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.

69   Recommendation 27, Wave 1 TDRP issues), Denying (NACKing) transfers[3],
70   ICANN-approved transfers
71
72 The working group charter was approved by the GNSO Council on 24 March 2021. The
73 Phase 1(a) working group held its first meeting on 14 May 2021.
74
75 For additional background on this PDP, please refer to Annex A of this report.
76

77 ## 1.2 Preliminary Recommendations
78
79 In Phase 1(a) of the PDP, the working group was tasked to provide the GNSO Council
80 with recommendations on the following topics:
81
82   • Losing and Gaining FOAs
83   • AuthInfo Codes
84   • Denying (NACKing) transfers
85   • EPDP Phase 1, Recommendation 27, Wave 1 as they relate to FOA
86
87 Following its analysis of each of the questions outlined in its charter related to this task,
88 the working group has arrived at a set of preliminary recommendations and conclusions.
89
90 The working group will not finalize its responses to the charter questions and
91 recommendations to the GNSO Council until it has conducted a thorough review of the
92 comments received during the public comment period on this Initial Report and
93 completed Phase 1(b) of its work. At this time, no formal consensus call has been taken
94 on these responses and preliminary recommendations, but this Initial Report did receive
95 the support of the working group for publication for public comment.
96
97 Notwithstanding the above, the working group is putting forward preliminary
98 recommendations on the following topics for community consideration:
99
100 **Preliminary Recommendation 1:**   **Gaining FOA**
101
102 **Preliminary Recommendation 2:**   **Losing FOA**
103
104 **Preliminary Recommendation 3:**   **Notification of TAC Provision**
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[3] The topic of denying (NACKing) transfers was later moved to Phase 1(a) by a 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.

150 ## 1.3 Conclusions and Next Steps

151
152 This Initial Report will be posted for public comment for 42 days. The working group will
153 review the public comments received on this Initial Report and consider whether any
154 changes need to be made to its Phase 1(a) recommendations. The working group will
155 complete Phase 1(b) of its work, including a Phase 1(b) Initial Report followed by a
156 public comment period on the Phase 1(b) Initial Report. The working group will finalize
157 all Phase 1 recommendations in a single Phase 1 Final Report to be sent to the GNSO
158 Council.
159

160 ## 1.4 Other Relevant Sections of this Report

161
162 The following sections are included within this report:

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

165 - Responses to the charter questions, preliminary
166   recommendations, and questions for community input;

167 - Background on the PDP and issues under consideration;

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

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

175 - A swim lane diagram documenting the possible future-
176   state process flow for inter-Registrar transfers as it will
177   exist if all recommendations are approved and
178   implemented. Note that this diagram is a working
179   product of the deliberations process to support
180   understanding of the recommendations' impact. It is not
181   intended to be authoritative.

182

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

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222 The working group began its deliberations for Phase 1(a) on 14 May 2021. The working
223 group agreed to continue its work primarily through conference calls scheduled weekly,
224 in addition to email exchanges on its mailing list. The working group held sessions during
225 ICANN71, ICANN72, ICANN73, ICANN74, and ICANN75. These sessions provided an
226 opportunity for the broader community to contribute to the working group's
227 deliberations and provide input on the charter topics being discussed.
228
229 All of the working group's work is documented on its wiki workspace, including its
230 meetings, mailing list, meeting notes, deliberation summaries, draft documents,
231 background materials, early input received from ICANN org, and input received from
232 ICANN's Supporting Organizations and Advisory Committees, including the GNSO's
233 Stakeholder Groups and Constituencies.
234
235 To develop the content included in the Initial Report, the working group progressed
236 through the charter questions by topic, following the sequence established in the
237 project plan. Because the Phase 1(a) topics are closely interrelated, the working group
238 took an iterative approach to producing and reviewing draft responses to charter
239 questions and draft preliminary recommendations to ensure that the full package of
240 outputs was coherent and comprehensive.
241
242 To ensure that all groups represented in the working group had ample opportunity to
243 provide input to the deliberations, the leadership team opened each working group
244 meeting with an invitation for members to step forward and provide any updates about
245 discussions happening within their Supporting Organization/Advisory
246 Committee/Stakeholder Group/Constituency regarding the charter topics, as well as any
247 positions or interests members wanted to share on behalf of their groups. To further
248 support fulsome discussion, the leadership team regularly deployed informal polls in the
249 meeting Zoom room to get a better sense of the "temperature of the room" and to
250 prompt the sharing of perspectives and viewpoints that may not otherwise be voiced
251 through less structured interaction.
252
253 For those working group members who were less comfortable speaking on calls, the
254 leadership team encouraged additional feedback on the mailing list and through written
255 contributions to working group documents.
256

257 ## 2.4 Use of Working Documents
258
259 The working group used a series of working documents, organized per charter topic, to
260 support its deliberations. Archives of the working documents are maintained on the
261 working group wiki. When a new charter topic was introduced, the leadership team
262 provided a working document for the topic, including (i) charter questions related to
263 that topic and for each charter question, (ii) context from the Transfer Policy Status

264 Report, and (iii) relevant inputs received from community groups through early
265 outreach. As the working group progressed through discussions, staff captured a
266 summary of deliberations on the charter question and eventually populated the
267 document with draft charter question responses and draft preliminary
268 recommendations to support further discussion and refinement of the text.
269
270 Working documents were updated on an ongoing basis and working group members
271 were encouraged to provide comments and input in the working documents between
272 calls.
273

274 2.5 Swim Lane Diagram

275
276 To further support deliberations and document the expected impact of proposed
277 recommendations, the working group developed a swim lane diagram to visually
278 represent the possible future-state process flow for inter-Registrar transfers as it will
279 exist if all recommendations are approved and implemented. This diagram serves as a
280 working document to support the deliberations process and is not intended to be
281 authoritative, but it is included in this Initial Report to demonstrate the working group's
282 understanding of the recommendations' impact on the inter-Registrar transfer process.
283 The swim lane diagram is included in Annex E of this report.
284

285 2.6 Data and Metrics

286
287 The Transfer Policy Status Report produced by ICANN org in 2019 served as the working
288 group's primary resource for data and metrics related to inter-Registrar transfers. In the
289 course of its deliberations, the working group identified additional data that would be
290 valuable to support its work. The additional data provided by ICANN org's Contractual
291 Compliance Department in response to these requests is available on the working
292 group's wiki.
293

294 2.7 ICANN Org Interaction

295
296 To help support a smooth transition from policy development to eventual
297 implementation of GNSO Council adopted and ICANN Board approved
298 recommendations, the working group has been supported by early and ongoing
299 engagement with ICANN org subject matter experts. Liaisons from ICANN org's Global
300 Domains and Strategy (GDS) and Contractual Compliance departments regularly
301 attended working group calls, providing input and responding to questions where it was
302 possible to do so in real time. The liaisons acted as a conduit for working group
303 questions to ICANN org that required additional research or input. The liaisons also

304 facilitated early review of working group draft outputs by ICANN org subject matter
305 experts.
306

2.8 Accountability to the GNSO Council

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308
309 As is now the case with all GNSO working groups, the working group delivered monthly
310 "project packages" to the GNSO Council to update the Council on the status of its work.
311 An archive of these packages is available on the wiki. The GNSO Council Liaisons, Greg
312 DiBiase and Osvaldo Novoa,[4] served as additional points of connection between Council
313 and the working group.

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[4] On 19 January 2023, the GNSO Council voted to approve Osvaldo Novoa as the new GNSO Council Liaison to the TPR Working Group. Osvaldo Novoa took over for Greg DiBiase who served as the Liaison beginning in April 2021.

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.

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.

353

3.1.1 Charter Question a1

355
356 *Is the requirement of the Gaining FOA still needed? What evidence did the working*
357 *group rely upon in making the determination that the Gaining FOA is or is not necessary*
358 *to protect registrants?*
359
360 **Working Group Response:**
361
362 The Inter-Registrar Transfer Policy - Part D Policy Development Process Working Group
363 (IRTP WG D), previously examined the question of "Whether the universal adoption and
364 implementation of Extensible Provisioning Protocol (EPP) AuthInfo codes has eliminated
365 the need of FOAs." The IRTP WG D ultimately determined to retain the FOA until more
366 evidence was gathered. The Transfer Policy Review Working Group was asked to revisit
367 the same question and has determined there is now strong evidence that the Gaining
368 FOA can be eliminated from the Transfer Policy without negatively affecting the security
369 of inter-Registrar transfers. The working group further believes that requirements for a
370 Gaining FOA or a similar replacement are unjustified under data protection law and no
371 longer necessary from a practical perspective to facilitate the transfer. The working
372 group recognizes that this is a significant departure from existing policy and has
373 therefore provided a detailed rationale for its conclusion.
374
375 Prior to the General Data Protection Regulation (GDPR) coming into force, the Gaining
376 Registrar was required to confirm the Registered Name Holder's (RNH) intent to transfer
377 by sending an email to the RNH asking for confirmation to proceed. In order for the
378 Gaining Registrar to be able to send the Gaining FOA, it needed to obtain the RNH's
379 contact information from the publicly available Registration Data Directory Services
380 (RDDS). With the introduction of the GDPR, Gaining Registrars were no longer able to
381 obtain this information via RDDS, as personally identifiable information was largely
382 redacted within RDDS. In recognition of this new obstacle, ICANN org deferred
383 Contractual Compliance enforcement on Gaining FOA requirements. While still a
384 requirement on paper, in practice the Gaining FOA does not currently exist and cannot
385 exist.
386
387 The working group considered that it could recommend some form of replacement for
388 the Gaining FOA to be included in future policy requirements. If it did so, there would
389 need to be a method and a justification for the Registrar of Record to transfer the RNH's
390 contact information to the Gaining Registrar.
391
392 The working group considered that it is likely possible from a technical perspective to
393 facilitate the transfer of the RNH's contact information from the Registrar of Record to
394 the Gaining Registrar for the purposes of confirming the RNH's intent to transfer.

395 However, the working group did not pursue specific methods for doing so because it did
396 not believe this transfer is feasible from a legal perspective.
397
398 In its deliberations on applicable law, the working group considered the principles of
399 data minimization and privacy by design. Under these principles, in order to justify the
400 transfer of personally identifiable information (PII) from the Registrar of Record to the
401 Gaining Registrar and the subsequent processing of this data (in order to send the
402 Gaining FOA) by the Gaining Registrar, one would have to demonstrate that this transfer
403 and processing of PII is necessary to facilitate the transfer. The working group noted
404 that the transfer process has functioned without the Gaining FOA since the GDPR went
405 into force, and the working group has not encountered any evidence that there has
406 been an increase in unauthorized transfers since the Gaining FOA was functionally
407 eliminated. It has not found any other indications that the transfer process is
408 malfunctioning without the Gaining FOA requirement. Therefore, the working group
409 sees no evidence that the Gaining FOA is needed for the purpose of facilitating the
410 transfer or protecting the RNH from unauthorized transfers.
411
412 The working group notes that the recommendations in this report should be viewed as a
413 package. The recommendations include adjustments and enhancements that seek to
414 provide an appropriate level of security for the inter-Registrar transfer process while
415 also taking into account the customer experience, applicable law, and operational
416 considerations for Registries and Registrars.
417
418 The working group looked at the value that the Gaining FOA provided to ensure that
419 equivalent value is covered by newly-added elements of the process going forward, as
420 appropriate.
421
422 The working group noted that when the Gaining FOA requirements were in place, the
423 transfer could only proceed once the RNH had responded to the Gaining FOA. This
424 meant that the RNH always actively confirmed the intent to transfer before the transfer
425 took place. The Gaining FOA therefore served a notification function and also a
426 confirmation function. To the extent that the party obtaining the Transfer Authorization
427 Code (TAC) and requesting the transfer was an individual other than the RNH, the RNH
428 had the opportunity to confirm that they were aware of the request and wanted it to
429 proceed.

