written input also had representative members or appointed subject matter experts in the working group, those members were well positioned to respond to clarifying questions from other members about the written input as it was considered.

2.3 Methodology for Deliberations

214 The working group began its deliberations for Phase 1(a) on 14 May 2021. The working
215 group agreed to continue its work primarily through conference calls scheduled weekly,
216 in addition to email exchanges on its mailing list. The working group held sessions during
217 ICANN71, ICANN72, ICANN73, and ICANN74. These sessions provided an opportunity for
218 the broader community to contribute to the working group's deliberations and provide
219 input on the charter topics being discussed.
220
221 All of the working group's work is documented on its wiki workspace, including its
222 meetings, mailing list, meeting notes, deliberation summaries, draft documents,
223 background materials, early input received from ICANN org, and input received from
224 ICANN's Supporting Organizations and Advisory Committees, including the GNSO's
225 Stakeholder Groups and Constituencies.
226
227 To develop the content included in the Initial Report, the working group progressed
228 through the charter questions by topic, following the sequence established in the
229 project plan. Because the Phase 1(a) topics are closely interrelated, the working group
230 took an iterative approach to producing and reviewing draft responses to charter
231 questions and draft preliminary recommendations to ensure that the full package of
232 outputs was coherent and comprehensive.
233
234 To ensure that all groups represented in the working group had ample opportunity to
235 provide input to the deliberations, the leadership team opened each working group
236 meeting with an invitation for members to step forward and provide any updates about
237 discussions happening within their Supporting Organization/Advisory
238 Committee/Stakeholder Group/Constituency regarding the charter topics, as well as any
239 positions or interests members wanted to share on behalf of their groups. To further
240 support fulsome discussion, the leadership team regularly deployed informal polls in the
241 meeting Zoom room to get a better sense of the "temperature of the room" and to
242 prompt the sharing of perspectives and viewpoints that may not otherwise be voiced
243 through less structured interaction.
244
245 For those working group members who were less comfortable speaking on calls, the
246 leadership team encouraged additional feedback on the mailing list and through written
247 contributions to working group documents.
248

2.4 Use of Working Documents

250
251 The working group used a series of working documents, organized per charter topic, to
252 support its deliberations. Archives of the working documents are maintained on the
253 working group wiki. When a new charter topic was introduced, the leadership team
254 provided a working document for the topic, including (i) charter questions related to
255 that topic and for each charter question, (ii) context from the Transfer Policy Status

256   Report, and (iii) relevant inputs received from community groups through early
257   outreach. As the working group progressed through discussions, staff captured a
258   summary of deliberations on the charter question and eventually populated the
259   document with draft charter question responses and draft preliminary
260   recommendations to support further discussion and refinement of the text.
261
262   Working documents were updated on an ongoing basis and working group members
263   were encouraged to provide comments and input in the working documents between
264   calls.
265

2.5 Data and Metrics

267
268   The Transfer Policy Status Report produced by ICANN org in 2019 served as the working
269   group's primary resource for data and metrics related to inter-Registrar transfers. In the
270   course of its deliberations, the working group identified additional data that would be
271   valuable to support its work. The additional data provided by ICANN org's Contractual
272   Compliance Department in response to these requests is available on the working
273   group's wiki.
274

2.6 ICANN Org Interaction

276
277   To help support a smooth transition from policy development to eventual
278   implementation of GNSO Council adopted and ICANN Board approved
279   recommendations, the working group has been supported by early and ongoing
280   engagement with ICANN org subject matter experts. Liaisons from ICANN org's Global
281   Domains and Strategy (GDS) and Contractual Compliance departments regularly
282   attended working group calls, providing input and responding to questions where it was
283   possible to do so in real time. The liaisons acted as a conduit for working group
284   questions to ICANN org that required additional research or input. The liaisons also
285   facilitated early review of working group draft outputs by ICANN org subject matter
286   experts.
287

2.7 Accountability to the GNSO Council

289
290   As is now the case with all GNSO working groups, the working group delivered monthly
291   "project packages" to the GNSO Council to update the Council on the status of its work.
292   An archive of these packages is available on the wiki. The GNSO Council Liaison, Greg
293   DiBiase, served as an additional point of connection between Council and the working
294   group.
295

3 Working Group Responses to Charter Questions and Preliminary Recommendations

The WG was chartered to provide the GNSO Council with policy recommendations regarding the issues identified in the [Final Issue Report on a Policy Development Process to Review the Transfer Policy](#).

Following its analysis of each of the questions outlined in its Charter related to this task, the working group has arrived at a set of preliminary recommendations and conclusions.

Within the text of this document, the key words "MUST", "MUST NOT", "REQUIRED", "SHALL", "SHALL NOT", "SHOULD", "SHOULD NOT", "RECOMMENDED", "NOT RECOMMENDED", "MAY", and "OPTIONAL" are to be interpreted as described in BCP 148 [RFC2119] [RFC8174].

The working group will not finalize its responses to the charter questions and recommendations to the GNSO Council until it has conducted a thorough review of the comments received during the public comment period on this Initial Report and completed Phase 1(b) of its work. At this time, no formal consensus call has been taken on these responses and preliminary recommendations, but this Initial Report did receive the support of the working group for publication for public comment.

Where certain proposals or potential recommendations have yet to be finalized, square brackets around specific options under consideration have been used to indicate this.

The working group believes that when it formulates its final recommendations, if approved by the GNSO Council and the ICANN Board, there will be substantial improvement to the current environment. The following sub-sections of this report are organized by topic. Within each topic, the working group provides responses to the relevant charter questions and corresponding preliminary recommendations:

- Section 3.1: Gaining and Losing Forms of Authorization (FOA)
- Section 3.2: Transfer Authorization Code/AuthInfo Code Management
- Section 3.3: EPDP Phase 1, Recommendation 27, Wave 1 Report
- Section 3.4: Denying (NACKing) Transfers

3.1 Gaining and Losing Forms of Authorization (FOA)

For context on this topic and the associated charter questions, please see pages 7-14 of the Final Issue Report.

3.1.1 Charter Question a1

Is the requirement of the Gaining FOA still needed? What evidence did the working group rely upon in making the determination that the Gaining FOA is or is not necessary to protect registrants?

Working Group Response:

The Inter-Registrar Transfer Policy - Part D Policy Development Process Working Group (IRTP WG D), previously examined the question of "Whether the universal adoption and implementation of Extensible Provisioning Protocol (EPP) AuthInfo codes has eliminated the need of FOAs." The IRTP WG D ultimately determined to retain the FOA until more evidence was gathered. The Transfer Policy Review Working Group was asked to revisit the same question and has determined there is now strong evidence that the Gaining FOA can be eliminated from the Transfer Policy without negatively affecting the security of inter-Registrar transfers. The working group further believes that requirements for a Gaining FOA or a similar replacement are unjustified under data protection law and no longer necessary from a practical perspective to facilitate the transfer. The working group recognizes that this is a significant departure from existing policy and has therefore provided a detailed rationale for its conclusion.

Prior to the General Data Protection Regulation (GDPR) coming into force, the Gaining Registrar was required to confirm the Registered Name Holder's (RNH) intent to transfer by sending an email to the RNH asking for confirmation to proceed. In order for the Gaining Registrar to be able to send the Gaining FOA, it needed to obtain the RNH's contact information from the publicly available Registration Data Directory Services (RDDS). With the introduction of the GDPR, Gaining Registrars were no longer able to obtain this information via RDDS, as personally identifiable information was largely redacted within RDDS. In recognition of this new obstacle, ICANN org deferred Contractual Compliance enforcement on Gaining FOA requirements. While still a requirement on paper, in practice the Gaining FOA does not currently exist and cannot exist.

The working group considered that it could recommend some form of replacement for the Gaining FOA to be included in future policy requirements. If it did so, there would need to be a method and a justification for the Registrar of Record to transfer the RNH's contact information to the Gaining Registrar.

374
375   The working group considered that it is likely possible from a technical perspective to
376   facilitate the transfer of the RNH's contact information from the Registrar of Record to
377   the Gaining Registrar for the purposes of confirming the RNH's intent to transfer.
378   However, the working group did not pursue specific methods for doing so because it did
379   not believe this transfer is feasible from a legal perspective.
380
381   In its deliberations on applicable law, the working group considered the principles of
382   data minimization and privacy by design. Under these principles, in order to justify the
383   transfer of personally identifiable information (PII) from the Registrar of Record to the
384   Gaining Registrar and the subsequent processing of this data (in order to send the
385   Gaining FOA) by the Gaining Registrar, one would have to demonstrate that this transfer
386   and processing of PII is necessary to facilitate the transfer. The working group noted
387   that the transfer process has functioned without the Gaining FOA since the GDPR went
388   into force, and the working group has not encountered any evidence that there has
389   been an increase in unauthorized transfers since the Gaining FOA was functionally
390   eliminated. It has not found any other indications that the transfer process is
391   malfunctioning without the Gaining FOA requirement. Therefore, the working group
392   sees no evidence that the Gaining FOA is needed for the purpose of facilitating the
393   transfer or protecting the RNH from unauthorized transfers.
394
395   The working group looked at the value that the Gaining FOA provided to ensure that
396   equivalent value is covered by elements of the process going forward.
397
398   The working group noted that when the Gaining FOA requirements were in place, the
399   transfer could only proceed once the RNH had responded to the Gaining FOA. This
400   meant that the RNH always actively confirmed the intent to transfer before the transfer
401   took place. The Gaining FOA therefore served a notification function and also a
402   confirmation function. To the extent that the party obtaining the Transfer Authorization
403   Code (TAC) and requesting the transfer was an individual other than the RNH, the RNH
404   had the opportunity to confirm that they were aware of the request and wanted it to
405   proceed.
406
407   The working group believes that the new notifications detailed in Preliminary
408   Recommendations 3-4 ensure that the RNH receives the necessary information with
409   respect to an inter-Registrar transfer. These notifications provide instructions on what
410   to do if the RNH wants to either stop or reverse the process because the action on the
411   account is unauthorized or unintended. With respect to the confirmation function that
412   the Gaining FOA served, the working group believes that this is duplicative and
413   therefore unnecessary. The provision of the TAC is sufficient confirmation that the RNH
414   intends to transfer the domain, and therefore the Gaining Registrar does not need to
415   request this confirmation via another means.
416

