Why is the Board addressing the issue?

The Security, Stability, and Resiliency (SSR) Review is one of the four Specific Reviews anchored in Section 4.6 of the ICANN Bylaws. Specific Reviews are conducted by community-led review teams, which assess ICANN's performance in fulfilling its commitments. Reviews are critical to maintaining an effective multistakeholder model and helping ICANN achieve its Mission, as detailed in Article 1 of the Bylaws. Reviews also contribute to ensuring that ICANN serves the public interest. The SSR2 Review is the second iteration of the SSR Review and relates to key elements of ICANN's Strategic Plan.

SSR2 recommendations are considerable in number (63 recommendations) and many are complex and touch on other significant areas of work underway - for example, DNS security threats/DNS abuse, New Generic Top-Level Domain (gTLD) Subsequent Procedures, and Name Collision. Given the strategic significance of security, stability, and resiliency of the DNS within the ICANN ecosystem, the Board notes that the recommendations from SSR2 Review Team cannot be considered in silos and require fulsome analysis and consideration.

What is the proposal being considered?

The Board today considers the 63 consensus recommendations within the SSR2 Review Team Final Report. Issues assessed by the SSR2 Review Team include: the extent to which prior SSR Review recommendations have been implemented and whether implementation has resulted in the intended effect; key stability issues within ICANN; contracts, compliance, and transparency around Domain Name System (DNS) security threats; and additional SSR-related concerns regarding the global DNS.

The Board reviewed public comments on the SSR2 Review Team Final Report and briefings by ICANN org on the feasibility and impact of implementation of recommendations, taking into account initial reflections on resources and interdependencies with other ongoing efforts within the community. In reviewing public comments, the Board notes that comments represent a significant diversity of views. In addition to making comments on the individual recommendations and/or recommendation groupings as defined by the SSR2 Review Team, most

community groups also provided general or overarching comments about the report as a whole. The International Trademark Association ([INTA](#)), Business Constituency ([BC](#)), At-Large Advisory Committee ([ALAC](#)) and Intellectual Property Constituency ([IPC](#)) make statements of overall support for all of the recommendations contained in the SSR2 Review Team Final Report, in several cases highlighting recommendations of particular importance to their members that they encourage the Board to consider as high priority. Several commenters registered overarching concerns, as noted in the themes below, such as concerns that recommendations repeat, duplicate or significantly overlap with existing ICANN org operations, and concerns that recommendations contemplate that the Board or ICANN org should unilaterally develop policy outside of the Generic Names Supporting Organization (GNSO) Council's Policy Development Process.

Board Approach to Consideration

The Board sets out below some broad areas and themes that it took into consideration in relation to the SSR2 recommendations, many of which are emphasized in public comments. In light of these themes and considerations, the Board developed six categories of Board action on SSR2 recommendations to move some recommendations to final action now, while allowing for sufficient additional time for fulsome analysis and consideration of the relevant significant factors impacting the feasibility of implementing other recommendations. The categories are:

● Recommendations the Board approves, subject to prioritization, risk assessment and mitigation, costing and implementation considerations; and recommendations that the Board approves, with the understanding that they are already fully implemented. Approved recommendations are consistent with ICANN's Mission, serve the public interest, and fall within the Board's remit. Further, approved recommendations are clear, do not have dependencies (including any requiring mitigation of other work), have community support and a clear path to implementation.
● Recommendations the Board rejects because the recommendation cannot be approved in full. The Board notes that, while some portions of the recommendation could be feasible, and in some cases, work is already underway, there are limitations imposed by other portions of the same recommendation that could impact feasibility. While the Board agrees in

principle with the intent of many of these recommendations, the Board does not have the option of selectively approving some parts and rejecting other parts of a single, indivisible community recommendation and must act on a recommendation as written and not as interpreted by ICANN org or the Board. The detailed rationale for each recommendation sets out the specific reasons for the Board's rejection.

● Recommendations the Board rejects. The detailed rationale for each recommendation sets out the specific reasons for the Board's rejection.

● Recommendations that the Board determines to be pending, likely to be approved once further information is gathered to enable approval. The Board expects specific actions to take place in order to take further Board decision on these recommendations. The Board uses this category to communicate to the ICANN community that, based on the information available to date, the Board anticipates that each of these recommendations will be approved. The detailed rationale for each recommendation sets out the specific reasons for the Board's decision to place the recommendation into this pending category.

● Recommendations that the Board determines to be pending, holding to seek clarity or further information. The Board is unable to signal at this time whether it is likely to accept or reject each of these recommendations pending the collection of additional information. The detailed rationale for each recommendation sets out the specific reasons for the Board's decision to place the recommendation into this pending category.

● Recommendations that the Board determines to be pending, likely to be rejected unless additional information shows implementation is feasible. The Board expects specific actions to take place in order to take further Board decision on these recommendations. The Board uses this category to communicate to the ICANN community that, based on the information available to date, the Board anticipates that each of these recommendations will be rejected. The detailed rationale for each recommendation sets out the specific reasons for the Board's decision to place the recommendation into this pending category.

In assessing and considering the SSR2 recommendations, the Board reviewed various significant materials and documents, including the [Report of Public Comments on the SSR2 Draft Report](), the [Report of Public Comments on the Final]()

Report, and the ICANN org assessment of SSR2 recommendations. The Board engaged with the community and listened carefully to community discussions regarding the SSR2 recommendations during the ICANN70 Virtual Community Forum and the ICANN71 Virtual Policy Forum to better understand the complexities of the recommendations and their potential impacts. The Board, with the support of ICANN org, analyzed the 63 recommendations noting dependencies and considerations for each, including significant interdependencies of the SSR2 recommendations with other community work, recent advice and public input. As part of this analysis and in considering action on each of the recommendations, the Board and ICANN org factored in the measures of success as defined by the SSR2 Review Team in its final report. In the case of several recommendations, the Board notes that, as written, implementation can never be deemed successful or effective based on the measures of success as defined by the SSR2 Review Team, and as such, the Board requires confirmation or clarification from the SSR2 Implementation Shepherds as to the SSR2 Review Team's intent.

The categorization approach allows for additional community consultation and information gathering where necessary, such as where recommendations are not clear or present inconsistencies with advice or other community work and public input. Further, the approach ensures Board accountability to the Bylaws-mandated deadline to take action on the recommendations within six months of receipt of a final report. The Bylaws require that for every Specific Review recommendation that the Board does not accept, the Board must provide a rationale supporting its action.

Identified Themes and Considerations
The themes and considerations that guided the Board's decision-making include:

<u>SSR2 recommendations are considerable in number, complex, and have interdependencies with other significant areas of work underway</u>.
The SSR2 Review Team organized 63 distinct recommendations into 24 groups, with one single recommendation on the implementation of SSR1 recommendations comprising 28 underlying recommendations. The Board notes that 23 recommendations issued by the SSR2 Review Team relate to DNS security threats/DNS abuse, while others also relate to other significant areas of work

underway within ICANN, such as New gTLD Subsequent Procedures and Name Collision.

Some recommendations contain components that the Board cannot approve, along with components that are feasible, and in some cases already being done.

The Board notes that there are some recommendations for which some portions appear feasible (or reflect work already being done), yet there are limitations imposed by the other portions of the same recommendation that could impact feasibility.

The Board notes that part of the community intent in incorporating Specific Reviews into the ICANN Bylaws in 2016 was to require the Board act on recommendations as written, not as interpreted by ICANN org or Board. The Board understands this limitation also prevents the Board from selectively approving some parts and rejecting other parts of a single, indivisible community recommendation. Though the Board is not able to selectively approve portions of recommendations, and as a result must reject some recommendations in their entirety, the Board still recognizes that it is important to acknowledge where work and further efforts could be achieved. Though the Board might direct ICANN org to take some actions on rejected recommendations, such actions will not be tracked as part of the tracking of the implementation of approved SSR2 recommendations. The Board notes that ICANN org regularly reports on its general activities related to Security Stability and Resiliency work, including as part of ICANN Strategic and Operational Plans and Annual Reports.

Considering these factors, the Board placed several recommendations into a category "reject because the recommendation cannot be approved in full", even though the Board agrees in principle with the intent of the recommendation and identifies all efforts that it understood as supporting the broader intent of each recommendation.   The Board encourages ICANN org to work with the community on ways to address the process restrictions that required the Board to "reject because the recommendation cannot be approved in full."

Some recommendations are polarizing, with public comments reflecting different, often opposing views.

Recent advice and public input on SSR topics further suggest that the Board and org should ensure full analysis and consideration, and where needed, additional community consultation, of inconsistencies with advice or other community work and public input. Implementation of any recommendations should complement existing advice, Board-accepted recommendations, and public input, and should align with ICANN's role in security, stability, and resiliency.

Several recommendations repeat, duplicate or significantly overlap with existing ICANN org operations, or recommendations issued by other Specific Review teams

The gTLD Registries Stakeholder Group (RySG), Public Interest Registry (PIR), i2Coalition, Namecheap, and the Registrar Stakeholder Group (RrSG) express concerns that some recommendations repeat or significantly overlap with ongoing work, including ICANN org work, cross-community work, policy processes such as the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team, and recommendations from other review teams including the Competition, Consumer Trust, and Consumer Choice (CCT) Review Team. For example:

- RySG - "We cannot support recommendations that repeat, or represent significant overlap with, recommendations of other active reviews such as the CCT-RT and policy processes such as the EPDP. The RySG questions the value in implementing repetitive recommendations and urges the Board to consider the impact on the workloads of the community and Staff, and to reject those where implementation would circumvent the policy development process or where similar past recommendations have not been accepted by the Board...we would like to urge the Board to consider the wealth of DNS Abuse work that is ongoing in the community and to not accept recommendations that would duplicate those efforts or risk to undo progress made in recent months."
- PIR - "We note that several recommendations represent significant duplication of ongoing cross community work and recommendations from the CCT RT, many of which focus on the issue of DNS Abuse."
- i2Coalition - "The i2Coalition is in support of the community work already happening throughout the whole of ICANN, and believes that recommendations which are repetitive or directly duplicative are not in the

best interest of ICANN.... For instance, Recommendation 17 is potentially duplicative with the existing Name Collision Analysis Project (NCAP) study. There are certainly several others throughout the report that merit thorough exploration before any action is taken on them."
- RrSG - "A number of recommendations cover items that ICANN org is already dedicating significant resources- including the responsibilities of the Office of the Chief Technology Officer (OCTO) and Contractual Compliance."
- Namecheap - "A number of the recommendations in the SSR2 Final Report address items or functions that ICANN org already provides- and in some cases is already dedicating significant resources toward."

Noting the public input on recommendations that duplicate or significantly overlap with existing ICANN org operations or recommendations issued by other Specific Review teams, the Board is taking the action of placing many of these recommendations into a pending category, directing ICANN org to complete the intermediate steps that would support in eventually accepting or rejecting each recommendation. These intermediate steps include seeking clarification from the SSR2 Implementation Shepherds, consulting with the ICANN community or monitoring developments of activities that are dependencies.

Some recommendations contemplate that the ICANN Board or ICANN org should unilaterally develop policy outside of the GNSO Council's Policy Development Process.
Some commenters note concerns that some SSR2 recommendations as written do not respect the Bylaws-mandated policy development roles within the multistakeholder model. RySG, PIR, Tucows, Namecheap, and RrSG all note that they do not support recommendations that contemplate modifications to the Registry Agreement (RA) or the Registrar Accreditation Agreement (RAA) outside of the defined Policy Development Process (PDP) or contract negotiations process. For example:
- RySG - "Several recommendations suggest direct changes to the Registry Agreement. Changes to Registry Agreements may only be made through the policy development process or by triggering a formal negotiation and amendment process."
- PIR - "Several SSR2 recommendations would represent violations of the terms of the Registry Agreement which governs the inclusion of third-party

interests in contractual negotiations and how temporary policies/specifications may be used by ICANN."

