



FairWinds Partners LLC Public Comment on the Initial Report on the New gTLD Subsequent Procedures Policy Development Process (Overarching Issues and Work Tracks 1-4)

September 2018

FairWinds Partners would like to acknowledge the extensive work undertaken by the New gTLD Subsequent Procedures Working Group to put together the “Initial Report on New gTLD Subsequent Procedures Policy Development Process (Overarching Issues and Work Tracks 1-4).” FairWinds appreciates the opportunity to offer comments on the report and to provide input into key questions and proposed solutions raised within it.

FairWinds Partners is a consulting firm based in Washington, D.C. providing advisory services to an array of clients around domain name services and gTLDs. In 2012, FairWinds worked with 54 companies to submit 135 total gTLD applications. This included 96 applications for .BRANDS and 39 applications for .GENERICs. Additionally, FairWinds submitted its own gTLD application for .FAIRWINDS and now operates .FAIRWINDS as a Specification 13 .BRAND TLD. Our responses to the questions and recommendations included in the Initial Report on the New gTLD Subsequent Procedures Development Process, included below and in the attached matrix, are based upon our experience leading up to, during, and following the 2012 application period.

In the context of the Initial Report, FairWinds has specific comments regarding the following sections and proposals:

2.2.1 Continuing Subsequent Procedures

2.2.1.c.1 Preliminary Recommendation: The Working Group recommends no changes to the existing policy calling for subsequent application rounds introduced in an ongoing, orderly, timely and predictable manner.

FairWinds Partners supports the recommendation and supports the existing policy calling for subsequent application rounds, particularly in an ongoing, timely, and predictable manner. FairWinds would like to emphasize that developing a predictable and scalable method for the application and introduction of new gTLDs is necessary in order for potential applicants to be able to make informed decisions regarding whether and when to apply. In other words, understanding if and when there will be a future application period and when that application period is scheduled to occur is crucial in potential applicants’ decisions of whether or not to apply during a specific gTLD application period.

2.2.3 Applications Assessed in Rounds

2.2.3.c.1 Preliminary Recommendation: The Working Group recommends that the next introduction of new gTLDs shall be in the form of a “round.” With respect to subsequent

introductions of the new gTLDs, although the Working Group does not have any consensus on a specific proposal, it does generally believe that it should be known prior to the launch of the next round either (a) the date in which the next introduction of new gTLDs will take place or (b) the specific set of criteria and/or events that must occur prior to the opening up of the subsequent process. For the purposes of providing an example, prior to the launch of the next round of new gTLDs, ICANN could state something like, “The subsequent introduction of new gTLDs after this round will occur on January 1, 2023 or nine months following the date in which 50% of the applications from the last round have completed Initial Evaluation.”

FairWinds supports the notion of setting out a certain date or a set of criteria after which a next round of new gTLD applications could and would commence. FairWinds would like to emphasize the importance of clarifying these parameters before launching the next round.

2.2.4 Different TLD Types

2.2.4.c.1 Preliminary Recommendation: The Working Group recommends that each of the categories recognized by the 2012 Applicant Guidebook, both explicitly and implicitly, continue to be recognized on a going forward basis. These include standard TLDs, community-based TLDs, TLDs for which a governmental entity serves as the registry operator, and geographic TLDs. In addition, the Working Group also recognizes that Specification 13 .Brand TLDs should also be formally established as a category. The ramifications of being designated a specific category are addressed throughout this Initial Report as applicable.

FairWinds supports the recommendation that formalized types of applications continue to exist (i.e., standard, community, etc.). FairWinds supports the Working Group’s recommendation that Specification 13 .BRAND TLDs be established as a formal application category. However, applicants and future Registry Operators should not be precluded from applying for and being granted Specification 13 status during or post-contracting, even if they did not establish themselves as a .BRAND applicant during the application period.

2.2.4.e.1 Question: The Working Group did not reach agreement on adding any additional categories of gTLDs. What would be the benefit of adding a further category/further categories? Should additional categories of TLDs be established and if so, what categories? Why or why not?