417 The working group recalled that the Gaining FOA pre-dated the TAC, and that prior to
418 the introduction of the TAC, the Gaining FOA was an essential element for facilitating
419 the transfer and also provided a function that was important to prevent the
420 unauthorized transfer of domains. With the introduction of the TAC, an additional layer
421 of security was added to the process, and the Gaining FOA became less essential. The
422 working group further noted that it has recommended a series of measures to increase
423 the security of the TAC and reduce the risk that the TAC is obtained by an unauthorized
424 person, as detailed in Preliminary Recommendations 7-13. With added security
425 measures, the TAC becomes a stronger means to demonstrate that the TAC holder is an
426 appropriate party to request the transfer, which makes the authorization element of the
427 Gaining FOA unnecessary.
428
429 The working group noted that while it was in use, the Gaining FOA provided a record to
430 assist ICANN's Contractual Compliance department in investigating complaints,
431 especially those related to unauthorized transfers. It also supported the resolution of
432 disputes. The working group noted that new notifications detailed in Preliminary
433 Recommendations 3-4 will provide the necessary paper trail for this purpose.
434
435 **Preliminary Recommendations:**
436
437 **Preliminary Recommendation 1**: The working group recommends eliminating from the
438 Transfer Policy the requirement that the Gaining Registrar send a Gaining Form of
439 Authorization. This requirement is detailed in section 1.A.2 of the Transfer Policy.
440

441 ## 3.1.2 Charter Question a2
442
443 *If the working group determines the Gaining FOA should still be a requirement, are any*
444 *updates (apart from the text, which will likely need to be updated due to the gTLD*
445 *Registration Data Policy) needed for the process? For example, should additional security*
446 *requirements be added to the Gaining FOA (two-factor authentication)?*
447
448 **Working Group Response:**
449
450 As described in the above response to charter questions a1, the working group has
451 determined that the Gaining FOA should no longer be a requirement.
452

453 ## 3.1.3 Charter Question a3
454
455 *The language from the Temporary Specification provides, "[u]ntil such time when the*
456 *RDAP service (or other secure methods for transferring data) is required by ICANN to be*
457 *offered, if the Gaining Registrar is unable to gain access to then-current Registration*
458 *Data for a domain name subject of a transfer, the related requirements in the Transfer*

459   *Policy will be superseded by the below provisions...". What secure methods (if any)*
460   *currently exist to allow for the secure transmission of then-current Registration Data for*
461   *a domain name subject to an inter-Registrar transfer request?*
462
463   **Working Group Response:**
464
465   As noted in the response to charter question a1, the working group considered that it is
466   likely possible from a technical perspective to facilitate the transfer of the RNH's contact
467   information from the Registrar of Record to the Gaining Registrar for the purposes of
468   confirming the RNH's intent to transfer. However, the working group did not pursue
469   specific methods for doing so because it did not believe this transfer is feasible from a
470   legal perspective.
471

3.1.4 Charter Question a4

472

473
474   *If the working group determines the Gaining FOA is no longer needed, does the AuthInfo*
475   *Code provide sufficient security? The Transfer Policy does not currently require specific*
476   *security requirements around the AuthInfo Code. Should there be additional security*
477   *requirements added to AuthInfo Codes, e.g., required syntax (length, characters), two-*
478   *factor authentication, issuing restrictions, etc.?*
479
480   **Working Group Response:**
481
482   The working group has presented a series of enhancements to the security of the
483   Transfer Authorization Code (TAC), formerly known as AuthInfo Code, in Preliminary
484   Recommendations 7-13. The working group believes that the TAC will provide sufficient
485   security with these improvements in place.
486

3.1.5 Charter Question a5

487

488
489   *If the working group determines the Gaining FOA is no longer needed, does the*
490   *transmission of the AuthInfo Code provide a sufficient "paper trail" for auditing and*
491   *compliance purposes?*
492
493   **Working Group Response:**
494
495   It is the working group's view that a sufficient "paper trail" will be provided by records
496   associated with provision of the TAC and notifications to the RNH outlined in Preliminary
497   Recommendations 3-4.
498

3.1.6 Charter Question a6

Survey respondents noted that mandatory domain name locking is an additional security enhancement to prevent domain name hijacking and improper domain name transfers. The Transfer Policy does not currently require mandatory domain name locking; it allows a Registrar to NACK an inter-Registrar transfer if the inter-Registrar transfer was requested within 60 days of the domain name's creation date as shown in the Registry RDDS record for the domain name or if the domain name is within 60 days after being transferred. Is mandatory domain name locking an additional requirement the working group believes should be added to the Transfer Policy?

Working Group Response:

The working group understands that this charter question refers to a lock that some Registrars apply by default to protect their customers from accidental or malicious inter-Registrar transfers. Registrants may, however, request lock removal, and Registrars must remove the lock within five days per requirements of the Transfer Policy.[4] Charter question a6 asks whether this lock, which some Registrars choose to apply today, should become a policy requirement for ALL Registrars. For the avoidance of doubt, the lock addressed in this charter question is distinct from potential requirements for a Registrar to restrict the RNH from transferring a domain name to a new Registrar within 30 days of the initial registration date and within 30 days of the completion of an inter-Registrar transfer. Unlike Preliminary Recommendations 21-22 regarding inter-Registrar transfer restrictions, the lock discussed in this charter question is a default lock that is generally removable upon the request of the registrant,[5] while the restrictions discussed in Preliminary Recommendations 21-22 are triggered by a specific event and are not removable upon the request of the registrant.

The working group does not believe that mandatory domain name locking as presented above should be added to the Transfer Policy. It is the working group's view that Registrars are in the best position to determine whether locking a domain by default upon registration is appropriate for their customers in combination with other security features implemented by the Registrar. The working group notes that there will be greater security related to inter-Registrar transfers following the implementation of Preliminary Recommendations 7-13 for enhanced security of the TAC. The working group expects that Registrars will continue to use their own discretion to implement any additional measures that may be appropriate for their business model and customer base.

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[4] Please note there are some instances, which are specifically spelled out in the Transfer Policy, where a Registrar may not unlock a domain name, even if requested by the Registered Name Holder, e.g., the domain name is subject to a UDRP proceeding or locked pursuant to a court order.
[5] Ibid.

537

3.1.7 Charter Question a7

539

540   *Is the Losing FOA still required? If yes, are any updates necessary?*

541

542   **Working Group Response:**

543

544   The working group acknowledged that the Losing FOA serves a number of important
545   functions:

546

547   • The Losing FOA notifies the RNH that a transfer has been requested.
548   • In cases where the party requesting the TAC is different from the RNH receiving
549   the Losing FOA, the Losing FOA provides an extra layer of security in the form of
550   a "second factor" to ensure that the RNH is aware that the transfer is taking
551   place.
552   • The Losing FOA provides a paper trail to assist ICANN's Contractual Compliance
553   department in investigating complaints, especially those related to unauthorized
554   transfers. It also supports the resolution of disputes. Following the deferral of
555   Contractual Compliance enforcement of Gaining FOA requirements, the Losing
556   FOA has taken on particular importance for complaint investigation.

557

558   The working group agreed that the transfer process must have appropriate security
559   measures in place and that the RNH must continue to be notified when an inter-
560   Registrar transfer is expected to take place. Furthermore, the working group agreed that
561   there must be a record of events that is sufficient to facilitate ICANN Contractual
562   Compliance's investigation of transfer-related complaints and support the resolution of
563   disputes.

564

565   With respect to security, the working group noted that new laws have come into force
566   since the Losing FOA was instituted that provide additional protections to the RNH with
567   respect to personal data protection. The working group further concluded that if the
568   TAC is managed in a more secure manner following Preliminary Recommendations 7-13,
569   the risk of unauthorized transfer should be reduced.

570

571   The working group agreed that the transfer process should be simple, quick, and
572   efficient. Members noted that the Losing FOA process can delay the transfer up to 5
573   days, which may inconvenience registrants. Therefore, it is desirable to pursue
574   alternatives to the Losing FOA that allow for transfers to take place instantly.

575

576   Taking into account these considerations, the working group determined that the Losing
577   FOA requirement should be eliminated and replaced with new requirements. These new
578   requirements allow the transfer to occur in nearly real time while ensuring that: 1. The

579 RNH is informed of an inter-Registrar transfer and 2. A sufficient record of the process is
580 maintained to support investigation of complaints and resolution of disputes.
581
582 **Preliminary Recommendations:**
583
584 **Preliminary Recommendation 2:** The working group recommends eliminating from the
585 Transfer Policy the requirement that the Registrar of Record send a Losing Form of
586 Authorization.[6] This requirement is detailed in section I.A.3 of the Transfer Policy.
587
588 **Preliminary Recommendation 3:** The working group recommends that the Registrar of
589 Record MUST send a "Notification of TAC Provision"[7] to the RNH, as listed in the
590 Registration Data at the time of the TAC request, without undue delay but no later than
591 10 minutes after the Registrar of Record provides the TAC.[8]
592
593   **3.1**: This notification MUST be written in the language of the registration
594   agreement and MAY also be provided in English or other languages.
595
596   **3.2**: The following elements MUST be included in the "Notification of TAC
597   Provision":
598   • Domain name(s)
599   • Date and time that the TAC was provided and information about when
600   the TAC will expire
601   • Instructions detailing how the RNH can take action if the request is invalid
602   (how to invalidate the TAC)
603   • If the TAC has not been provided via another method of communication,
604   this communication will include the TAC
605
606 **Preliminary Recommendation 4:** The working group recommends that the Losing
607 Registrar[9] MUST send a "Notification of Transfer Completion"[10] to the RNH, as listed in
608 the Registration Data at the time of the transfer request, without undue delay but no
609 later than 24 hours after the transfer is completed.