- Tucows - "The Tucows family of registrars notes the long-term efforts that the Registrars and Registries have undertaken with ICANN Org in order to attempt to negotiate new contractual clauses that other ICANN Community-led efforts have recommended including, but not limited to, the current renegotiation of the RAA and the ongoing discussions surrounding a data processing addendum to both the RAA and the RA. The existence and nature of these negotiations clearly indicates that ICANN Org and the Contracted Party House continue to work together to make necessary contractual amendments and that no other party should be involved in that process."
- Namecheap - "Namecheap does not support any of the components of the SSR2 Final Report that contemplate any modification of the RAA (including but not limited to Recommendations 6 and 8), and urges the ICANN Board to completely reject any of these recommendations. Namecheap is concerned that the recommendations in the SSR2 Final Report appear to be a method of subverting the ICANN multistakeholder model- rather than focusing on ICANN's status and progress in the security and stability of the Internet's unique identifiers (as Specified in Section 4.6(c) of the ICANN Bylaws)."
- RrSG - "A number of the recommendations include specific instructions to ICANN to change the RAA and the RA. The RrSG notes that these recommendations are contrary to the negotiation process identified in the RAA (Section 7.4), and the RA (Article 7.7), and should be completely rejected by the ICANN Board."

The Board and ICANN org take in the inputs of the community and strive to carefully reflect those inputs in the decisions made with ICANN org and Board, as an essential part of serving the public interest. However, the Board cannot accept recommendations that call for actions that are not consistent with the Bylaws-mandated policy development roles within the multistakeholder model. The Board encourages ICANN org to continue bilateral discussions with the contracted parties in a way that enhances the security, stability, and resiliency of the DNS and to strive to have these bilateral discussions be transparent to the general public, in order to continue building trust. In cases where aspects of the

recommendations are not clear, the Board is placing recommendations into a pending category, directing ICANN org to seek clarifications from the SSR2 Implementation Shepherds.

<u>Some recommendations do not clearly address a fact-based problem, or articulate what cost/benefit would be derived or how the desired outcome envisioned by the Review Team would add value and improve security, stability, and resiliency</u>.
RySG, Namecheap, and RrSG note this as a concern in their public comments on the SSR2 Review Team Final Report. For example:
- RySG - "In an effort to create SMART recommendations the Report focuses on tactics and actions and does not include adequate problem statements to support the recommended actions."
- Namecheap - "Recommendations in the SSR2 Final Report appear to be made without any consideration of cost to ICANN. At the very least, the abuse incentives contained in Recommendation 14 are not presented in a revenue-neutral manner- ICANN is left to determine how to pay for the recommendation. Other recommendations (e.g. Recommendations 3 and 10) propose a number of ICANN initiatives (reports, participation in conferences, duplicating peer-reviewed research, etc.) that will result in significant costs - without contemplating the impact on the limited ICANN budget."
- RrSG - "Recommendations appear to have been made without any consideration of how ICANN org will pay to implement the recommendations - either through additional funding or reprioritization within the existing budget. The RrSG notes that the vast majority of ICANN's budget is ultimately paid by domain name registrants, and the Final Report does not fully explain why registrants should bear this additional burden."

In its comment on the SSR2 Review Team draft report, the Board noted that "it is helpful for the Board to have an understanding of the particular issues or risks that each recommendation intends to address...Clear articulation of the observed issue gives insight into the intent of the recommendation and the justification for why it should be adopted. With this in mind, the Board notes that a number of the SSR2 RT's recommendations, as currently drafted, do not clearly define the

identified issues or risks, the rationale for the recommended solutions, the expected impact of implementation, or what relevant metrics could be applied to assess implementation." ICANN org reiterated these points in its [comment](#) on the SSR2 Review Team draft report. Throughout the review process, the Board and ICANN org also encouraged the SSR2 Review Team to consider the [Operating Standards for Specific Reviews](#) and the guidance within on how to formulate concrete fact-based problem statements. Additionally, the SSR2 Review Team took part in the discussions between the Board and leadership of community-led review teams that led to the development of [Resourcing and Prioritization of Community Recommendations: Draft Proposal for Community Discussions](#). The purpose of this Draft Proposal was to advance work toward principles to guide the formulation of effective community recommendations and their effective implementation, among other things.

In many cases where recommendations do not clearly address a fact-based problem, or articulate what cost/benefit would be derived or how the desired outcome envisioned by the Review Team would add value and improve security, stability, and resiliency, the Board is placing the recommendations into a pending category. The Board is directing ICANN org to complete intermediate steps including, for example, seeking clarification from the SSR2 Implementation Shepherds on what the SSR2 Review Team's intended the recommendation would mitigate, or facts that led the SSR2 Review Team to believe that the benefit would justify the cost.

Board Expectations for Next Steps

For the recommendations that the Board is placing in one of the three "pending" categories, the Board expects specific actions to take place in order to be able to take further decision on these recommendations, as noted in the Scorecard. In several cases, the Board notes that SSR2 Implementation Shepherds may be able to provide clarifications, including in connection with some of the circumstances raised in the public comments. The role of Implementation Shepherds, as detailed in the Board-adopted [Operating Standards for Specific Review](#)s, is to be the first contact for any questions or clarifications the Board seeks as it considers the recommendations, and ICANN org seeks once the implementation is underway. Examples of information and clarification that can be sought from

Implementation Shepherds include items such as the SSR2 Review Team's intent behind its recommendations; rationale for recommendations; facts that led the SSR2 Review Team to certain conclusions; and metrics related to the measure of implementation success.

The Board commits to work with ICANN org and the community toward resolving the pending status and taking appropriate action on the recommendations once the additional information is available and identified dependencies have been resolved. The Board directs the ICANN President and CEO, or his designee(s), to provide to the Board relevant information, as requested in the Scorecard, or periodic updates on progress toward gathering relevant information, starting within six months from this Board action, in order to support further Board action on each recommendation.

Prioritization of approved recommendations

Prioritization of ICANN's work is a targeted outcome of the Planning at ICANN Operating Initiative in ICANN's [FY22-26 Operating Plan](#). It includes the design and implementation of a planning prioritization framework as part of the annual planning cycle. All Board-approved recommendations are subject to prioritization efforts. ICANN's planning process involves close collaboration among the community, Board, and organization to prioritize and effectively implement ICANN's work while ensuring accountability, transparency, fiscal responsibility, and continuous improvement. This robust planning process and the resulting plans help to fulfill ICANN's Mission.

Rationale Supporting Board Action on Individual Recommendations

Recommendations the Board approves

The Board approves thirteen (13) recommendations: 1.1, 4.1, 5.1, 5.2, 9.1, 10.1, 16.1, 21.1, 22.1, 22.2, 23.1, 23.2 and 24.2 specified in the Scorecard. Each of these recommendations is consistent with ICANN's Mission, serves the public interest, and falls within the Board's remit. Further, approved recommendations are clear, do not have dependencies - including any requiring mitigation of other work - have community support and a clear path to implementation.

Recommendation 1.1 calls for the Board and ICANN org to "perform a further comprehensive review of the SSR1 recommendations and execute a new plan to complete the implementation of the SSR1 Recommendations." The community inputs that the Board considered when acting on Recommendation 1.1 showed that commenters generally support the recommendation. RySG and i2Coalition ask that the Board consider ongoing community work and identify areas of potential duplication or overlap when taking action on the recommendation. The Board observes that much has changed with ICANN org's processes and procedures to address review recommendations and implementation. While the SSR1 recommendations are important, assuming none of them mitigate current matters, it may be prudent for ICANN org's resources to go towards implementation of SSR2 recommendations factoring in lessons learned from SSR1.

The Board notes that further work and coordination is necessary between ICANN org and the SSR2 Implementation Shepherds to understand more clearly what can be done to consider the SSR1 recommendations fully implemented. The Board understands that ICANN org delivered to the SSR2 Review Team an assessment of implementation of the SSR1 recommendations, and that the SSR2 Review Team disagreed with many of ICANN org's assessments. However, there were no opportunities for further engagement between ICANN org and the SSR2 Review Team to explore these differences. The Board urges this type of discussion to be part of the coordination needed to implement this SSR2 recommendation. The Board also notes that the SSR2 Review Team's suggestions in Annex D of the SSR2 Review Team Final Report are to be considered by ICANN org as guidance in its review of the implementation of the SSR1 recommendations, and the suggestions are not presented as consensus recommendations of the SSR2 Review Team.

The Board approves Recommendation 1.1, subject to prioritization, risk assessment and mitigation, costing and implementation considerations. Under the Bylaws, the SSR2 Review Team is empowered to determine the extent to which ICANN org has completed implementation of the SSR1 recommendations and has done so as part of its final report. To the extent this recommendation is intended to establish a collaborative mechanism to progress implementation of SSR2 recommendations with input from the SSR2 Implementation Shepherds, the

Board approves this recommendation. The Board notes, however, that as a formal matter the Bylaws (Section 4.6(b)(iii)) reserve to SSR3 (or other future SSRs) the role of final assessment of the completion of recommendations from prior SSRs, including those that the SSR2 Review Team assessed. The Board directs ICANN's President and CEO, or his designee(s), to undertake a thorough analysis of the SSR2 Review Team's finding pertaining to the implementation of SSR1 recommendations and complete ICANN org's implementation, where appropriate, subject to prioritization, availability of resources, cost-effectiveness, and relevancy of the recommendations given the ever-changing landscape of the security, stability, and resiliency of the Internet's unique identifiers.

Recommendation 4.1 calls for "ICANN org to continue centralizing its risk management and clearly articulate its Security Risk Management Framework and ensure that it aligns strategically with the organization's requirements and objectives. ICANN org should describe relevant measures of success and how to assess them." The community inputs that the Board considered when acting on Recommendation 4.1 showed that, in general, commenters support the recommendation and the goal of risk mitigation management.

The Board notes that ICANN org has a centralized risk management function and risk management framework in place that aligns with the ICANN Strategic Plan for Fiscal Years 2021 - 2025 and includes defined measures of success. The Board Risk Committee is responsible for the assessment and oversight of ICANN implemented policies designed to manage ICANN's risk profile, including the establishment and implementation of standards, controls, limits and guidelines related to risk assessment and risk management. The Board understands that ICANN org provided detailed information to the SSR2 Review Team with regard to risk management in the org, including via briefings and in ICANN org's comment on the SSR2 Review Team draft report.

The Board approves Recommendation 4.1, with the understanding that this recommendation is already fully implemented, and no further action is required. The Board understands that ICANN org already has policies, plans and programs in place through which Recommendation 4.1 has already been implemented, and the Board continues its oversight role over ICANN org's risk management efforts.

The Board is supportive of ICANN org in continuing the risk management activities that it is already carrying out.

