

Governance Items Not identified in the CWG Report, Reflected in PTI Bylaws

	Topic	Provision	Impact	Sidley Comments
1	Chairperson of PTI Board (5.4)	Preference for NomCom nominated Director to serve as Chair. (“Should’)	<p>Could impose limitations on the selection of NomCom nominees, with a closer focus placed on chairing ability than on other skills needed to serve the role. If a NomCom nominee was not qualified as Chair, could impact the governance work of the PTI Board.</p> <p>NOTE: This item has already been suggested by CWG members as appropriate for flagging during the Public Comment period.</p>	<p>The CWG requested language is “should” be a NomCom director. It is not an absolute requirement if the NomCom directors are not qualified to serve.</p>
2	Chairperson of PTI Board (5.4)	President of PTI not eligible to serve as Chair	Removes one of five Board members for consideration for Chair; likely supports good governance in separating Chair role from President Role; similar limitation in ICANN’s Bylaws.	<p>We agree it is good governance to separate these roles. It is also consistent with the approach taken in the ICANN bylaws (Section 7.2(d)).</p>
3	PTI Director Terms (5.5.1)	Directors serve two-year terms	<p>In combination with term limits, guarantees a frequency of onboarding new Directors that could be resource-intensive, particularly when compared to limited function of the PTI Board. Also requires the NomCom to always seek candidates for PTI Board nomination because of staggered terms.</p> <p>On the other hand, assures opportunity for Board member replacement if community not satisfied with Board performance, and quicker opportunity</p>	<p>While we note that the California default term for directors is one year, we agree with the comment that on-boarding and re-electing this frequently could be burdensome.</p> <p>Question for CWG</p>

	Topic	Provision	Impact	Sidley Comments
			for consideration if there was any change to a NomCom Director’s statements of interest that could impair effective participation on the PTI Board.	whether 3 years would be acceptable.
4	PTI Director Term Limits (5.5.2)	NomCom nominated Director limited to two terms.	See above at Item 3.	Question for CWG whether the value of additional years of experience on PTI would warrant allowing for more than two terms.
5	Board Quorum (5.11.1)	Quorum must include at least one director nominated by ICANN Board and one nominated by NomCom	<p>May impose complexities that are not contemplated in the CWG Report, which is focused on “maintaining primary accountability at the ICANN level”, and instead introducing a primacy of community-appointed members as opposed to recognizing the unique fiduciary duties each Director owes to organization.</p> <p>On the other hand, this limitation could increase a community confidence in the perceived legitimacy of the actions of the PTI Board and appears to be a sensible governance limitation.</p>	Because ICANN will designate three of five board seats and therefore could control a simple majority requirement, ensuring that a NomCom director is at least present for all meetings (for quorum purposes) is appropriate to ensure representation of both groups of directors at meetings.
6	Heightened Board Thresholds (5.11.13) (including Board	Suggestion that action on a defined list of topics requires both NomCom nominated	<p>See above at Item 5.</p> <p>The use of a high threshold among eligible NomCom nominees gives any individual NomCom nominee the ability to stop an action, even if there are technically a 4/5 majority of the Board that</p>	To address this concern, we would recommend a 4/5 requirement with at least one NomCom director and one ICANN director would be

	Topic	Provision	Impact	Sidley Comments
	Committee creation, Section 6.1)	directors (if available) and two ICANN nominated Directors	believes that such an action is in the best interests of PTI. This particular governance aspect – the power of a single director to override all other directors - has similarly not been the subject of an analysis on the potential governance impact. NOTE: This concern would be mitigated through the use of a straight 4/5 threshold, which by definition would require at least one of the NomCom appointed members to agree to the proposed action.	acceptable (rather than two of each group).
7	Committee Composition (6.4)	Committee quorum requires one ICANN-nominated and one NomCom nominated Director	See Item 5.	See #5 above.
8	Officers (7.1)	PTI may only have a President, a Secretary and a Treasurer as officers	There does not seem to be a basis for restricting the PTI Board from organizing the entity in the way that it deems most appropriate to oversee the operations in order to assure that PTI fulfills its obligations. On the other hand, as PTI is currently envisioned to be a small, streamlined structure, there is likely not an immediate practical impact on this limitation. There is also no restriction on PTI's ability to develop non-officer level positions to organize its work.	CWG proposal is to require only those officers that are statutorily required to keep PTI streamlined.
9	Strategic Plan	Development of a	The CWG Proposal states that “The CWG	CWG to advise.

	Topic	Provision	Impact	Sidley Comments
	(9.3)	full Plan development and review process	<p>Stewardship recommends that PTI should develop and annually update a four-year strategic plan, which should outline strategic priorities, while PTI should also have a yearly budget that is reviewed by the ICANN Community.”</p> <p>Including a more detailed process for the development of a strategic plan, to align with the Annual Budget Process, could be a resource-intensive process that could take away from the operational nature of the work that PTI is to perform. On the other hand, the straightforward and limited role of PTI likely will result in a straightforward, limited and concise strategic plan that, while updated annually, will not be an extremely intensive or contentious effort.</p>	

	Topic	Provision	Impact	Sidley Comments
10	Officers (7.2/7.3)	PTI Officers (other than President) are appointed or removed only by PTI Board	Does the member wish to hold any special rights over the identification of the offices of Treasurer or Secretary?	California default is for officers to be appointed and removed by the Board. The President being appointed and removed by ICANN was included as an exception. We don't believe other exceptions are warranted.
11	Amendments (12)	PTI Bylaws Amendments require both NomCom nominated directors (if available) and two ICANN nominated Directors	See Item 6.	See # 6 above.

Summary report:	
Litéra® Change-Pro TDC 7.5.0.176 Document comparison done on 7/11/2016 12:16:34 AM	
Style name: Sidley Default	
Intelligent Table Comparison: Active	
Original DMS: iw://SIDLEYDMS/ACTIVE/215893744/1	
Description: PTI Bylaws - Governance Items not identified in the CWG Report - ICANN Legal Draft July 10, 2016	
Modified DMS: iw://SIDLEYDMS/ACTIVE/215893744/2	
Description: PTI Bylaws - Governance Items not identified in the CWG Report - ICANN Legal Draft July 10, 2016 - Sidley Comments	
Changes:	
Add	4
Delete	3
Move From	0
Move To	0
Table Insert	12
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	19