As stated in 2.2.4.c.1, FairWinds supports the formal establishment of Specification 13 .BRANDs as an applicant category. This would remove the additional step of applying for .BRAND status during the contracting process, which will increase efficiency. At this point, FairWinds does not have any information to support the creation of additional categories beyond .BRANDs within the application process.

2.2.4.e.2 Question: To the extent that you believe additional categories should be created, how would applications for those TLDs be treated differently from a standard TLD throughout the application process, evaluation process, string contention process, contracting, post-delegation, etc.

To the extent that Specification 13 .BRANDs are established as a separate application category, FairWinds supports the notion that, for .BRAND applicants where no unaffiliated third-parties will be registrants, certain application and post-contracting requirements in place to protect third-party registrants such as EBERO and the COI requirement are unnecessary and should be removed.

2.2.4.e.3 Question: If you have recommended additional categories of TLDs, what would be the eligibility requirements for those categories, how would those be enforced and what would be the ramifications of a TLD that qualified for a newly created category failing to continue to meet those qualifications?

To the extent that Specification 13 .BRANDs are established as a separate application category, FairWinds supports the same requirements as currently outlined in Specification 13 of the Registry Agreement.

2.2.5 Application Submission Limits

2.2.5.c.1 Preliminary Recommendation: Although some members of Working Group supported the notion of putting limits into place, ultimately the Working Group concluded that there were no effective, fair and/or feasible mechanisms to enforce such limits. It therefore concluded that no limits should be imposed on either the number of applications in total or the number of applications from any particular entity.

FairWinds supports the Working Group's recommendation and agrees that placing a cap on applications would be arbitrary and could be considered anti-competitive.

2.4.1 Applicant Guidebook

2.4.1.c.1 Preliminary Recommendation: Work Track 1 generally agreed that an Applicant Guidebook (AGB) of some form should continue to be utilized in future waves of applications. The Work Track generally agreed, however, that the Applicant Guidebook should be made more user friendly.

FairWinds supports the recommendation that the Applicant Guidebook should continue to exist, but supports the notion that it be improved as the Working Group suggests.

2.4.1.c.2 Preliminary Recommendation: Program Information, Education and Outreach: There should be a sufficient period of time available prior to the opening of the application submission period to allow for outreach efforts related to Applicant Support and other program elements and execution of the Communication Plan (“Communications Period”).

2.4.1.c.2.1 Preliminary Recommendation: Be less focused on historical context and to the extent it is included, concentrate this content in appendices if possible.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.2 Preliminary Recommendation: Be less about policy, with a stronger focus on the application process.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.3 Preliminary Recommendation: Be focused on serving as a practical user guide that applicants can utilize in applying for a TLD. For instance, step-by-step instructions, possibly by type of application with a ‘choose your own adventure’ methodology.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.4 Preliminary Recommendation: Have an improved Table of Contents, include an index and the online version should contain links to appropriate sections, definitions, etc.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.5 Preliminary Recommendation: The online version could have sections that apply specifically to the type of application being applied for with the ability to only print those related sections.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.6 Preliminary Recommendation: In conjunction with the above, the online version should allow for advanced indexing of an omnibus text. A core set of standard provisions may be applicable to everyone, but additional provisions may only be applicable to some. If the text is tagged and searchable, users could more easily locate the parts of the text that are relevant to them.

FairWinds supports the recommendation from the Working Group.

2.4.1.c.2.7 Preliminary Recommendation: Any Agreements/Terms of Use for systems access (including those required to be “clicked-through” should be finalized in advance and included in the Applicant Guidebook with the goal of minimizing obstacles and/or legal burdens on applicants (see section 2.4.3 on Systems).

FairWinds strongly supports this recommendation from the Working Group. Potential applicants need to understand the risks of and requirements for applying and any agreements or terms they must agree to. FairWinds would like to emphasize that any click through agreements or Terms of Use must be finalized in advance of the application period and be included in the final version of the Applicant Guidebook.