430 The working group notes that in the current transfer process, the Losing Registrar must
431 send the Registered Name Holder a notice of the pending transfer to confirm the
432 Registered Name Holder's intent to transfer the domain name. This notice is also
433 referred to as the Losing Registrar FOA or Losing FOA. If after five calendar days, the
434 Registry Operator has not received any objection to the inter-Registrar transfer, it will
435 process the transfer request. As detailed in Recommendation 2, the working group
436 anticipates that this element of the transfer process will remain in place, although the
437 working group recommends using the term "Transfer Confirmation" in place of Losing

438   FOA. While the Transfer Confirmation does not require affirmative consent, the working
439   group believes that it does provide an important notification function and also gives the
440   RNH an opportunity to take action prior to completion of the transfer if the transfer is
441   unwanted.

442   In addition, the working group believes that the new notifications detailed in
443   Preliminary Recommendations 3-4 ensure that the RNH receives the necessary
444   information with respect to an inter-Registrar transfer. These notifications provide
445   instructions on what to do if the RNH wants to either stop or reverse the process
446   because the action on the account is unauthorized or unintended.

447

448   The working group noted that while it was in use, the Gaining FOA provided a record to
449   assist ICANN's Contractual Compliance department in investigating complaints,
450   especially those related to unauthorized transfers. It also supported the resolution of
451   disputes. The working group noted that records associated with provision of the TAC,
452   the Transfer Confirmation, and new notifications detailed in Preliminary
453   Recommendations 3-4, will provide the necessary paper trail for this purpose.
454   Preliminary Recommendation yy provides specific guidance of record keeping.

455

456   The working group recalled that the Gaining FOA pre-dated the Transfer Authorization
457   Code (TAC), formerly referred to as the AuthInfo Code, and that prior to the
458   introduction of the TAC, the Gaining FOA was an essential element for facilitating the
459   transfer and also provided a function that was important to prevent the unauthorized
460   transfer of domains. With the introduction of the TAC, an additional layer of security
461   was added to the process, and the Gaining FOA became less essential. The
462   recommendations in this report further evolve the security model for the transfer
463   process, including with respect to the TAC. The working group believes that the security
464   model presented in the package of recommendations offers the appropriate elements
465   to reduce the risk of unauthorized transfer to the extent possible within the bounds of
466   the Transfer Policy. Key elements of the model include the following:
467   • The issuance of the TAC is the means of confirming that the RNH intends to
468   transfer the domain. The first and most important line of defense and the
469   primary point of control is logging into the account at the Registrar. This is the
470   "affirmative consent" to initiate the transfer. The working group understands
471   that certain threat vectors, including hacking of the RNH's email or unauthorized
472   access to the RNH's account at the Registrar, are legitimate concerns. At the
473   same time, the working group considers them outside the scope of the Transfer
474   Policy and therefore outside the scope of this working group.
475   • Acknowledging the role that the TAC plays as a token to enable the transfer
476   process, the working group has recommended specific enhancements related to
477   TAC security:
478   ○ Minimum requirements for composition to the TAC (Recommendation 7),
479   seek to reduce the risk of an unauthorized party guessing the TAC to
480   initiate an unauthorized transfer.

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Deleted: With respect to the confirmation function that the Gaining FOA served, the working group believes that this is duplicative and therefore unnecessary. ¶

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Deleted: The working group further noted that it has recommended a series of measures to increase the security of the TAC and reduce the risk that the TAC is obtained by an unauthorized person, as detailed in Preliminary Recommendations 7-13. With added security measures, the TAC becomes a stronger means to demonstrate that the TAC holder is an appropriate party to request the transfer, which makes the authorization element of the Gaining FOA unnecessary.…

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     o Limiting when, where, and for how long the TAC may be vulnerable to theft once generated. The TAC is only generated at the point that it is needed to initiate an inter-Registrar transfer (Recommendation 9.1). It is stored securely at the Registry (Recommendation 9.2). The TAC has a maximum lifetime of 14 days, preventing the existence of a long-lived TAC, which could be used as part of an unauthorized or unintended inter-registrar transfer (Recommendation 13).

- Once a domain is transferred, the Registrar must restrict the RNH from transferring a domain name to a new Registrar within 30 days. To the extent that the transfer is unauthorized, this restriction will consistently prevent the transfer of a domain multiple times in rapid succession, a practice associated with domain theft that makes it difficult to recover the domain.
- [Any additional recommendation(s) regarding reversal of a transfer/dispute resolution.]

Preliminary Recommendations:

Preliminary Recommendation 1: The working group recommends eliminating from the Transfer Policy the requirement that the Gaining Registrar send a Gaining Form of Authorization. This requirement is detailed in section 1.A.2 of the Transfer Policy.

Rationale for Preliminary Recommendation 1: As discussed in detail in the working group's response to charter question a1, the inter-Registrar transfer process has functioned without the Gaining FOA since the GDPR went into force, and the working group has not encountered any evidence that there has been an increase in unauthorized transfers since the Gaining FOA was functionally eliminated. It has not found any other indications that the transfer process is malfunctioning without the Gaining FOA requirement. Therefore, the working group sees no evidence that the Gaining FOA is needed for the purpose of facilitating the transfer or protecting the RNH from unauthorized transfers.

528   ## 3.1.2 Charter Question a2
529
530   *If the working group determines the Gaining FOA should still be a requirement, are any*
531   *updates (apart from the text, which will likely need to be updated due to the gTLD*
532   *Registration Data Policy) needed for the process? For example, should additional security*
533   *requirements be added to the Gaining FOA (two-factor authentication)?*
534
535   **Working Group Response:**
536
537   As described in the above response to charter question a1, the working group has
538   determined that the Gaining FOA should no longer be a requirement.

549

3.1.3 Charter Question a3

The language from the Temporary Specification provides, "[u]ntil 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...". What secure methods (if any) currently exist to allow for the secure transmission of then-current Registration Data for a domain name subject to an inter-Registrar transfer request?

Working Group Response:

As noted in the response to charter question a1, the working group considered that it is likely possible from a technical perspective to facilitate the transfer of the RNH's contact information from the Registrar of Record to the Gaining Registrar for the purposes of confirming the RNH's intent to transfer. However, the working group did not pursue specific methods for doing so because it did not believe this data transfer is feasible from a legal perspective.

3.1.4 Charter Question a4

If the working group determines the Gaining FOA is no longer needed, does the AuthInfo Code provide sufficient security? The Transfer Policy does not currently require specific security requirements around the AuthInfo Code. Should there be additional security requirements added to AuthInfo Codes, e.g., required syntax (length, characters), two-factor authentication, issuing restrictions, etc.?

Working Group Response:

As described in the response to charter question a1, the working group believes that the package of recommendations presented in this report provides for a transfer process with appropriate levels of security within the bounds of the Transfer Policy, including enhancements to the security of the Transfer Authorization Code. Please see the response to charter question a1 for additional details.

3.1.5 Charter Question a5

If the working group determines the Gaining FOA is no longer needed, does the transmission of the AuthInfo Code provide a sufficient "paper trail" for auditing and compliance purposes?

596
597   **Working Group Response:**
598
599   The working group acknowledges that with the elimination of the Gaining FOA
600   requirement, the AuthInfo code becomes even more important for the transaction and
601   for any Compliance investigation related to it. The working group further agrees that it is
602   important to properly document and retain all notifications related to the transfer sent
603   by the Losing Registrar, so that information about such records can be sent to ICANN
604   Compliance when investigating a complaint, as needed. Therefore, the working group is
605   providing a specific recommendation on requirements regarding the retention of these
606   records and provision to ICANN upon reasonable notice.
607
608   **Preliminary Recommendation yy**: The Registrar MUST retain all records pertaining to
609   the provision of the TAC to a Registered Name Holder, as well as all notifications sent
610   per the requirements under the Transfer Policy. At a minimum, the records retained
611   MUST document the date/time, means, and contact(s) to whom the TAC and
612   notifications are sent. The Registrar MUST maintain these records for the shorter of 15
613   months or the longest period permitted by applicable law, and during such period MUST
614   provide such records to ICANN upon reasonable notice.
615
616   **Rationale for Preliminary Recommendation yy**: This recommendation seeks to
617   ensure that the necessary information is available to ICANN org in the case of a
618   Compliance investigation related to an inter-Registrar transfer. The 15-month
619   retention period specified in this recommendation is consistent with requirements
620   anticipated to be included in the Registration Data Policy.
621
622

3.1.6 Charter Question a6

624
625   *Survey respondents noted that mandatory domain name locking is an additional security*
626   *enhancement to prevent domain name hijacking and improper domain name transfers.*
627   *The Transfer Policy does not currently require mandatory domain name locking; it allows*
628   *a Registrar to NACK an inter-Registrar transfer if the inter-Registrar transfer was*
629   *requested within 60 days of the domain name's creation date as shown in the Registry*
630   *RDDS record for the domain name or if the domain name is within 60 days after being*
631   *transferred. Is mandatory domain name locking an additional requirement the working*
632   *group believes should be added to the Transfer Policy?*
633
634   **Working Group Response:**
635
636   The working group understands that this charter question refers to a lock that some
637   Registrars apply by default to protect their customers from accidental or malicious inter-
638   Registrar transfers. Registrants may, however, request lock removal, and Registrars

644 must remove the lock within five days per requirements of the Transfer Policy.[5] Charter
645 question a6 asks whether this lock, which some Registrars choose to apply today, should
646 become a policy requirement for ALL Registrars. For the avoidance of doubt, the lock
647 addressed in this charter question is distinct from potential requirements for a Registrar
648 to restrict the RNH from transferring a domain name to a new Registrar within 30 days
649 of the initial registration date and within 30 days of the completion of an inter-Registrar
650 transfer. Unlike Preliminary Recommendations 16-17 regarding inter-Registrar transfer
651 restrictions, the lock discussed in this charter question is a default lock that is generally
652 removable upon the request of the registrant,[6] while the restrictions discussed in
653 Preliminary Recommendations 16-17 are triggered by a specific event and are not
654 removable upon the request of the registrant.
655
656 The working group does not believe that mandatory domain name locking as presented
657 above should be added to the Transfer Policy. The working group believes that the
658 security model presented in response to charter question a1 provides for a transfer
659 process with appropriate levels of security within the bounds of the Transfer Policy. It is
660 the working group's view that Registrars are in the best position to determine whether
661 locking a domain by default upon registration is appropriate for their customers in
662 combination with other security features implemented by the Registrar. The working
663 group expects that Registrars will continue to use their own discretion to implement any
664 additional measures that may be appropriate for their business model and customer
665 base.
666

667 ### 3.1.7 Charter Question a7
668
669 *Is the Losing FOA still required? If yes, are any updates necessary?*
670
671 **Working Group Response:**
672
673 The working group extensively discussed the function and utility of the Losing FOA,
674 which the working group recommends re-naming the Transfer Confirmation, both in
675 initial deliberations leading up to publication of the Initial Report and in the context of
676 reviewing public comments on the Initial Report. Ultimately, the working group did not
677 reach agreement to eliminate or substantially change the Obligations of the Registrar of
678 Record described in Section I.A.3.1 - I.A.3.6 of the Transfer Policy, and therefore
679 anticipates that these requirements will largely remain in place with the minor
680 modifications presented in Recommendation 2.
681

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[5] 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.
[6] Ibid.