Recommendations 5.1 and 5.2 relate to information security management systems and security certifications. The community inputs that the Board considered when acting on Recommendations 5.1 and 5.2 showed that commenters generally support the recommendations. The Board understands that ICANN org is currently following industry-specific security standards and best practices and is in the process of migrating to the U.S. Department of Commerce National Institute of Standards and Technology (NIST) Cybersecurity Framework, with oversight from the Board Risk Committee. The Board is supportive of ICANN org continuing to migrate to the NIST Cybersecurity Framework. The Board accepts ICANN org's representation that, once migration to the NIST Cybersecurity Framework is fully complete, Recommendations 5.1 and 5.2 will be implemented. Therefore, the Board approves recommendations 5.1 and 5.2, subject to prioritization, risk assessment and mitigation, costing and other implementation considerations, noting that substantial parts of the recommendation are already being addressed or will be addressed once ICANN org's migration to the NIST Cybersecurity Framework is fully complete.

Recommendation 9.1 calls for the Board to "direct the compliance team to monitor and strictly enforce the compliance of contracted parties to current and future SSR and abuse related obligations in contracts, baseline agreements, temporary specifications, and community policies." The community inputs that the Board considered when acting on this recommendation showed that while some community groups are in support of the recommendation, others disagree with it. For example, RySG notes the recommendation to be "extremely vague and we reiterate that ICANN's Compliance team does not need to be reminded to generally enforce contracts with Registries and Registrars." RrSG notes that "ICANN Contractual Compliance already performs this function through complaint processing, reviews, and audits. It is not clear to the RrSG what problem this recommendation is intended to fix."

The Board notes that ICANN org's Contractual Compliance team's work already monitors and supports that registries and registrars fulfill the requirements in

their agreements with ICANN org. Reporting and performance measurement metrics are published to icann.org. In addition, details regarding Registrar- and Registry-related Abuse complaints can be found in the monthly metrics published by ICANN org Contractual Compliance. This includes the number of Registrar Abuse Complaints related to pharming/phishing, malware/botnets, spam, counterfeiting, fraud, pharmaceuticals and trademark etc. as well as number of complaints related to GAC Category 1 Safeguards. As such, the Board accepts ICANN org's representation that the Contractual Compliance operations that ICANN org has in place already meet the SSR2 Review Team's defined measures of success for Recommendation 9.1. Therefore, the Board approves this recommendation, with the understanding that this recommendation is already fully implemented, and no further action is required.

Recommendation 10.1 calls for increased transparency around the working definition of DNS abuse/security threats that ICANN org uses. The community inputs that the Board considered when acting on this recommendation 10.1 showed that commenters agree that clarity around terminology and definitions of DNS abuse/security threats is important, and in general are in support of the recommended webpage. Some commenters note that existing work should be considered, for example:

- RrSG "ICANN already has a working definition of DNS abuse (see https://www.icann.org/octo-ssr/daar), and already tracks and reports on DNS abuse levels on a monthly basis."
- GNSO Council - "without a common and agreed upon definition, any additional policy work on a topic as broad as 'DNS abuse' would therefore appear extremely challenging and limiting the remit of any such policy related work both in scope and timeline would be a prerequisite."

To the extent that this recommendation is intended to enhance transparency, accountability, and clarity of ICANN org's work on DNS security threat mitigation through its existing contractual and compliance mechanisms, and thereby facilitate ongoing community discussions around definitions of DNS security threats, the Board approves this recommendation subject to prioritization, risk assessment and mitigation, costing and other implementation considerations.

The Board notes that these considerations may be particularly important as definitions, procedures and protocols may evolve over time. In this regard, the Board understands that it may be appropriate for ICANN org to consider certain aspects of implementation as part of the work of ICANN org's Information Transparency Initiative (ITI).

Recommendation 16.1 calls for ICANN org to "provide consistent cross-references across their website to provide cohesive and easy-to-find information on all actions—past, present, and planned—taken on the topic of privacy and data stewardship, with particular attention to the information around the RDS." The Board approves Recommendation 16.1, subject to prioritization, risk assessment and mitigation, costing and other implementation considerations. The Board understands that it may be appropriate for ICANN org to consider certain aspects of implementation as part of the work of ITI.

Recommendation 21.1 pertains to security of ICANN org and Public Technical Identifiers (PTI) communications with Top-Level Domain operators. **Recommendations 22.1 and 22.2** pertain to metrics on the availability of services provided by ICANN org, including root-zone and gTLD-related services as well as Internet Assigned Numbers Authority (IANA) registries. **Recommendations 23.1 and 23.2** pertain to preparations for future root DNSKEY algorithm rollovers.

The community inputs that the Board considered when acting on Recommendations 21.1, 22.1, 22.2, 23.1 and 23.2 showed that commenters generally support these recommendations. The Board notes that efforts to implement the new Root Zone Management System are already underway and the Board is supportive of building on existing efforts to enhance security in the Root Zone System. The Board notes that Recommendation 23.2 must be completed before the DNSSEC Practice Statement can be updated as called for in Recommendation 23.1. Further, the Board notes that preparing for an algorithm roll is part of the PTI Strategic Plan. As such, some elements of work associated with these recommendations are already anticipated to take place. The Board approves Recommendations 21.1, 22.1, 22.2, 23.1 and 23.2, subject to prioritization, risk assessment and mitigation, costing and other implementation considerations.

Recommendation 24.2 recommends that ICANN org "make the Common Transition Process Manual easier to find by providing links on the EBERO (Emergency Back-end Registry Operator) website." The community inputs that the Board considered when acting on Recommendation 24.2 showed that commenters generally support this recommendation. The Board approves recommendation 24.2, subject to prioritization, risk assessment and mitigation, costing and other implementation considerations. The Board understands that it may be appropriate for ICANN org to consider certain aspects of implementation as part of the work of ITI.

Recommendations the Board rejects because the recommendation cannot be approved in full.

The Board rejects six recommendations because the recommendations cannot be approved in full: 4.2, 8.1, 9.4, 10.2, 10.3 and 17.2. In the case of these recommendations, the Board notes that, while some portions of the recommendation could be feasible, and in some cases, work is already underway, there are limitations imposed by other portions of the same recommendation that could impact feasibility. While the Board agrees in principle with the intent of many of these recommendations, the Board does not have the option of selectively approving some parts and rejecting other parts of a single, indivisible community recommendation and must act on a recommendation as written and not as interpreted by ICANN org or the Board. As such, the Board rejects these recommendations. However, the Board further notes that it may wish to direct action from ICANN org on some of the ideas within the recommendations. Such actions would not be tracked as part of the tracking of the implementation of SSR2 recommendations.

Recommendation 4.2 calls for ICANN org to adopt and implement ISO 31000 for risk management. The Board notes that ICANN org has a centralized risk management function and risk management framework in place that is based on the most commonly accepted best practices set by the COSO framework and aligns with the ICANN Strategic Plan for Fiscal Years 2021 - 2025 and includes defined measures of success. As ICANN org noted in its comment on the SSR2 Review Team draft report the main elements and outcomes of ISO 31000 are

included in ICANN org's risk management framework. Under the framework, ICANN org uses its own in-house resources to achieve the same outcomes in a fit-for-purpose way.

The Board Risk Committee (BRC) is responsible for oversight of ICANN implemented policies designed to manage ICANN's risk profile, including the establishment and implementation of standards, controls, limits and guidelines related to risk assessment and risk management. The BRC most recently reviewed the status of the risk management target model (Model) during its 13 April 2021 meeting. The Model was developed in 2014-2015 by ICANN org, the BRC, and external consultants, and agreed by the Board. ICANN org's then Risk Management program was benchmarked to the Model and the gaps identified. Over the past few years, ICANN org has worked to close those gaps. The community inputs that the Board considered when acting on Recommendation 4.2 showed that, in general, commenters support the goal of risk mitigation management.

The Board also agrees in principle that ICANN org should have "a strong, clearly documented risk management program" and follow international standards, as noted in the SSR2 Review Team's measures of success for Recommendations 4.1 - 4.3. In fact, the Board notes that ICANN org has a centralized risk management function and risk management framework in place that is based on the most commonly accepted best practices and that a Board committee is responsible for oversight of ICANN implemented policies designed to manage ICANN's risk profile. The Board notes that ICANN org has a strong, clearly documented risk management program, but not as envisioned by SSR2, as written. Thus, the Board agrees with the recommendation in principle, and considers the intent of the recommendation achieved through ICANN org's current operations. However, the Board cannot approve the portion of the recommendation that specifies that ICANN org "adopt and implement ISO 31000 'Risk Management' and validate its implementation with appropriate independent audits…" because it is not clear what risks would be mitigated , nor what benefit would be derived in expanding significant resources to switch from the current risk-management process.

The Board supports ICANN org's risk management operations already in place. In light of the above considerations, and the fact that approval of the

recommendation would require ICANN org to adopt and implement ISO 31000, while the Board agrees in principle with the intent of the recommendation, the Board rejects recommendation 4.2. The Board encourages ICANN org to continue following industry best practices and look for ways to strengthen its risk management practices as it evolves its operations as part of its continuous improvement.

Recommendation 8.1 calls for ICANN org to "commission a negotiating team that includes abuse and security experts not affiliated with or paid by contracted parties to represent the interests of non-contracted entities and work with ICANN org to renegotiate contracted party contracts in good faith, with public transparency, and with the objective of improving the SSR of the domain name system for end-users, businesses, and governments."

The community inputs that the Board considered when acting on this recommendation showed that while some community groups are in support of the recommendation as written, others disagree with the recommendation, or elements of the recommendation. The Board notes that many of those disagreeing with this recommendation are parties to the contracts at issue, and identified that the recommendation is not appropriate under existing contracts. For example:
-    RySG, PIR, Tucows, Namecheap, and RrSG note concerns that the recommendation is not consistent with the terms of the Registry Agreement (RA) and the Registrar Accreditation Agreement (RAA).
-    GAC - "GAC agrees with the spirit of the recommendation, but recognises that "contract negotiations between ICANN and the Contracted Parties do not currently include third parties and therefore would encourage ICANN to consult with independent security experts (i.e. non-contracted entities) for the purposes of developing and agreeing upon security-related provisions that can be incorporated into the contracts."

The Board notes that the aspect of the recommendation that calls for the introduction of a third party into the bilateral negotiation process is not proper or

feasible. The RA[1] and RAA[2] do not allow for third-party beneficiaries[3,4]. The Board notes that ICANN org negotiates in the broader interest of ICANN, including the public interest, and does not represent the interests of the domain industry. The Board also understands that parts of the ICANN community have concerns, as reflected through the public comments, about how Contracted Party agreements are negotiated, and acknowledges that it is important to listen carefully to the community as negotiations proceed and decisions are made. ICANN org also has an important enforcement role once items are incorporated into contracts.

The Board further notes that recommendation 8.1 is not allowed under the provisions of the RA and RAA. While the agreements do provide for a "Working Group", these have contractually specific meanings that are not aligned with this recommendation. For example, in the case of the RA, a "Working Group" is defined as: "representatives of the Applicable Registry Operators and other members of the community that the Registry Stakeholders Group appoints, from time to time, to serve as a working group to consult on amendments to the Applicable Registry Agreements (excluding bilateral amendments pursuant to Section 7.6(i))."[5] Neither the Board or ICANN org is involved in the appointment of these contractual "Working Groups".