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[6] The working group notes that, in place of the Losing FOA, notifications are sent to the RNH in relation
to an inter-Registrar transfer, as detailed in Preliminary Recommendations 3-4.
[7] The working group recognizes that this notification MAY be sent via email, SMS, or other secure
messaging system. These examples are not intended to be limiting, and it is understood that additional
methods of notification MAY be created that were not originally anticipated by the working group.
[8] The working group recognizes that from a security perspective, it is best for the "Notification of TAC
Provision" to be delivered by a method of communication that is different from the method used to
deliver the TAC. If this is not possible, and the same method of communication is used, the Registrar of
Record MAY choose to send the "Notification of TAC Provision" and the TAC together in a single
communication.
[9] This is the Registrar of Record at the time of the transfer request.
[10] The footnote on Preliminary Recommendation 3 regarding the method by which notifications are
sent equally applies to the "Notification of Transfer Completion."

610
611   **4.1**: This notification MUST be written in the language of the registration
612   agreement and MAY also be provided in English or other languages.
613
614   **4.2**: To the extent that multiple domains have been transferred to the same
615   Gaining Registrar or to multiple Gaining Registrars at the same time, and the RNH
616   listed in the Registration Data at the time of the transfer is the same for all
617   domains, the Registrar of Record MAY consolidate the "Notifications of Transfer
618   Completion" into a single notification.
619
620   **4.3**: The following elements MUST be included in the "Notification of Transfer
621   Completion":
622   • Domain name(s), [IANA ID(s) of Gaining Registrar(s) and link to ICANN-
623   maintained webpage listing accredited Registrars and corresponding
624   IANA IDs.[11] If available, the name of the Gaining Registrar(s) MAY also be
625   included.]
626   • Text stating that the domain was transferred
627   • Date and time that the transfer was completed
628   • Instructions detailing how the RNH can take action if the transfer was
629   invalid (how to initiate a reversal)
630

3.1.8 Charter Question a8

632
633   *Does the Contracted Parties House (CPH) Proposed Tech Ops Process represent a logical*
634   *starting point for the future working group or policy body to start with? If so, does it*
635   *provide sufficient security for registered name holders? If not, what updates should be*
636   *considered?*
637
638   **Working Group Response:**
639
640   The CPH Tech Ops Group, "agreed that the requirement to notify the Registrant about a
641   transfer request should be mandatory. As general business practices of Registrars and
642   individual transfer scenarios vary, the group concluded that such notification does not
643   have to be an email, but rather may incorporate other means of more modern
644   communication."[12]
645
646   The working group agreed with Tech Ops that it is important to notify the RNH when a
647   transfer is expected to take place and has recently taken place. The working group

---

[11] At the time that this recommendation was written, the resource was available at
https://www.icann.org/en/accredited-registrars?filter-letter=a&sort-direction=asc&sort-param=iana-
number&page=1
[12] Full text of the CPH Tech Ops proposal can be found in Annex B of the TPR Final Issue Report.

648 further supported the idea that given variations in Registrar business models and
649 individual transfer scenarios, different secure means of communication may be
650 appropriate for the provision of notifications.
651

3.1.9 Charter Question a9

652
653
654 *Are there additional inter-Registrar transfer process proposals that should be considered*
655 *in lieu of or in addition to the CPH TechOps Proposal? For example, should affirmative*
656 *consent to the Losing FOA be considered as a measure of additional protection?*
657
658 **Working Group Response:**
659
660 The working group did not identify any additional proposals to pursue in this regard.
661

3.2 Transfer Authorization Code/AuthInfo Code Management

662
663
664 For context on this topic and the associated charter questions, please see pages 15-19
665 of the Final Issue Report.
666

3.2.1 Charter Question b1

667
668
669 *Is AuthInfo Code still a secure method for inter-Registrar transfers? What evidence was*
670 *used by the working group to make this determination?*
671
672 **Working Group Response:**
673
674 The working group agreed that it should first establish clarity around the function and
675 definition of the AuthInfo Code and ensure that terminology is clear before addressing
676 specific security requirements. The working group used the following text on ICANN.org
677 as a starting point for discussion on the definition of the Transfer Authorization Code
678 (TAC): "An Auth-Code (also called an Authorization Code, Auth-Info Code, or transfer
679 code) is a code created by a Registrar to help identify the Registered Name Holder of a
680 domain name in a generic top-level domain (gTLD). An Auth-Code is required for a
681 Registered Name Holder to transfer a domain name from one Registrar to another." The
682 working group agreed that the term "identify" is inappropriate in this context, because
683 the code does not verify identity in practice. Instead, the TAC is used to verify that the
684 Registered Name Holder (RNH) requesting the transfer is the same RNH who holds the
685 domain.
686
687 The working group considered that a number of different terms currently apply to the
688 same concept, including AuthInfo Code, Auth-Info Code, Auth-Code, Authorization

689   Code, and transfer code. None of these terms clearly describe the function of the code.
690   The working group believes that it is clearer for all parties, and particularly the RNH, if a
691   single term is used universally. The working group believes that "Transfer Authorization
692   Code" (TAC) provides a straightforward description of the code's function, and therefore
693   should serve as the standard term in place of the alternatives.
694
695   Regarding the security of the TAC, the working group agreed that metrics could support
696   deliberations on charter question b1. In particular, working group members were
697   interested to see if there has been a change in the number of unauthorized transfers
698   following adoption of the Temporary Specification for gTLD Registration Data. ICANN's
699   Contractual Compliance Department provided the working group with updated metrics
700   regarding complaints received, which covered the periods both before and after the
701   Temporary Specification went into effect.[13] Contractual Compliance subsequently
702   shared additional metrics that included the "closure codes" associated with complaints
703   about unauthorized transfers.[14] While the working group agreed that it is difficult to
704   draw conclusions from the data, the working group noted that there was no notable
705   increase in complaints following the date that the Temporary Specification went into
706   effect.
707
708   The working group considered that in addition to examining metrics regarding past
709   performance, it is important to consider future-state objectives for the TAC. The
710   working group agreed that from this perspective, additional security features are
711   appropriate to protect the RNH, particularly in light of working group preliminary
712   recommendations to replace requirements for the Gaining and Losing FOA with
713   notifications to the RNH. In considering potential security enhancements, the working
714   group considered the benefits of requiring these measures, while also taking into
715   account usability considerations and operational impacts on contracted parties in
716   implementing new requirements.
717
718   **Preliminary Recommendations:**
719
720   **Preliminary Recommendation 5:** The working group recommends that the Transfer
721   Policy and all related policies MUST use the term "Transfer Authorization Code (TAC)" in
722   place of the currently-used term "AuthInfo Code" and related terms. This

---

[13]Available at:
https://community.icann.org/download/attachments/181307054/Compliance_Transfer%20Data_prese
nted%2029%20June%202021.xlsx?version=1&modificationDate=1638449700087&api=v2
[14]Available at:
https://community.icann.org/download/attachments/181307054/Compliance_Unauthorized%20Trans
fer%20Data%20Aug%202020-
Sept%202021_presented%209%20November%202021.xlsx?version=1&modificationDate=16384499750
00&api=v2

723   recommendation is for an update to terminology only and does not imply any other
724   changes to the substance of the policies.
725
726   **Preliminary Recommendation 6:** The working group recommends that the Transfer
727   Authorization Code MUST be defined as follows: "A Transfer Authorization Code (TAC) is
728   a token created by the Registrar of Record and provided upon request to the RNH or
729   their designated representative.[15] The TAC is required for a domain name to be
730   transferred from one Registrar to another Registrar and when presented authorizes the
731   transfer."[16] Relevant policy language MUST be updated to be consistent with this
732   definition.
733
734   **Preliminary Recommendation 7:** [The working group recommends that ICANN org
735   establish minimum requirements for the composition of the TAC (for example, minimum
736   length, syntax, or entropy value) based on current applicable technical security
737   standards. ICANN org MAY change these requirements in response to new or updated
738   standards, but any changes to the requirements MUST go in effect with sufficient
739   notification and time for contracted parties to implement the necessary updates.] OR
740   [The Working Group recommends that Registrars and Registry Operators follow best
741   practices for the composition of the TAC (for example, minimum length, syntax, or
742   entropy value) based on current applicable technical security standards such as RFC9154
743   or subsequent or similar RFCs. These best practices may be updated in response to new
744   or updated standards as appropriate.]
745
746   **Preliminary Recommendation 8:** The working group recommends that the Registry
747   verifies at the time that the TAC is stored in the Registry system that the TAC meets the
748   requirements specified in Preliminary Recommendation 7.
749

750   ## 3.2.2 Charter Question b2
751
752   *The Registrar is currently the authoritative holder of the AuthInfo Code. Should this be*
753   *maintained, or should the Registry be the authoritative AuthInfo Code holder? Why?*
754
755   **Working Group Response:**
756
757   In considering this charter question, the working group focused on evaluating and
758   defining specific roles and responsibilities of Registries and Registrars in the transfer
759   process, noting that each party has an important role to play in the transfer process.
760   While some working group members expressed the view that Registry management of

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[15] "Designated representative" means an individual or entity that the Registered Name Holder explicitly
authorizes to obtain the TAC on their behalf.
[16] Note: This definition draws on elements included in Preliminary Recommendation 9.

the TAC would be more uniform, standardized, and transparent, others noted that standards will be set through policy and enforced by ICANN Contractual Compliance regardless of whether the authoritative holder is the Registry or Registrar; therefore, it is not clear why it would be better to have the Registry be the authoritative holder.

