

GUIDELINES & MOTION TEMPLATES

Section 18.12 Special IFRs

1. Introduction

Following the adoption by the GNSO Council of the revised GNSO Operating Procedures, as well as the proposed modifications to the ICANN Bylaws adopted by the ICANN Board of Directors on 13 May 2018, staff has outlined in the table below the additional proposed steps to be taken, including guidance and motion templates, to ensure preparedness as well as facilitate the ability for the GNSO Council to act in relation to the new roles and responsibilities outlined in the post-transition Bylaws. These steps fall within the GNSO's existing processes and procedures.

2. Background

Per Section 18.12 of the ICANN Bylaws:

(a) A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI's performance under the IANA Naming Function Contract and IANA Naming Function SOW [under] the following conditions:

(i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;

(ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures.

3. Bylaws and Additional Proposed Steps:

<p>SECTION 18.12 SPECIAL IFRS</p> <p>“(a) A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI’s performance under the IANA Naming Function Contract and IANA Naming Function SOW [under] the following conditions: (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures; (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization’s respective operating procedures;”</p>	<p>In those instances where there is a reference to GNSO Supermajority, there is no need to add the voting threshold to section 11.3 as a GNSO Supermajority is already a defined term.</p> <p>For (a) there needs to be a process for conducting a review in either (i) and (ii) and then a consultation process developed with the ccNSO on whether to initiate the IFR. Only then the threshold comes into play.</p> <p>For the review referenced in (i) and (ii), the GNSO has processes available such as the GNSO Input Process (GIP) it could use.</p>	<p>Staff (to work with DT, if applicable) to develop for (a) guidance on conducting a review for (i) and (ii) and then a consultation process developed with the ccNSO on whether to initiate the IFR.</p>
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4. Advising the GNSO's Representative on the Empowered Community Administration

The process of developing and providing advice to the GNSO's Representative on the Empowered Community (EC) Administration includes whether to request the initiation of a Special IFR in consultation with the ccNSO. In deciding whether to request the initiation of a Special IRF, the GNSO Council must decide whether the following conditions have been met, per the Bylaws:

- (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;"

Per the GNSO Operating Procedures, the GNSO Council may initiate a GNSO Input Process (GIP) per ANNEX 3 of the GNSO Operating Procedures to conduct a review in (i) and (ii) above. See: <https://gns0.icann.org/en/council/annex-3-input-process-manual-18jun18-en.pdf>. Per these procedures, once the GIP is completed the Council will consider whether to approve the GIP recommendations, noting the following:

"Approval of the GIP recommendations submitted to the Council does not require a Council vote, except in the case where one or more GNSO Council members object to the adoption of the report. In such an instance, the GIP recommendations may be adopted only by the default threshold to pass a GNSO Council motion (a simple majority vote of each House), as set forth at Article X, Section 3-9 of the ICANN Bylaws. The outcome of the vote should be recorded and provided together with the results of the GIP to the entity that initially requested the input."

In addition, "The GNSO Council shall transmit the results of a GIP, including any recommendations adopted by the GNSO Council, to the entity that originally requested the input as soon as practicable following the Council's decision pursuant to Section 8 above."

The GNSO representative shall notify the ccNSO of the outcome of the GIP. If the outcome is a request to initiate a Special IFR, the GNSO will engage in a consultation process with the ccNSO on whether to initiate a Special IFR. **[GUIDANCE ON CONSULTATION PROCESS PENDING]**