

# At-Large Potential Change to Registrar Accreditation Insurance Requirement Workspace

Comment Close Date	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
13.03.2015	<a href="#">Potential Change to Registrar Accreditation Insurance Requirement</a>	ADOPTED 15Y, 0N, 0A	<a href="#">Tijani Ben Jemaa</a>	27.02.2015	06.03.2015 23:59 UTC	08.03.2015 23:59 UTC	13.03.2015 12:00 UTC	13.03.2015	<a href="#">Danielle Andela</a> <a href="mailto:danielle.andela@icann.org">danielle.andela@icann.org</a>	AL-ALAC-ST-0315-01-00-EN

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- [Comments Forum](#)

## Brief Overview

As part of its Underserved Regions initiative, ICANN has been exploring potential changes to the insurance requirements for registrar accreditation. ICANN seeks your input to determine how best to address potential changes to or elimination of these requirements.  
Comment Period: 15 Jan 2015 23:59 UTC - 13 Mar 2015 23:59 UTC

## Section I: Description, Explanation, and Purpose

As part of its Underserved Regions initiative, ICANN has been exploring potential changes to the insurance requirements for registrar accreditation.<sup>1</sup> ICANN seeks your input to determine how best to address potential changes to or elimination of these requirements.

<sup>1</sup> More information about the Underserved Regions Outreach Project available at <https://www.icann.org/public-comments/dns-underserved-2014-05-14-en> and <https://community.icann.org/x/HsLhAg>.

## Section II: Background

ICANN's [Statement of Registrar Accreditation Policy](#) (the "Accreditation Policy"), adopted by ICANN in 1999, establishes the minimum requirements ICANN must consider when approving applications for registrar accreditation. Among its many requirements, the Accreditation Policy provides that registrars must have and maintain commercial general liability ("CGL") insurance policies. The [insurance requirement](#) is intended "to provide domain-name holders with reasonable compensation for losses caused by [a registrar's] wrongful . . . acts." The Accreditation Policy requires CGL policy limits of at least US\$500,000, or a lesser amount if the registrar can demonstrate to ICANN that a lower limit would still provide for reasonable compensation in the event of a covered loss. The [2013](#) and [2009](#) Registrar Accreditation Agreements ("RAAs") require that registrars maintain coverage at the \$500,000 level (without reference to the Accreditation Policy's potentially lower limits).

Through the Underserved Regions project work, community members reported that these requirements can be difficult or impossible to meet in many jurisdictions, particularly in jurisdictions outside North America and Europe. Some people commented that CGL insurance is not available at all in some countries and, although available in other countries, the \$500,000 limit might be excessive (and therefore commercially infeasible), relative to market conditions, the cost of living, and the risks of doing business in the respective region. At least one prospective registrar [has abandoned efforts](#) [PDF, 369 KB] to seek accreditation due to its inability to obtain the required insurance. In addition, some commenters [questioned](#) [PDF, 110 KB] whether the requirement remains necessary given institutional improvements in other areas, such as compliance and data escrow. At a minimum, community members asked ICANN to provide new and existing registrars with a list of insurers who are [known to serve existing registrar businesses](#) [PDF, 122 KB] so that all registrars can secure the insurance required to gain ICANN accreditation.

ICANN staff consulted a number of resources including insurance industry experts with experience in the technology sector. Insurance industry experts told ICANN that today's CGL policies do not generally provide substantial protection for domain name holders for losses caused by their registrars, as envisioned by the Accreditation Policy. CGL insurance policies generally protect businesses against liability claims for bodily injury and property damage that occur on their premises, as well as for advertising and personal injury liability in some cases. However, most CGL policies would exclude coverage for errors and omissions by the registrar. In other words, domain name holders generally would not be able to receive compensation from an insurance company (under a CGL policy) for negligent acts by the registrar, such as accidentally deleting or failing to renew a registration, or allowing a domain name to be hijacked. Also relevant to this analysis, ICANN notes that some legacy registries that once had a similar insurance requirement in their Registry-Registrar Agreements have since abandoned it.

As a result, ICANN is considering whether it should eliminate, reduce, or otherwise modify the current insurance requirement in the 2009 and 2013 RAAs. ICANN seeks your input on the following questions:

1. Are there valid reasons why ICANN should continue to require CGL insurance?
2. Has any registrar or gTLD or ccTLD registry found CGL coverage useful in running their businesses?
3. Are there alternatives to CGL insurance that would provide similar or better protections for registrants that could be instituted either as new contractual requirements or as "best practice" recommendations?
4. If the CGL requirement is maintained, is the \$500,000 limit appropriate?
5. If ICANN eliminates the CGL requirement, should the elimination apply to all registrars or should "waivers" be granted only on a case-by-case basis?