688 Early working group deliberations revealed that a number of working group members
689 supported eliminating the Transfer Confirmation in light of other working group
690 recommendations that sought to increase security and improve efficiency of the
691 transfer process. Those advocating for this approach raised the following points:
692
693 • The working group is recommending that the Registrar of Record must send a
694   Notification of TAC Issuance to the RNH when the TAC is issued and a
695   Notification of Transfer Completion to the RNH following completion of the
696   transfer. These notifications largely fulfill the notification function that is
697   currently provided by the Transfer Confirmation.
698 • It is not necessary to give the RNH an opportunity to confirm or deny the
699   transfer via the Transfer Confirmation, because the act of logging into the
700   control panel at the Registrar of Record in order to request the TAC is, in itself,
701   an indication of consent. If the registrant has a high-value domain, the registrant
702   should select a Registrar of Record that offers extra features and services to
703   protect the security of the account and domain transactions. It is outside of the
704   scope of the Transfer Policy to address Registrar account security.
705 • The registrant always has the opportunity to select a Registrar of Record who
706   conducts additional due diligence after the TAC is requested and before the
707   Registrar of Record issues the TAC. The working group has recommended that,
708   as is the case in the current Transfer Policy, the Registrar of Record must have up
709   to 5 days to issue the TAC. If notifications replace the Transfer Confirmation, and
710   the RNH selects a Registrar who takes extra time for due diligence, the RNH will
711   also have additional time to receive and respond to Notification of TAC Issuance,
712   allowing them to stop the transfer process if it is unwanted.
713 • The current Transfer Confirmation process can delay the transfer for up to an
714   additional five calendar days. By eliminating the Transfer Confirmation, the
715   working group reduces the overall maximum time of the transfer process,
716   making it possible to transfer a domain almost instantaneously, which is
717   beneficial for some registrants.
718 • The working group is recommending additional security features, which will
719   reduce the security risks associated with transfers. In particular, the working
720   group has recommended that the TAC must be generated on demand, reducing
721   the window of time in which the TAC is vulnerable to theft. In addition, the
722   recommended 30-day post-transfer lock helps to ensure that if a domain is
723   stolen, domain hopping will be slowed, allowing the Losing and Gaining
724   Registrars to work together to resolve the problem.
725 • Further, during its work in Phase 2, the working group could potentially
726   recommend a mechanism to more quickly reverse an unwanted transfer,
727   fulfilling the principle of being able to "reject" the transfer.
728 • In the current process, the Transfer Confirmation has limited utility in a common
729   attack scenario. Specifically, if an attacker obtains access to the control panel,
730   the attacker can change the recipient of the Transfer Confirmation to the

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747   attacker's own email address, thereby eliminating the utility of the Transfer
748   Confirmation.

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750   In line with the above points, the working group's Phase 1(a) Initial Report included a
751   recommendation to eliminate the Transfer Confirmation and replace it with a
752   Notification of TAC Issuance and a Notification of Transfer Completion. In its review of
753   public comments and subsequent deliberations, the working group extensively
754   discussed key concerns that were raised:

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755   • Domains are important and valuable assets. It is important for registrants to
756   have a genuine opportunity to approve or reject a transfer before the transfer
757   takes place. In some cases under the procedure recommended in the Initial
758   Report, the transfer will have already taken place by the time the registrant has
759   received the Notice of TAC Issuance and wants to take action to stop the

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760   transfer. This process takes agency away from the registrant. It increases the risk
761   of a domain being stolen without the knowledge of the registrant, in particular
762   where an unauthorized party has accessed the TAC to initiate a transfer that the
763   registrant doesn't want.
764   • Some working group members indicated that the working group could introduce
765   a "fast undo" process in Phase 2 to more quickly reverse an unauthorized
766   transfer. It is not yet clear if the working group will be able to obtain consensus
767   to recommend such a mechanism. Even if such a mechanism is recommended
768   and ultimately implemented, transfer reversal is less desirable than the ability to
769   reject a transfer before it occurs. Once the domain is transferred away, there has
770   been a disruption. The DNS has changed and service may have stopped. It
771   requires a higher level of effort to remedy the situation and more parties will
772   need to be involved.

773

774   While there was disagreement among working group members about the utility of the
775   Transfer Confirmation from a security perspective, it was understood that from a RNH
776   perspective, elimination of the Transfer Confirmation results in a sense among some
777   RNH's that they have lost an important element of agency in the process. Working
778   group members acknowledged that in many cases of theft, the email and/or Registrar
779   account is hacked, eliminating the value of the Transfer Confirmation, but this is not
780   true in every case. If the TAC is stolen once it has been generated, the Transfer
781   Confirmation can assist the RNH in stopping an unwanted transfer.

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783   Some working group members advocated for an alternative means to provide additional
784   agency to the registrant while reducing the overall maximum timeline of the transfer
785   process. Specifically, they proposed that the Registrar of Record must be required to
786   send a notification to the RNH once a TAC is requested. The RNH can respond to the
787   notice by either accepting or rejecting the release of the TAC. If there is no response by
788   a given period of time (a period of less than 5 days), the Registrar proceeds to issue the
789   TAC. Those advocating for this approach noted that the proposal provides notice and

798 opportunity to accept or reject at the moment the RNH is thinking about the transfer,
799 shortly after they have requested the TAC.

800
801 Those opposing the proposal noted the following concerns:
802 • The proposal can stop the initiation of a transfer but does not stop a transfer
803   that is pending. The TAC is vulnerable to theft once it is generated, and if the TAC
804   is stolen once created, the RNH does not have a way to NACK the transfer as it
805   does with the Transfer Confirmation.
806 • The proposal creates a need for system updates, process updates, and user
807   education and may not fully satisfy those who want to keep the Transfer
808   Confirmation. Therefore, the change is not worth the effort.
809
810 Ultimately, the working group did not come to agreement to pursue this proposal
811 further. As a default, the Transfer Confirmation will be maintained.
812

813 **Preliminary Recommendations:**
814
815 **Preliminary Recommendation 2:** The working group did not reach agreement to
816 eliminate or substantially change the Obligations of the Registrar of Record described in
817 Section I.A.3.1 - I.A.3.6 of the Transfer Policy. Therefore, the working group anticipates
818 that these requirements will largely remain in place. The working group recommends
819 the following minor modifications:
820 • The term "Transfer Confirmation" MUST be used in place of "Standardized Form
821   of Authorization (FOA)."
822 • The Transfer Confirmation language MUST include the Gaining Registrar's IANA
823   ID and a link to ICANN-maintained webpage listing accredited Registrars and
824   corresponding IANA IDs. If available, the name of the Gaining Registrar MAY also
825   be included.
826 • The Transfer Confirmation MUST be provided in English and the language of the
827   registration agreement and MAY also be provided in other languages.
828 • The timeframe of five (5) calendar days specified in section I.A.3.5 of the policy
829   MUST be expressed in both calendar days and hours: "Failure by the Registrar of
830   Record to respond within five (5) calendar days / 120 hours to a notification from
831   the Registry regarding a transfer request will result in a default "approval" of the
832   transfer."
833
834 **Rationale for Preliminary Recommendation 2**: Please see response to charter
835 question a7 for a summary of the working group's deliberations on the Transfer
836 Confirmation. Regarding the minor modifications recommended by the working
837 group:
838 • The term "Losing Form of Authorization" may be confusing to the RNH, and
839   therefore the working group recommends an update in terminology to
840   "Transfer Confirmation," which more accurately describes the function
841   that is served.

940

- With inclusion of the IANA ID in the Transfer Confirmation, the RNH can confirm that the Gaining Registrar matches the Registrar to whom the RNH intends to transfer to domain. If the pending transfer is not consistent with the RNH's intent, the IANA ID is an important data point to assist the RNH with investigating the issue.
- Providing the Transfer Confirmation in English and the language of the registration agreement improves accessibility for the RNH.
- Consistent with the other recommendations in this report, the working group recommends specifying timeframes in both calendar days and hours for greater clarity.

Preliminary Recommendation 3: The working group recommends that the Registrar of Record MUST send a "Notification of TAC Issuance"[8] to the RNH without undue delay but no later than 10 minutes after the Registrar of Record issues the TAC.[9] For the purposes of sending the notification, the Registrar of Record MUST use contact information as it was in the registration data at the time of the TAC request.

    3.1: This notification MUST be provided in English and in the language of the registration agreement and MAY also be provided in other languages.

    3.2: The following elements MUST be included in the "Notification of TAC Issuance":
- Domain name(s)
- Explanation that the TAC will enable the transfer of the domain name to another registrar
- Date and time that the TAC was issued and information about when the TAC will expire
- Instructions detailing how the RNH can take action if the request is invalid (how to invalidate the TAC)
- If the TAC has not been issued via another method of communication, this communication will include the TAC

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[8] The working group recognizes that this notification MAY be sent via email, SMS, or a secure messaging system determined by the Registrar. 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.

[9] The working group recognizes that from a security perspective, it is best for the "Notification of TAC Issuance" 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 Issuance" and the TAC together in a single communication.

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Preliminary Recommendation 2: The working group recommends eliminating from the Transfer Policy the requirement that the Registrar of Record send a Losing Form of Authorization.[7] This requirement is detailed in section I.A.3 of the Transfer Policy.¶

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Implementation Guidance on Recommendation 3: In cases where a customer uses a Privacy/Proxy service and the contact information associated with the underlying customer is known to the Registrar of Record, the Registrar of Record MAY send the notification directly to the underlying customer.

Rationale for Preliminary Recommendation 3: This recommendation seeks to ensure that the RNH consistently receives the necessary information with respect to an inter-Registrar transfer. If the RNH receives the notice and determines that the action on the account is unauthorized or unintended, the RNH may seek to invalidate the TAC before the transfer completes.

Preliminary Recommendation 4: The working group recommends that the Losing Registrar[10] MUST send a "Notification of Transfer Completion"[11] to the RNH without undue delay but no later than 24 hours after the transfer is completed. For the purposes of sending the notification, the Registrar of Record MUST use contact information as it was in the registration data at the time of the transfer request.

4.1: This notification MUST be provided in English and in the language of the registration agreement and MAY also be provided in other languages.

4.2: To the extent that multiple domains have been transferred to the same Gaining Registrar or to multiple Gaining Registrars at the same time, and the RNH listed in the Registration Data at the time of the transfer is the same for all domains, the Registrar of Record MAY consolidate the "Notifications of Transfer Completion" into a single notification.