The working group ultimately did not identify a compelling reason to shift ownership of the TAC to the Registry and therefore determined that the Registrar should continue to generate the TAC, set the TAC in the Registry platform, and provide the TAC to the RNH or their designated representative. The working group further agreed that the Registry should continue to verify the validity of the TAC. The working group provided preliminary recommendations to improve security practices with respect to the TAC to be implemented at the Registry.

Preliminary Recommendations:

Preliminary Recommendation 9: The working group recommends that:

> **9.1**: The TAC MUST be only generated by the Registrar of Record upon request by the RNH or their designated representative.
>
> **9.2**: When the Registrar of Record sets the TAC at the Registry, the Registry MUST securely store the TAC using a one-way hash that protects the TAC from disclosure.
>
> **9.3**: When the Registrar of Record provides the TAC to the RNH or their designated representative, the Registrar of Record MUST also provide information about when the TAC will expire.

Preliminary Recommendation 10: The working group confirms the following provision of Appendix G: Supplemental Procedures to the Transfer Policy contained in the Temporary Specification for gTLD Registration Data: "4. Registry Operator MUST verify that the "AuthInfo" code provided by the Gaining Registrar is valid in order to accept an inter-registrar transfer request," with terminology updates in accordance with other relevant recommendations.

Preliminary Recommendation 11: The working group recommends that the TAC MUST be "one-time use." In other words, it MUST be used no more than once per domain name. The Registry Operator MUST clear the TAC as part of completing the successful transfer request.

3.2.3 Charter Question b3

803 *The Transfer Policy currently requires Registrars to provide the AuthInfo Code to the*
804 *registrant within five [calendar] days of a request. Is this an appropriate Service Level*
805 *Agreement (SLA) for the Registrar's provision of the AuthInfo Code, or does it need to be*
806 *updated?*
807
808 **Working Group Response:**
809
810 The working group agreed that the Transfer Policy should continue to require Registrars
811 to provide the TAC to the RNH or their designated representative within a specified
812 period of time following a request. While some working group members felt that the
813 standard time frame for provision of the TAC should be shorter than five calendar days,
814 working group members noted that exceptions may be necessary to accommodate
815 specific circumstances. The working group did not identify a compelling reason to
816 change the five-day response timeframe but believes that it is appropriate to update the
817 policy language to highlight that five calendar days is the maximum and not the
818 standard period in which the TAC is to be provided.
819
820 **Preliminary Recommendations:**
821
822 **Preliminary Recommendation 12:** The working group confirms that the Transfer Policy
823 MUST continue to require Registrars to set the TAC at the Registry and provide the TAC
824 to the RNH or their designated representative within five calendar days of a request,
825 although the working group recommends that the policy state the requirement as 120
826 hours rather than 5 calendar days to reduce any risk of confusion. The working group
827 further recommends that the policy MUST make clear that 120 hours is the maximum
828 and not the standard period in which the TAC is to be provided.
829

830 ## 3.2.4 Charter Question b4

831
832 *The Transfer Policy does not currently require a standard Time to Live (TTL) for the*
833 *AuthInfo Code. Should there be a standard Time to Live (TTL) for the AuthInfo Code? In*
834 *other words, should the AuthInfo Code expire after a certain amount of time (hours,*
835 *calendar days, etc.)?*
836
837 **Working Group Response:**
838
839 The working group clarified its understanding that the Time to Live (TTL) is the period of
840 time that the TAC is valid once the TAC has been created. The working group noted that
841 there are no existing policy requirements regarding TTL. The working group believes
842 that it is good security practice to have a standard TTL for the TAC, because old, unused
843 TACs are vulnerable to exploitation.
844
845 **Preliminary Recommendations:**

Preliminary Recommendation 13:

The working group recommends that:

> **13.1**: A standard Time to Live (TTL) for the TAC MUST be 14 calendar days from the time it is set at the Registry, enforced by the Registries.

> **13.2:** The Registrar of Record MAY set the TAC to null:
> - At any time in response to a request from the RNH.
> - After a period of less than 14 days by agreement by the Registrar of Record and the RNH.

3.2.5 Charter Question b5

Should the ability for registrants to request AuthInfo Codes in bulk be streamlined and codified? If so, should additional security measures be considered?

Working Group Response:

As a general rule, the working group believes that one randomly generated TAC should be provided per domain name, because this is a good security practice (see Preliminary Recommendation 7). The Working Group recognizes that for cases where multiple domains are being transferred, it would be more convenient to have a streamlined approach for requesting and using TACs. Some working group members suggested a carveout to the standard TAC requirements that would allow use of the same TAC for multiple domains if specific additional requirements were met to ensure security of the transaction. At the time of publication of the Initial Report, the working group did not agree on specific conditions under which this should be possible. Therefore, the working group is not making any recommendations with respect to exceptions for multi-domain transfers.

3.2.6 Charter Question b6

Does the CPH TechOps research provide a logical starting point for future policy work on AuthInfo Codes, or should other options be considered?

Working Group Response:

885   The working group carefully reviewed the TechOps proposal[17] and considered input
886   from those involved in development of the proposal. The working group appreciated the
887   expertise and relevant experience of those who developed the proposal and therefore
888   considered it a logical starting point for discussion. The working group agreed, however,
889   that it is important to consider (i) the range of views and interests that may not have
890   been represented in the development of the proposal, and (ii) any new information or
891   interests that have come to light since the development of the proposal. Therefore, in
892   developing its preliminary recommendations, the working group deliberated on each of
893   the charter questions taking into account both the relevant elements of the TechOps
894   paper as well as all other available information and inputs.
895

3.2.7 Charter Question b7

896

897

898   *Should required differentiated control panel access also be considered, i.e., the*
899   *registered name holder is given greater access (including access to the auth code), and*
900   *additional users, such as web developers would be given lower grade access in order to*
901   *prevent domain name hijacking?*
902

903   **Working Group Response:**
904

905   The working group does not believe that there should be any new policy requirements
906   in this regard.
907

3.3 EPDP Phase 1, Recommendation 27, Wave 1 Report

908

909

910   For context on this topic and the associated charter questions, please see pages 52-56
911   of the Final Issue Report.
912

3.3.1 Charter Question c1

913

914

915   *How should the identified issues be addressed?*
916

917   **Working Group Response:**
918

919   The working group reviewed the Transfer Policy-related issues from Section 3.11 of the
920   Wave 1 Report and noted seven (7) of the ten (10) "key issues" were relevant to the

---

[17] Available in Annex B of the TPR Final Issue Report.

921 current phase (Phase 1(a)) of its work.[18] The working group reviewed and discussed
922 these seven issues and has provided a response to each issue. The detailed responses
923 can be found in Annex D of this report.
924
925 **Preliminary Recommendations:**
926
927 **Preliminary Recommendation 14:** The working group recommends the following
928 specific terminology updates to the Transfer Policy:
929 (i) The term "Whois data" SHALL have the same meaning as "Registration Data".
930 (ii) The term "Whois details" SHALL have the same meaning as "Registration Data".
931 (iii) The term "Publicly accessible Whois" SHALL have the same meaning as "RDDS".
932 (iv) The term "Whois" SHALL have the same meaning as "RDDS".
933 For the avoidance of doubt, the terms referenced in above in Recommendation 14 (i) -
934 (iv) are intended to correspond to the definitions in the Registrar Accreditation
935 Agreement ("RAA"). In the event of any inconsistency, the RAA definitions, if updated,
936 will supersede. The working group also recommends that the outdated terms should be
937 replaced with the updated terms, e.g., all references to "Whois Data" should be
938 replaced with the term "Registration Data," etc.
939
940   **Rationale:** This recommendation is consistent with the EPDP Team's Phase 1
941   Recommendation 24.
942
943 **Preliminary Recommendation 15:** The working group recommends removing any
944 reference to an "Administrative Contact" or "Transfer Contact" in the Transfer Policy
945 and replacing it with "Registered Name Holder" unless specifically indicated.
946
947   **Rationale:** Under the Registration Data Policy, Administrative Contact data is no
948   longer collected by the Registrar. Accordingly, the Registered Name Holder would
949   be the only authorized transfer contact.
950

951 ## 3.3.2 Charter Question c2
952

---

[18] Key Issues 4, 6, and 7 related to Change of Registrant, and, accordingly, the working group agreed to
discuss these issues during Phase 1(b) of its work.

953   *Can the FOA-related Transfer Policy issues (identified in paragraphs 5 and 9 of Wave 1*
954   *Report), as well as the proposed updates to the Gaining and Losing FOAs, be discussed*
955   *and reviewed during the review of FOAs?*
956
957   **Working Group Response:**
958
959   As noted above, the working group reviewed the seven key issues from Section 3.11 of
960   the Wave 1 Report that are directly related to Phase 1(a) of its work, including the issues
961   related to the Gaining and Losing FOAs. The working group determined these specific
962   issues are in scope for it to address during Phase 1(a) and discussed and reviewed these
963   issues during its plenary meetings. For the detailed responses on the key issues, please
964   refer to Annex D of this report.
965
966   The working group noted many key issues alluded to terminology inconsistencies, which
967   are the direct result of the EPDP Phase 1 recommendations. For example, EPDP Phase 1,
968   Recommendation #5 provides an updated list of data elements to be collected by
969   Registrars. Notably, the administrative contact field, which was a required data field
970   under the 2013 RAA, is no longer a required data element for Registrar collection and
971   subsequent processing. Because the administrative contact field is referenced many
972   times within the Transfer Policy, the working group noted those references should be
973   removed.[19] Similarly, the working group observed that the multiple references to
974   "Whois" need to be updated.
975

3.4 Denying (NACKing) Transfers

977
978   The topic of denying (NACKing) transfers was originally planned for Phase 2 of the PDP.
979   It was later moved to Phase 1(a) by [Project Change Request](#) to ensure that the working
980   group could examine all elements of the security model for domain name transfers in a
981   holistic manner as part of its Phase 1 deliberations.
982
983   For context on this topic and the associated charter questions, please see pages 43-48
984   of the [Final Issue Report](#).
985

3.4.1 Charter Question h1

987
988   *Are the current reasons for denying or NACKing a transfer sufficiently clear? Should*
989   *additional reasons be considered? For instance, ICANN Contractual Compliance has*
990   *observed difficulties from Registrars tying transfer denials involving domain names*

---

[19] Additional context from the working group's discussion can be found in Annex D of this report.