2.4.2 Communications

2.4.2.c.1 Preliminary Recommendation: Program Information, Education and Outreach: The Work Track believes that for the next round of new gTLDs there should continue to be a minimum of four (4) months from the time in which the final Applicant Guidebook is released and the time until which applications would be finally due.

FairWinds supports the recommendation from the Working Group that ICANN announce and provide the final Applicant Guidebook for a minimum set period of time before applications are due. This will allow for potential applicants to understand the application rules and requirements in advance and therefore better analyze whether they should apply and can meet the requirements.

2.4.2.c.2 Preliminary Recommendation: Program Information, Education and Outreach: There should be a sufficient period of time available prior to the opening of the application submission period to allow for outreach efforts related to Applicant Support and other program elements and execution of the Communication Plan (“Communications Period”).

2.4.2.c.2.1 Preliminary Recommendation: The Communications Period for the next round of new gTLDs should be at least six (6) months.

FairWinds supports the recommendation from the Working Group. A 6-month period should be required at minimum.

2.4.2.c.5 Preliminary Recommendation: Communications with Applicants: Provide a robust online knowledge base of program information that is easy to search and navigate, updated in a timely manner, and focused on issues with wide-reaching impact. Offer an opt-in notification service that allows applicants to receive updates about the program and their application in real or near real time.



FairWinds supports the recommendation from the Working Group. FairWinds agrees that ICANN's knowledge base and communications during the application period need to be improved in future application periods.

2.4.2.c.6: Preliminary Recommendation: Communications with Applicants: Display and provide updates in a timely manner on expected response times on the website, so that applicants know when they can expect to receive a reply, as well as information about how applicants can escalate inquiries that remain unresolved.

FairWinds supports the recommendation from the Working Group. FairWinds agrees that predictability is important for applicants. The application period can be very stressful with a short period to meet all of ICANN's application requirements. Applicants need to know when they can expect responses and when escalation is necessary.

2.4.2.c.7: Communications with Applicants: Facilitate communication between applicants and the ICANN organization by offering real-time customer support using a telephone "help line," online chat functionality, and other online communication tools.

FairWinds supports the recommendation from the Working Group. FairWinds would like to emphasize that FairWinds found customer support during the 2012 application period to be in need of improvement. Support improvements need to be made to make customer support more useful.

2.4.2.e.2 Question: The communications period prior to the 2012 round of new gTLDs was approximately six months. Was this period optimal, too long or too short? Please explain.

FairWinds would like to emphasize that the communications period prior to the 2012 round was seen to be too short for many corporations outside of the domain industry, especially given that it was the first new gTLD round. While awareness of the program has generally increased, FairWinds does not recommend a communications period any shorter than 6 months. Companies that do not follow ICANN and its developments closely need adequate time to determine if they should or should not apply and to prepare accordingly.

2.4.3 Systems

2.4.3.c.1 Preliminary Recommendation: The ICANN organization should ensure that enough time is provided for development and testing before any system is deployed.

FairWinds supports the recommendation from the Working Group.

2.4.3.c.2 Preliminary Recommendation: Systems should undergo extensive, robust Quality Assurance (QA), User Interface (UI), and Penetration testing to ensure that they are stable and secure, and that data is properly protected and kept confidential where appropriate.

FairWinds supports the recommendation from the Working Group.

2.4.3.c.3 Preliminary Recommendation: Applicant-facing systems should be usable and integrated, ideally with a single login.

FairWinds supports the recommendation from the Working Group. FairWinds would like to emphasize that applicants should not have to log in to multiple systems, and a single login would help with efficiency.

2.4.3.c.4 Preliminary Recommendation: Once a system is in use, the ICANN organization should be transparent about any system changes that impact applicants or the application process. In the event of any security breach, ICANN should immediately notify all impacted parties.