4.3: The following elements MUST be included in the "Notification of Transfer Completion":
- Domain name(s)
- IANA ID(s) of Gaining Registrar(s) and link to ICANN-maintained webpage listing accredited Registrars and corresponding IANA IDs. If available, the name of the Gaining Registrar(s) may also be included.
- Text stating that the domain was transferred
- Date and time that the transfer was completed
- Instructions detailing how the RNH can take action if the transfer was invalid (how to initiate a reversal) and any deadlines by which the RNH must take action.

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[10] This is the Registrar of Record at the time of the transfer request.
[11] The footnote on Preliminary Recommendation 3 regarding the method by which notifications are sent equally applies to the "Notification of Transfer Completion."

Implementation Guidance on Recommendation 4: In cases where a customer uses a Privacy/Proxy service and the contact information associated with the underlying customer is known to the Registrar of Record, the Registrar of Record MAY send the notification directly to the underlying customer.

Rationale for Preliminary Recommendation 4: This recommendation seeks to ensure that the RNH consistently receives the necessary information with respect to an inter-Registrar transfer. If the RNH receives the notice and determines that the transfer is unauthorized or unintended, the RNH may seek the appropriate remedy.

Preliminary Recommendation xx: The Registry Operator MUST provide the Gaining Registrar's IANA ID to the Losing Registrar in the notification of a pending transfer request, which will enable the Losing Registrar to provide this information in the Transfer Confirmation and Notification of Transfer Completion.

Rationale for Preliminary Recommendation xx: Currently, not all Registry Operators use the Gaining Registrar's IANA ID when notifying a Losing Registrar of a pending transfer request. Instead, some Registry Operators use a separate, internal client ID that does not correspond to the IANA ID. This recommendation enables the Losing Registrar to consistently provide the IANA ID in the Transfer Confirmation and Notification of Transfer Completion. In the case of a legitimate transfer, this information allows the RNH to confirm that the desired action was completed as requested. If the transfer is not consistent with the RNH's intent, the IANA ID is an important data point to assist the RNH with investigating the issue.

3.1.8 Charter Question a8

Does the Contracted Parties House (CPH) Proposed Tech Ops Process represent a logical starting point for the future working group or policy body to start with? If so, does it provide sufficient security for registered name holders? If not, what updates should be considered?

Working Group Response:

The CPH Tech Ops Group, "agreed that the requirement to notify the Registrant about a transfer request should be mandatory. As general business practices of Registrars and individual transfer scenarios vary, the group concluded that such notification does not have to be an email, but rather may incorporate other means of more modern communication."[12]

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[12] Full text of the CPH Tech Ops proposal can be found in Annex B of the TPR Final Issue Report.

1132
1133   The working group agreed with Tech Ops that it is important to notify the RNH when a
1134   transfer is expected to take place and has recently taken place. The working group
1135   further supported the idea that given variations in Registrar business models and
1136   individual transfer scenarios, different secure means of communication may be
1137   appropriate for the provision of notifications.
1138

1139   ### 3.1.9 Charter Question a9
1140
1141   *Are there additional inter-Registrar transfer process proposals that should be considered*
1142   *in lieu of or in addition to the CPH TechOps Proposal? For example, should affirmative*
1143   *consent to the Losing FOA be considered as a measure of additional protection?*
1144
1145   **Working Group Response:**
1146
1147   The working group appreciates proposals received during the Public Comment period on
1148   the Phase 1(a) Initial Report and considered these proposals in its review of Public
1149   Comments. Please see Public Comment review working documents on the working
1150   group's wiki for additional details.
1151

1152   ### 3.2 Transfer Authorization Code/AuthInfo Code Management
1153
1154   For context on this topic and the associated charter questions, please see pages 15-19
1155   of the Final Issue Report.
1156

1157   ### 3.2.1 Charter Question b1
1158
1159   *Is AuthInfo Code still a secure method for inter-Registrar transfers? What evidence was*
1160   *used by the working group to make this determination?*
1161
1162   **Working Group Response:**
1163
1164   The working group agreed that it should first establish clarity around the function and
1165   definition of the AuthInfo Code and ensure that terminology is clear before addressing
1166   specific security requirements. The working group used the following text on ICANN.org
1167   as a starting point for discussion on the definition of the Transfer Authorization Code
1168   (TAC): "An Auth-Code (also called an Authorization Code, Auth-Info Code, or transfer
1169   code) is a code created by a Registrar to help identify the Registered Name Holder of a
1170   domain name in a generic top-level domain (gTLD). An Auth-Code is required for a
1171   Registered Name Holder to transfer a domain name from one Registrar to another." The
1172   working group agreed that the term "identify" is inappropriate in this context, because

the code does not verify identity in practice. Instead, the TAC is used to verify that the Registered Name Holder (RNH) requesting the transfer is the same RNH who holds the domain.

The working group considered that a number of different terms currently apply to the same concept, including AuthInfo Code, Auth-Info Code, Auth-Code, Authorization Code, and transfer code. None of these terms clearly describe the function of the code. The working group believes that it is clearer for all parties, and particularly the RNH, if a single term is used universally. The working group believes that "Transfer Authorization Code" (TAC) provides a straightforward description of the code's function, and therefore should serve as the standard term in place of the alternatives.

Regarding the security of the TAC, the working group agreed that metrics could support deliberations on charter question b1. In particular, working group members were interested to see if there has been a change in the number of unauthorized transfers following adoption of the Temporary Specification for gTLD Registration Data. ICANN's Contractual Compliance Department provided the working group with updated metrics regarding complaints received, which covered the periods both before and after the Temporary Specification went into effect.[13] Contractual Compliance subsequently shared additional metrics that included the "closure codes" associated with complaints about unauthorized transfers.[14] While the working group agreed that it is difficult to draw conclusions from the data, the working group noted that there was no notable increase in complaints following the date that the Temporary Specification went into effect.

The working group considered that in addition to examining metrics regarding past performance, it is important to consider future-state objectives for the TAC. The working group agreed that from this perspective, additional security features are appropriate to protect the RNH, drawing on elements of RFC 9154. In considering potential security enhancements, the working group considered the benefits of requiring these measures, while also taking into account usability considerations and operational impacts on contracted parties in implementing new requirements.

Preliminary Recommendations:

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[13]Available at:
https://community.icann.org/download/attachments/181307054/Compliance_Transfer%20Data_presented%2029%20June%202021.xlsx?version=1&modificationDate=1638449700087&api=v2
[14]Available at:
https://community.icann.org/download/attachments/181307054/Compliance_Unauthorized%20Transfer%20Data%20Aug%202020-Sept%202021_presented%209%20November%202021.xlsx?version=1&modificationDate=1638449975000&api=v2

Preliminary Recommendation 5: The working group recommends that the Transfer Policy and all related policies MUST use the term "Transfer Authorization Code (TAC)" in place of the currently-used term "AuthInfo Code" and related terms. This recommendation is for an update to terminology only and does not imply any other changes to the substance of the policies.

Implementation Guidance on Preliminary Recommendation 5: ICANN publications and webpages should also be updated to reflect the recommended terminology change described in Preliminary Recommendation 5.

> **Rationale for Preliminary Recommendation 5**: As discussed in the response to charter question b1, it is clearer for all parties, and particularly the RNH, if a single term is used universally. "Transfer Authorization Code" (TAC) provides a straightforward description of the code's function.

Preliminary Recommendation 6: The working group recommends that the Transfer Authorization Code MUST be defined as follows: "A Transfer Authorization Code (TAC) is a token created by the Registrar of Record and provided upon request to the RNH or their designated representative. The TAC is required for a domain name to be transferred from one Registrar to another Registrar and when presented authorizes the transfer."[16] Relevant policy language MUST be updated to be consistent with this definition.

- "Designated representative" means an individual or entity that the Registered Name Holder explicitly authorizes to request and obtain the TAC on their behalf. In the event of a dispute, the RNH's authority supersedes that of the designated representative.

> **Rationale for Preliminary Recommendation 6**: As noted in the response to charter question b1, this definition is a revision of a text included on the ICANN.org website, updated to make clear that the TAC's function is to verify that the Registered Name Holder (RNH) requesting the transfer is the same RNH who holds the domain. For the avoidance of doubt, the term "designated representative" introduced by the working group in Recommendation 6 is distinct from the concept of a "designated agent," which is defined in Transfer Policy Section I.A.1.2.

Preliminary Recommendation 7: The working group recommends that the minimum requirements for the composition of a TAC MUST be as specified in RFC 9154, including all successor standards, modifications or additions thereto relating to Secure Authorization Information for Transfer. The requirement in section 4.1 of RFC 9154 regarding the minimum bits of entropy (i.e., 128 bits) should be a MUST in the policy

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[16] Note: This definition draws on elements included in Preliminary Recommendation 9.

until a future RFC approved as "Internet Standards" (as opposed to Informational or Experimental standards) through the applicable IETF processes updates the security recommendation.

> **Rationale for Preliminary Recommendation 7**: The working group supports the statement in RFC 9154 section 4.1 that "For authorization information to be secure, it **MUST** be generated using a secure random value." Recommendation 7 brings requirements for the composition of the TAC in line with RFC 9154, including all successor standards, modifications or additions thereto relating to Secure Authorization Information for Transfer.

Preliminary Recommendation 8: The working group recommends that, at the time that the TAC is stored in the Registry system, the Registry MUST verify that the TAC meets the syntax requirements specified in Preliminary Recommendation 7.

> **Rationale for Preliminary Recommendation 8**: Registry verification provides a check on the randomness of the authorization information generated by the Registrar.

3.2.2 Charter Question b2

The Registrar is currently the authoritative holder of the AuthInfo Code. Should this be maintained, or should the Registry be the authoritative AuthInfo Code holder? Why?

Working Group Response:

In considering this charter question, the working group focused on evaluating and defining specific roles and responsibilities of Registries and Registrars in the transfer process, noting that each party has an important role to play in the transfer process. While some working group members expressed the view that Registry management of 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 must continue to generate the TAC, set the TAC in the Registry platform, and issue 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 and in addition, going forward, the Registry must verify that the TAC meets the syntax requirements specified in Preliminary Recommendation 7. The working group provided preliminary recommendations to improve security practices with respect to the TAC to be implemented at the Registry.

The working group has also recommended that the Registry enforce the 14-day validity of the TAC.

Preliminary Recommendations:

Preliminary Recommendation 9: The working group recommends that:

> **9.1**: The TAC MUST only be 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 store the TAC securely, at least according to the minimum standard set forth in RFC 9154 (or its successors).

> **Implementation Guidance for Recommendation 9.2**: RFC 9154 recommends using a strong one-way cryptographic hash with at least a 256-bit hash function, such as SHA-256 [FIPS-180-4], and with a per-authorization information random salt with at least 128 bits.[18]

> **9.3**: When the Registrar of Record issues the TAC to the RNH or their designated representative, the Registrar of Record MUST also provide information about when the TAC will expire.

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Commented [A1]: Is 9.3 a duplication of 3.2, which specifies that this information must be included in the Notification of TAC Issuance? If so, delete 9.3?

> **Rationale for Preliminary Recommendation 9**: Currently, it can be the case that a TAC exists and is stored over an extended period of time and therefore can be at risk of breach or theft, for example at the Registrar of Record or via an RNH's email account. This recommendation seeks to reduce the risk of unintended disclosure of the TAC by ensuring that the TAC is only generated at the point that it is needed to initiate an inter-Registrar transfer, reducing the risk of the TAC getting in the wrong hands once it is generated (Recommendation 9.1). This recommendation further protects against breach or theft at the Registry by ensuring that the Registry stores the TAC in a secure manner (Recommendation 9.2).

