

Code of Conduct Exemption Evaluation

1. Code of Conduct Exemption Evaluation	2
1.1 Eligibility	2
1.2 Conditional Fees	2
1.3 Evaluation and Outcomes	2
1.3.1 Evaluation Criteria	2
1.3.2 Clarifying Questions	3
1.3.3 Results	3
1.4 Challenges and Extended Evaluation	4

1. Code of Conduct Exemption Evaluation

Specification 9 of the Registry Agreement contains the Registry Operator Code of Conduct. The purpose of the Registry Operator Code of Conduct is to protect a gTLD's registrants. In some cases, an exemption from the Code of Conduct may be requested.

1.1 Eligibility

If a Registry Operator registers all domain names in the gTLD exclusively for and to be used only by itself or its affiliates, and the Registry Operator would like to waive the protection for itself and its affiliates, ICANN may grant the Registry Operator an exemption to the Code of Conduct, provided the gTLD is not a generic string (see Section X.X Closed Generics) and the Registry Operator can satisfy all exemption criteria. Please see [APPENDIX: Registry Agreement] for Specification 9 text.

Applicants are permitted to request a Code of Conduct Exemption in the gTLD program application or, after the submission of the application, using an Application Change Request.

1.2 Conditional Fees

Applicants who request the Code of Conduct Exemption Evaluation must pay an additional fee, as specified in [FEES SECTION]. The Code of Conduct Exemption Evaluation will not be performed until the relevant fees are received by ICANN.

1.3 Evaluation and Outcomes

1.3.1 Evaluation Criteria

The Code of Conduct Exemption Evaluation will be performed by the Code of Conduct Exemption Evaluation panel. The determination of whether ICANN will grant an exemption to the Code of Conduct will consist of a review of the assertions in the exemption request to verify the Registry Operator satisfies all three of the exemption criteria:¹

- I. All domain name registrations in the gTLD will be registered to, and maintained by, Registry Operator for the exclusive use of Registry Operator or its Affiliates (as defined in the Registry Agreement);
- II. Registry Operator will not sell, distribute or transfer control or use of any registrations in the gTLD to any third party that is not an affiliate of Registry Operator; and
- III. Application of the Code of Conduct to the gTLD is not necessary to protect the public interest.

An applicant requesting a Code of Conduct Exemption will be required in their application to self-certify affirming compliance with the criteria as set forth above. Additionally, mission

¹ See: <https://newgtlds.icann.org/sites/default/files/faqs-18mar14-en.pdf>.

and purpose statements must demonstrate non-generic usage. That is, in order to ensure that approval of an exemption to the Registry Operator Code of Conduct will not conflict with Specification 11 of the Registry Agreement, which prohibits generic gTLDs from being operated on an exclusive basis, the string must not be a closed generic as defined in [SECTION Closed Generics].

1.3.2 Clarifying Questions

ICANN may issue Clarifying Questions as part of the Code of Conduct Exemption Evaluation. Applicants are required to respond to Clarifying Questions per the program timelines as described in the Section Applicant Journey.

1.3.3 Results

The results of the Code of Conduct Exemption Evaluation will be included in the Application and Applicant Evaluation Reports, as described in [Applicant Journey - Application and Applicant Evaluation].

If an application passes the Code of Conduct Eligibility Evaluation, an exemption to the Code of Conduct will be granted.

If an Applicant does not successfully complete the Code of Conduct Exemption Evaluation, the application may continue with Specification 9 remaining in place; however, an Application Change Request is expected to reflect the application's current intent to proceed with Specification 9 in place.

1.4 Challenges and Extended Evaluation

Applicants may not challenge ICANN's determination of Code of Conduct Exemption eligibility. Extended Evaluation is not available.