FairWinds supports the recommendation from the Working Group that ICANN be more transparent about any system changes that impact applicants or the application process. ICANN should also provide applicants predictability regarding any changes to the application process as a result of system failure or security breach. FairWinds would like to emphasize that, in the event of such a breach, ICANN should communicate the matter in a transparent manner as soon as ICANN becomes aware, and provide subsequent updates in a timely manner to allow applicants to plan accordingly.

2.4.3.c.6 Preliminary Recommendation: As stated in section 2.4.1 above, “Any Agreements/Terms of Use for systems access (including those required to be “clicked-through”) should be finalized in advance and included in the Applicant Guidebook with the goal of minimizing obstacles and/or legal burdens on applicants.

FairWinds supports the recommendation from the Working Group that all agreements and terms of use be provided in the Applicant Guidebook to allow applicants to review before a company makes a decision to apply. This will allow for predictability and avoid last minute legal reviews.

2.4.3.c.8 Preliminary Recommendation: Implementation Guidance regarding technical systems: Applicants should be able to access live (real time) support using tools such as a phone helpline or online chat to address technical system issues.

FairWinds supports the recommendation from the Working Group. FairWinds agrees that live and real time technical support will help applicants prepare and file applications in a timely manner without delays. It can also serve as a resource to identify any trends of technical issues.



2.4.3.c.13 Preliminary Recommendation: Implementation Guidance regarding technical systems: Applicants should be able to upload application documents in the application system.

FairWinds supports the recommendation from the Working Group and agrees that technical functionality, like the ability to upload application documents, is a necessity for the application portal.

2.4.3.c.14 Preliminary Recommendation: Implementation Guidance regarding technical systems: Applicants should be able to update information/documentation in multiple fields without having to copy and paste information into the relevant fields.

FairWinds supports the recommendation of the Working Group. FairWinds would like to emphasize that their system should be up to date and user friendly. This will lower the chance of error and increase efficiency in the application process.

2.5.3 Application Submission Period

2.5.3.c.1 Preliminary Recommendation: For the next round of new TLD applications, applicants should have a minimum of three (3) months from the time in which the application systems open until the time in which applications would become due (“application submission period”). This recommendation would apply if the next application opportunity is structured as a round.

FairWinds supports the recommendation of no less than 3 months for a given application period to occur.

2.5.3.e.1 Question: For the next round, is having the applicant submission period set at three (3) months sufficient?

FairWinds would like to emphasize that a 3-month application period is the minimum amount of time that is appropriate, assuming an effective communications strategy with outreach well in advance of the application period opening is launched.

2.5.5 Terms and Conditions

2.5.5.c.2 Preliminary Recommendation: Section 3 of the 2012 Terms and Conditions states that ICANN may deny any new TLD application for any reason at its sole discretion. It also allows ICANN to reject any application based on applicable law. The Work Track believes: 2.5.5.c.2: Unless required under specific law or the ICANN Bylaws, ICANN should only be permitted to reject an application if done so in accordance with the Terms and Conditions of the Applicant Guidebook.

FairWinds supports the recommendations from the Working Group.

2.5.5.c.3 Preliminary Recommendation: Section 3 of the 2012 Terms and Conditions states that ICANN may deny any new TLD application for any reason at its sole discretion. It also allows ICANN to reject any application based on applicable law. The Work Track believes: 2.5.5.c.3: In the event an application is rejected, the ICANN organization should be required to cite the reason in accordance with the Applicant Guidebook, or if applicable, the specific law and/or ICANN Bylaw for not allowing an application to proceed.

FairWinds supports the recommendation of the Working Group but would like to emphasize that the reason for the rejection should be communicated confidentially to the applicant.

2.5.5.c.5 Preliminary Recommendation: Section 14 allows ICANN to make reasonable updates to the Applicant Guidebook at its discretion. The Work Track generally agrees that to the extent that substantive changes are made to the Applicant Guidebook or program processes, applicants should be allowed some type of recourse, including if applicable, the right to withdraw an application from ICANN's consideration in exchange for a refund. A framework for ICANN to make transparent changes to the Applicant Guidebook as well as available recourse to change applications or withdraw for applicants should be laid out.