Further, as the Board and ICANN org noted in their respective comments on the SSR2 Review Team draft report, the Board and ICANN org cannot bring about contractual changes unilaterally. If changes in provisions of the contracts are desired in order to address perceived gaps related to security, stability, and resiliency of the DNS for end-users, businesses, and governments, as referred to in Recommendation 8.1, then the Policy Development Process allows for such

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[1] Base Registry Agreement - Updated 31 July 2017. Section 7.7:
https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf

[2] 2013 Registrar Accreditation Agreement. Section 7.4: https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#raa

[3] Base Registry Agreement - Updated 31 July 2017. Section 7.8:
https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf

[4] 2013 Registrar Accreditation Agreement. Section 7.5: https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#raa

[5] Base Registry Agreement - Updated 31 July 2017. Section 7.6(j)(v):
https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf

"independent experts" as mentioned in the recommendation to participate as those policy recommendations are developed.

In light of the above considerations, the Board rejects this recommendation. The Board encourages ICANN org to continue bilateral discussions with the contracted parties in a way that enhances the security, stability, and resiliency of the DNS and to strive to have these bilateral discussions be transparent to the general public, in order to continue building trust.

Recommendation 9.4 calls for ICANN org to "task the compliance function with publishing regular reports that enumerate tools they are missing that would help them support ICANN org as a whole to effectively use contractual levers to address security threats in the DNS, including measures that would require changes to the contracts." The community inputs that the Board considered when acting on this recommendation showed that while some community groups are in support of the recommendation, others note concerns with recommendations in the SSR2 Review Team Final Report related to ICANN org's Contractual Compliance team that are applicable to this recommendation. For example:

- [RySG](#) - "The implication of Recommendation 9 is that ICANN Compliance is not enforcing the terms of the Registry Agreement or the Registrar Accreditation Agreement. The Registries disagree with this characterization and note that Registry Operators' compliance with their abuse obligations were recently audited by ICANN Compliance."
- [PIR](#) - "Some recommendations imply that ICANN Compliance is not enforcing existing contractual obligations or encourage ICANN Compliance to undertake activities that are clearly outside of ICANN Compliance's scope and remit."

The Board notes that ICANN org's Contractual Compliance operations already in place ensure that registries and registrars fulfill the requirements in their agreements with ICANN org. Through the Contractual Compliance team, ICANN org enforces policies that have been adopted by the community and makes operational and structural changes as needed to carry out its enforcement role. ICANN org's Contractual Compliance team cannot serve in a proactive policy development capacity.

The Board accepts in principle the idea of improving the tools that the ICANN org Contractual Compliance team has available to it in order to enforce policies that have been adopted by the community. However, the Board cannot approve the part of the recommendation that contemplates "measures that would require changes to the contracts" as such changes cannot be undertaken by either the Board or ICANN org unilaterally. As such, the Board rejects this recommendation given that it is not consistent with the role and authority of ICANN org's Contractual Compliance team. The Board encourages ICANN org's Contractual Compliance team to continue pursuing new tools that will help improve its work.

Recommendations 10.2 and 10.3 call for establishment of a cross-community working group (CCWG) to establish a process for evolving the definitions of prohibited DNS abuse, and for the Board and ICANN org to use the consensus definitions consistently. The community inputs that the Board considered when acting on this recommendation showed that in general, commenters agree that clarity around terminology and definitions of DNS abuse is important but have some concerns or caveats about the recommendation. For example,

- RySG - " RySG would welcome a culture of open discussions aimed at further evolving the definitions of DNS Abuse in the future, as suggested in Recommendation 10.2. We would, however, recommend acknowledging the traditional stakeholders in a CCWG, including Contracted Party representatives, in the recommendation, in addition to the stakeholders named."
- GNSO Council - "Without expressing an opinion on the formation of a CCWG, the GNSO Council asks the ICANN Board to consider present and near-term demands of other policy work on the ICANN Org, staff, and larger ICANN community. Without a common and agreed upon definition, any additional policy work on a topic as broad as 'DNS abuse' would therefore appear extremely challenging and limiting the remit of any such policy related work both in scope and timeline would be a prerequisite."
- RrSG - "Formation of a CCWG as described in this recommendation is outside of the ICANN Bylaws and the GNSO Operating Procedures. Additionally, the directions are overly prescriptive, do not allow for realistic timelines, and do not clearly state the problem that the recommendation is attempting to solve."

The Board rejects Recommendation 10.2, as neither ICANN org nor Board can unilaterally establish a CCWG. A CCWG is a mechanism created by the community to facilitate collaborative work on topics that have been identified as not being within the remit of a specific Supporting Organization or Advisory Committee. Although there is no mandatory process governing the creation or operation of a CCWG, the ccNSO and GNSO communities developed a Uniform Framework for Principles & Recommendations for CCWGs in 2016 that clarifies the views of two of ICANN's policymaking bodies regarding the circumstances and scope for which a CCWG is appropriate.

However, the Board notes that the community continues its discussions over DNS security threat mitigation. Discussions include questions around the definitions and scope of DNS security threats that can be considered as coming within ICANN's remit and the extent to which policy or other community work may be required to supplement efforts already underway, such as industry-led initiatives. The Board is fully supportive of this effort and remains committed to this important work through facilitation and the convening of diverse relevant groups with diverse viewpoints.

The Board rejects Recommendation 10.3 due to its dependencies on Recommendation 10.2; however, the Board supports using consensus definitions consistently.

Recommendation 17.2 asks the ICANN community to develop a policy for avoiding and handling new gTLD-related name collisions. The community inputs that the Board considered when acting on this grouping of recommendations showed that while some community groups support the recommendation, others disagree with it. For example, while IPC supports the recommendation, it notes that IPC "has diverse opinions on Name Collision." RySG, IPC, and Article 19 express concerns that this recommendation overlaps with or is in contradiction to the ongoing work related to Name Collision. For example:
- Article 19 - "While we welcome the recommendation, we urge that the section is redrafted so that it is not in contradiction with the recommendations outlined under the GNSO New Subsequent Procedures Draft Final Report. We specifically note that the recommendation heavily relies on the Name Collision Analysis Project (NCAP) Studies I without

reference to the rest of the ongoing work carried out by the NCAP studies group including NCAP Studies II and III. In this regard, we would like to reiterate our recommendations submitted to the GNSO New Subsequent Procedures Working Group in September 2020 (comments which are still applicable in the current March 2021 situation), where we stated that, '...We welcome the work of the Working Group regarding this topic and support all the affirmations and recommendations as written, especially on the use of the New gTLD Collision Occurrence Management framework. At this time, we do not support the replacement of this framework by a new Board approved framework that may result from the Name Collision Analysis Project (NCAP) Studies I, II and III. Any proposal for a new mitigation framework would be premature given the work of the NCAP studies group is yet to be completed....'. We would thus like to recommend that recommendation 17 is revised to note that measuring name collisions should be carried out under the ongoing framework pending full completion of the work carried out by the NCAP studies group."

On 2 November 2017 the Board passed resolutions 2017.11.02.29 – 2017.11.02.31 requesting that the Security and Stability Advisory Committee (SSAC) conduct a study to facilitate the development of policy on collision strings to mitigate potential harm to the stability and security of the DNS posed by delegation of such strings. The SSAC proposed a series of three studies, and an independent contractor completed the Name Collision Analysis Project (NCAP) Study 1 in June 2020, which included consideration of input received through two Public Comment proceedings. Subsequently, the community-based NCAP Discussion Group redesigned the proposal for NCAP Study 2 and on 25 March 2021 the Board passed resolutions 2021.03.25.11 – 2021.03.25.14 affirming the continued relevance of the nine questions related to name collisions presented in the prior Board resolutions 2017.11.02.29 - 2017.11.02.31, especially questions concerning criteria for identifying collision strings and determining if collision strings are safe to be delegated. The Board also directed the NCAP Discussion Group to proceed with NCAP Study 2 as redesigned.

In addition, the Board has received the Final Report from the GNSO's Policy Development Process on New gTLD Subsequent Procedures, which contains a recommendation and additional implementation guidance on the topic of name

collisions. The Board understands that the GNSO Council affirms that the New gTLD Collision Occurrence Framework should continue to be used until a new framework is developed and adopted. The Board notes that, while the GNSO Council's PDP outcomes contemplate the possibility that further community work may be needed, the Final Report was completed prior to the Board's approval to move forward with NCAP Study 2 and that the GNSO Council in approving the PDP outcomes also requested that "the ICANN Board consider and direct the implementation of the Outputs adopted by the GNSO Council without waiting for any other proposed or ongoing policy work unspecific to New gTLD Subsequent Procedures to conclude, while acknowledging the importance of such work."

Further, the Board notes that, while it can request an Issue Report and require the initiation of a PDP in the GNSO, and EPDP can only be launched by a GNSO Council vote, and only in specific circumstances ("to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; [or] to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists"[6]).

In light of the above considerations, the Board rejects Recommendation 17.2, as the Board does not have the authority to develop policy. The Board notes that the community has already conducted extensive policy work concerning the process for handling name collisions for the next round of new gTLDs, and NCAP is another significant community effort already underway that is expected to result in additional useful information for the Board and community on the topic. Given the ongoing work in this area, including the NCAP studies, the Board understands that the results of those studies may have implications for SSR in the context of a future round of New gTLDs.

Recommendations the Board rejects

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[6] GNSO Operating Rules and Procedures: Annex 4 - Expedited Policy Development Process Manual: https://gnso.icann.org/sites/default/files/file/field-file-attach/2016-12/annex-4-epdp-manual-01sep16-en.pdf

The Board rejects ten (10) recommendations: 2.1, 2.2, 2.3, 2.4, 14.1, 14.3, 14.4, 14.5, 15.1, and 15.2.

Recommendations 2.1, 2.2, 2.3 and 2.4 recommend that ICANN org "create a C-suite position responsible for both strategic and tactical security and risk management." The Board notes that implementation of Recommendations 2.2, 2.3 and 2.4 are dependent on implementation of Recommendation 2.1, and as such the Board takes action on these recommendations as a group. The community inputs that the Board considered when acting on these recommendations show that, while some community groups express support, RySG, i2Coalition, Namecheap, and RrSG note that the work specified in the role description is already being carried out by members of ICANN org, and as such do not support the recommendation. For example:

- RySG - "RySG supports these recommendations insofar as they represent strategic requirements for ICANN Org risk management. We do not support the creation of the new function to oversee security and risk management, as suggested per Recommendation 2.1., as we believe that these roles can (and currently are being) handled by existing members across different functional areas within ICANN Org, including OCTO."
- Namecheap - "Recommendations 2, 3, and 4.3 already exist within ICANN. John Crain has the title of Chief Security, Stability & Resiliency Officer. Mr. Crain (and his team) are part of the Office of the Chief Technology Officer (OCTO)- which has approximately twenty members. Mr. Crain and OCTO already have a transparent budget, conduct (and publish) extensive research, and participate in many ICANN and industry forums. The OCTO team has an extensive list of publications at https://www.icann.org/octo. It is not clear from the SSR2 Final Report whether the Review Team is aware of these ICANN activities, or how the Review Team finds these significant and beneficial activities to be insufficient."

In their respective comments on the SSR2 Review Team draft report, the Board and ICANN org encouraged the SSR2 Review Team to provide specific details as to what issues or risks the SSR2 Review Team had identified with the current operations, how the SSR2 recommendation will address these issues or risks, and what relevant metrics could be applied to assess implementation. The SSR2

Review Team did not provide the further requested information in the SSR2 Review Team Final Report.

The Board notes that it has an oversight role; it is the responsibility of the ICANN President and CEO to structure ICANN org, and the President and CEO can only be held accountable to the management choices he structures and implements. It is not appropriate for the Board or a review team to curtail that authority or accountability.