991   *suspended for abusive activities to the denial instances contemplated by the Transfer*
992   *Policy; or should any reasons be removed?*
993
994   **Working Group Response:**
995
996   The working group conducted a thorough review of the reasons for denying or NACKing
997   a transfer and has provided a series of preliminary recommendations detailed below.
998   Please see the rationale for each proposed change for additional information about why
999   these updates are being recommended.
1000
1001 While discussing sections I.A.3.7 through I.A.3.9 of the Transfer Policy, the working
1002 group spent a significant among of time considering I.A.3.7.5 and I.A.3.7.6 and the fact
1003 that in some cases, a domain is locked against inter-Registrar transfer for 60 days
1004 following the registration of the domain name or the transfer of the domain name to a
1005 new Registrar. Requirements regarding post-registration and post-transfer locks appear
1006 in some Registry Agreements and are reflected in corresponding Registry-Registrar
1007 Agreements. This practice is neither required nor prohibited in the Transfer Policy and is
1008 applied inconsistently across the industry.
1009
1010 The working group considered that this inconsistent practice may cause confusion
1011 among registrants and may lead to poor registrant experience. The working group
1012 supported establishing a standard set of requirements that apply across the industry.
1013 While some members also supported opportunities for opt-outs or flexibility in the
1014 requirements (for example a minimum lock period with an option to implement a longer
1015 lock period), the working group ultimately agreed that consistency needs to be
1016 maintained.
1017
1018 In the course of deliberations, the working group discussed three possible time periods
1019 for post-registration and post-transfer locks:[20] 10 days, 30 days, and 60 days. Working
1020 group members supported maintaining consistency between the period that a transfer
1021 is prohibited following registration and following inter-Registrar transfer. Some working
1022 group members have advocated for establishing a "fast undo" process along the lines of
1023 the Expedited Transfer Reverse Process (ETRP) considered in Inter-Registrar Transfer
1024 Policy (IRTP) Part B Policy Development Process. The IRTP Part B Working Group
1025 ultimately did not adopt the ETRP proposal. "Fast undo" discussions will continue in
1026 Phase 2 of the Transfer Policy Review PDP, and the working group has not yet
1027 considered this topic in depth. At this stage, some working group members noted that if
1028 a "fast undo" process is ultimately adopted, the period for which a domain is eligible for

---

[20] Use of the term "lock" is not intended to imply or require a specific technical solution for implementation. Rather, it is used as shorthand meaning that the domain is ineligible for inter-Registrar transfer for a period of time.

1029 "fast undo" following an inter-Registrar transfer should likely correspond to the lock
1030 periods, and should be sufficiently long to identify the need to invoke the "fast undo"
1031 process.
1032
1033 **Preliminary Recommendations:**
1034
1035 **Preliminary Recommendation 16**: The Registrar MUST restrict the RNH from
1036 transferring a domain name to a new Registrar within 30 days of the initial registration
1037 date.
1038
1039   **Rationale**: The working group believes that a single requirement across the
1040   industry will result in a better experience for registrants. The working group
1041   recommends that 30 days is the appropriate period for this requirement because:
1042   • It provides a window of opportunity to identify issues associated with
1043   credit card payments, including unauthorized use of a credit card. This may
1044   assist with addressing criminal activity and deterring fraud.
1045   • It provides a window of opportunity for a complainant to file a Uniform
1046   Domain Name Dispute Resolution Policy (UDRP) proceeding without the
1047   domain being transferred to a new registrar. Once the proceeding is
1048   underway, the domain will be locked in relation to the dispute.
1049   • For registrants who legitimately want to transfer a domain shortly after
1050   registration, the working group believes that 30 days is a reasonable period
1051   of time to wait.
1052
1053 **Preliminary Recommendation 17**: The Registrar MUST restrict the RNH from
1054 transferring a domain name to a new Registrar within 30 days of the completion of an
1055 inter-Registrar transfer.
1056
1057   **Rationale**: The working group believes that a single requirement across the
1058   industry will result in a better experience for registrants and will also consistently
1059   prevent the transfer of a domain multiple times in rapid succession, a practice
1060   associated with domain theft. The working group recommends that 30 days is the
1061   appropriate period for this requirement because:
1062   • It provides a window of opportunity to identify issues associated with
1063   credit card payments, including unauthorized use of a credit card. This may
1064   assist with addressing criminal activity and deterring fraud.
1065   • For registrants who legitimately want to transfer a domain again shortly
1066   after an inter-registrar transfer has taken place, 30 days is a reasonable
1067   period of time to wait.
1068
1069 **Preliminary Recommendation 18:** I.A.3.7 of the Transfer Policy currently reads, "Upon
1070 denying a transfer request for any of the following reasons, the Registrar of Record must
1071 provide the Registered Name Holder and the potential Gaining Registrar with the reason
1072 for denial. The Registrar of Record **MAY** deny a transfer request only in the following

1073 specific instances:" The working group recommends expressing the two sentences of
1074 this provision as two distinct provisions of the policy.
1075
1076   **Rationale**: The two sentences of I.A.3.7 express two distinct concepts and
1077   therefore should be separated into two different provisions.
1078
1079 **Preliminary Recommendation 19**: The working group recommends revising the
1080 following reasons that the Registrar of Record **MAY** deny a transfer request as follows:
1081

Reference	Current Text	Revision	Rationale
I.A.3.7.1	Evidence of fraud.	Evidence of fraud **or violation of the Registration Agreement.** Implementation Guidance: The intent of "violation of the Registration Agreement" is not to allow the blocking of transfers due to minor violations, but to allow action in case of substantive contravention of the Registration Agreement.	ICANN's Contractual Compliance Department has observed difficulties from Registrars tying transfer denials involving domain names suspended for abusive activities to the denial instances contemplated by the Transfer Policy. The working group noted that such abusive activities typically constitute a violation of the Registration Agreement, and therefore by including "violation of the Registration Agreement" to the reasons that the Registrar of Record **MAY** deny a transfer, the Policy will explicitly permit denials in these circumstances. The Implementation Guidance provides additional "guardrails" to protect against denial of transfers for minor, inadvertent violations of the Registration Agreement. The Working Group notes that Registration Agreement violations have in the past formed the basis of formal ICANN Compliance enforcement relating to domain transfer.
I.A.3.7.2	Reasonable dispute over the identity of the Registered Name Holder or Administrative Contact.	Reasonable ~~dispute over the identity of~~ **concern that the transfer was not requested by** the Registered Name Holder ~~or Administrative Contact~~.	The working group believes that the term "identity" is not appropriate in this context, in part due to concerns regarding data privacy implications. Because the issue at hand is more precisely about authority over the domain, the working group refined the text to focus on the key underlying concern, namely that the transfer request was made by a party other than the Registered Name Holder. Under the Registration Data Policy, Administrative Contact data is no longer collected by the Registrar, therefore this term has been removed. This update is

			consistent with Preliminary Recommendation 15. The Working Group considered adding language to address other types of invalid requests or disputes by other parties. The Working Group determined that the use cases they discussed are appropriately covered by the revised language in I.A.3.7.2.
I.A.3.7.3	No payment for previous registration period (including credit card charge-backs) if the domain name is past its expiration date or for previous or current registration periods if the domain name has not yet expired. In all such cases, however, the domain name must be put into "Registrar Hold" status by the Registrar of Record prior to the denial of transfer.	No payment for previous registration period (including **payment disputes or** credit card charge-backs) if the domain name is past its expiration date **at the current Registrar of Record** or for previous or current registration periods if the domain name has not yet expired. ~~In all such cases, however, the domain name must be put into "Registrar Hold" status by the Registrar of Record prior to the denial of transfer.~~	The working group has added the term "payment disputes" to reflect problems related to payments other than a credit card charge-back. The working group received input from ICANN's Contractual Compliance Department that the term "expiration date" in this provision is not sufficiently precise, because during the Auto-Renew Grace Period, the domain will not show as expired at the Registry level, but will show as expired at the Registrar of Record. By adding "at the current Registrar of Record" the working group has clarified that if the domain name is past its expiration date at the current Registrar of Record and the RNH has not paid for the registration period prior to that expiration date, the Registrar of Record may deny the transfer. The working group notes that the sentence beginning "In all such cases. . ." dates back as early as the 2002 ICANN DNSO Transfers Task Force Final Report & Recommendations. The working group believes that the Expired Registration Recovery Policy now provides the necessary guidance on treatment of domains post-expiration and that this sentence is unnecessary in the Transfer Policy text.

