

BITS

FINANCIAL SERVICES
R O U N D T A B L E

Via e-mail: 5gtld-guide@icann.org

November 29, 2010

To Whom It May Concern
Internet Corporation for Assigned Names & Numbers
4676 Admiralty Way, Suite 330
Marina del Ray, California 90292

RE: BITS Comments on Proposed Final New Applicant Guidebook

Dear Sir/Madam:

BITS¹ welcomes the opportunity to comment on the latest version of the Final Proposed Applicant Guidebook (the “Guidebook”) published by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on November 12, 2010. We appreciate ICANN’s consideration of our previous comments on earlier versions of the Draft Applicant Guidebook (“DAG”), including our most recent feedback on DAG v 4.0. We have reviewed the latest version of the Guidebook and the modifications in the Guidebook appear to address our two largest concerns regarding the implementation of appropriate security standards for financial services gTLD applicants and the need to protect a community’s right to object to an unsuitable applicant purporting to represent the community.

Security & Financial Services gTLDs:

BITS has consistently requested that applicants for financial services gTLDs be required to commit to elevated security measures because of our firm belief that financial-services gTLD operators and registrants must be held to a higher standard of security. Robust security measures are necessary to protect consumers and customer data from exploitation by bad actors or others who are unable to meet the overall needs of the financial services community.

We are pleased that amended Question No. 35 (pages A-36 to A-37) requires gTLD applicants to demonstrate “security measures...appropriate for the applied for gTLD string.” The Guidebook expressly recognizes the need for increased security standards for “strings with unique trust implications, such as financial services-oriented strings.” Strings with unique trust implications “would be expected to provide a commensurate level of security.” We support the inclusion of this new provision in the Applicant Guidebook.

¹ BITS is the technology policy division of the Financial Services Roundtable, leveraging intellectual capital to address emerging issues at the intersection of financial services, operations and technology. BITS focuses on strategic issues where industry cooperation serves the public good, such as critical infrastructure protection, fraud prevention, and the safety of financial services.

The Application Objection Process:

BITS expressed our concern to ICANN regarding the “Complete Defense” provision in DAG 4.0. We believed the provision unintentionally foreclosed a community’s ability to object to an applicant perceived as unsuitable. As such, we support the proposal to eliminate the “Complete Defense.”

Definition of “Financial Services”:

As noted above, we support ICANN’s efforts to recognize that applicants for certain sensitive strings, like financial services oriented TLDs must demonstrate a level of security appropriate for the level of trust associated with the string. The guidebook proposes the following definition of financial services: “[f]inancial services” are activities performed by financial institutions, including: 1) the acceptance of deposits and other repayable funds; 2) lending; 3) payment and remittance services; 4) insurance or reinsurance services; 5) brokerage services; 6) investment services and activities; 7) financial leasing; 8) issuance of guarantees and commitments; 9) provision of financial advice; 10) portfolio management and advice; or 11) acting as a financial clearinghouse.”

The proposed definition is similar to the definition of financial services found in Annex I of the 2006/48/EC Directive of the European Parliament and of the Council of 14 June 2006, Relating to the Taking Up and Pursuit of the Business of Credit Institutions (recast).² The definition is almost universally accepted in the financial services community. We acknowledge ICANN’s effort to define “financial services” and we support the general breadth of activities captured in the definition. However, we believe consumers would be well-served by a technical amendment to the definition to add “typically” after “activities” because the syntax of the proposed definition suggests that a financial services oriented TLD is only subject to enhanced security standards if the operator is a financial institution. We believe that staff intended to cover all financial services oriented TLDs, without regard to the identity or nature of the operator. The amended sentence would read “financial services are activities **typically** performed by financial institutions...” The technical amendment ensures that an applicant seeking a financial services oriented TLD will adopt security measures capable of protecting consumers without regard to the applicant’s status as a financial institution.

BITS has been a vigorous participant in the discussions surrounding the gTLD expansion program and we appreciate ICANN’s commitment to maintaining a healthy dialogue among community members, stakeholders, staff, and the Board. We look forward to continued collaboration with ICANN and the community as we work to articulate the “commensurate level of security” appropriate for financial services gTLDs. If you have any questions about this letter or other issues, please contact Leigh Williams at leigh@fsround.org or Greg Rattray at greg@fsround.org.

Best Regards,



Leigh Williams
President

² EC 2006/48, L. 177/57. 30/6/2006 EN Official Journal of the E.U.