Further, ICANN org is in a relatively unique state in regard to security management. There is the traditional role of data and systems security that most organizations have and protect against as well as the security and well-being of its staff. However, since ICANN org facilitates numerous meetings of scale with its communities and holds a particular role in managing portions of the Internet's unique identifier systems as defined in its Bylaws, which are both different types of physical and data security, ICANN org felt that the scope to be too big and the breadth too diverse to manage these distinctly different functions under one reporting structure. ICANN org noted this in its [comment](#) on the SSR2 Review Team draft report. As the organization matured over the years, it became clear that these security-related functions would be best managed in a distributed manner with specific and narrow responsibilities to be managed by the executive of the functional team best suited for each specified role. This decision was not made lightly, and ICANN org continues to evaluate and refine where these responsibilities lie. The Board supports ICANN org's decision to distribute the various security functions to the relevant functional areas within the organization because of the diversity of the types of security challenges (internal systems, physical, staff safety, external to the continued function of the identifiers in which ICANN manages). These functional teams work closely not only with one another but also with the [Board Risk Committee](#), which provides oversight as to the risk based functions for which ICANN org is responsible.

In addition, also as noted in its [comment](#) on the SSR2 Review Team draft report, ICANN org's Risk Management function is currently already assumed by a C-suite position, and org has put in place a CEO Risk Management Committee to oversee all risk management activities of the org, including the CEO and all C-Suite executives in charge of any security matters, whether DNS-related, cyber- and

system- related and physical related. The CEO Risk Management Committee is therefore a mechanism that provides ICANN org with the overarching perspective and ability to centrally act on all security matters. It is not clear what issues the SSR2 Review Team intends the proposed C-Suite role and reorganization would address, or why the SSR2 Review Team believes that the creation of the C-Suite role and reorganizing structures that ICANN org intentionally distributed for efficiency and focus would have sufficient impact on those issues to justify the risk and disruption to staff and cost.

In light of the above considerations, the Board rejects Recommendations 2.1, 2.2, 2.3 and 2.4. However, the Board agrees with increased reporting and periodic communication of SSR activities. This is already partially performed as part of the current annual planning process but could be enhanced consistently with the presumed intent of the Recommendation 2.2.

Recommendations 14.1, 14.3, 14.4, 14.5, 15.1 and 15.2 relate to creating a Temporary Specification and launching an Expedited Policy Development Process (EPDP) for evidence-based security improvements. The Board notes that the SSR2 Review Team Final Report addresses these recommendations together in terms of the defined measures of success[7]. The community inputs that the Board considered when acting on this grouping of recommendations showed that, in general, while community groups are supportive of evidence-based security improvements and believe efforts related to improvements to be high priority, several community groups note concerns with the recommendations as written. RySG, Tucows, PIR, and RrSG note concerns that this grouping of recommendations does not meet the threshold for establishing a Temporary Specification, or requirements for launching an EPDP. For example:
-   RySG - "Recommendation 14 fails to meet the requirements for temporary specifications contained in the Registry Agreement and the Registrar Accreditation Agreement in fundamental ways: (1) The Recommendation fails to meet the requirement that a temporary specification be as 'narrowly tailored' as feasible to achieve its defined purposes; and (2) Temporary Specifications must address an immediate need to preserve the

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[7] SSR2 Review Team Final Report (p46): https://www.icann.org/en/system/files/files/ssr2-review-team-final-report-25jan21-en.pdf

Security or Stability of the DNS and not be used to undermine cross Community discussions on longstanding policy issues."

- Tucows - "Tucows supports SSR2's commitment to evidence-based improvements but is not clear on why a Temporary Specification is recommended rather than a standard PDP. The SSR2 does not make clear why this might be an emergency of the type envisioned by the IANA transition team; in the absence of such clarity, a standard PDP is the appropriate choice. Furthermore, the Tucows family of registrars notes that DNS Abuse has objectively decreased, as evidenced by data collated and published by ICANN itself as 'Identifier Technology Health Indicator' metrics. The SSR2 does not take this into account, which unfortunately detracts from the good recommendations it has. Any policy work relating to DNS Abuse would benefit from a clear Issues Report and should be approached as a standard PDP; a Temporary Specification and expedited process are neither required nor appropriate in this context."

- RrSG - "The ICANN Board should reject this recommendation as it is outside of the ICANN process, and specifically against the procedures for creating a Temporary Specification as specified in Section 2 of the Consensus and Temporary Policy Specification of the 2013 RAA. This recommendation fails to identify the background necessitating additional requirements on registrars and registries without their participation in creating such a Temporary Specification."

The Board notes that Temporary Policies can only be established by the Board upon specific requirements, such as when the Board "reasonably determines that such modifications or amendments are justified and that immediate temporary establishment of a specification or policy on the subject is necessary to maintain the stability or security of Registrar Services, Registry Services, the DNS or the Internet"[8],[9]. The Board notes that Recommendation 14.1 does not provide such emergency grounds, and as such rejects this recommendation and the recommendations dependent on its implementation (14.3, 14.4, 14.5, 15.1 and 15.2).

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[8] Base Registry Agreement - Updated 31 July 2017. Section 2:
https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf
[9] 2013 Registrar Accreditation Agreement 'Consensus Policies and Temporary Policies
Specification':https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#consensus-temporary

Further, the Board notes that, while it can request an Issue Report and PDP be done by the GNSO, an EPDP can only be launched by a GNSO Council vote, and only in specific circumstances ("to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the Board or the implementation of such an adopted recommendation; [or] to provide new or additional policy recommendations on a specific policy issue that had been substantially scoped previously, such that extensive, pertinent background information already exists"[10]). The Board notes that Recommendation 15.1 does not meet these requirements. The Board, consistent with its action on the Competition, Consumer Trust, and Consumer Choice (CCT) Review Team recommendations, will not take the place of the community within the multistakeholder model and initiate a PDP upon a Specific Review team's recommendation. As such, even without dependency on Recommendation 14.1, the Board would not be in a position to approve Recommendations 15.1 and 15.2.

<u>Recommendations that the Board determines to be pending, likely to be approved once further information is gathered to enable approval.</u>

The Board places four recommendations (5.4, 19.1, 19.2 and 20.2) into "pending, likely to be approved once further information is gathered to enable approval", in light of the considerations noted below. As specified in the Scorecard, the Board expects specific actions to take place in order to take further Board decision on these recommendations. The Board uses this category to communicate to the ICANN community that based on the information available to date, the Board anticipates that each of these recommendations will be approved. The community inputs that the Board considered when acting on these recommendations showed that commenters generally support these recommendations.

Recommendation 5.4 calls for ICANN org to "reach out to the community and beyond with clear reports demonstrating what ICANN org is doing and achieving in the security space including information describing how ICANN org follows

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[10] GNSO Operating Rules and Procedures: Annex 4 - Expedited Policy Development Process Manual: https://gnso.icann.org/sites/default/files/file/field-file-attach/2016-12/annex-4-epdp-manual-01sep16-en.pdf

continually improving best practices and process to manage risks, security and vulnerabilities." While implementation of the recommendation appears feasible, the Board requires clarification on several elements of this recommendation in order to accurately assess resource requirements and enable approval. For example, the required granularity of the reports expected by the SSR2 Review Team, and what entities the SSR2 Review Team envisioned ICANN org report out to "beyond" the ICANN community are not clear. The Board directs the ICANN President and CEO, or his designee(s) to seek clarifications from the SSR2 Implementation Shepherds on elements of this recommendation that are not clear such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps and whether Recommendation 5.4 can be approved.

Recommendations 19.1 and 19.2 recommend that ICANN org should "complete the development of a suite for DNS resolver behavior testing" and "ensure that the capability to continue to perform functional testing of different configurations and software versions is implemented and maintained." The Board notes that the SSR2 Review Team's discussion and recommendations in the Final Report refer to three different things: a "DNS testbed"; a "regression test suite"; and "a suite for DNS resolver behaviour testing." While any of these may be feasible, the Board requires clarification from the SSR2 Implementation Shepherds as to the SSR2 Review Team's intent in order to accurately assess resource requirements. The Board directs the ICANN President and CEO, or his designee(s), to seek clarifications from the SSR2 Implementation Shepherds on elements of these recommendations that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps and whether Recommendations 19.1 and 19.2 can be approved. Further, the Board understands that the testbed would operate indefinitely so as to be applicable to future changes in resolvers. If the Board eventually approves this recommendation, maintenance of a testbed environment would have to be a persistent budget item in all future budget cycles for continued development and upkeep.

Recommendation 20.2 calls for ICANN org to "create a group of stakeholders involving relevant personnel (from ICANN org or the community) to periodically run table-top exercises that follow the Root Key Signing Key (KSK) rollover

process." While the recommendation appears feasible and the Board believes that table-top exercises would be beneficial, more information is needed to understand what the SSR2 Review Team intended to be targeted in the table-top exercises following the Root KSK rollover process. The Board directs the ICANN President and CEO, or his designee(s) to seek clarification from the SSR2 Implementation Shepherds on elements of this recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps and whether Recommendation 20.2 can be approved.

<u>Recommendations the Board determines to be pending, holding to seek clarity or further information.</u>

The Board places twenty-four (24) recommendations into "pending, holding to seek clarity or further information": 3.1, 3.2, 3.3, 4.3, 5.3, 7.1, 7.2, 7.3, 7.5, 9.3, 11.1, 12.1, 12.2, 12.3, 12.4, 13.1, 13.2, 14.2, 17.1, 18.1, 18.2, 18.3, 20.1 and 24.1. The Board is unable to signal at this time whether it is likely to accept or reject each of these recommendations pending the collection of additional information.

Recommendations 3.1, 3.2 and 3.3 pertain to responsibilities of the C-Suite position recommended in Recommendation 2 and SSR-related budget transparency. The community inputs that the Board considered when acting on this recommendation showed that while several commenters support the recommendations, [RySG](), [i2Coalition](), [Namecheap](), and [RrSG]() believe that the recommendations are already being addressed, or can be sufficiently addressed within the current ICANN organization structure, without the addition of a C-Suite level position. For example:

-   [RySG]() - "RySG supports the recommended actions to improve SSR-related budget transparency, but cautions that briefings to the ICANN community on SSR strategy and projects should be high level and not disclose specific security practices, so as not to introduce potential attack vectors. We reiterate that, as per our previous comment, we do not support the creation of the Executive CSuite Security Officer referred to in Recommendation 3.1, as this role is already sufficiently being covered within ICANN Org."

- [i2Coalition](#) - "The Final Report is full of recommendations that, without stating the problem that is to be solved, ask for new roles that already seem to exist (2.1, 3.1, 4.3), or seem to be pushing ICANN into the realm of policing DNS protocols (19). This is a serious concern with recommendations that, once accepted by the Board, would create duplicative work, or even seem to expand ICANN's remit."
- [Namecheap](#) - "A number of the recommendations in the SSR2 Final Report address items or functions that ICANN org already provides- and in some cases is already dedicating significant resources toward. Specifically, Recommendations 2, 3, and 4.3 already exist within ICANN."
- [RrSG](#) - "It is not clear to the RrSG how ICANN's current public comment on its budget (including SSR-related items) and strategic planning is deficient to necessitate this recommendation, nor why the Review Team designated this as a high priority item."