1082
1083 **Preliminary Recommendation 20**: The working group recommends changing the
1084 following reasons that the Registrar of Record currently **MAY** deny a transfer into
1085 reasons that the Registrar of Record **MUST** deny a transfer and revising the text as
1086 follows:
1087

Reference	Current Text	Revision	Rationale
I.A.3.7.4	Express objection to the transfer by the authorized Transfer Contact. Objection could take the form of specific request (either by paper or electronic means) by the authorized Transfer Contact to deny a particular transfer request, or a general objection to all transfer requests received by the Registrar, either temporarily or indefinitely. In all cases, the objection must be provided with the express and informed consent of the authorized Transfer Contact on an opt-in basis and upon request by the authorized Transfer Contact, the Registrar must remove the lock or provide a reasonably accessible method for the authorized Transfer Contact to remove the lock within five (5) calendar days.	Express objection to the transfer by the ~~authorized Transfer Contact~~ **Registered Name Holder**. Objection could take the form of specific request (either by paper or electronic means) by the ~~authorized Transfer Contact~~ **Registered Name Holder** to deny a particular transfer request, or a general objection to all transfer requests received by the Registrar, either temporarily or indefinitely. In all cases, the objection must be provided with the express and informed consent of the ~~authorized Transfer Contact~~ **Registered Name Holder** on an opt-in basis and upon request by the ~~authorized Transfer Contact~~ **Registered Name Holder**, the Registrar must remove the lock or provide a reasonably accessible method for the ~~authorized Transfer Contact~~ **Registered Name Holder** to remove the lock within five (5) calendar days.	Under the Registration Data Policy, Administrative Contact data is no longer collected by the Registrar. Accordingly, the RNH would be the only authorized transfer contact. The working group believes that it is logical that the Registrar of Record must deny a transfer if the Registered Name Holder expressly objects to the transfer. This update is consistent with Preliminary Recommendation ==15==.
I.A.3.7.5	The transfer was requested within 60 days of the creation date as shown in the registry Whois record for the domain name.	The transfer was requested within ~~60~~ **30** days of the creation date as shown in the registry ~~Whois~~ **RDDS** record for the domain name.	Per working group Preliminary Recommendation ==16==, the Registrar MUST restrict the RNH from transferring a domain name to a new Registrar within 30 days of the initial registration date. "Whois" has been updated to "RDDS" consistent with Preliminary Recommendation ==14==.

| I.A.3.7.6 | A domain name is within 60 days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs). "Transferred" shall only mean that an inter-registrar transfer has occurred in accordance with the procedures of this policy. | A domain name is within ~~60~~ **30** days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs). "Transferred" shall only mean that an inter-registrar transfer has occurred in accordance with the procedures of this policy. | Per working group Preliminary Recommendation <mark>17</mark>, the Registrar MUST restrict the RNH from transferring a domain name to a new Registrar within 30 days of the completion of an inter-Registrar transfer. |

1088

1089   **Preliminary Recommendation 21**: The working group recommends revising the reasons
1090   that the Registrar of Record **MUST** deny a transfer request as follows:
1091

Reference	Current Text	Revision	Rationale
I.A.3.8.1	A pending UDRP proceeding that the Registrar has been informed of.	~~A p~~**P**ending UDRP proceeding that the Registrar has been ~~informed~~ **notified** of **by the Provider in accordance with the UDRP Rules**.	The working group has refined the current text in an effort to clarify that Registrars must deny inter-Registrar transfer requests that are received after a Registrar has been notified by a UDRP Provider of a UDRP proceeding in accordance with the UDRP Rules.
I.A.3.8.2	Court order by a court of competent jurisdiction.	N/A	The working group believes that this provision continues to be appropriate and that the language is sufficiently clear.
I.A.3.8.3	Pending dispute related to a previous transfer, pursuant to the Transfer Dispute Resolution Policy.	Pending dispute ~~related to a previous transfer, pursuant to~~ **under** the Transfer Dispute Resolution Policy.	This revision is editorial in nature. It is not intended to change the meaning of the provision.
I.A.3.8.4	URS proceeding or URS suspension that the Registrar has been informed of.	**Pending** URS proceeding or URS suspension that the Registrar has been ~~informed~~ **notified** of **by**	The term "pending" has been added for consistency with language in I.A.3.8.1 and I.A.3.8.3. In addition, the working group has refined the current text in an effort to

		the Provider in **accordance with the URS Procedure**.	clarify that Registrars must deny inter-Registrar transfer requests that are received after a Registrar has been notified by a URS Provider of a URS proceeding or URS suspension in accordance with the URS Procedure.
I.A.3.8.5	The Registrar imposed a 60-day inter-registrar transfer lock following a Change of Registrant, and the Registered Name Holder did not opt out of the 60-day inter-registrar transfer lock prior to the Change of Registrant request.	N/A	The Working Group is not proposing any revisions at this time. Per the working group charter, Change of Registrant will be addressed in Phase 1(b) of the PDP. The working group will revisit I.A.3.8.5 once it has completed deliberations on Change of Registrant.

1092
1093   **Preliminary Recommendation 22**: The working group recommends changing the
1094   following reasons that the Registrar of Record currently **MAY NOT** deny a transfer into
1095   reasons that the Registrar of Record **MUST NOT** deny a transfer and revising the text as
1096   follows:
1097

Reference	Current Text	Revision	Rationale
I.A.3.9.1	Nonpayment for a pending or future registration period.	Implementation Guidance: Registrars are prohibited from denying domain name transfer requests based on non-payment of fees for pending or future registration periods during the Auto-Renew Grace Period, provided that any auto-renewal costs borne by the Registrar are reversible for future period.	The Working Group has provided Implementation Guidance in response to input from ICANN's Contractual Compliance Department that it would be helpful to provide additional guidance consistent with the Registrar Advisory dated 3 April 2008 which states, "Pursuant to the Transfer Policy, registrars are prohibited from denying domain name transfer requests based on non-payment of fees for pending or future registration periods during the Auto-Renew Grace Period."
I.A.3.9.2	No response from the Registered Name Holder or Administrative Contact.	No response from the Registered Name Holder. ~~or Administrative Contact~~	Under the Registration Data Policy, Administrative Contact data is no longer collected by the registrar. Accordingly, the RNH would be the only authorized transfer contact. This update is consistent with Preliminary Recommendation 15.

I.A.3.9.3	Domain name in Registrar Lock Status, unless the Registered Name Holder is provided with the reasonable opportunity and ability to unlock the domain name prior to the Transfer Request.	**A registrar-applied inter-registrar transfer lock is in place on the** ~~D~~domain name ~~in Registrar Lock Status,~~ for reasons other than those specified in I.A.3.7 and I.A.3.8 ~~unless~~ **and** the Registered Name Holder is **not** provided with the reasonable opportunity and ability to unlock the domain name prior to the Transfer Request **pursuant to the requirements in sections I.A.5.1 - I.A.5.4**.	The updates are primarily intended to improve clarity of the provision, use terminology that will be commonly understood, and refer to the relevant provisions that should be referenced alongside I.A.3.9.3.
I.A.3.9.4	Domain name registration period time constraints, other than during the first 60 days of initial registration, during the first 60 days after a registrar transfer, or during the 60-day lock following a Change of Registrant pursuant to Section II.C.2.	Domain name registration period time constraints, other than **as defined in I.A.3.7.5 and I.A.3.7.6**[21] ~~during the first 60 days of initial registration, during the first 60 days after a registrar transfer~~, or during the 60-day lock following a Change of Registrant pursuant to Section II.C.2.	The working group updated the language to reference the applicable provisions of the policy rather than repeating the details of those provisions. Change of Registrant will be addressed in Phase 1(b) of the PDP. Reference to the "60-day lock following a Change of Registrant pursuant to Section II.C.2" may need to be revisited following completion of Phase 1(b).
I.A.3.9.5	General payment defaults between Registrar and business partners / affiliates in cases where the Registered Name Holder for the domain in question has paid for the registration.	General payment defaults between Registrar and **Reseller, as defined in the RAA,** ~~business partners / affiliates~~ in cases where the Registered Name Holder for the domain in question has paid for the registration.	The update is not intended to change the meaning of the provision, but rather to update legacy language to be consistent with currently used and defined terminology.

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[21] In implementation, to the extent that there is re-numbering of applicable provisions, this reference should be updated accordingly.

3.4.2 Charter Question h2

Should additional guidance around cases subject to a UDRP decision be provided to
ensure consistent treatment by all Registrars? If so, is this something that should be
considered by the RPMs PDP Working Group's review of the UDRP, or should it be
conducted within a Transfer Policy PDP?

Working Group Response:

The working group reviewed the World Intellectual Property Organization's (WIPO)
detailed comment in response to the Transfer Policy Status Report and has noted two
concerns involving a UDRP proceeding vis-à-vis the Transfer Policy. Specifically, WIPO
has noted issues related to: (i) the locking of a domain name subject to a UDRP
proceeding (in order to prevent an inter-Registrar transfer during the pendency of the
proceeding),[22] and (ii) the implementation of a UDRP Panel's order to transfer a domain
name to a complainant.[23]

Domain Name Locking

UDRP Rule 4(b) provides, in part, "Within two (2) business days of receiving the
Provider's verification request, the Registrar shall [. . .] confirm that a Lock[24] of the
domain name has been applied. [. . .] The Lock shall remain in place through the
remaining Pendency of the UDRP proceeding. [. . .]." Additionally, Paragraph I.A.3.8.1
of the Transfer Policy requires registrars to deny any requests for inter-registrar
transfers during "a pending UDRP proceeding that the Registrar has been informed of."

Within its preliminary recommendations, the working group has proposed to update the
current Transfer Policy language to:

"The Registrar of Record MUST deny a transfer request in the following circumstances:
- Pending UDRP proceeding that the Registrar has been notified of by the Provider
  in accordance with the UDRP Rules."

The working group is proposing a slight refinement to the current text in an effort to
clarify that Registrars must deny inter-Registrar transfer requests that are received after

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[22] For specific policy requirements, please see UDRP Rule 1 (definitions of Lock and Pendency,
respectively), UDRP Rule 4(b), and Paragraph I.A.3.8.1 of the Transfer Policy.
[23] For specific policy requirements, please see UDRP Section 4(i), 4(k), UDRP Rule 16(a).
[24] UDRP Rule 1 defines Lock as "a set of measures that a Registrar applies to a domain name, which
prevents at a minimum any modification to the registrant and Registrar information by the Respondent,
but does not affect the resolution of the domain name or the renewal of the domain name."