Preliminary Recommendation 10: The working group recommends that the Transfer Policy include the following requirement: Registry Operator MUST verify that the TAC provided by the Gaining Registrar is valid in order to accept an inter-Registrar transfer request.

Deleted: confirms the following provision of Appendix G: Supplemental Procedures to the Transfer Policy contained in the Temporary Specification for gTLD Registration Data: "4.

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Deleted: ," with terminology updates in accordance with other relevant recommendations

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[18] [FIPS-180-4] National Institute of Standards and Technology, U.S. Department of Commerce, "Secure Hash Standard, NIST Federal Information Processing Standards (FIPS) Publication 180-4", DOI10.6028/NIST.FIPS.180-4, August 2015, <https://csrc.nist.gov/publications/detail/fips/180/4/final>.

1358   **Rationale for Preliminary Recommendation 10**: This recommendation is
1359   consistent with Appendix G: Supplemental Procedures to the Transfer Policy
1360   contained in the Temporary Specification for gTLD Registration Data.
1361

1362   **Preliminary Recommendation 11:** The working group recommends that the TAC as
1363   created by the Registrar of Record according to Preliminary Recommendation 7, MUST
1364   be "one-time use." In other words, it MUST be used no more than once per domain
1365   name. The Registry Operator MUST reset the TAC to null[19] when it accepts a valid TAC
1366   from the Gaining Registrar.
1367

1368   **Rationale for Recommendation 11**: The one-time use principle limits the number
1369   of transactions that can be completed using a single password to one, reducing
1370   the damage that can be caused by a bad actor. The working group believes that it
1371   is good practice to manage the TAC following the one-time use principle.
1372

3.2.3 Charter Question b3

1373
1374
1375   *The Transfer Policy currently requires Registrars to provide the AuthInfo Code to the*
1376   *registrant within five [calendar] days of a request. Is this an appropriate Service Level*
1377   *Agreement (SLA) for the Registrar's provision of the AuthInfo Code, or does it need to be*
1378   *updated?*
1379

1380   **Working Group Response:**
1381

1382   The working group agreed that the Transfer Policy should continue to require Registrars
1383   to issue the TAC to the RNH or their designated representative within a specified period
1384   of time following a request. While some working group members felt that the standard
1385   time frame for issuance of the TAC should be shorter than five calendar days, working
1386   group members noted that exceptions may be necessary to accommodate specific
1387   circumstances. The working group did not identify a compelling reason to change the
1388   five-day response timeframe but believes that it is appropriate to update the policy
1389   language to highlight that five calendar days is the maximum and not the standard
1390   period in which the TAC is to be issued. The working group also agreed that it is more
1391   clear to express the time frame in hours rather than calendar days.
1392

1393   **Preliminary Recommendations:**
1394

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[19] In the context of this recommendation, "reset the TAC to null" is to have the opposite meaning of
setting the TAC. In other words, Recommendation 9.2 provides that the Registrar of Record sets the TAC
at the Registry; here, the Registry is reversing that action.

Sidebar deleted-text annotations:

Deleted: 15 February 20231 February 20231 February 20231 February 202326 January 202325 January 202319 January 202319 January 202318 January 202317 January 202316 January 20235 January 202321 December 2022

Deleted: clear un

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Deleted: the TAC as part of completing the successful transfer request…

Deleted: provide

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1402 **Preliminary Recommendation 12:** The working group confirms that the Transfer Policy
1403 MUST continue to require Registrars to set the TAC at the Registry and issue the TAC to
1404 the RNH or their designated representative within five calendar days of a request,
1405 although the working group recommends that the policy state the requirement as 120
1406 hours rather than 5 calendar days to reduce any risk of confusion. The working group
1407 further recommends that the policy MUST make clear that 120 hours is the maximum
1408 and not the standard period in which the TAC is to be issued.
1409
1410   **Rationale for Preliminary Recommendation 12**: As described in the response to
1411   charter question b3, the working group did not identify a compelling reason to
1412   change the five-day response time frame but believes that it is clearer to express
1413   the time frame in hours rather than calendar days. The working group
1414   recommends that the policy MUST make clear that 120 hours is the maximum and
1415   not the standard period in which the TAC is to be issued, in order to highlight that
1416   quicker turnaround is possible and desirable in many cases.
1417

3.2.4 Charter Question b4

1418
1419
1420 *The Transfer Policy does not currently require a standard Time to Live (TTL) for the*
1421 *AuthInfo Code. Should there be a standard Time to Live (TTL) for the AuthInfo Code? In*
1422 *other words, should the AuthInfo Code expire after a certain amount of time (hours,*
1423 *calendar days, etc.)?*
1424
1425 **Working Group Response:**
1426
1427 The working group clarified its understanding that the Time to Live (TTL) is the period of
1428 time that the TAC is valid once the TAC has been created. The working group noted that
1429 there are no existing policy requirements regarding TTL. The working group believes
1430 that it is good security practice to have a standard TTL for the TAC, because old, unused
1431 TACs are vulnerable to exploitation.
1432
1433 **Preliminary Recommendations:**
1434
1435 **Preliminary Recommendation 13:**
1436
1437 The working group recommends that:
1438
1439   **13.1**: The TAC MUST be valid for 14 calendar days / 336 hours from the time it is
1440   set at the Registry, enforced by the Registry.
1441

13.2: The Registrar of Record MAY reset the TAC to null[20] prior to the end of the 14th calendar day / 336 hours by agreement by the Registrar of Record and the RNH.

Rationale for Preliminary Recommendation 13: The purpose of the standard Time to Live (TTL) is to enforce security around unused TACs (e.g., requested/received but not used), in a situation where the TAC may be stored in a registrant's email or other communications storage. The working group arrived at the conclusion that the TAC TTL must be no more than 14 calendar days / 336 hours and notes that a 14-day / 336 hour period is appropriate in order to accommodate transfer-related business processes associated with different registrar models.

The working group extensively discussed whether the Registry or Registrar should enforce the 14-day TTL and requested community input on this question through public comment on the Phase 1A Initial Report. The working group recommends enforcement by the Registry for the following reasons:
- For accuracy: If the sponsoring Registrar is required to expire the TAC by updating it to null, there is a possibility that at the time when the TAC is set to expire, either the Registrar or Registry systems have an outage (or there is a communication interruption). This means that the TAC expiration would be delayed until the transaction could be completed, opening a window for possible usage of a TAC that the sponsoring Registrar had deemed expired.
- For consistency: Having a centralized approach at the Registry allows prospective Gaining Registrars to know that every TAC will be expired at 14 days / 336 hours regardless of the sponsoring/provisioning Registrar.
- For security: Every TAC in a Registry has a maximum lifetime that is enforced consistently. This prevents the existence of any long-lived TAC, which could be used as part of an unauthorized or unintended inter-Registrar transfer.

With respect to 13.2, the working group acknowledged that there may be a variety of circumstances in which the Registrar of Record and the Registered Name Holder may want to mutually agree to reset the TAC to NULL prior to the end of the 14th calendar day. The working group included this language to ensure that Registrars are permitted to do so under relevant circumstances.

3.2.5 Charter Question b5

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[20] Ibid.

1522   *Should the ability for registrants to request AuthInfo Codes in bulk be streamlined and*
1523   *codified? If so, should additional security measures be considered?*
1524
1525   **Working Group Response:**
1526
1527   As a general rule, the working group believes that one randomly generated TAC should
1528   be provided per domain name, because this is a good security practice (see Preliminary
1529   Recommendation 7). The Working Group recognizes that for cases where multiple
1530   domains are being transferred, it would be more convenient to have a streamlined
1531   approach for requesting and using TACs. Some working group members suggested a
1532   carveout to the standard TAC requirements that would allow use of the same TAC for
1533   multiple domains if specific additional requirements were met to ensure security of the
1534   transaction. The working group did not agree on specific conditions under which this
1535   should be possible. Therefore, the working group is not making any recommendations
1536   with respect to exceptions for multi-domain transfers.
1537

3.2.6 Charter Question b6

1538
1539
1540   *Does the CPH TechOps research provide a logical starting point for future policy work on*
1541   *AuthInfo Codes, or should other options be considered?*
1542
1543   **Working Group Response:**
1544
1545   The working group carefully reviewed the TechOps proposal[21] and considered input
1546   from those involved in development of the proposal. The working group appreciated the
1547   expertise and relevant experience of those who developed the proposal and therefore
1548   considered it a logical starting point for discussion. The working group agreed, however,
1549   that it is important to consider (i) the range of views and interests that may not have
1550   been represented in the development of the proposal, and (ii) any new information or
1551   interests that have come to light since the development of the proposal. Therefore, in
1552   developing its preliminary recommendations, the working group deliberated on each of
1553   the charter questions, taking into account both the relevant elements of the TechOps
1554   paper as well as all other available information and inputs, including proposals
1555   submitted during the Public Comment period on the Phase 1(a) Initial Report.
1556

3.2.7 Charter Question b7

1557
1558
1559   *Should required differentiated control panel access also be considered, i.e., the*
1560   *registered name holder is given greater access (including access to the auth code), and*

---

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

1563 *additional users, such as web developers would be given lower grade access in order to*
1564 *prevent domain name hijacking?*
1565
1566 **Working Group Response:**
1567
1568 The working group does not believe that there should be any new policy requirements
1569 in this regard.
1570

1571 ## 3.3 EPDP Phase 1, Recommendation 27, Wave 1 Report
1572
1573 For context on this topic and the associated charter questions, please see pages 52-56
1574 of the Final Issue Report.
1575

1576 ### 3.3.1 Charter Question c1
1577
1578 *How should the identified issues be addressed?*
1579
1580 **Working Group Response:**
1581
1582 The working group reviewed the Transfer Policy-related issues from Section 3.11 of the
1583 Wave 1 Report and noted seven (7) of the ten (10) "key issues" were relevant to the
1584 current phase (Phase 1(a)) of its work.[22] The working group reviewed and discussed
1585 these seven issues and has provided a response to each issue. The detailed responses
1586 can be found in Annex D of this report.
1587
1588 **Preliminary Recommendations:**
1589
1590 **Preliminary Recommendation 14:** The working group recommends the following
1591 specific terminology updates to the Transfer Policy:
1592 (i) The term "Whois data" SHALL have the same meaning as "Registration Data".

1593 (ii) The term "Whois details" SHALL have the same meaning as "Registration Data".

1594 (iii) The term "Publicly accessible Whois" SHALL have the same meaning as "RDDS".

1595 (iv) The term "Whois" SHALL have the same meaning as "RDDS".

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[22] 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.

1597 For the avoidance of doubt, the terms referenced in above in Recommendation 14 (i) -
1598 (iv) are intended to correspond to the definitions in the Registry Agreement ("RA") and
1599 the Registrar Accreditation Agreement ("RAA"), as appropriate. In the event of any
1600 inconsistency, the RA/RAA definitions, if updated, will supersede. The working group
1601 also recommends that the outdated terms should be replaced with the updated terms,
1602 e.g., all references to "Whois Data" should be replaced with the term "Registration
1603 Data," etc.