FairWinds agrees that reasonable updates to the Applicant Guidebook may be necessary. However, FairWinds would like to emphasize that ICANN should not be able to make substantive changes without the ability for applicants to object or be offered some type of recourse. Predictability for applicants should always be a priority.

2.6.1 Application Queuing

2.6.1.c.1 Preliminary Recommendation: ICANN should not attempt to create a "skills-based" system like "digital archery" to determine the processing order of applications.

FairWinds supports the recommendations from the Working Group.

2.7.1 Reserved Names

2.7.1.c.2 Preliminary Recommendation: Reservations at the second level: Keep all existing reservations, but update Schedule 5 to include the measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes adopted by the ICANN Board on 8 November 2016.

FairWinds supports the recommendations from the Working Group.

2.7.1.e.1 Question: The base Registry Agreement allows registry operators to voluntarily reserve (and activate) up to 100 strings at the second level which the registry deems necessary for the operation or the promotion of the TLD. Should this number of names be increased or decreased? Please explain. Are there any circumstances in which exceptions to limits should be approved? Please explain.

FairWinds supports the notion that no less than 100 names should be available for Registry Operators to register for their own use. FairWinds supports the removal of the limit of 100 names for .BRAND TLDs as the only potential registrants are the Registry Operator, its affiliates, or trademark licensees.

2.7.1.e.3 Question: In addition to the reservation of up to 100 domains at the second level, registry operators were allowed to reserve an unlimited amount of second level domain names and release those names at their discretion provided that they released those names through ICANN-accredited registrars.

2.7.1.e.3.2 Question: Should the answer to the above question be dependent on the type of TLD for which the names are reserved (e.g., .Brand TLD, geographic TLD, community-based TLD and/or open)? Please explain.

See response to 2.7.1.e.1.

2.7.1.e.4 Question: Some in the community object to the Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, adopted by the ICANN Board on 8 November 2016. Is additional work needed in this regard?

FairWinds does not support additional work with regards to the Measures for Letter/Letter Two Character ASCII Labels to Avoid Confusion with Corresponding Country Codes, as adopted by the ICANN Board in 2016.

2.7.2 Registrant Protections

2.7.2.c.2 Preliminary Recommendation: Single registrant TLDs (including those under Specification 13) should be exempt from EBERO requirements.

FairWinds supports the recommendation from the Working Group.

2.7.2.c.3 Preliminary Recommendation: Continue to allow publicly traded companies to be exempt from background screening requirements as they undergo extensive similar screenings, and extend the exemption to officers, directors, material shareholders, etc. of these companies.

FairWinds supports the recommendation from the Working Group.

2.7.2.e.2 Question: Should specific types of TLDs be exempt from certain registrant protections? If yes, which ones should be exempt? Should exemptions extend to TLDs under Specification 9, which have a single registrant? TLDs under Specification 13, for which registrants are limited to the registry operator, affiliates, and trademark licensees? If you believe exemptions should apply, under what conditions and why? If not, why not?

Yes, Specification 9 exempt and Specification 13 TLDs should be exempt from the EBERO and COI requirements. For these TLDs, the Registry Operator, its affiliates, and/or its trademark licensees can be the only registrants and the registrant protections in place to protect unaffiliated third parties are not necessary.

2.7.2.e.4 Question: Should publicly traded companies be exempt from background screening requirements? If so, should the officers, directors, and material shareholders of the companies also be exempt? Should affiliates of publicly traded companies be exempt?

FairWinds supports all parties mentioned in the question being exempt.

2.7.4 String Similarity

2.7.4.c.1 Preliminary Recommendation: Work Track 3 recommends adding detailed guidance on the standard of confusing similarity as it applies to singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Work Track recommends:

2.7.4.c.1.1 Preliminary Recommendation: Prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk of consumer confusion. For example, the TLDs .CAR and .CARS could not both be delegated because they would be considered confusingly similar.