The Board supports increased transparency where possible, and as such agrees with the intent of these recommendations. ICANN org is already undertaking work towards improving budget transparency. For example, ICANN org's [Operating and Financial Plans for FY22-26 (Five-Year) and FY22 (One-Year)](#), includes "Appendix C: ICANN Security, Stability, and Resiliency (SSR) of the Unique Internet Identifiers''. This appendix states: "ICANN's deep commitment to SSR underscores an approach to the concept that is holistic and interwoven into daily operations. In other words, every function of ICANN org contributes to the overall SSR through its support of org's work to advance ICANN's Mission. However, this Appendix aims to articulate some of the specific areas that particularly focus on supporting the SSR of these unique Internet identifiers."

Further, the Board agrees with the benefit of a process of periodic communication on SSR activities and notes this is already partially performed as part of the current annual planning process. The Board encourages ICANN org to continue enhancing its periodic communication on SSR activities as part of its work and operations.

However, the Board notes that, as written, successful implementation of Recommendations 3.1 - 3.3 depends on implementation of Recommendation 2. The Board is rejecting Recommendation 2 on the establishment of a Chief Security

Officer (CSO) or Chief Information Security Officer (CISO) at the Executive C-Suite level of ICANN org based on the rationale set out for that recommendation.

In light of the above considerations, the Board directs the ICANN President and CEO, or his designee(s), to seek clarification from the SSR2 Implementation Shepherds as to the SSR2 Review Team's intent, and if implementation of these recommendations can be considered effective after the Board rejects Recommendation 2, thereby removing the possibility of assigning the additional roles or responsibilities as called for in Recommendations 3.1, 3.2, and 3.3 to that new office. The Board has a concern with accepting recommendations for which implementation can never be deemed successful or effective. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendation 4.3 recommends that ICANN org "name or appoint a dedicated, responsible person in charge of security risk management that will report to the C-Suite Security role" as recommended in Recommendation 2. The community inputs that the Board considered when acting on Recommendation 4.3 showed that while several commenters support the recommendation, RySG, i2Coalition, Namecheap, and RrSG cite concerns about the elements of the recommendation that ask for a new role to be created that already exists in ICANN org. For example:

- RySG - "RySG is generally supportive of risk mitigation management within ICANN and believe that this can be sufficiently addressed within the current ICANN staff structures without the addition of a C-Suite level position."
- i2Coalition - "The Final Report is full of recommendations that, without stating the problem that is to be solved, ask for new roles that already seem to exist (2.1, 3.1, 4.3), or seem to be pushing ICANN into the realm of policing DNS protocols (19). This is a serious concern with recommendations that, once accepted by the Board, would create duplicative work, or even seem to expand ICANN's remit."
- Namecheap - "Recommendations 2, 3, and 4.3 already exist within ICANN…It is not clear from the SSR2 Final Report whether the Review Team is aware of these ICANN activities, or how the Review Team finds these significant and beneficial activities to be insufficient."

- [RrSG](#) - "As of the date of this comment, ICANN's Office of the Chief Technology Officer (OCTO) comprises approximately 20 staff. It is not clear to what extent the functions identified in this recommendation are not currently performed by OCTO, or why a new position is required to perform these functions. To the extent these functions are not currently performed by OCTO, the team should be capable of incorporating these items into their existing departmental structure."

The Board notes that as written, successful implementation of Recommendation 4.3 depends on implementation of Recommendation 2. The Board is rejecting Recommendation 2 on the establishment of a Chief Security Officer (CSO) or Chief Information Security Officer (CISO) at the Executive C-Suite level of ICANN org based on the rationale set out for that recommendation. In light of this dependency on Recommendation 2, the Board directs the ICANN President and CEO, or his designee(s) to seek clarification from the SSR2 Implementation Shepherds as to if implementation of this recommendation can be considered effective after the Board rejects Recommendation 2 thereby removing the possibility of assigning the additional roles or responsibilities as called for in Recommendation 4.3. The Board has a concern with accepting a recommendation for which implementation can never be deemed successful or effective.

Further, the Board notes it is the responsibility of the ICANN President and CEO, or his designee(s), to structure ICANN org, and the President and CEO can only be held accountable to the management choices he structures and implements. It is not appropriate for the Board or a review team to curtail that authority or accountability. In addition, it is not clear as to what the SSR2 Review Team envisioned would be mitigated, nor what cost/benefit would be derived from the recommended structure.

The Board directs the ICANN President and CEO, or his designee(s) to seek clarity from the SSR2 Implementation Shepherds on elements of this recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendation 5.3 recommends "external parties that provide services to ICANN org to be compliant with relevant security standards and document their due diligence regarding vendors and service providers." The community inputs that the Board considered when acting on Recommendation 5.3 showed commenters generally support the recommendation. The Board understands that ICANN org's Engineering & Information Technology (E&IT) function already requires all vendors and service providers to have a risk assessment performed and documented which meets industry-standard requirements. In order to accurately assess resource requirements and feasibility, the Board requires clarification from the SSR2 Implementation Shepherds as to if the SSR2 Review Team's intent was to expand this risk assessment to all ICANN org vendors and service providers. The Board directs the ICANN President and CEO, or his designee(s), to seek clarification from the SSR2 Implementation Shepherd as to the SSR2 Review Team's intended scope of this recommendation. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendations 7.1, 7.2, 7.3 and 7.5 pertain to business continuity and disaster recovery processes and procedures. The community inputs that the Board considered when acting on Recommendations 7.1, 7.2, 7.3 and 7.5 showed that most commenters are in support of the recommendations, however RySG notes some concerns:

RySG - "While the RySG supports the principle being highlighted in this set of recommendations, i.e., having a BC and a DR plan, the proposed scope of 'all the systems owned by or under the ICANN org purview' is too broad, contrary to best commercial practice, and thus inappropriate. BC and DR development should be included as part of an overall risk management strategy as highlighted by the Report in recommendation 4 and elsewhere in existing policies and processes. Similar, for example, to the IANA risk management strategy for its services. We recommend that the Board seek additional clarity from the SSR2 RT regarding how Recommendation 7.2 feeds into the current Governance Working Group developing a governance structure for Root Zone Operators."

The Board notes that the SSR2 Review Team states successful measures of implementation for these recommendations as: "This recommendation can be

considered implemented when ICANN org's BC and DR plans and processes are thoroughly documented according to accepted industry standards, including regular audits that those processes are being followed, and when a non-U.S., non-North American site is operational."[11] The Board is placing Recommendation 7.4, which calls for the "non-U.S., non-North American site" into "pending, likely to be rejected unless additional information shows implementation is feasible."

As such, the Board directs the ICANN President and CEO, or his designee(s) to seek clarification from the SSR2 Implementation Shepherds as to if implementation of these recommendations can be considered effective in the event that the Board rejects Recommendation 7.4 regarding opening a non-U.S., non-North American site, and that portion of the success measure cannot be achieved. The Board has a concern with accepting recommendations for which implementation can never be deemed successful or effective.

The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendation 9.3 recommends that ICANN org has "compliance activities audited externally at least annually and publish the audit reports and ICANN org response to audit recommendations, including implementation plans." The community inputs that the Board considered when acting on Recommendation 9.3 showed that most commenters support the recommendation, although RySG and RrSG note some concerns. For example:
- RySG - "The implication of Recommendation 9 is that ICANN Compliance is not enforcing the terms of the Registry Agreement or the Registrar Accreditation Agreement. The Registries disagree with this characterization and note that Registry Operators' compliance with their abuse obligations were recently audited by ICANN Compliance.
- RrSG - "Any audit of Contractual Compliance should focus on its structure, staffing, activities, systems, processes, and the overall efficiency and effectiveness of this function. Contractual Compliance team already has significant resources within its team and ICANN org to oversee and ensure consistent and accurate complaint processing."

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[11] SSR2 Review Team Final Report (p30): https://www.icann.org/en/system/files/files/ssr2-review-team-final-report-25jan21-en.pdf

The Board notes that some elements of this recommendation are not clear, such as what would be audited, against what criteria, by whom, or why an external auditor would be required. The Board directs the ICANN President and CEO, or his designee(s), to seek clarity from the SSR2 Implementation Shepherds on elements of the recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendation 11.1 pertains to the availability of Centralized Zone Data Service (CZDS) data. The community inputs that the Board considered when acting on this recommendation showed that while some community groups are in support of the recommendation, others express concerns. For example:
- RySG - "The current CZDS system not only provides sufficient access but was also the result of lengthy negotiations taking into account the varying needs of different members of the ICANN community, including the registries that provide this access."
- NCSG - "Brand protection and intellectual property protection are not security and stability issues. But in this section 'brand protection' is again invoked. This is a risky path to take and can lead to extending the ICANN mission and the definition of DNS abuse."

The Board notes that some elements of this recommendation are not clear. For example, the Board notes that ICANN org is currently in the process of implementing recommendations from SAC097, which calls for ICANN org to revise "the CZDS system to address the problem of subscriptions terminating automatically by default, for example by allowing subscriptions to automatically renew by default." It is not clear what additional work is needed to sufficiently implement the SSR2 Review Team's Recommendation 11.1 or how the existing work already being performed on CZDS access is insufficient. The Board directs the ICANN President and CEO, or his designee(s) to seek clarity from the SSR2 Implementation Shepherds on elements of this recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendations 12.1, 12.2, 12.3, 12.4, 13.1 and 13.2 pertain to transparency and accountability of DNS abuse analysis and reporting efforts, and complaint

reporting. The community inputs that the Board considered when acting on this recommendation showed that while several community groups support the recommendations, others have some concerns. For example, with regard to Recommendations 12.1, 12.2, 12.3 and 12.4:

- RySG - "ICANN Org has produced DAAR as a means of informing the community of the apparent existence of DNS Abuse. There are other organizations that produce similar types of reports within the context of their own mission and purpose. The RySG's DNS Abuse Working Group (and its predecessor the DAAR Working Group) has been working collaboratively with OCTO to ensure that DAAR provides the community with the best information available. Without a stated objective or observable problem this recommendation prescribes a solution with dubious value...Specifically, the notion of a time-delay in data-sharing is antithetical to the goal of mitigating abuse as quickly as practical and would appear to be competitive with ICANN Org's compliance responsibilities that also occur after-the-fact."

- Article 19 - "We caution that any process of dealing with DNS abuse should be done through a public consultation process and should not expand ICANN's mandate beyond infrastructure to include content regulation."

- Tucows - "Any attempt to identify Contracted Parties that 'contribute to abuse' is fraught with impossibility: mere numbers and percentages do not tell the whole story. The Tucows family of registrars notes the good work of the Registrar of Last Resort, for example, as well as the fact that the majority of abuse occurs in the .com registry—which speaks to its popularity, not to its permissive or welcoming nature towards abusive registrations. The problems with Recommendation 12.3 should be obvious but, to avoid doubt: attempting to identify registries and registrars that 'contribute to abuse' by quantifying the number of abusive registrations or clients on their platform instead simply indicates a high-volume business. Instead, attention should be given to business practices which allow for abusive behaviour or clients with indicators of abusive intent."

- NCSG - "DAAR was never set up for the purpose of auditing registries and registrars. It is not a 'punishment mechanism' but a research mechanism. It should never have a mission such as identification of registries and registrars that harbor a disproportionate level of abuse. DAAR was recommended by GAC in multiple communiques and it provides useful statistics that can be helpful for security research. So it should not be

discontinued at the request of the review team but the community as a whole should decide which direction it should take."

- RrSG - "ICANN already operates the DAAR, and it is not clear what limitation or oversight this recommendation intends to address. Without identifying the specific deficiencies, the Review Team should not instruct ICANN to spend significant money to accomplish unidentified goals.

The Board acknowledges the extensive community and ICANN org efforts currently going on around DNS security threats.