1604

1605   **Rationale for Preliminary Recommendation 14:** This recommendation is
1606   consistent with the EPDP Team's Phase 1 Recommendation 24. The working group
1607   additionally notes that for purposes of the Transfer Policy, Registration Data
1608   means the contact data collected by a Registrar from a legal or natural person in
1609   conjunction with the registration of a domain name. It is not meant to include
1610   additional customer data such as credit card details and email correspondence.

1611

1612 **Preliminary Recommendation 15:** The working group recommends removing any
1613 reference to an "Administrative Contact" or "Transfer Contact" in the Transfer Policy
1614 and replacing it with "Registered Name Holder" unless specifically indicated.

1615

1616   **Rationale for Preliminary Recommendation 15:** Under the upcoming Registration
1617   Data Policy, Administrative Contact data is no longer required to be collected by
1618   the Registrar, and therefore cannot be relied upon for Transfer Policy
1619   requirements. Accordingly, the Registered Name Holder would be the only
1620   authorized transfer contact.

1621

1622 3.3.2 Charter Question c2

1623

1624 *Can the FOA-related Transfer Policy issues (identified in paragraphs 5 and 9 of Wave 1*
1625 *Report), as well as the proposed updates to the Gaining and Losing FOAs, be discussed*
1626 *and reviewed during the review of FOAs?*

1627

1628 **Working Group Response:**

1629

1630 As noted above, the working group reviewed the seven key issues from Section 3.11 of
1631 the Wave 1 Report that are directly related to Phase 1(a) of its work, including the issues
1632 related to the Gaining and Losing FOAs. The working group determined these specific
1633 issues are in scope for it to address during Phase 1(a) and discussed and reviewed these
1634 issues during its plenary meetings. For the detailed responses on the key issues, please
1635 refer to Annex D of this report.

1636

1637 The working group noted many key issues alluded to terminology inconsistencies, which
1638 are the direct result of the EPDP Phase 1 recommendations. For example, EPDP Phase 1,
1639 Recommendation #5 provides an updated list of data elements to be collected by

1640   Registrars. Notably, the administrative contact field, which was a required data field
1641   under the 2013 RAA, is no longer a required data element for Registrar collection and
1642   subsequent processing. Because the administrative contact field is referenced many
1643   times within the Transfer Policy, the working group noted those references should be
1644   removed.[23] Similarly, the working group observed that the multiple references to
1645   "Whois" need to be updated.
1646

3.4 Denying (NACKing) Transfers

1647
1648

1649   For context on this topic and the associated charter questions, please see pages 43-48
1650   of the Final Issue Report.
1651

3.4.1 Charter Question h1

1652
1653
1654   *Are the current reasons for denying or NACKing a transfer sufficiently clear? Should*
1655   *additional reasons be considered? For instance, ICANN Contractual Compliance has*
1656   *observed difficulties from Registrars tying transfer denials involving domain names*
1657   *suspended for abusive activities to the denial instances contemplated by the Transfer*
1658   *Policy; or should any reasons be removed?*
1659
1660   **Working Group Response:**
1661
1662   The working group conducted a thorough review of the reasons for denying or NACKing
1663   a transfer and has provided a series of preliminary recommendations detailed below.
1664   Please see the rationale for each proposed change for additional information about why
1665   these updates are being recommended.
1666
1667   While discussing sections I.A.3.7 through I.A.3.9 of the Transfer Policy, the working
1668   group spent a significant among of time considering I.A.3.7.5 and I.A.3.7.6 and the fact
1669   that in some cases, a domain is locked against inter-Registrar transfer for 60 days
1670   following the registration of the domain name or the transfer of the domain name to a
1671   new Registrar. Requirements regarding post-registration and post-transfer locks appear
1672   in some Registry Agreements and are reflected in corresponding Registry-Registrar
1673   Agreements. This practice is neither required nor prohibited in the Transfer Policy and is
1674   applied inconsistently across the industry.
1675
1676   The working group considered that this inconsistent practice may cause confusion
1677   among registrants and may lead to poor registrant experience. The working group

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

1685   supported establishing a standard set of requirements that apply across the industry.
1686   While some members also supported opportunities for opt-outs or flexibility in the
1687   requirements (for example a minimum lock period with an option to implement a longer
1688   lock period), the working group ultimately agreed that consistency needs to be
1689   maintained.
1690
1691   In the course of deliberations, the working group discussed three possible time periods
1692   for post-registration and post-transfer locks:[24] 10 days, 30 days, and 60 days. Working
1693   group members supported maintaining consistency between the period that a transfer
1694   is prohibited following registration and following inter-Registrar transfer. Some working
1695   group members have advocated for establishing a "fast undo" process along the lines of
1696   the Expedited Transfer Reverse Process (ETRP) considered in Inter-Registrar Transfer
1697   Policy (IRTP) Part B Policy Development Process. The IRTP Part B Working Group
1698   ultimately did not adopt the ETRP proposal. "Fast undo" discussions will continue in
1699   Phase 2 of the Transfer Policy Review PDP, and the working group has not yet
1700   considered this topic in depth. At this stage, some working group members noted that if
1701   a "fast undo" process is ultimately adopted, the period for which a domain is eligible for
1702   "fast undo" following an inter-Registrar transfer should likely correspond to the lock
1703   periods, and should be sufficiently long to identify the need to invoke the "fast undo"
1704   process.
1705
1706   **Preliminary Recommendations:**
1707
1708   **Preliminary Recommendation 16**: The Registrar MUST restrict the RNH from
1709   transferring a domain name to a new Registrar within 30 calendar days /720 hours of
1710   the initial registration date.[25] To the extent that a Registry and/or Registrar has an
1711   existing policy and/or practice of restricting the RNH from transferring a domain name
1712   to a new Registrar for a different period of time following initial registration, all policies
1713   and practices MUST be updated to be consistent with this new requirement.[26]
1714
1715
1716   **Rationale for Preliminary Recommendation 16**: The working group believes that a
1717   single requirement across the industry will result in a better experience for

---

[24] 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.

[25] The initial registration date referenced in this recommendation corresponds to the Creation Date in the RDDS.

[26] For the avoidance of doubt, this includes, but is not limited to, a 60-day post-creation lock currently specified in some Registry-Registrar Agreements (RRAs). Preliminary Recommendation 16 seeks to standardize the inter-Registrar transfer restriction period to 30 days across all gTLDs. Accordingly, an RRA or registration agreement that specifies a period other than 30 days would need to be amended pursuant to this recommendation, as a 60-day post-creation lock (or period other than 30 days) would no longer be permitted under the Transfer Policy.

registrants. The working group recommends that 30 days is the appropriate period
for this requirement because:
- It provides a window of opportunity to identify issues associated with
  credit card payments, including unauthorized use of a credit card. This may
  assist with addressing criminal activity and deterring fraud.
- It provides a window of opportunity for a complainant to file a Uniform
  Domain Name Dispute Resolution Policy (UDRP) proceeding without the
  domain being transferred to a new registrar. Once the proceeding is
  underway, the domain will be locked in relation to the dispute.
- For registrants who legitimately want to transfer a domain shortly after
  registration, the working group believes that 30 days is a reasonable period
  of time to wait.

Preliminary Recommendation 17: The Registrar MUST restrict the RNH from
transferring a domain name to a new Registrar within 30 calendar days / 720 hours of
the completion of an inter-Registrar transfer. To the extent that a Registry and/or
Registrar has an existing policy and/or practice of restricting the RNH from transferring a
domain name to a new Registrar for a different period of time following an inter-
Registrar transfer, all policies and practices MUST be updated to be consistent with this
new requirement.[27]

    Rationale for Preliminary Recommendation 17: The working group believes that a
single requirement across the industry will result in a better experience for
registrants and will also consistently prevent the transfer of a domain multiple
times in rapid succession, a practice associated with domain theft. The working
group recommends that 30 days is the appropriate period for this requirement
because:
- It provides a window of opportunity to identify issues associated with
  credit card payments, including unauthorized use of a credit card. This may
  assist with addressing criminal activity and deterring fraud.
- For registrants who legitimately want to transfer a domain again shortly
  after an inter-registrar transfer has taken place, 30 days is a reasonable
  period of time to wait.

Preliminary Recommendation 18: I.A.3.7 of the Transfer Policy currently reads, "Upon
denying a transfer request for any of the following reasons, the Registrar of Record must
provide the Registered Name Holder and the potential Gaining Registrar with the reason
for denial. The Registrar of Record **MAY** deny a transfer request only in the following
specific instances:" The working group recommends the following revision, in bold, to

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[27] Idem.

1758   the first sentence: "Upon denying a transfer request for any of the following reasons,
1759   the Registrar of Record must provide the Registered Name Holder and**, upon request,**
1760   **the potential Gaining Registrar with the reason for denial.**" The working group further
1761   recommends expressing the two sentences of this provision as two distinct provisions of
1762   the policy.
1763
1764   **Rationale for Recommendation 18**: The addition of the words "upon request" to
1765   the first sentence is intended to clarify that while the Registrar of Record always
1766   provides the reason for denial to the RNH, the Registrar of Record only provides
1767   the reason for denial to the Gaining Registrar upon request. There is no
1768   automated process to provide the reason for denial to the Gaining Registrar. This
1769   is currently the case and is expected to continue to be the case in the future. The
1770   two sentences of I.A.3.7 express two distinct concepts and therefore should be
1771   separated into two different provisions.
1772
1773   **Preliminary Recommendation 19**: The working group recommends revising the
1774   following reasons that the Registrar of Record **MAY** deny a transfer request as follows:
1775

Reference	Current Text	Revision	Rationale
I.A.3.7.1	Evidence of fraud.	Evidence of **(a)** fraud **or (b) the domain presents an active DNS Security Threat as defined here: https://www.icann.org/dns-security-threat.**	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 considered several possible revisions to I.A.3.7.1, including those submitted though public comment on the Phase 1(a) Initial Report, to appropriately address the issue identified while ensuring that the text is clear and narrowly-tailored. The working group wanted to avoid recommending broad language that might enable a registrar to either a) prevent a transfer arbitrarily or b) prevent an RNH from transferring a domain from a jurisdiction where certain content or activity is illegal or restricted to another jurisdiction where that same content or activity is considered legitimate speech. The working group's proposed revision seeks to strike this balance. The WG intentionally points to an ICANN-maintained webpage in the text to allow for changes in the specific threats

			that may be considered a DNS Security Threat in the ICANN context.
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. | Nonpayment 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. |

1784
1785 **Preliminary Recommendation 20**: The working group recommends changing the
1786 following reasons that the Registrar of Record currently **MAY** deny a transfer into
1787 reasons that the Registrar of Record **MUST** deny a transfer and revising the text as
1788 follows:
1789

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	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	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.

	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.	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.	
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 17, 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.

1790
1791   **Preliminary Recommendation 21**: The working group recommends revising the reasons
1792   that the Registrar of Record **MUST** deny a transfer request as follows:
1793

Reference	Current Text	Revision	Rationale
I.A.3.8.1	A pending UDRP proceeding that the Registrar has been informed of.	A ~~p~~Pending 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 Provider in accordance with the URS Procedure**.	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 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.