FairWinds supports the recommendation from the Working Group to prohibit plurals and singulars of the same word within the same language script in order to reduce the risk of consumer confusion.

2.7.7 Applicant Reviews

2.7.7.c.1 Preliminary Recommendation: For all evaluations: In pursuit of transparency, publish (during the procedure) any Clarifying Questions (CQ) and CQ responses for public questions to the extent possible.



FairWinds supports the recommendation from the Working Group provided that the implementation of this mechanism is communicated clearly during the application period and no information designated as confidential is published.

2.7.7.c.3 Preliminary Recommendation: For all evaluations: An analysis of CQs, guidance to the Applicant Guidebook, Knowledge Articles, Supplemental Notes, etc. from the 2012 round need to be sufficiently analyzed with the goal of improving the clarity of all questions asked of applicants (and the answers expected of evaluators) such that the need for the issuance of Clarifying Questions is lessened.

FairWinds supports the recommendations from the Working Group. This analysis should improve the clarity of application questions to prevent the issuance of the same quantity of CQs in a future application round.

2.7.7.c.11 Preliminary Recommendation: For Financial Evaluation: To the extent that it is determined that a Continued Operations Instrument will be required, it should not be part of the Financial Evaluation, but rather should only be required at the time of executing a Registry Agreement.

FairWinds supports the recommendation from the Working Group. FairWinds would like to emphasize that there is no need for applicants to bear such a financial burden during the application process. FairWinds supports the notion that the requirement should kick in no earlier than contracting and, as iterated in earlier responses, the COI should not be required for single registrant TLDs like .BRANDs and those that have a Specification 9 exemption.

2.7.7.c.12 Preliminary Recommendation: For Financial Evaluation: Substitute the 2012 AGB evaluation of an applicant's proposed business models and financial strength with the following:

- An applicant must identify whether the financials in its application apply to all of its applications, a subset of them or a single one (where that applicant (and/or its affiliates have multiple applications).*
- ICANN won't provide financial models or tools, but it will define goals and publish lists of RSPs, organizations (like RySG and BRG) and consultants.*
- The goals of a financial evaluation are for the applicant to demonstrate financial wherewithal and assure long-term survivability of the registry. Therefore, the evaluation should look at whether an applicant could withstand not achieving revenue goals, exceeding expenses, funding shortfalls, or inability to manage multiple TLDs in the case of registries that are dependent upon the sale of registrations. However, there should also be a recognition that there will be proposed applications that will not be reliant on the sale of third party registrations and thus should not be subject to the same type of evaluation criteria. In other words, although the goals of the financial evaluation are to determine the financial wherewithal of an applicant to sustain the*

maintenance of a TLD, the criteria may be different for different types of registries. Criteria should not be established in a “one-size-fits-all” manner.

- If any of the following conditions are met, an applicant should be allowed to self-certify that it has the financial means to support its proposed business model associated with the TLD: If the applicant is a company traded on an applicable national public market; If the applicant and/or its Officers are bound by law in its jurisdiction to represent financials accurately; If the applicant is a current Registry Operator that is not in default on any of its financial obligations under its applicable Registry Agreements, and has not previously triggered the utilization of its Continued Operations Instrument.

- The applicant is required to provide credible 3rd-party certification of those goals if self-certification above is not used or achievable.

FairWinds supports the recommendation from the Working Group, particularly where it states that applications that will not be reliant on the sale of third party domains will not be subject to the same evaluation criteria; in other words, that the criteria should not be “one size fits all.” For example, for single registrant TLDs like .BRANDs in which there will be no sale of domain names to third party registrants, thus applicants should be able to self-certify that they can meet the financial obligations to operate a single-registrant TLD.

2.7.7.c.13 Preliminary Recommendation: For Financial Evaluation: To provide further clarity on the proposed financial evaluation model, the following are sample questions of how financials would be evaluated:

- Q45: “Identify whether this financial information is shared with another application(s)” (not scored).