Comments must be submitted no later than 13 March 2015.

## Next Steps

ICANN staff will proceed after it has considered all community input submitted through this public comment forum.

Potential outcomes include:

- ICANN could maintain the existing CGL requirement as written in the current forms of the RAA.
- ICANN could eliminate the CGL requirement across-the-board for all registrars.
- ICANN could issue "waivers" on a case-by-case basis upon a registrar's demonstration that it has adequate risk mitigation measures in place, such as an alternative type of insurance.
- ICANN could offer "partial waivers," lowering the \$500,000 limit for registrars who can demonstrate the adequacy of a lower limit.
- ICANN could work to organize a recommended or required group insurance policy that would be available to all registrars, regardless of the registrar's location.

In addition to its consideration of the RAA's CGL insurance requirement, ICANN staff is also exploring best practices for registrars that would help protect domain name holders, registrars, and other stakeholders from the most common risks associated with registrar operation.

## Section III: Relevant Resources

### Section IV: Additional Information

For additional information about ICANN's Underserved Regions initiative, please visit the community wiki at <https://community.icann.org/x/hhPxAg>.

As part of this project, ICANN has (a) published improved registrar accreditation application materials<sup>2</sup>; (b) updated its procedures for evaluating prospective registrars' liquid working capital<sup>3</sup>; and (c) improved collaboration among ICANN departments on outreach in underserved regions, with the goal of ensuring that outreach events provide opportunities for businesses to engage with subject matter experts on topics of interest.

Next steps for the initiative are likely to include additional enhanced outreach efforts by ICANN; ICANN collaboration with the broader community to gain a better understanding of challenges faced by domain name industry businesses in regions with low levels of registrars, registries, and market activity; and further study into market challenges.

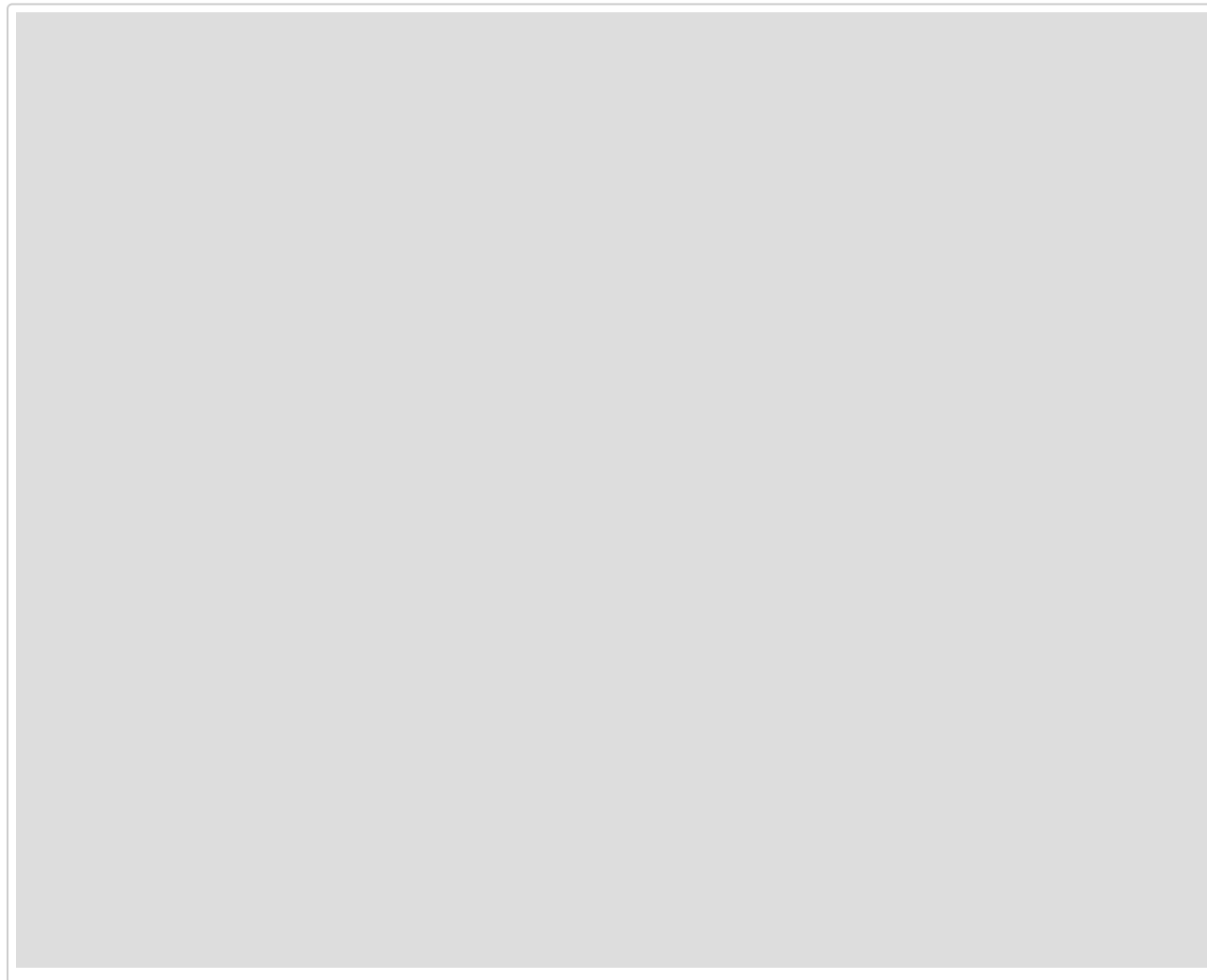
Additional information and calls for community input will be posted on the community wiki and, in some cases, ICANN.org, as the Underserved Regions initiative proceeds.

