At-Large's Subsequent Procedures Scorecard: Registrant Protections

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Shared on At-Large Consolidated Policy Working Group (CPWG) Call
On Wednesday, 16 September 2020, 19:00 UTC

APPLICATION EVALUATION/CRITERIA

Topic/Area:	**[22] REGISTRANT PROTECTIONS [2.7.2]**	Priority:	**MEDIUM**	Settled On:	(15.09.2020)
Related:	• EBERO – Emergency Back-end Registry Operator • COI – Continued Operations Instrument • Data Escrow, RO performance specifications in Specification 10 RA • [27] Applicant Review: Technical/Operational, Financial and Registry Services				
Key Issues:	In context of consumer protection: • Whether EBERO and COI should continue to be used to protect registrants? Exemptions to apply? Any changes required? • Level of applicant screening required.				
Policy Goals:	• Principle D remains applicable: "A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise risk of harming the operational stability, security and global interoperability of the Internet" • The program must continue to incorporate measures into the application process and program implementation that provide protection for registrants				
Assigned CCT-RT Rec's:	None				
References:	• SubPro Draft Final Report, 20 August 2020 • SubPro WG Application Evaluation/Criteria_Summary Document, 7 January 2020 • 03. SubPro Reserved Names, Closed Generics & Registrant Protection, 20 August 2019				

What has SubPro PDP WG concluded?	**What will SubPro PDP WG recommend?**	Is this acceptable? If not, why so? What else needs to be done and by/with whom?
1. Maintaining registrant protections as is	Principle D from 2007 policy affirmed under Topic 27: Applicant Reviews is also relevant here. Affirmation 22.1: • WG affirms existing registrant protections used in 2012 round, including Emergency Back-end Registry Operator (EBERO) and associated triggers for an EBERO event and critical registry functions.	Yes, no further intervention needed.

	Also, per Topic 27: Applicant Reviews, the substantive technical and operational evaluation is being maintained and therefore, protections against registry failure, including registry continuity, registry transition, and failover testing continue to be important registrant protections. • WG supports the registrant protections contained in Spec 6 of RA.	
2. Timing of background screening per 2012 round	Affirmation 22.2: Background screenings should be conducted during Initial Evaluation, per 2012 round. Implementation Guidance 22.3: If there is a change in the application that requires additional or repeat background screening (eg. a change in applying entity or change to major shareholders, officers, or directors of applying entity) this additional background screening should occur prior to execution of RA. Deferring re-screening until just prior to execution of the RA represents a change to 2012 process.	In principle, yes, since consistent with earlier positions of: • No exemption to background screening for public traded companies • Background screening ideally done twice: (1) time of application (to identify unsuitable applicants) and (2) time of contracting (to identify material change)
3. Improving applicant screening process	Recommendation 22.4: WG supports PIRR Rec 2.2.b, "Consider whether the background screening procedures and criteria could be adjusted to account for a meaningful review in a variety of cases (eg. newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information)."	
4. Re: Continuing Operations Instruments (COI) requirements	Recommendation 22.5: WG supports PIRR Rec 7.1.a, "Explore whether there are more effective and efficient ways to fund EBERO in the event of a TLD failure [other than requiring Continuing Operations Instruments]." Implementation Guidance 22.6: To the extent that it is determined that a COI will be required, it should not be part of the financial evaluation. It should only be required at the time of executing the RA.	

5. Exemptions from COI	Provide exemptions from EBERO requirements to TLDs with applicable Spec 9 RO CoC and Spec 13 .Brand TLDs	
NEW ISSUES	SubPro PDP WG reactions	Is this acceptable? What else needs to be done and by/with whom?
6. Re: Second Security, Stability and Resiliency Review (SSR2)	• WG is monitoring SSR2 and considered its Rec 26, "Document, Improve and Test the EBERO Processes." In preliminary discussions, • WG members responded positively to Rec 26.5, "ICANN org should publicly document the EBERO processes, including decision points, actions and exceptions. The document should describe dependencies for every decision, action and exception. • WG to continue to follow developments from SSR2 as they are applicable to SubPro.	
Main Positions of Concern:	None at this juncture. We note SubPro PDP WG's following of SSR2 and advocate that relevant recommendations of SSR2 as they apply to subsequent procedures be taken up in the implementation phase.	