1794
1795 **Preliminary Recommendation 22**: The working group recommends changing the
1796 following reasons that the Registrar of Record currently **MAY NOT** deny a transfer into
1797 reasons that the Registrar of Record **MUST NOT** deny a transfer and revising the text as
1798 follows:
1799

Reference	Current Text	Revision	Rationale
I.A.3.9.1	Nonpayment for a pending or future registration period.	Implementation Guidance Regarding the Auto-Renew Grace Period: 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** Ddomain 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	Domain name registration period time constraints, other than as defined in I.A.3.7.5	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

	transfer, or during the 60-day lock following a Change of Registrant pursuant to Section II.C.2.	and I.A.3.7.6[28] ~~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.	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.

Additional Topics Discussed

Transfer Fees

In the course of discussing the topic of Denying (NACKing) Transfers, the working group considered whether it is appropriate to make a recommendation with respect to transfer fees, a topic that NCSG representatives raised in working group deliberations, and also a subject that was raised in public comments on the Phase 1(a) Initial Report. The working group noted that some Registrars charge the RNH a fee for transferring a domain away to another Registrar. The Transfer Policy does not prohibit such fees.

From one perspective, transfer fees can be burdensome, particularly for non-commercial applicants, and should be prohibited or limited. From another perspective, there are scenarios where such fees correspond to value-added services from the Registrar, and therefore the fees are appropriate. Further from this perspective, regulating fees charged by Registrars is typically outside the scope of GNSO policy development.

The working group recalled that the Transfer Policy does not contain any provisions allowing the Registrar to deny a transfer for non-payment of transfer fees, and therefore in practice, these fees are not a barrier to transfer. The working group also

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

noted that in Preliminary Recommendations 19 and 22, the working group has recommended clarifications to language specifying when a Registrar may and must not deny a transfer in relation to non-payment of registration fees.

Ultimately, the working group did not come to agreement to make recommendations on this topic, noting that it is important for Registrants to carefully review the registration agreement, which discloses any fees associated with transferring the domain to a new Registrar.

Sanctions

In working group deliberations and in public comment, the NCSG raised concerns that ordinary non-commercial registrants who are based in sanctioned countries or serving customers in sanctioned countries are sometimes prevented from transferring domains to a new Registrar, even in cases where the Registrar is not legally obligated to prevent the transfer under applicable law. In other cases, the RNH is given an insufficient notice period to find a new Registrar before the registration agreement is terminated. The NCSG requested that the working group consider whether these issues are in scope of the PDP.

The working group discussed the fact that Registrars are obligated to comply with national law and that it is up to each Registrar to determine how to do so. The working group considered that the issue of sanctions impacts many elements of the domain name lifecycle, including domain creation, renewal, suspension, and termination. To address this topic in isolation in the context of transfers could result in a fragmented approach to the issues presented. To the extent that the concerns are addressed through policy development, the working group believes that they should be addressed holistically.

The working group further noted that WS2 implementation is ongoing, which includes work related to specific concerns around sanctions. In particular, WS2 recommendation 4.1.3 recommends that ICANN clarify to Registrars "that the mere existence of their RAA with ICANN does not cause them to be required to comply with OFAC sanctions. ICANN should also explore various tools to remind registrars to understand the applicable laws under which they operate and to accurately reflect those laws in their customer relationships."[29] The working group understands that the implementation of this recommendation may reduce the risk of Registrar over-compliance.

3.4.2 Charter Question h2

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[29] https://www.icann.org/en/system/files/files/ccwg-acct-ws2-final-24jun18-en.pdf

1862 *Should additional guidance around cases subject to a UDRP decision be provided to*
1863 *ensure consistent treatment by all Registrars? If so, is this something that should be*
1864 *considered by the RPMs PDP Working Group's review of the UDRP, or should it be*
1865 *conducted within a Transfer Policy PDP?*
1866
1867 **Working Group Response:**
1868
1869 The working group reviewed the World Intellectual Property Organization's (WIPO)
1870 detailed comment in response to the Transfer Policy Status Report and has noted two
1871 concerns involving a UDRP proceeding vis-à-vis the Transfer Policy. Specifically, WIPO
1872 has noted issues related to: (i) the locking of a domain name subject to a UDRP
1873 proceeding (in order to prevent an inter-Registrar transfer during the pendency of the
1874 proceeding),[30] and (ii) the implementation of a UDRP Panel's order to transfer a domain
1875 name to a complainant.[31]
1876
1877 Domain Name Locking
1878
1879 UDRP Rule 4(b) provides, in part, "Within two (2) business days of receiving the
1880 Provider's verification request, the Registrar shall [. . .] confirm that a Lock[32] of the
1881 domain name has been applied. [. . .] The Lock shall remain in place through the
1882 remaining Pendency of the UDRP proceeding. [. . .]." Additionally, Paragraph I.A.3.8.1
1883 of the Transfer Policy requires registrars to deny any requests for inter-registrar
1884 transfers during "a pending UDRP proceeding that the Registrar has been informed of."
1885
1886 Within its preliminary recommendations, the working group has proposed to update the
1887 current Transfer Policy language to:
1888
1889 "The Registrar of Record MUST deny a transfer request in the following circumstances:
1890   • Pending UDRP proceeding that the Registrar has been notified of by the Provider
1891   in accordance with the UDRP Rules."
1892
1893 The working group is proposing a slight refinement to the current text in an effort to
1894 clarify that Registrars must deny inter-Registrar transfer requests that are received after
1895 a Registrar has been notified by a UDRP Provider of a UDRP Proceeding in accordance
1896 with the UDRP Rules.
1897

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[30] 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.
[31] For specific policy requirements, please see UDRP Section 4(i), 4(k), UDRP Rule 16(a).
[32] 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."

1898   In response to WIPO's related concern that "the ambiguity associated with 'locking' a
1899   domain name has resulted in many improper domain name transfers," the working
1900   group notes that the definition of Locking is part of the UDRP Rules, and, accordingly,
1901   appears out of scope for this working group to address. The working group does note,
1902   though, that the proposed updates to the Transfer Policy endeavor to make clear that
1903   Registrars are forbidden from implementing inter-Registrar transfer requests received
1904   following a notification from a UDRP Provider of a pending UDRP proceeding.
1905
1906   In the event a Registrar mistakenly or purposefully effects an inter-Registrar transfer
1907   during the pendency of a UDRP proceeding, this would be a clear violation of the
1908   Transfer Policy and should be referred to ICANN org Contractual Compliance for review.
1909   The working group will flag the definitional issue of "locking" with the Rights Protection
1910   Mechanisms (RPMs) Phase 2 Working Group, who will be closely reviewing the UDRP,
1911   and will be in a better position to determine if updates are needed.
1912
1913   Implementation of UDRP Panel Decisions
1914
1915   The working group also discussed WIPO's noted concern regarding the reported refusal
1916   of some Registrars to effect a UDRP Panel's decision to transfer a disputed domain
1917   name(s) to the Complainant.
1918
1919   Paragraph 4(i) of the UDRP provides that a UDRP Complainant may request the
1920   following remedies in its UDRP Complaint, "the cancellation of [a disputed] domain
1921   name or the *transfer* of [a disputed] domain name registration to the complainant."
1922   (emphasis added). Paragraph 4(k) goes on to provide, in part, "if an Administrative Panel
1923   decides that [the disputed] domain name registration should be canceled or transferred,
1924   [the Registrar of Record] will wait ten (10) business days [. . .] before *implementing* that
1925   decision [to cancel or transfer the disputed domain name]." (emphasis added)
1926
1927   Registrar representatives within the working group noted various methods their
1928   companies use to implement UDRP decisions, including, for example, providing the
1929   AuthInfo Code to the Complainant to effect the inter-Registrar transfer, setting up an
1930   account for the Complainant and transferring the name to the new account, et. al. The
1931   working group discussed that so long as the Registrar of Record effects the Panel's
1932   decision by allowing transfer of the domain name, the Registrar would be in compliance
1933   with the UDRP, and the working group was reluctant to recommend specific
1934   implementation restrictions.
1935
1936   The working group noted that a Registrar refusal to implement a UDRP Panel's decision
1937   to cancel or transfer the disputed domain name to the Complainant, absent official
1938   documentation of a court proceeding,[33] would be a violation of the UDRP, and,

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[33] See UDRP, Paragraph 4(k).

accordingly, should be referred to ICANN org Contractual Compliance for review. The working group noted that it will refer this reported issue of UDRP decision implementation to the RPMs Phase 2 Working Group, as the working group believed the specific implementation around UDRP decisions to be out of scope for the Transfer Policy.

3.4.3 Additional Topic Recommended by SSAC

In its submission providing early input to the PDP, the SSAC recommended that the working group address the issue of ensuring DNSSEC operational continuity in the transfer of DNS service:

> *When a registrant bundles their DNS service with their registration, then it is essential that the transfer of DNS service be coordinated between the DNS service providers (who are most often the registrar when services are bundled) in order to ensure there is no discontinuity in DNS resolution (i.e., the registrant does not lose the ability to use their domain name).*
>
> *When the domain name is DNSSEC-signed in the bundled scenario, there is an additional risk of failure to validate if the transfer is not properly coordinated. Best practice security principles would ordinarily treat a security failure more harshly than a non-existent domain, the consequences of which will vary by application.*
>
> *These risks are substantially reduced during a registration transfer if a registrant uses a third party DNS service provider, one who is independent of the registration service provider. It is important to note that these risks are not specific to registration transfers; they are present whenever there is a change in DNS service providers.*
>
> *The SSAC recommends the Transfer Policy Review Team consider these concerns and seek the necessary enhancements to the current process that will ensure a secure, stable, and resilient transfer solution in the best interest of the registrant.*

The working group noted that this topic was not included in the Final Issue Report or the working group charter. While the working group acknowledges that it is an important subject area for additional work, the working group agreed that it is outside the scope of this PDP and is better addressed in another forum.

1979

4 Next Steps

1981

This Initial Report will be posted for public comment for 42 days. The working group will
review the public comments received on this Initial Report and consider whether any
changes need to be made to its Phase 1(a) recommendations. The working group will
complete Phase 1(b) of its work, including a Phase 1(b) Initial Report followed by a
public comment period on the Phase 1(b) Initial Report. The working group will finalize
all Phase 1 recommendations in a Final Report to be sent to the GNSO Council for
review. If adopted by the GNSO Council, the Final Report would then be forwarded to
the ICANN Board of Directors for its consideration and, potentially, approval as an
ICANN Consensus Policy.

Following a charter review process, Phase 2 of the PDP will commence.

Annex A - Background

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.