## Section V: Reports

### Staff Contact

## FINAL VERSION TO BE SUBMITTED IF RATIFIED

Please [click here](#) to download a copy of the pdf document below.



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## FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

The At-Large Advisory Committee (ALAC) would like to reiterate its Full support to the concept of supporting the domain name industry (DNI) in underserved regions, as was originally expressed in 2014.

The ALAC also mentioned that as the DNI programs evolve, the following principles should be adhered to:

- Registrant and user rights and expectations must not be lowered in order to increase DNI penetration
- Education at all levels is a key to increasing demand and local suppliers
- The demands placed on registrars should be reasonable based on local cost-of-living and related financial constraints
- The insurance required for registrars is a real concern for underserved regions (e.g. cost, convertibility of the local currency)
- The second round of the new gTLD program should give preference, if not exclusivity, to applicants from underserved regions, with the adequate outreach program that ensure a better understanding of the program, its benefits (e.g. economic, cultural, linguistic, etc.) and all the requirements for an application, as well as a technical and legal Support.

In response to the 5 questions of the current Public Comment:

1. Even if things have evolved, there is still a requirement to secure registrants rights through the CGL insurance or any other mechanism(s);
2. No opinion;

3. A permanent fund reserved by ICANN for the coverage of any harm that the registrants might incur may be a reasonable option and having volume-based contributions from the registrars is also reasonable. However if ICANN chooses to make this a "best practice", registrants using registrar who choose not to follow the practice must NOT be disadvantaged;
4. In case the CGL requirement is maintained, the \$500,000 limit should be lowered to an amount that the registrar can demonstrate that it would still provide for reasonable compensation in the event of a covered loss;
5. If ICANN decides on the elimination of the CGL requirement, it should be applied to the whole registrars. The insurance should be replaced by another mechanism to protect the registrants and users rights

The ALAC emphasizes that the CGL requirement is not the only barrier for the underserved regions, but it is one of the most important.

Its elimination could be the best way to support the underserved regions to participate in the domain name industry. Registrant rights must be secured by another mechanism such as a fund fed by the registrars according to their transaction volume and reserved by ICANN. The underserved regions' registrars could be exempted from paying their part in the so-called fund.

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## FIRST DRAFT SUBMITTED

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The ALAC also mentioned that as the DNI programs evolve, the following principles should be adhered to:

- Registrant and user rights and expectations must not be lowered in order to increase DNI penetration
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- The demands placed on registrars should be reasonable based on local cost-of-living and related financial constraints
- The insurance required for registrars is a real concern for the underserved regions (e.g. cost, convertibility of the local currency)
- The second round of the new gTLD program should give preference, if not exclusivity, to applicants from underserved regions, with the adequate outreach program that ensure a better understanding of the program, its benefits (e.g. economic, cultural, linguistic, etc.) and all the requirements for an application, as well as a technical and Legal Support.

Answering the 5 questions of the current public comment, the ALAC thinks that:

1. Even if things have evolved, there is still need to secure the registrants rights through the CGL insurance or any other mechanism.
2. (answer pending)
3. A permanent fund reserved by ICANN for the coverage of any harm that the registrants might incur. This fund might be fed by the registrars on the basis of their transactions volume
4. In case the CGL requirement is maintained, the \$500,000 limit should be lowered to an amount that the registrar can demonstrate that it would still provide for reasonable compensation in the event of a covered loss
5. If ICANN decides on the elimination of the CGL requirement, it should be applied to the whole registrars. The insurance should be replaced by another mechanism to protect the registrants and users rights

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Its elimination could be the best way to support the underserved regions to participate in the domain name industry. The registrant rights should be secured by another mechanism such as a fund fed by the registrars according to their transaction volume and reserved by ICANN. The underserved regions' registrars could be exempted from paying their part in the so-called fun.