1134   a Registrar has been notified by a UDRP Provider of a UDRP Proceeding in accordance
1135   with the UDRP Rules.

1136

1137   In response to WIPO's related concern that "the ambiguity associated with 'locking' a
1138   domain name has resulted in many improper domain name transfers," the working
1139   group notes that the definition of Locking is part of the UDRP Rules, and, accordingly,
1140   appears out of scope for this working group to address. The working group does note,
1141   though, that the proposed updates to the Transfer Policy endeavor to make clear that
1142   Registrars are forbidden from implementing inter-Registrar transfer requests received
1143   following a notification from a UDRP Provider of a pending UDRP proceeding.

1144

1145   In the event a Registrar mistakenly or purposefully effects an inter-Registrar transfer
1146   during the pendency of a UDRP proceeding, this would be a clear violation of the
1147   Transfer Policy and should be referred to ICANN org Contractual Compliance for review.
1148   The working group will flag the definitional issue of "locking" with the Rights Protection
1149   Mechanisms (RPMs) Phase 2 Working Group, who will be closely reviewing the UDRP,
1150   and will be in a better position to determine if updates are needed.

1151

1152   <u>Implementation of UDRP Panel Decisions</u>

1153

1154   The working group also discussed WIPO's noted concern regarding the reported refusal
1155   of some Registrars to effect a UDRP Panel's decision to transfer a disputed domain
1156   name(s) to the Complainant.

1157

1158   Paragraph 4(i) of the UDRP provides that a UDRP Complainant may request the
1159   following remedies in its UDRP Complaint, "the cancellation of [a disputed] domain
1160   name or the *transfer* of [a disputed] domain name registration to the complainant."
1161   (emphasis added). Paragraph 4(k) goes on to provide, in part, "if an Administrative Panel
1162   decides that [the disputed] domain name registration should be canceled or transferred,
1163   [the Registrar of Record] will wait ten (10) business days [. . .] before *implementing* that
1164   decision [to cancel or transfer the disputed domain name]." (emphasis added)

1165

1166   Registrar representatives within the working group noted various methods their
1167   companies use to implement UDRP decisions, including, for example, providing the
1168   Auth-Info Code to the Complainant to effect the inter-Registrar transfer, setting up an
1169   account for the Complainant and transferring the name to the new account, et. al. The
1170   working group discussed that so long as the Registrar of Record effects the Panel's
1171   decision by allowing transfer of the domain name, the Registrar would be in compliance
1172   with the UDRP, and the working group was reluctant to recommend specific
1173   implementation restrictions.

1174

1175   The working group noted that a Registrar refusal to implement a UDRP Panel's decision
1176   to cancel or transfer the disputed domain name to the Complainant, absent official

1177   documentation of a court proceeding,[25] would be a violation of the UDRP, and,
1178   accordingly, should be referred to ICANN org Contractual Compliance for review. The
1179   working group noted that it will refer this reported issue of UDRP decision
1180   implementation to the RPMs Phase 2 Working Group, as the working group believed the
1181   specific implementation around UDRP decisions to be out of scope for the Transfer
1182   Policy.
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[25] See UDRP, Paragraph 4(k).

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4 Next Steps

1187

1188   This Initial Report will be posted for public comment for ==xx days==. The working group will
1189   review the public comments received on this Initial Report and consider whether any
1190   changes need to be made to its Phase 1(a) recommendations. The working group will
1191   complete Phase 1(b) of its work, including a Phase 1(b) Initial Report followed by a
1192   public comment period on the Phase 1(b) Initial Report. The working group will finalize
1193   all Phase 1 recommendations in a Final Report to be sent to the GNSO Council for
1194   review. If adopted by the GNSO Council, the Final Report would then be forwarded to
1195   the ICANN Board of Directors for its consideration and, potentially, approval as an
1196   ICANN Consensus Policy.
1197
1198   Following a charter review process, Phase 2 of the PDP will commence.
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1202 # Annex A - Background

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1204   The Transfer Policy, formerly referred to as the Inter-Registrar Transfer Policy (IRTP), is
1205   an ICANN consensus policy that went into effect on 12 November 2004. The policy
1206   governs the procedure and requirements for registrants to transfer their domain names
1207   from one Registrar to another, also referred to as an inter-Registrar transfer. The goal of
1208   the Transfer Policy was to provide for enhanced domain name portability, resulting in
1209   greater consumer and business choice and enabling registrants to select the Registrar
1210   that offers the best services and price for their needs.

1211

1212   On April 22, 2019, ICANN org delivered the Transfer Policy Status Report to the GNSO
1213   Council. ICANN org delivered the Transfer Policy Status Report pursuant to
1214   Recommendation 17 of the Inter-Registrar Transfer Policy (IRTP) Part D PDP Working
1215   Group's Final Report, which provides, "[t]he Working Group recommends that
1216   contracted parties and ICANN should start to gather data and other relevant
1217   information that will help inform a future IRTP review team in its efforts." The Transfer
1218   Policy Status Report provided a foundation to review the history and underlying goals of
1219   Transfer Policy, the five policy development processes that sought to improve the
1220   Transfer Policy, and associated metrics on the Transfer Policy.

1221

1222   During its meeting on September 19, 2019, the GNSO Council agreed to launch a call for
1223   volunteers for a Transfer Policy Review Scoping Team, comprised of interested and
1224   knowledgeable GNSO members that were tasked with advising the GNSO Council by
1225   providing recommendations on the following:
1226   • approach to the review (for example, by initiating a new PDP);
1227   • composition of the review team or PDP working group, and
1228   • scope of the review and future policy work related to the Transfer Policy.

1229

1230   On April 6, 2020, the Transfer Policy Review Scoping Team delivered its Transfer Policy
1231   Review Scoping Paper to the GNSO Council for its consideration. The Scoping Team
1232   recommended that the GNSO Council instruct ICANN org policy support staff to draft an
1233   Issue Report, outlining, et.al., the issues described in its Scoping Report. On 23 June
1234   2020, the GNSO Council voted to approve a motion requesting a Preliminary Issue
1235   Report, for delivery as expeditiously as possible, on the issues identified in the Transfer
1236   Policy Initial Scoping Paper, to assist in determining whether a PDP or series of PDPs
1237   should be initiated regarding changes to the Transfer Policy.

1238

1239   The Final Issue Report addressed eight issues associated with the Transfer Policy, seven
1240   of which were specifically identified by the Transfer Policy Review Scoping Team:

1241

1242   a.   Gaining & Losing Registrar Form of Authorization ("FOA")
1243   b.   AuthInfo Code Management
1244   c.   Change of Registrant

1245   d.   Transfer Emergency Action Contact ("TEAC")
1246   e.   Transfer Dispute Resolution Policy ("TDRP")
1247   f.   Reversing/NACKing Transfers
1248   g.   ICANN-Approved Transfers
1249   h.   EPDP Phase 1, Recommendation 27, Wave 1 Report
1250
1251   On 18 February 2021, The GNSO Council passed a resolution to initiate a two-phased
1252   PDP to review the Transfer Policy using the approach recommended in the Final Issue
1253   Report:
1254
1255   • Phase 1(a): Form of Authorization (including EPDP Phase 1, Recommendation 27,
1256   Wave 1 FOA issues) and AuthInfo Codes
1257   • Phase 1(b): Change of Registrant (including EPDP Phase 1, Recommendation 27,
1258   Wave 1 Change of Registrant issues)
1259   • Phase 2: Transfer Emergency Action Contact and reversing inter-Registrar
1260   transfers, Transfer Dispute Resolution Policy (including EPDP Phase 1,
1261   Recommendation 27, Wave 1 TDRP issues), Denying (NACKing) transfers, ICANN-
1262   approved transfers
1263
1264   The topic of denying (NACKing) transfers was later moved to Phase 1(a) by Project
1265   Change Request to ensure that the working group could examine all elements of the
1266   security model for domain name transfers in a holistic manner as part of its Phase 1
1267   deliberations.
1268
1269   A small group of Councilors reviewed the draft charter included in the Final Issue Report
1270   and finalized the document. The charter was approved by Council on 24 March 2021.
1271
1272   The Phase 1(a) working group held its first meeting on 14 May 2021.
1273

Annex B - Working Group Membership and Attendance

[This section will only be updated upon completion of all WG calls. If members wish to view activity metrics and attendance, please refer to the latest project package: https://community.icann.org/x/MQDQCQ]

The detailed attendance records can be found at https://community.icann.org/x/U4aUCQ.

The working group email archives can be found at https://mm.icann.org/pipermail/gnso-tpr/.

Annex C - Community Input

4.1 Request for Input

According to the GNSO's PDP Manual, a PDP working group should formally solicit statements from each GNSO Stakeholder Group and Constituency at an early stage of its deliberations. A PDP working group is also encouraged to seek the opinion of other ICANN Supporting Organizations and Advisory Committees who may have expertise, experience or an interest in the issue. As a result, the working group reached out to all ICANN Supporting Organizations and Advisory Committees as well as GNSO Stakeholder Groups and Constituencies with a request for input at the start of its deliberations. In response, statements were received from:

- The GNSO Business Constituency (BC)

- The Registries Stakeholder Group (RySG)

- The At-Large Advisory Committee (ALAC)

- The Security and Stability Advisory Committee (SSAC)

The full statements can be found on the working group wiki here:
https://community.icann.org/x/tIT8CQ.

4.2 Review of Input Received

All of the statements received were added to the to the relevant working documents and considered by the working group in the context of deliberations on each topic.

Annex D – EPDP Phase 1, Recommendation 27, Wave 1 Analysis

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1315   For context on this analysis, please see pages 52-56 of the Final Issue Report.