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

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

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

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

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

2039   d.   Transfer Emergency Action Contact ("TEAC")
2040   e.   Transfer Dispute Resolution Policy ("TDRP")
2041   f.   Reversing/NACKing Transfers
2042   g.   ICANN-Approved Transfers
2043   h.   EPDP Phase 1, Recommendation 27, Wave 1 Report
2044
2045   On 18 February 2021, The GNSO Council passed a resolution to initiate a two-phased
2046   PDP to review the Transfer Policy using the approach recommended in the Final Issue
2047   Report:
2048
2049   •   Phase 1(a): Form of Authorization (including EPDP Phase 1, Recommendation 27,
2050   Wave 1 FOA issues) and AuthInfo Codes
2051   •   Phase 1(b): Change of Registrant (including EPDP Phase 1, Recommendation 27,
2052   Wave 1 Change of Registrant issues)
2053   •   Phase 2: Transfer Emergency Action Contact and reversing inter-Registrar
2054   transfers, Transfer Dispute Resolution Policy (including EPDP Phase 1,
2055   Recommendation 27, Wave 1 TDRP issues), Denying (NACKing) transfers, ICANN-
2056   approved transfers
2057
2058   The topic of denying (NACKing) transfers was later moved to Phase 1(a) by Project
2059   Change Request to ensure that the working group could examine all elements of the
2060   security model for domain name transfers in a holistic manner as part of its Phase 1
2061   deliberations.
2062
2063   A small group of Councilors reviewed the draft charter included in the Final Issue Report
2064   and finalized the document. The charter was approved by Council on 24 March 2021.
2065
2066   The Phase 1(a) working group held its first meeting on 14 May 2021.
2067

Annex B - Working Group Membership and Attendance

The Working Group held its first meeting in April 2021. Recordings and transcripts of the group's discussions can be found on its wiki space. It has conducted its work primarily through weekly conference calls, in addition to email exchanges on its mailing list.

As instructed by the GNSO Council, the Working Group prepared a work plan, which it reviewed on a regular basis. The Working Group Chair and the GNSO Council Liaison to the Working Group also provided regular reports to the GNSO Council regarding the status and progress of the group's work. Details of the project schedule, attendance and action items can be found in the monthly project packages.

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

Plenary Meetings:
- 50 Plenary calls (w/ 4 cancelled) for 68.5 call hours for a total of 1506.0 person hours
- 81.4% total participation rate

Small Team Meetings:
- 8 Small team calls for 8.0 call hours for a total of 78.0 person hours
- 100.0% total participation rate
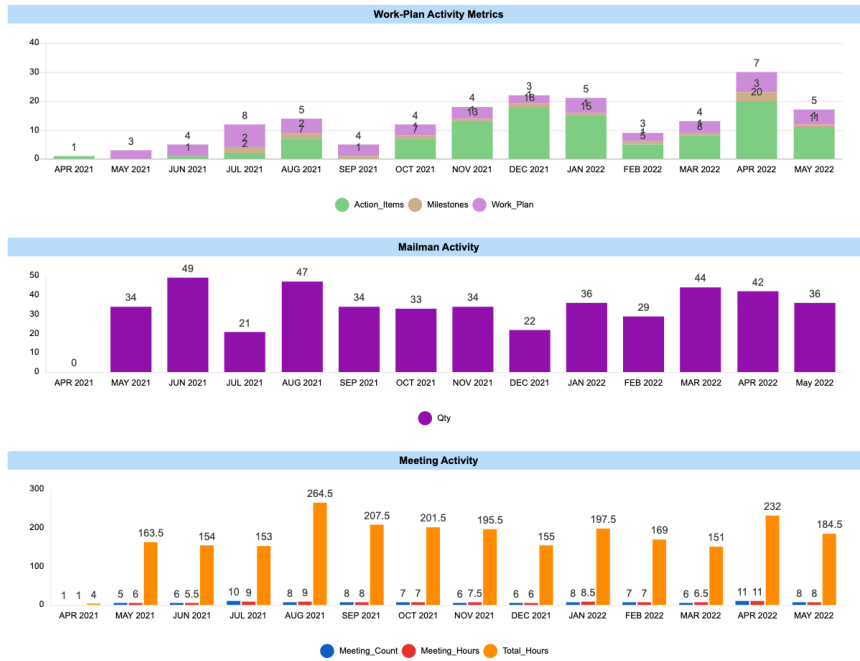
Leadership Meetings:
- 49 Leadership calls (w/6 cancelled) for 23.0 call hours for a total of 212.0 person hours

2098   **Working Group Activity Metrics:**

Work-Plan Activity Metrics

Action_Items   Milestones   Work_Plan

Mailman Activity

Qty

Meeting Activity

Meeting_Count   Meeting_Hours   Total_Hours

2099
2100
2101
2102

2103   The Members of the Working Group are:

Represented Group	SOI	Start Date	Depart Date	Attended %	Role
At-Large Advisory Committee (ALAC)				**73.9%**	
Nanghaka Daniel Khauka	SOI	5/4/2021		69.6%	
Steinar Grøtterød	SOI	5/5/2021		78.3%	
Commercial Business Users Constituency (BC)				**91.3%**	
Zak Muscovitch	SOI	4/23/2021		91.3%	
GNSO Council				**86.4%**	
Gregory DiBiase	SOI	6/4/2021		71.4%	Liaison
Roger Carney	SOI	4/23/2021		100.0%	Chair
Independent				**23.9%**	
Steve Crocker	SOI	4/26/2021		23.9%	
Intellectual Property Constituency (IPC)				**32.6%**	
Mike Rodenbaugh	SOI	4/21/2021		47.8%	
Salvador Camacho Hernandez	SOI	4/26/2021		17.4%	
Internet Service Providers and Connectivity Providers Constituency (ISPCP)				**84.8%**	
John Woodworth	SOI	4/14/2021		84.8%	
Non-Commercial Stakeholder Group (NCSG)				**53.5%**	
Farzaneh Badiei	SOI	6/1/2021		37.2%	
Wisdom Donkor	SOI	6/1/2021		69.8%	
Registrar Stakeholder Group (RrSG)				**88.7%**	
Antonia Nan Chu	SOI	5/6/2021		97.8%	
Catherine Merdinger	SOI	4/27/2021		80.4%	
Crystal Ondo	SOI	4/23/2021		76.1%	
Eric Rokobauer	SOI	4/26/2021		95.6%	
Keiron Tobin	SOI	6/7/2021		90.5%	
Owen Smigelski	SOI	4/27/2021		87.0%	
Prudence Malinki	SOI	4/27/2021		97.8%	
Richard Merdinger	SOI	5/5/2021	6/7/2021	100.0%	
Sarah Wyld	SOI	4/23/2021		87.0%	
Theo Geurts	SOI	4/23/2021		89.1%	
Thomas Keller	SOI	4/26/2021	9/27/2021	56.3%	
Volker Greimann	SOI	4/24/2021		97.4%	
Registry Stakeholder Group (RySG)				**82.1%**	
James Galvin	SOI	4/27/2021		80.4%	
Richard Wilhelm	SOI	3/4/2022		90.0%	
Totals:				**75.8%**	

2104
2105
2106

2107   The Alternates of the Working Group are:

Represented Group	SOI	Start Date	Depart Date	Attended %	Role
At-Large Advisory Committee (ALAC)				**90.7%**	
Lutz Donnerhacke	SOI	5/8/2021		89.7%	
Raymond Mamattah	SOI	5/4/2021		92.0%	
Commercial Business Users Constituency (BC)				**100.0%**	
Arinola Akinyemi	SOI	8/12/2021		100.0%	
Non-Commercial Stakeholder Group (NCSG)				**71.4%**	
Akinremi Peter Taiwo	SOI	6/2/2021		71.4%	
Registrar Stakeholder Group (RrSG)				**97.1%**	
Andrew Reberry				0.0%	
Arnaud Wittersheim	SOI	5/5/2021		96.7%	
Essie Musailov	SOI	4/23/2021		100.0%	
Jacques Blanc	SOI	4/29/2021		66.7%	
Jody Kolker	SOI	5/7/2021		100.0%	
Jothan Frakes	SOI	4/23/2021		100.0%	
Min Feng	SOI	4/26/2021		50.0%	
Pam Little	SOI	4/26/2021		50.0%	
Richard Brown	SOI	4/26/2021		100.0%	
Registry Stakeholder Group (RySG)				**97.0%**	
Beth Bacon	SOI	5/4/2021		97.0%	
Totals:				**95.8%**	

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2109   There are a total of 33 Observers to the Working group.

2110
2111   ICANN org Policy Staff Support for the Working Group:

Represented Group	SOI	Start Date	Depart Date	Attended %	Role
Internet Corporation for Assigned Names & Numbers (ICANN)					
Berry Cobb					
Caitlin Tubergen					
Devan Reed					
Emily Barabas					
Holida Yanik					
Isabelle Colas					
Julie Bisland					
Julie Hedlund					
Michelle DeSmyter					
Nathalie Peregrine					
Terri Agnew					

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.

2137 ## Annex D – EPDP Phase 1, Recommendation 27, Wave 1 Analysis

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2139   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 the working group's response to charter question a1. With respect to the Losing FOA, the working group is recommending to retain the Losing FOA requirements with minor modifications, although the working group is recommending that the term "Transfer Confirmation" is used in place of the term Losing FOA. For further information, please see Preliminary Recommendation 2.

	(covered in section I.A.3) is still achievable as the registrar does not need to rely on publicly available data.	
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 confirm that the Prior Registrant and/or their respective Designated Agents have explicitly consented to the Change of	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.

	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". (b4) The term "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.	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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Annex E – Proposed Transfer Policy Swim Lane Diagram

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2155 This swim lane diagram should be reviewed alongside a detailed review of each the proposed recommendations listed in this report.
2156 It attempts to outline the beginning-to-end process of executing the transfer of a domain by the roles that are played within the
2157 transaction. Each spot that coincides with a working group recommendation will contain a small callout to the relevant charter
2158 question(s) and recommendation number(s).

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2160 A full PDF version of this swim lane diagram can be found on the working group's wiki space.

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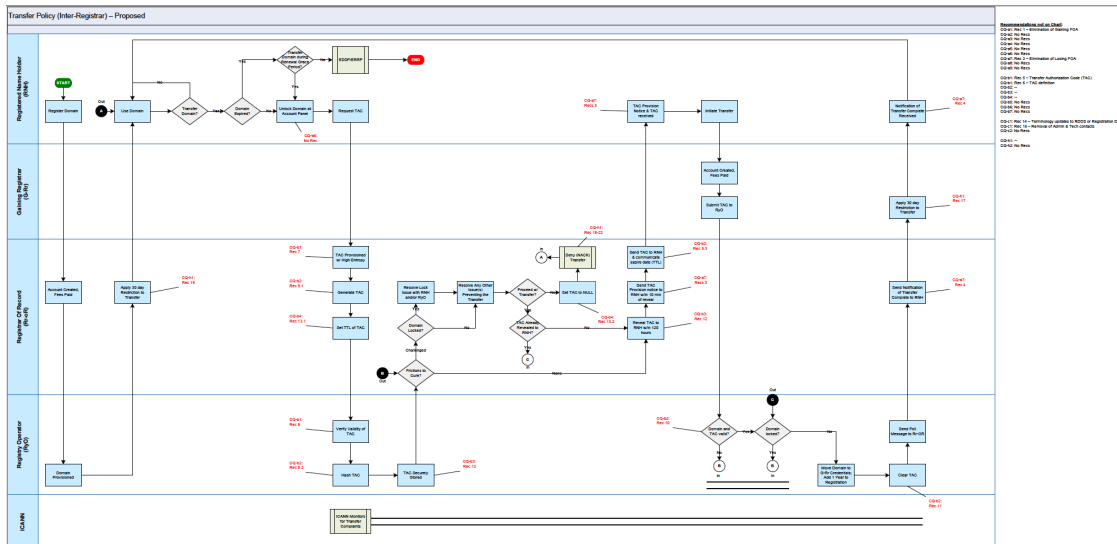
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