

VIA Electronic Mail

Mr. Cherine Chalaby
Chair, ICANN New gTLD Program Committee
12025 Waterfront Drive
Suite 300
Los Angeles, California 90094

10th October 2014

Dear Mr. Chalaby,

Re: ICANN Board Response to GAC Advice Regarding Financial gTLD Strings

The International Banking Federation (IBFed) is the representative body for national and international banking associations from leading financial nations around the world. Its membership includes the American Bankers Association, the Australian Bankers' Association, the Canadian Bankers Association, the European Banking Federation, the Japanese Bankers' Association, the China Banking Association, the Indian Banks' Association, the Korean Federation of Banks, the Association of Russian Banks, and the Banking Association of South Africa. This worldwide reach enables the IBFed to function as the key international forum for considering legislative, regulatory, and other issues of interest to the banking industry and to our customers.

The IBFed submits the following response to the 2 September 2014 communication that Dr. Stephen Crocker sent to the ICANN Governmental Advisory Committee (GAC) on behalf of ICANN's New gTLD Program Committee (NGPC). Specifically, we are disappointed that the ICANN Board has yet again rejected GAC Advice on important consumer protection safeguards concerning financial gTLD strings, and respectfully request the NGPC reconsider its position and response to the GAC Advice in light of the following information.

Historical Basis for GAC's Advice on Safeguards

Governments, through individual agencies as well as their representatives in the GAC, have repeatedly stressed to ICANN the need to treat certain "sensitive strings", including those geared to financial services, with heightened scrutiny.¹ This was first communicated to

¹ In addition to the various GAC Communiqués providing Advice on this subject, there have been numerous governmental agencies that have directly communicated with ICANN on this issue, see e.g., European Banking Authority (<https://www.eba.europa.eu/documents/10180/16103/EBA-BS-2011-197--EBA-Comments-on-Top-Level-Domain-Names--bank-and--fin-.pdf>); U.S. Federal Deposit Insurance Corporation (<http://forum.icann.org/lists/gtld-guide/msg00159.html>) and U.S. Federal Trade Commission

ICANN during the drafting of the Applicant Guidebook, although ICANN elected not to incorporate this Advice. Therefore, it should come as no surprise that governments have continued to raise their concerns at every milestone in the new gTLD process, e.g., GAC Early Warning, GAC Advice, GAC Scorecard, Public Interest Commitments.

If ICANN continues to ignore legitimate governmental concerns and those of the global financial services sector, the long-term viability of its multi-stakeholder model and a single unified root are at risk. The ICANN Board need look no further than recent comments attributed to ICANN's President and CEO Fadi Chehadé in a recent BBC interview where he was quoted as saying, "If we do not give answers to governments on how we can together ensure that we have an Internet that allows limitless and permissionless innovation, but also is secure... if we do not give governments a mechanism or a path to participate in the policy setting to do that... then this is a threat."²

Contributions of the Global Financial Services Sector on Consumer Protection Safeguards over the Years

As noted above, the global financial services sector is aligned with the GAC on its proposed consumer protection safeguards. In fact, members of this community have been actively engaged in ICANN's new gTLD Program since as early as 2009.³ In addition to participating in ICANN's High Security Zone TLD Advisory Group, the financial services community authored a list of thirty-one enhanced Security, Stability and Resiliency Requirements for Financial gTLDs that ICANN incorporated by reference to the final Applicant Guidebook.⁴

The financial services community's involvement did not stop with the publication of the final Applicant Guidebook, but continued into the new gTLD application phase with many community members applying for both generic and branded strings.⁵ fTLD Registry Services (fTLD), the prevailing community applicant for the .BANK and .INSURANCE strings, has convened an internationally -diverse and representative community Advisory Council that has addressed a number of important policy issues concerning financial service gTLDs.⁶ In addition to this Advisory Council, fTLD has convened and chaired a number of other initiatives that have not only involved financial services members, but also key ICANN community participants as well, e.g., Security Standards Working Group and TLD Innovation Working Group.⁷

(<http://www.ftc.gov/news-events/press-releases/2011/12/ftc-warns-rapid-expansion-internet-domain-name-system-could-leave>)

² See <http://post.milathan.com/2014/09/icann-ceo-internet-fragmentation-is-risk-of-excluding-governments/#more-418>

³ See <http://www.bits.org/publications/comment/CommentICANNgTLD080609.pdf>

⁴ See <https://www.icann.org/en/system/files/files/aba-bits-to-beckstrom-crocker-20dec11-en.pdf>

⁵ Of the 1,930 applications submitted to ICANN, approximately 125 were from financial services organizations including about 95 brands and 30 generic gTLDs.

