

Comments on the ICANN RESERVE FUND Draft document intended for public comment

While we support fair and responsible corporate management, our experience with ICANN leads us to request that the Reserve Fund and the Investment guidelines be modified.

I note that “ICANN provides important global technical coordination functions with respect to the Internet’s unique identifiers, yet does not receive any Government funding nor any Government guarantees for its operations, nor does it depend on any private funding from the public or any private organization. ICANN’s primary source of funding comes from fees it collects from gTLD registries and registrars. Therefore, ICANN’s financial stability is entirely dependent on the registration of domain names.”

It is our belief that recent security issues will hamper ICANN’s ability to generate revenue. The Reserve Fund is not only entirely appropriate but increasingly important. Therefore we suggest the following:

We concur with the analysis that shows “that the target level for the ICANN Reserve Fund should be of a minimum of 12 months and a maximum of 17 months of operating expenses.”

Given this, the Investment Policy should be modified in the following manner:

“Debt or equity investments in companies that operate in a manner that is inconsistent with ICANN’s overall mission of keeping the Internet secure, stable and interoperable shall not be made. This might include, for examples, companies that oppose net neutrality or companies that support or create software and hardware tools that make the internet less secure, stable and interoperable. A document listing companies that fail this criteria will be developed and posted on ICANN’s website.”

APPENDIX

Background

William Michael Cunningham manages an impact investment research firm, Creative Investment Research. The firm researches and creates socially responsible investments and provides socially responsible investment advisory services. He is also Managing Partner at National Crowdfunding Services, LLC. He holds a Master's in Economics and an MBA in Finance, both from the University of Chicago, and is a graduate of Howard University.

Creative Investment Research, Incorporated is an independent investment research and management firm, founded in 1989. For clients, our services save millions, if not billions: on December 22, 2003, December 22, 2005, and February 6, 2006, we warned the S.E.C. and other regulators that statistical models using our proprietary Fully Adjusted Return® Methodology signaled the probability of system-wide economic and market failure (see below). Clients who heeded our warning adjusted their investment portfolios in a manner that allowed them to escape much of the damage caused by the crisis. The firm was formerly in the pool of Corporate Governance Advisors and Diversity Investing Advisors to CalPERS.

Mr. Cunningham is an Unaffiliated Member of the North American Regional At-Large Organization at ICANN, the Internet Corporation for Assigned Names and Numbers, a Public Member of W3C, the World Wide Web Consortium, and an Invited Expert Member in the eGovernment Group of the W3C. On November 16, 1995, he launched one of the first investing websites at www.ari.net/cirm (See: <http://www.creativeinvest.com/image/be1996.jpg>)

Track Record

On July 3, 1993, Mr. Cunningham wrote to US Securities and Exchange Commissioner (SEC) Mary Schapiro to notify the Commission about a specific investing scam, the "Nigerian letter scam." A timely warning was not issued to the investing public, members of the public were damaged, and the SEC launched retaliatory regulatory actions against Mr. Cunningham.

He designed the first mortgage security backed by home mortgage loans to low and moderate income persons and originated by minority-owned institutions. (See: *Security Backed Exclusively by Minority Loans*, The American Banker Newspaper. Friday, December 2, 1994.)

Mr. Cunningham [opposed](#) the application, approved by the Federal Reserve Board on September 23, 1998, by Travelers Group Inc., New York, New York, to become a bank holding company. In October 1998, in a petition to the United States Court of Appeals ([Case Number 98-1459](#)) concerning the Travelers Group Inc./Citicorp merger, Mr. Cunningham cited evidence that growing financial market malfeasance greatly exacerbated risks in financial markets, reducing the safety and soundness of large financial institutions.

From October 1999 to March 2002, Mr. Cunningham was responsible for proxy voting activity for the Board of Pensions of the Evangelical Lutheran Church in America. In 2001, he voted on 1395 issues impacting 401 companies. In 2000, he voted on 1903 issues impacting 422 companies. We managed fund efforts and corporate governance matters related to Talisman Energy and its' operations in the Sudan. We researched the issue, contacting various groups involved in the process. For the fund, our efforts also included researching fund policies and procedures. Our collaborative, risk controlled strategy helped lead the firm out of the Sudan. On February 1, 2000, Mr. Cunningham wrote to the office of U.S. Senator Samuel Brownback (R-KS) urging him to encourage pension funds to divest from the Sudan.

On June 15, 2000, Mr. Cunningham testified before the Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises (GSE's) of the U.S. House of Representatives and suggested that GSEs Fannie Mae and Freddie Mac be subject to a Social Audit. A social audit is an examination of the performance of an enterprise relative to certain social return objectives. It includes a review of ethical practices. Had the GSE's been subject to this audit, certain flaws in their operation, including ethical shortcomings, would have been revealed earlier, in a better market in which to make corrections.