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Wave 1 Analysis Key Points	TPR Working Group Response
1. Transfer Policy section I.A.1.1 provides that either the Registrant or *the Administrative Contact* can approve or deny a transfer request. (emphasis added) Under the Registration Data Policy, Administrative Contact data is no longer collected by the registrar. Accordingly, the registrant would be the only authorized transfer contact.	In its current set of preliminary recommendations, the TPR Working Group does not include the Administrative Contact as an entity that can approve an inter-Registrar transfer; instead, the preliminary recommendations only refer to the Registered Name Holder, or, in some instances, the "Registered Name Holder or their designated representative." In light of the obsolescence of the Administrative Contact under the EPDP Phase 1 recommendations, any reference to an "Administrative Contact" or "Transfer Contact" within the Transfer Policy MUST be eliminated and replaced with "Registered Name Holder" unless specifically indicated, per Preliminary Recommendation 15. For example, Preliminary Recommendation 6, et. al., refers to the "Registered Name Holder or their designated representative".
2. Transfer Policy section I.A 2.1, Gaining Registrar Requirements, relies on the specification of transfer authorities in section 1.1, defining either the Registrant and Administrative Contact as a "Transfer Contact." Given that Administrative Contact data is no longer collected by the registrar, there may not be a need for "transfer contact" terminology, but such references can be replaced by "registrant" as the registrant is the only valid transfer authority. "Transfer Contact" terminology is referenced in part I (A) of the policy in sections 2.1, 2.1.1, 2.1.2, 2.1.2.1, 2.1.3.1(b), 2.1.3.3, 2.2.1, 3.2, 3.3, 3.6, 3.7.4, and 4.1.	As noted above in Key Point 1, the preliminary recommendations currently refer to the "Registered Name Holder" instead of the "Transfer Contact", noting that the Registered Name Holder is the now the valid transfer authority, rather than the "Transfer Contact" or "Administrative Contact".

3.	Transfer Policy section I.A.3 enumerates the reasons a registrar of record may deny a transfer. These include section 3.7.2, "reasonable dispute over the identity of the Registered Name Holder or Administrative Contact." The Administrative Contact reference may be eliminated as the Administrative Contact data is no longer collected by the registrar. Section I.A.3 also enumerates the reasons a registrar of record may not use to deny a transfer request. These include section 3.9.2, "no response from the Registered Name Holder or Administrative Contact." The Administrative Contact reference may be eliminated as the Administrative Contact data is no longer collected by the registrar.	The working group is recommending that the reference to Administrative Contact in Section I.A.3.7.2 must be removed due to the EPDP recommendation for elimination of the Administrative Contact. See also TPR Preliminary Recommendation 15.
4.	*Transfer Policy section I.A.4.6.5 provides that both registrars will retain correspondence in written or electronic form of any Transfer Emergency Action Contact (TEAC) communication and responses, and share copies of this documentation with ICANN and the registry operator upon request. This requirement does not appear to be affected by the new Registration Data Policy, which provides for retention of data elements for a period of 18 months following the life of the registration.*	*Defer further discussion to Phase 2 of the PDP.*
5.	Transfer Policy section I.A.5.6 provides that the "AuthInfo" codes must be used solely to identify a Registered Name Holder, whereas the Forms of Authorization (FOAs) still need to be used for authorization or confirmation of a transfer request, as described in Sections I.A.2, I.A.3, and I.A.4 of the policy. Where registrant contact data is not published, and absent an available mechanism for the Gaining Registrar to obtain such contact data, it is not feasible for a Gaining Registrar to send an FOA to the registrant contact data associated with an existing registration, as required by the policy. However, the requirement for the Registrar of Record to send an FOA confirming a transfer request	In its preliminary recommendations, the working group is recommending eliminating the requirement that the Gaining Registrar send a Gaining Form of Authorization. For further rationale on the proposed elimination of the Gaining FOA, please see pp. [x-x] of the Initial Report. With respect to the Losing FOA, the working group is recommending to replace the requirement for the Losing FOA (see Preliminary Recommendation 2). Instead, the working group is recommending to introduce two new required notifications to be sent from the Losing Registrar to the Registered Name Holder, namely (i) a notification of

	(covered in section I.A.3) is still achievable as the registrar does not need to rely on publicly available data.	provision of the Transfer Authorization Code (TAC), formerly referred to as the Auth-Info Code (see Preliminary Recommendation 3), and (ii) and a notification of inter-Registrar transfer request completion (Preliminary Recommendation 4).
6.	*Transfer Policy section II.B.1, Availability of Change of Registrant, provides that "Registrants must be permitted to update their registration/Whois data and transfer their registration rights to other registrants freely." This language may be updated to clarify what updating registration data means, i.e., whether requirements differ according to whether a change of registrant changes anything that is displayed.*	*Defer discussion to Phase 1(b) of the PDP.*
7.	*Transfer Policy section II.B.1.1.4 references the Administrative Contact. The context of this provision is to define a change of registrant as a material change to certain fields, including "Administrative Contact email address, if there is no Prior Registrant email address." This section may no longer be necessary, as, under the new Registration Data Policy, Administrative Contact data is no longer collected by the registrar.*	*Defer discussion to Phase 1(b) of the PDP.*
8.	The Transfer Policy contains references to Whois in sections I.A.1.1, I.A.2.1.2, I.A.2.2.1, I.A.3.6, I.A.3.7.5, I.B.1, and the Notes section titled "Secure Mechanism." If updates are considered to this policy as a result of GNSO policy work, it may be beneficial to consider replacing these references with RDDS. (The Temporary Specification, Appendix G, Section 2.2.4, on Supplemental Procedures to the Transfer Policy, provides that the term "Whois" SHALL have the same meaning as "RDDS." This is carried over in the EPDP Phase 1 recommendation 24) Transfer Policy section II.C.1.4 provides that a registrar must obtain confirmation of a Change of Registrant request from the Prior Registrant, or the Designated Agent of such, using a secure mechanism to	For terminology consistency, the working group is recommending replacing current references to Whois to RDDS throughout the Transfer Policy for any references to Whois that remain. (Please see response to Key Item 9 below for more detail and Preliminary Recommendation 14.) Discussions related to Section II of the policy (Change of Registrant) will be deferred to Phase 1(b) of the PDP.

	confirm that the Prior Registrant and/or their respective Designated Agents have explicitly consented to the Change of Registrant. The footnote to this section notes that "The registrar may use additional contact information on file when obtaining confirmation from the Prior Registrant and is not limited to the publicly accessible Whois." If changes are considered to this policy as a result of GNSO policy work, it may be beneficial to consider updating this footnote to eliminate the reference to Whois.	
9.	The EPDP Team's Phase 1 Recommendation 24 recommends that the following requirements apply to the Transfer Policy until superseded by recommendations from the Transfer Policy review being undertaken by the GNSO Council: (a) Until such time when the RDAP service (or other secure methods for transferring data) is required by ICANN to be offered, if the Gaining Registrar is unable to gain access to then-current Registration Data for a domain name subject of a transfer, the related requirements in the Transfer Policy will be superseded by the below provisions: (a1) The Gaining Registrar is not REQUIRED to obtain a Form of Authorization from the Transfer Contact. (a2) The Registrant MUST independently re-enter Registration Data with the Gaining Registrar. In such instance, the Gaining Registrar is not REQUIRED to follow the Change of Registrant Process as provided in Section II.C. of the Transfer Policy. (b) As used in the Transfer Policy:	In its preliminary recommendations, the working group is recommending eliminating the requirement that the Gaining Registrar send a Gaining Form of Authorization (Preliminary Recommendation 1). In Preliminary Recommendation 14, the working group is recommending the terminology changes from EPDP Phase 1, Recommendation #24. Specifically: (b) As used in the Transfer Policy: (b1) The term "Whois data" SHALL have the same meaning as "Registration Data". (b2) The term "Whois details" SHALL have the same meaning as "Registration Data". (b3) The term "Publicly accessible Whois" SHALL have the same meaning as "RDDS".

(b1) The term "Whois data" SHALL have the same meaning as "Registration Data". (b2) The term "Whois details" SHALL have the same meaning as "Registration Data". (b3) The term "Publicly accessible Whois" SHALL have the same meaning as "RDDS". (b4) The term "Whois" SHALL have the same meaning as "RDDS". (c) Registrar and Registry Operator SHALL follow best practices in generating and updating the "AuthInfo" code to facilitate a secure transfer process. (d) Registry Operator MUST verify that the "AuthInfo" code provided by the Gaining Registrar is valid in order to accept an inter-registrar transfer request. These requirements are being implemented as part of implementing the Registration Data Policy.	(b4) The term "Whois" SHALL have the same meaning as "RDDS". With respect to (c) and (d), the working group has a list of very specific preliminary recommendations regarding generating and updating the TAC (formerly referred to as Auth-Info Code) that can be found in Section 3.2 of the Initial Report.
10. Feedback from some stakeholders in June 2019 during an ICANN65 session suggested an approach of starting from a clean slate rather than looking at specific transfer issues individually. This appears to be the path the GNSO is taking, based on discussions at the September Council meeting.	The working group has methodically worked through its charter questions, which has enabled it to review previously identified and longstanding issues in the Transfer Policy by proposing slight adjustments to specific transfer issues and/or proposing new methods.
Cross-reference: Transfer Policy section I.B.3.1 contains a footnote referencing the Expired Registration Recovery Policy. The context for this reference is a provision specifying when the Change of Registrant Procedure does not apply, in this case, when the registration agreement expires. The footnote provides that if registration and	*Defer discussion to Phase 1(b) of the PDP.*

Whois details are changed following expiration of the domain name pursuant to the terms of the registration agreement, the protections of the Expired Registration Recovery Policy still apply.	
Cross-reference: Transfer Policy section I.B.3.5 references the Expired Domain Deletion Policy. The context for this reference is a provision specifying when the Change of Registrant Procedure does not apply, in this case, when the Registrar updates the Prior Registrant's information in accordance with the Expired Domain Deletion Policy.	*Defer discussion to Phase 1(b) of the PDP.*

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