- Q46: “Financial statements (audited, certified by officer with professional duty in applicant jurisdiction to represent financial information correctly or independently certified if not publicly-listed or current RO in good standing)” (0-1 scoring) (certification posted).

- Q47: “Declaration, certified by officer with professional duty in applicant jurisdiction to represent financial information correctly, independently certified if not publicly-listed or current RO in good standing, of financial planning meeting long-term survivability of registry considering stress conditions, such as not achieving revenue goals, exceeding expenses, funding shortfalls or spreading thin within current plus applied-for TLDs.” (0-1 scoring) (publicly posted).

- No other financial questions.

See response to 2.7.7.c.12. FairWinds would like to emphasize that for single registrant TLDs, FairWinds supports self-certification for all applicants, including privately held companies. This is particularly important as companies’ financial statements may not be readily available. Relevant examples of such companies include privately held companies, subsidiaries and newly created companies.

2.7.7.e.5 Question: The requirement to submit financial statements (especially with respect to non-public applicants that generally do not disclose financial information) was one of the main reasons applicants failed their initial evaluations in 2012. Although changes to financial evaluations are potentially being recommended, the Work Track is not suggesting changes to the requirement to submit financial statements. Are there any potential alternate ways in which an applicant's financial stability can be measured without the submission of financial statements? If so, what are they?

FairWinds supports the notion that, for single registrant TLDs where domain name sales will not be funding TLD operations, a self-certification will be sufficient.

2.7.7.e.6 Question: In Financial Evaluation, subsection 2.d, an exemption for public-traded companies is suggested. The Work Track hasn't considered whether to include affiliates in that exemption; should it be changed to also allow exemption in such cases?

FairWinds supports extending the exemption for publicly traded companies to their affiliates as defined by ICANN in the Registry Agreement.

2.8.1 Objections

2.8.1.c.1 Preliminary Recommendation: A transparent process for ensuring that panelists, evaluators, and Independent Objectors are free from conflicts of interest must be developed as a supplement to the existing Code of Conduct Guidelines for Panelists and Conflict of Interest Guidelines for Panelists.

FairWinds supports the recommendation from the Working Group.

2.8.1.c.2 Preliminary Recommendation: For all types of objections, the parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel - bearing the costs accordingly.

FairWinds supports the recommendation from the Working Group.

2.8.1.c.3 Preliminary Recommendation: ICANN must publish, for each type of objection, all supplemental rules as well as all criteria to be used by panelists for the filing of, response to, and evaluation of each objection. Such guidance for decision making by panelists must be more detailed than what was available prior to the 2012 round.

FairWinds supports the recommendation from the Working Group as it promotes transparency and predictability.

2.10.2 Registrar Non-Discrimination / Registry/Registrar Standardization

2.10.2.e.1: In response to feedback from CC2, Work Track 2 members have suggested that .Brand registries as well as any registry operator granted an exemption from the Code of Conduct (as set forth in Specification 9 of the Registry Agreement), should not only be able to limit the number of registrars that they have to use, but should also have the ability to receive a complete exemption from using any ICANN-accredited registrars at all in the operation of their TLD by making them equally exempt from section 2.9 of the Registry Agreement. In connection with the above proposal, the Work Track is soliciting feedback on the following:

2.10.2.e.1.1 Question: Should a complete exemption be available to these registries? Please explain.

FairWinds supports a complete exemption being available to these registries (Specification 9 exempt and Specification 13 TLDs).

2.10.2.e.1.2 Question: If complete exemptions are granted, are there any obligations that should be imposed on .Brand registries to ensure that any obligations or registrant protections normally found in Registrar Accreditation Agreements that should be included in .Brand Registry Agreements if they elect to not use any ICANN-accredited registrars?

FairWinds does not support additional requirements for registrant protection in .BRAND TLDs as all domains are registered to the Registry Operator, its affiliates, or trademark licensees.