⁶ See <http://www.ftld.com/advisory-council.html>

⁷ See also the public comments of fTLD on the proposed GAC Category 1 Safeguards, <https://www.icann.org/en/system/files/correspondence/schwartz-to-crocker-08nov13-en.pdf>

Issues with the NGPC Response to GAC Advice

We take serious exception to the NGPC's substantial weakening of GAC's Advice that registry operators **verify and validate** a domain name registrant's credentials to a requirement that such registrants need only **represent** they possess such credentials.

The NGPC uses specific banking and insurance sector examples to justify its position, citing that a registry operator and/or registrar may not have the expertise to know what specific charters, licenses and/or credentials may be required or appropriate for participation in a particular sector, especially when registrants are based in many different countries, and any particular registrant may be doing business in many jurisdictions around the world. However, it is not clear what specific research or external consultation ICANN undertook with the financial services community before making these statements.

While verifying a registrant's credentials in a manner consistent with the original GAC Advice will be more costly when compared to typical gTLDs, the signatories to this letter take the position that a registry operator of a domain serving regulated and highly-regulated industries (the relevant Category 1 strings) **should absolutely, and by definition**, have the required expertise the NGPC suggests might be lacking. Registry operators of such gTLDs should also have the obligation to provide selected registrars with the requisite criteria to fulfil this obligation. Indeed, fTLD has already selected a third-party agent that will be implementing its verification requirements for all applicants for domains in the .BANK and .INSURANCE gTLDs. In our view, the positive response from companies willing to implement strict verification requirements has greater validity than NGPC's arbitrary determination to weaken an important security standard without any evidence that it cannot be accomplished.

fTLD's verification will include a security check to ensure that the applicant is not on any governmental black list, that it is a registered and active organization in its jurisdiction and has valid credentials proving that it is a bank or insurance company or otherwise falls into fTLD's definition of other approved banking or insurance entities. Moreover, fTLD will verify that the applicant is a full-time employee of the entity requesting the domain, that the employee is authorized to request the registration and that the domain conforms to fTLD's Name Selection Policy. fTLD's verification process very closely models that mandated by the CA/Browser Forum⁸ for issuing Extended Validation SSL Certificates.

We strongly believe that completing these verification tasks during the registration process is the only way to ensure that participation in .BANK and .INSURANCE is strictly limited to legitimate members of the global financial services community.

Request for Further GAC Oversight

Heather Dryden, Chair of the GAC, has been copied on this communication to request that the GAC continue its efforts to have the ICANN Board adopt the letter of its Advice in whole, not merely the spirit of it in part. We acknowledge and appreciate the extraordinary effort the GAC undertook to substantively review all 1900 plus applications and the Advice it provided in the Beijing Communiqué.⁹ However, we believe there are financial services related

⁸ See <https://cabforum.org/>

⁹ See <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>

strings¹⁰ that the NGPC overlooked in its categorization of regulated sectors vs. highly-regulated sectors that should also be held to the more stringent credential verification and validation process originally envisioned by the GAC.

While the Applicant Guidebook provided the GAC with a set of specific enumerated rights, Article XI, Section 2 of the ICANN Bylaws provides the GAC a much broader remit to “provide advice on the activities of ICANN ... where they may affect public policy issues.” In light of the alignment between the financial services sector and governments on the need for appropriate safeguards in financial services gTLDs, the undersigned respectfully request the GAC to consider at its upcoming meeting in Los Angeles how it will fulfill its obligations under the Bylaws to advise ICANN on these important public policy issues.

While there are some in the ICANN community that believe that the GAC’s responsibilities are captured by a single snapshot in time, we believe that its responsibilities are dynamic and evolve over time based upon changes in the marketplace. We stand ready to assist the GAC in fulfilling its role to the ICANN community and its respective stakeholders by providing any information or data points it may seek.

Conclusion

In light of this strong private sector support in favor of the GAC proposed consumer protection safeguards for financial services gTLDs, we respectfully request that ICANN re-evaluate its reluctance to implement the full letter and spirit of GAC Advice, and reconsider the importance of instituting a stringent, global charter and license verification process for **ALL** financial services sector domains as fTLD will for .BANK and .INSURANCE. Please do not hesitate to contact us should you have any additional questions as we work toward our common interest in ensuring a stable, secure and unified global Internet for all.

Yours sincerely,

A handwritten signature in black ink that reads "Sally J Scutt". The signature is fluid and cursive, with the first name "Sally" being the most prominent part.

Sally J Scutt
Managing Director
International Banking Federation

cc: Stephen Crocker, Chair, Board of Directors, ICANN
Heather Dryden, Chair, Governmental Advisory Committee, ICANN

¹⁰ Examples include .credit, .finance, .financial, .insure, .investments, .loan, .loans, and .mortgage.