In 2001, Mr. Cunningham participated in the first wide scale home mortgage loan modification project. The Minneapolis-based effort helped 50 families victimized by predatory lending practices. [See: Property Flipping Remediation Yields Investment-grade Security.](#)

On December 22, 2003, he warned US regulators that statistical models he created using the proprietary Fully Adjusted Return® Methodology signaled the probability of system-wide economic and market failure. [See Page 6.](#)

In 2005, Mr. Cunningham served as an expert witness in a case that sought to hold Credit Suisse First Boston, Fairbanks/SPS, Moody's and Standard and Poor's, US National Bank Association, and other parties legally responsible for supporting and facilitating fraudulent subprime lending market activities. Had this single case been successful, we believe the credit crisis would have been less severe.

On December 22, 2005, he issued a strongly worded warning that system-wide economic and market failure was a growing possibility in a meeting at the SEC with Ms. Elaine M. Hartmann of the Division of Market Regulation.

We were one of the first signatories to the UN Global Principles for Responsible Investment under the category of Professional Service Provider. The voluntary Principles identify a range of steps investors can take to integrate environmental, social and governance (ESG) issues in several areas, including investment decision-making, active ownership, transparency, and collaboration.

(See: <http://www.creativeinvest.com/PRIServices.pdf> and <http://www.creativeinvest.com/PRINews2009land.jpg>)

We participated as a registered Organizational Stakeholder of the Global Reporting Initiative (GRI) and support the effort to develop globally accepted sustainability reporting guidelines through a global, multi-stakeholder process.

We participated in and structured several ESG initiatives with a group of 275 faith-based pension funds focused on ethical investing issues.

We participated in several initiatives at the SRI Conference, formerly SRI in the Rockies:

- Speaker at the 15th Annual SRI in the Rockies Conference. Thursday, October 7, 2004. Keystone, Colorado. Topic: Corporate and Mutual Fund Scandals in Review.
<http://www.creativeinvest.com/sri/CorpFraudSRIITR.pdf>
- Speaker at the 13th Annual SRI in the Rockies Conference. Thursday, October 20, 2002. The Broadmoor Hotel, Colorado Springs, Colorado Topic: The New Markets Tax Credit Program: Guide for (ESG) Investors.

We participated in the Social Performance Indicators for the Financial Industry project. The SPI-Finance 2001 project “covers social performance toward employees, clients and other stakeholders of banks and insurance Companies. The project provided the first industry specific supplement for the Global Reporting Initiative (GRI) “Sustainability Reporting Guidelines 2002”:

- First Meeting on Social Performance of the Financial Service Industry - Zürich, Switzerland. August 20th – 21st, 2001.
- Second Meeting on Social Performance of the Financial Service Industry. London, England. January 18, 2002.

We participated in the Wal-Mart Stakeholder Dialog, held February 26-27, 2007 at Wal-Mart Headquarters, Bentonville, AR.

In July 2015, The Stock Exchange of Hong Kong Limited published a “Consultation Paper on Review of the Environmental, Social and Governance Reporting Guide” (“Consultation Paper”). The Consultation Paper sought views and comments on proposed changes to the Environmental, Social and Governance Reporting Guide (“ESG Guide” or “Guide”) 1, which aimed to strengthen environmental, social and governance (“ESG”) disclosure requirements and enable issuers to formulate policies, measure relevant data, monitor progress and report to investors and other stakeholders on their work in this area. See our response at:

https://www.hkex.com.hk/chi/newsconsul/mktconsul/responses/Documents/cp201507r_IN46.pdf

In February, 2015, we provided comments to the Government Pension Fund Norway (GPFN) for a public hearing on investments in coal and petroleum companies. See:

<https://drive.google.com/file/d/0Bx3S91AlzNJ4UUNsUk9MSXgtMlpINEI4c1VTRzRfSXFNcks4/view?usp=sharing>

Current

Participant, The Network for Sustainable Financial Markets.

<http://www.sustainablefinancialmarkets.net/participants/>

On February 6, 2006, we again warned regulators that statistical models created using the proprietary Fully Adjusted Return® Methodology confirmed that system-wide economic and market failure was a growing possibility. He stated that: Without meaningful reform there is a small, but significant and growing, risk that our (market) system will simply cease functioning. This is, of course, exactly what happened. [See pages 2 and 8.](#)

On December 9, 2013, Mr. Cunningham filed a "[Friend of the Court](#)" brief in the United States District Court, Central District of California in a case concerning an action that the U.S. Department of Justice, acting on behalf of the United States of America (Plaintiff), brought against McGraw-Hill Companies, Inc., and Standard & Poor's Financial Services LLC, et. al., (Defendants) under 12 U.S.C. § 1833a; 18 U.S.C. §§ 1341, 1343 & 1344. My comments led to a significant change in enforcement strategy, including the first ever, albeit temporary, rating firm suspension.

On February 3, 2015, I commented on an effort by Apple Computer to utilize women and minority-owned brokerage firms: <http://www.usatoday.com/story/tech/2015/02/03/apple-debt-offering-minority-firms-jesse-jackson-diversity-silicon-valley/22805673/>

Mr. Cunningham has published commentary on small business topics for the Washington Post. For more background information, please see:

[Global Market Turmoil Graphic](#) and [Financial Crisis Calendar Graphic](#), Creative Investment Research, Inc., December, 2008 and November, 2009.