The Board directs the ICANN President and CEO, or his designee(s), to evaluate how this grouping of recommendations, along with other recommendations that pertain to DNS security threats should be considered in a coordinated way, including through ICANN org's program dedicated to DNS security threats mitigation. This information will inform the Board's decision on next steps. The Board notes, however, that beyond the interdependencies related to the extensive community and ICANN org efforts around DNS security threats, there may be additional challenges associated with implementation of some of these recommendations that the Board would require to be addressed before determining if these recommendations can be approved.

Recommendation 14.2 recommends that ICANN org provide contracted parties with lists of domains in their portfolios identified as abusive to enable anti-abuse action. While the Board is rejecting Recommendations 14.1, 14.3, 14.4 and 14.5 for specific reasons, the Board recognizes that recommendation 14.2 appears to be independent from these recommendations.

The community inputs that the Board considered when acting on this recommendation showed that, while commenters offer mixed views about other recommendations in the Recommendation 14 grouping, specific comments about recommendation 14.2 are more limited. GAC notes that "CCT Review Recommendation 12 also saw value in the financial incentivisation (SSR2 Recommendation 14.5) of contracted parties encouraging them to reach certain DNS Abuse milestones. Such financial incentives, of course, are only possible when there first exists a shared understanding of which domains within a contracted party's portfolio are perceived to be abusive (SSR2 Recommendation

14.2).") [RySG](#) specifically notes it "does not object to Recommendation 14.2", while [RrSG](#) notes "The ICANN Board should reject this recommendation as it is not within ICANN's remit to police the Internet for abuse. If third parties have concerns or identify specific and verifiable cases of abuse, they should report them to the appropriate contracted party."

The Board notes that ICANN org currently measures specific security threats related to domain names through several projects, including the [Domain Name Security Threat Information Collection and Reporting](#) (DNSTICR) project, and [Domain Abuse Activity Reporting System](#) (DAAR), both of which have a publication or reporting element.

The Board understands that all such projects rely on commercially licensed data that come with varying restrictions on what data can be shared and how. Through the DNSTICR, ICANN org produces reports on recent domain registrations that ICANN org understands to be using the COVID-19 pandemic for phishing or malware campaigns. These reports, which are shared with the responsible parties (primarily registrars or registries), contain the evidence that leads ICANN org to believe the domains are being used maliciously, along with other background information to help the responsible parties determine the correct course of action.

The overarching purpose of DAAR is to develop a robust, reliable, and reproducible methodology for analyzing security threat activity, which the ICANN community may use to make informed policy decisions. The system collects TLD zone data and complements these data sets with a large set of high-confidence Reputation Block List (RBL) security threat data feeds. The aggregated statistics and anonymized data collected by the DAAR system can serve as a platform for studying, reporting daily, or historically the registration data, or the abuse activity by each registry. This aggregated data is currently pushed to the registries using ICANN's Service Level Agreement Monitoring (SLAM) system.

The Board directs the ICANN President and CEO, or his designee(s) to regard the measures of success as defined by the SSR2 Review Team for Recommendations 14 and 15, and evaluate how this recommendation, along with other

recommendations that pertain to DNS security threats, should be considered in a coordinated way, including through the ICANN org program dedicated to DNS security threats mitigation and ongoing projects such as DNSTICR and DAAR. This information will inform the Board's decision on next steps.

Recommendation 17.1 recommends that ICANN org create a framework to characterize the nature and frequency of name collisions and resulting concerns. The community inputs that the Board considered when acting on this recommendation showed that while some community groups are in support of the recommendation, others express concerns. For example, RySG, IPC, and Article 19 express concerns that this recommendation overlaps with or is in contradiction to the ongoing work related to Name Collision. Article 19 encourages revising the recommendation "so that it is not in contradiction with the recommendations outlined under the GNSO New Subsequent Procedures Draft Final Report" and "to note that measuring name collisions should be carried out under the ongoing framework pending full completion of the work carried out by the NCAP studies group".

The Board notes that Recommendation 17.1 has dependencies on the SSAC NCAP. The output of the NCAP studies will inform the Board's decision on next steps. The Board noted such overlap in its comments on the SSR2 Review Team draft report, and encouraged the SSR2 Review Team to consider how its recommendations may be consolidated into or passed through to ongoing work.

Recommendations 18.1, 18.2 and 18.3 recommend that ICANN org create and maintain a public archive of digests or readouts from various networking and security research conferences. The community inputs that the Board considered when acting on these recommendations showed that while several community groups support these recommendations by way of their overarching support for all recommendations in the SSR2 Review Team Final Report, RySG and RrSG express concerns. For example:
- RySG - "In much the same way that ICANN monitors and offers neutral summary reports on legislative developments and identifier technology issues, it is reasonable for ICANN to do so for other topics related specifically to ICANN's mission and scope. However, it is unclear how recommending that ICANN offer an interpretation or analysis (including

proposing additional studies) of these third-party efforts by specifically targeting only one part of the ICANN community is within either the Review Team's scope of work or ICANN's."

- RrSG - "Contract negotiations are between contracted parties and ICANN as detailed in the RAA and RA, and are not subject to public discussion and feedback from the ICANN community, including recommendations from peer-reviewed literature", and "it is not clear how the studies will be paid for, and how confirming peer-reviewed studies are beneficial or within ICANN's remit."

The Board notes that ICANN org currently already publishes reports of emerging technologies that are relevant to ICANN org's mission through its Office of the Chief Technology Officer (OCTO) publication series, and regularly provides updates the community, for example via recent Emerging Identifier Technology sessions at ICANN58, ICANN60, ICANN64, and ICANN66.

As the Board noted in its comment on the SSR2 Review Team draft report, the Board supports the work of OCTO and its determination of the needs for data and analysis to inform its work, and the Board is not clear about the value to the community of a potentially large-scale and costly effort associated with the implementation of this recommendation. While the Board agrees that there is merit to ICANN org performing an evaluation to ensure that it is tracking at an appropriate level to the work that ICANN does, the Board notes that many academic papers published do not reach the level of notice that would impact the work of ICANN and a significant investment of time, money, and effort would be required to sort through these materials. In this manner, Recommendations 18.1 - 18.3 imply unbounded work. The Board would like to better understand the community's views as to if ICANN org should expend additional resources on this activity, in light of current existing work.

The Board directs the ICANN President and CEO, or his designee(s), to perform an evaluation of its tracking efforts already underway and provide this to the Board to ensure that ICANN org is tracking at an appropriate level to the work that ICANN does. Further, the Board directs the ICANN President and CEO, or his designee(s) to engage the community to understand if ICANN org should expend

additional resources on this activity, in light of current existing work. This information will inform the Board's decision on next steps.

Recommendation 20.1 relates to establishing a formal procedure to specify the details of future key rollovers. No community groups express concerns about this recommendation. The Board expects that this recommendation would require significant resources to implement, while the cost versus benefit is not clear. Further, the Board notes that this recommendation has dependencies on research work that has not yet been conducted, such as algorithm rolls. The Board notes that alternative solutions, such as a process that contains evaluation checkpoints that allow circumstances to be evaluated and provide for potential course correction, may be more appropriate. In light of these considerations, the Board requires further information, including from community engagement as appropriate, in order to take dispositive action on this recommendation. The Board directs the ICANN President and CEO, or his designee(s) to gather further information, including via community engagement and engagement with the SSR2 Implementation Shepherds as appropriate on this recommendation. This information will inform the Board's decision on next steps.

SSR2 Recommendation 24.1 asks ICANN org to perform annual end-to-end testing of the full EBERO process with public documentation for the outcome. No community groups express concerns about this recommendation. The Board notes that some elements of this recommendation are not clear. For example, it is not clear if the SSR2 Review Team's intent is for ICANN org conduct EBERO testing on "live" gTLDs with registrations. The Board directs the ICANN President and CEO, or his designee(s) to seek clarity from the SSR2 Implementation Shepherds on elements of this recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

<u>Recommendations that the Board determines to be pending, likely to be rejected unless additional information shows implementation is feasible.</u>

The Board places six recommendations into "pending, likely to be rejected unless additional information shows implementation is feasible": 6.1, 6.2, 7.4, 9.2, 16.2 and 16.3. As specified in the Scorecard, the Board expects specific actions to take

place in order to take further Board decision on these recommendations. The Board uses this category to communicate to the ICANN community that based on the information available to date, the Board anticipates that each of these recommendations will be rejected.

Recommendations 6.1 and 6.2 pertain to SSR vulnerability disclosures, including imposing additional requirements on contracted parties. The community inputs that the Board considered when acting on Recommendations 6.1 and 6.2 showed that while several commenters support the recommendations, others express concerns. RySG, Namecheap, and RrSG believe elements of the recommendations contemplate that ICANN org should unilaterally make modifications to the Registrar Accreditation Agreement (RAA). For example:

- RySG - "While the RySG supports its members adopting vulnerability disclosure policies as good business practice, it does not support ICANN acting as a clearinghouse, gatekeeper, or regulator of vulnerability disclosure policies
- Namecheap - "Namecheap does not support any of the components of the SSR2 Final Report that contemplate any modification of the RAA (including but not limited to Recommendations 6 and 8), and urges the ICANN Board to completely reject any of these recommendations."
- RrSG - "It is not the role of ICANN or the ICANN community to dictate the operational obligations of contractual parties especially without the participation, agreement, and approval of the contracted parties."

While IPC is supportive of these recommendations, IPC expresses a concern that "requir[ing] dotBrands to disclose all vulnerabilities in their business to ICANN...goes beyond ICANN's remit. At a minimum, any vulnerabilities should be limited only to those systems directly related to the operation of the TLD."

With regard to Recommendation 6.1, the Board notes that several elements of the recommendation are not clear. For example, as written, it is not clear how ICANN org should implement the recommendation in the event that there is not voluntary adoption, and may require a GNSO Policy Development Process. Possibly, the SSR2 Review Team meant "ICANN org should require the implementation of best practices and objectives in contracts, agreements, and Memorandums of Understanding". If this is the intent, while the Board supports

contracted parties using best practices that align with the goals and objectives outlined in ICANN's Strategic Plan, making implementation of best practices mandatory would be a policy matter and not something ICANN org or Board can unilaterally impose in "contracts, agreements, and MOUs." Other elements of this recommendation that require clarification include, for example, how should SSR best practices/objectives be identified? How should ICANN org measure adoption? What is the threshold to evaluate ICANN org's promotional efforts as insufficient? The Board directs the ICANN President and CEO, or his designee(s), to seek clarity from the Implementation Shepherds on elements of this recommendation that are not clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

With regard to Recommendation 6.2, the Board notes there are three components of this recommendation, which each have different considerations. While ICANN org already does some of the things called for within the recommendation as ICANN org noted in its comments on the SSR2 Review Team draft report, the recommendation's focus on disclosure appears difficult or nearly impossible to implement. The Board directs the ICANN President and CEO, or his designee(s), to consult with the SSR2 Implementation Shepherds to better understand the SSR2 Review Team's intent of the recommendation and the possible process to implement it with the relevant parties. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Recommendation 7.4 asks ICANN org to "establish a new site for [Disaster Recovery] for all the systems owned by or under the ICANN org purview with the goal of replacing either the Los Angeles or Culpeper sites or adding a permanent third site. ICANN org should locate this site outside of the North American region and any United States territories." The community inputs that the Board considered when acting on Recommendation 7.4 showed that, in general, commenters support the recommendation. However, RrSG notes "although the RrSG is generally supportive of this recommendation, it will defer to IANA regarding whether or not to create and maintain a KSK ceremony location outside of the United States."

The Board does not have enough information to consider resource implications of implementing this recommendation versus the expected benefit. The Board notes that in its comment on the SSR2 Review Team draft report, ICANN org asked the SSR2 Review Team to provide clear justification as to why it believes the benefits of a third disaster recovery site justifies the costs of such a site. While the recommendation states that the new site could replace "either the Los Angeles or Culpeper sites", the requested cost/benefit information is not provided in the SSR2 Review Team Final Report. Further, the Board notes Section 4.2 of the IANA Naming Function Contract[12] that prohibits IANA operations outside of the United States, and as such, the Board understands that implementation of this recommendation as written is not currently feasible for some portions of the IANA functions. These restrictions could be removed through contract amendments if there were a desire to do so from the ICANN community, which would require community consultation and discussion. The Board directs the ICANN President and CEO, or his designee(s), to consult with the SSR2 Implementation Shepherds to better understand elements of this recommendation that are not feasible as written, or are not clear, including if the SSR2 Review Team considered the benefit versus cost considerations. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps, which may include wider community consultation.

Recommendation 9.2 recommends ICANN org "proactively monitor and enforce registry and registrar contractual obligations to improve the accuracy of registration data." The Board notes that ICANN org does not have authority to require validation beyond what is in the Registry Agreement and Registrar Accreditation Agreement. The Board directs the ICANN President and CEO, or his designee(s) to consult with SSR2 Implementation Shepherds to better understand how the SSR2 Review Team anticipated that ICANN org's Contractual Compliance team can perform the requested actions, including the authority the SSR2 Review Team understood that ICANN org's Contractual Compliance team has to carry out the recommended actions. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

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[12] IANA Naming Function Contract (30 September 2016) Section 4.2 U.S. Presence: https://www.icann.org/iana_pti_docs/151-iana-naming-function-contract-v-30sep16

Recommendations 16.2 and 16.3 relate to privacy requirements around the Registration Directory Service (RDS). The community inputs that the Board considered when acting on Recommendations 16.2 and 16.3 showed that while several community groups support the recommendations, RySG and RrSG express some concerns that these recommendations do not address a specific problem statement. Concerns in particular with regard to recommendation 16.3 include, for example:

- RySG - "16.3 suggests that ICANN Compliance should audit Registry and Registrar compliance with a Registry or Registrar's own internal policies and procedures as opposed to its contractual obligations with ICANN. Such a recommendation exceeds the scope of ICANN Compliance's role to enforce contractual requirements."
- RrSG - "This is outside of ICANN's scope. ICANN is not a DPA, and the audit would need to cover a number of countries and jurisdictions around the world, and it is unclear how ICANN has the expertise or resources to conduct such an audit."

With regard to Recommendation 16.2, the Board is not clear as to what is meant by "facilitate law enforcement needs" and how that is relevant to the role of ICANN org's Contractual Compliance team. As written, ICANN org does not have the authority to do this. Further, the intent of the recommendation is not clear, specifically why the SSR2 Review Team understands the existing subject matter experts and Chief Data Protection Officer roles within ICANN org are inadequate to achieve the requirements of this recommendation. The Board understands that ICANN org's Contractual Compliance team has subject matter experts in the areas listed to the extent that they are necessary for contract enforcement. For other matters and as necessary, ICANN org's Contractual Compliance members can refer to ICANN org's Chief Data Protection Officer for guidance regarding the specific areas listed. Through the Contractual Compliance team, ICANN org enforces policies that have been adopted by the community and makes operational and structural changes as needed to carry out its enforcement role. The Board directs the ICANN President and CEO, or his designee(s), to consult with SSR2 Implementation Shepherds to better understand how the SSR2 Review Team anticipated that ICANN org's Contractual Compliance team can perform the requested actions, as well as other elements of the recommendation that are not

clear, such as those noted above. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Further, with regard to Recommendation 16.3 which recommends for ICANN org to "conduct periodic audits of adherence to privacy policies implemented by registrars to ensure that they have procedures in place to address privacy breaches"; as the Board noted in its [comment](#) on the SSR2 Review Team draft report, ICANN org does not specifically require registrars to have "privacy policies." ICANN org's Contractual Compliance team cannot audit something that is not an ICANN contractual requirement. The Board directs the ICANN President and CEO, or his designee(s) to consult with SSR2 Implementation Shepherds to better understand the SSR2 Review Team's intent of the recommendation. The outcome of the engagement with the SSR2 Implementation Shepherds will inform the Board's decision on next steps.

Which stakeholders or others were consulted?

As required by ICANN's Bylaws, the SSR2 Review Team sought community input on its [draft report](#) through a [Public Comment proceeding](#) opened in January 2020. A total of 18 community submissions were posted to the forum. Additionally, the SSR2 Review Team conducted [engagement sessions](#) at ICANN58, ICANN60, ICANN63, ICANN64, and ICANN69, and community webinars on its draft and final reports in [February 2020](#) and [February 2021](#) respectively. The SSR2 Review Team summarized its approach to how Public Comments and inputs received were considered in Appendix H of its final report.

ICANN's Bylaws call for the final report to be posted for Public Comment to inform Board action on final recommendations. The [Public Comment proceeding](#) on the SSR2 Review Team Final Report opened on 28 January 2021 and closed on 8 April 2021. 19 submissions were posted to the forum. The Board considered the public comment submissions during its assessment of the final recommendations, as noted within the rationale supporting the Board action on each recommendation.

In addition to consulting with the SSR2 Review Team throughout the duration of the review, the Board provided a public comment on the [SSR2 Review Team draft](#)

report, as did ICANN org. In its comment, the Board noted that: "Input from the Board is intended to contribute to the refinement of the recommendations and address areas that may benefit from clarification. The Board has general observations on several topics, including: the formulation and prioritization of the draft recommendations; draft recommendations that are outside of the Board's oversight responsibilities; draft recommendations that overlap with other work ongoing in the community", among other things. ICANN org's comment focused on the operational elements of the SSR2 Review Team draft report on which ICANN org sought clarification and areas that ICANN org felt could benefit from refinement to ensure the SSR2 Review Team produced effective recommendations. ICANN org's comment addressed "formulation of draft recommendations, feasibility of implementation of draft recommendations, recommendations that ICANN org considers to be implemented already." Additionally, ICANN org requested clarification of certain terms, noting that "[a] number of SSR2 RT recommendations include specific terms that ICANN org may not fully understand in the context of the SSR2 recommendation. To ensure that the identified issues or risks, the recommended solutions, and the expected impact of implementation of the recommendation are clearly defined and understood by all, ICANN org encourages the SSR2 RT to define" various terms, for example: "SSR-related best practices." In most cases, the SSR2 Review Team did not address or respond to the observations and questions identified by the Board and ICANN org in their respective comments. As noted above in the rationale section for specific recommendations, because the previously noted observations and questions had not been addressed, the Board and ICANN org will seek clarity from the SSR2 Implementation Shepherds, within bounds of their current role to provide clarity.

The Board has also engaged with the SSR2 Implementation Shepherds, to provide an update on the Board's work since the SSR2 Review Team Final Report was published and to apprise the SSR2 Implementation Shepherds of the categorization approach. The SSR2 Implementation Shepherds underscored the importance of understanding how the various pending recommendations map to other work where there are dependencies and what the triggers will be for the Board to be able to take dispositive action at a later date. The Board reviewed next steps, setting clear expectations of further engagement after the Board

action, in order to seek clarity on the SSR2 Review Team's intent and aspects of recommendations that are not clear.

What concerns or issues were raised by the community?

Public Comments highlight that there is a broad and diverse range of community viewpoints across a number of elements of the SSR2 Review Team Final Report.

RySG, PIR, Tucows, Namecheap, and RrSG express concerns that some recommendations are contrary to ICANN's multistakeholder model, for example recommending that ICANN org make unilateral changes to the Registry Agreement, or initiate a Policy Development Process.

RySG, PIR, i2Coalition, Namecheap, and RrSG express concerns that some recommendations repeat or significantly overlap with ongoing work. For example, with recommendations from the CCT Review Team, with the NCAP, or with functions that ICANN org already provides.

Tucows, Namecheap, and RrSG express concerns that the SSR2 Review Team did not include representation from contracted parties, and that public input from these groups was not adequately considered. As such, these groups believe that some of the final recommendations are unbalanced and biased.

The above noted concerns and issues, along with specific concerns on individual recommendations are incorporated into the rationale section for each recommendation and addressed therein.

Are there positive or negative community impacts?

Taking action on the SSR2 recommendations will contribute to ensuring ICANN meets its commitments relative to the Bylaws-mandated reviews and the role they play in ICANN's accountability and transparency, as well as enhancing the security, stability, and resiliency of the DNS. Additionally, the Board action on the recommendations will have a positive impact on the continuous improvement of ICANN as a whole.

Approved recommendations are consistent with ICANN's Mission and serve the public interest. The Board acknowledges that approving recommendations that

duplicate or significantly overlap with existing ICANN org operations, or would require the Board or ICANN org to act outside of the remit could have negative community impacts. The Board considered the potential negative community impacts as part of its action. Additional impacts resulting from further actions on recommendations will be assessed at that time.

The Board notes important lessons learned from this review, which in part informed recommendations from the Third Accountability and Transparency Review Team (ATRT3) on improving future reviews. Among such lessons learned, the Board encourages ICANN org to work with the community on ways to address the process restrictions that required the Board to "reject because the recommendation cannot be approved in full." These lessons will be considered by ICANN org, Board, and community as they look at ways to enhance effectiveness of reviews and their outcomes.

What significant materials did the Board review?
The Board reviewed various significant materials and documents as part of its consideration of the SSR2 recommendations. These included the SSR2 Draft Report for Public Comment, the Report of Public Comments on the SSR2 Draft Report, the SSR2 Review Team Final Report, the Report of Public Comments on the Final Report, and the ICANN org assessment of SSR2 recommendations. The Board, with the support of ICANN org, reviewed the recommendations as drafted by the SSR2 Review Team as well as the proposed measures of success in order to assess feasibility.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

For the group of recommendations that the Board approved, the implementation is subject to prioritization, risk assessment and mitigation, costing and implementation considerations, which will provide a further view of the fiscal impact. It is expected that any recommendations that require incremental resources should be included into operational planning and budgeting processes, allowing for appropriate community consideration and prioritization, as applicable, of planned work.

Implementation of approved recommendations may impact ICANN org and community bandwidth and resources. For the recommendations the Board is placing in "pending", the Board expects specific actions to take place in order to take further Board decision on these recommendations, which in some cases will require time from the community to provide input. In particular, the Board recognizes the workload of the SSR2 Implementation Shepherds will increase.

Are there any security, stability or resiliency issues relating to the DNS?

By nature of the SSR2 Review, implementation of the recommendations may impact how ICANN meets its security, stability, stability, and resiliency commitments. The Board considered this potential impact as part of its deliberations. Approved recommendations are consistent with ICANN's Mission, serve the public interest, and fall within the Board's remit.

Is this action within ICANN's Mission? How does it relate to the global public interest?

This action is within ICANN's Mission and mandate and in the public interest as it is a fulfillment of an ICANN Bylaw, as articulated in Section 4.6. ICANN's reviews are an important and essential part of how ICANN upholds its commitments.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring Public Comment or not requiring Public Comment?

Public Comments were received prior to Board consideration.