



3 March 2016

Via email to [Krista.Papac@icann.org](mailto:Krista.Papac@icann.org) and GDD Portal

Ms. Krista Papac  
Director, Registry Services & Engagement  
ICANN – Global Domains Division  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094

Ref: Revised .BANK Registry Registrar Agreement

Dear Krista,

Thank you for ICANN's communication, provided via the Global Domains Division portal, on 2 March 2016, and your request to coordinate a teleconference, no later than 7 to 10 business days from now, to discuss next steps. fTLD seeks an expedited process to resolve any issues and requests the teleconference, which we believe would be brief, be held in the next few calendar days. We understand the time zone challenges and will make ourselves available at your convenience.

As noted in fTLD's request to ICANN, as we strive to have one consistent Registry-Registrar Agreement (RRA) for the generic Top-Level Domains (gTLDs) we operate and those we may pursue in the future, the proposed changes to the .BANK RRA are to sync it with the .INSURANCE RRA that some registrars have already signed. More importantly though is that some of the proposed changes are intended to enhance the consumer experience (e.g., increased transparency and predictability with registrars), while others are to increase the efficiency and accuracy of the verification process.

Detailed herein is fTLD's response to the comments submitted by the Registrar Stakeholder Group (RrSG) for the proposed revisions to the .BANK RRA. While fTLD values the contributions to date of those registrars who have made .BANK one of the most successful new gTLDs, fTLD believes it is important to reiterate the unique nature of .BANK, which is the basis for the proposed changes to the RRA. Specifically, as a community-based Registry Operator for the .BANK gTLD, fTLD is bound by additional contractual obligations in its Registry Agreement (RA) with ICANN to serve the best interests of the global banking community set forth in Specification 12, Community Registration Policies, of the RA. This is in addition to the requirements in Specification 11, Public Interest Commitments, of the RA, which is largely the result of Advice from ICANN's Governmental Advisory Committee regarding strings associated with regulated markets and public comments by the At-Large Advisory Committee regarding the need for enhanced consumer protection mechanisms for the same. Given this background, please

see the following fTLD response to each comment in the RrSG submission:

### **Sections 2.3.1 & 2.4**

**Registrar Concern:** *Registrars need advance written notice of changes to API/EPP to develop, test and develop their systems.*

fTLD would like to begin by highlighting the proposed bifurcation of the notice provision set forth in Section 2.4. fTLD has a ninety (90) day notice provision prior to any changes to the EPP, which is unchanged from the current RRA. This is consistent with most Registry Operator RRAs and is primarily dictated by fTLD's contractual relationship with Verisign, our back-end registry services provider. Therefore, fTLD is not in a position to make any changes to EPP without consultation and approval by Verisign, and in some cases ICANN. The shorter thirty (30) day notice period regarding the broader Registry System encompasses changes to the Verification Services API operated by Symantec, fTLD's Verification Agent.

As explained below in more detail, fTLD regularly engages in consultations with our community regarding potential enhancements to the verification process to increase its efficiency and accuracy. It is solely to support these goals that fTLD has proposed the shorter thirty (30) day notice period for changes to the API. Incidentally, there have been no changes to the API since .BANK was launched in May 2015. We do however know that minor modifications are now necessary to streamline the .BANK and .INSURANCE processes, which is one of the reasons for the request for an expedited resolution to the .BANK RRA.

One important final aspect worth noting is that the Verification Services API is independent from the .BANK Shared Registration System (SRS) operated and maintained by Verisign. Therefore, there is no impact on the ability of a .BANK registrar to register a .BANK domain name on behalf of its customer. Any potential delay would be isolated to the pendingcreate verification period that spans ninety (90) days.

### **Section 3.2**

**Registrar Concern:** *The burden of having a branded .BANK webpage and the requirement that the registrar provide logo of a size and format designated by fTLD.*

The requirement for each registrar to have a .BANK branded webpage on their website is to properly inform registrants about the Policies and Requirements for registering and maintaining a .BANK domain name (e.g., Registrant Eligibility, Name Selection, Acceptable Use / Anti-Abuse, Security Requirements). Part of fTLD's motivation to pursue this specificity is based upon the many questions and sometimes complaints received from prospective registrants about the lack of information on a registrar's website about .BANK. fTLD routinely advises prospective registrants to shop around for the registrar that best meets their needs (e.g., services and price) and this is best accomplished by registrars providing this information in a transparent manner to the potential customer.

Unquestionably the Policies and Requirements are among the most restrictive of all new gTLDs and are consistent with fTLD's commitment to operating trusted, verified and more secure gTLDs as well as being memorialized in Specifications 11 and 12 to the RA. fTLD's position is that the Policies and Requirements must be transparent to prospective registrants so they are aware of the responsibilities and obligations of registering and maintaining a domain name in .BANK, and additionally that they may make an informed decision about which registrar to select.

It is important to note that unlike other Registry Operators that have required registrars to incorporate a specific click box to affirmatively acknowledge the Registry Operator's policies in the registration business flow, fTLD has provided registrars flexibility in how they impose their contractual requirements on their customers. fTLD is merely requiring the registrar to have a dedicated webpage to inform prospective customers about the Policies and Requirements for .BANK. fTLD would like to highlight from conversations we've had with some registrars, in response to their inquiries about "meeting this requirement", that providing a webpage with clear links and/or details of the Policies and Requirements is acceptable to meet the terms of this section of the RRA for a branded webpage.

While registrars have expressed the concern about how this might represent a burden if other registries imposed this obligation, the fact is fTLD's gTLDs are very different than most gTLDs. As the Registry Operator of gTLDs associated with highly regulated markets, fTLD has an obligation to its broad range of stakeholders to communicate these heightened registration requirements to prospective registrants.

With regard to size and format of a registrar's logo, fTLD does not understand how this represents a burden to them. In fact, none of the registrars that have already entered into RRAs with fTLD have indicated that this is a burden. Logos are merely used aesthetically on fTLD's Approved Registrars' page, see <https://www.ftld.com/approved-registrars/>. If a registrar does not wish to provide a logo, fTLD would simply list the registrar's name in a standard character set.

### **Section 3.13**

**Registrar Concern:** The requirement for registrars to report non-compliance within the .BANK name space for domain names that are not sponsored by them potentially exposes them to liability.

fTLD does not believe this proposed contractual requirement would expose Registrars to third party liability, as there is an explicit provision in the RRA (Section 10.2) prohibiting any third-party beneficiary rights in connection with the RRA. However, fTLD willingly proposes the following friendly amendment (see underlined text) to Section 3.13 to sync it to the requirements set forth in Section 3.18.1 of the Registrar Accreditation Agreement regarding a Registrar's Abuse Contact and Duty to Investigate Reports of Abuse:

3.13. Registrant Compliance. Registrar shall not enable, contribute to or willing aid any third party in violating Registry Operator's standards, policies, procedures, or practices, and shall notify Registry Operator immediately upon becoming aware of any such violation of Registered Names Sponsored by Registrar.

### **Section 3.20**

**Registrar Concern:** The mandatory use of Bulk Verification Services puts a "severe operational strain" on and imposes unreasonable fees to registrars.

As fTLD has emphasized throughout this response, the .BANK and .INSURANCE gTLDs are not typical registries and as such it has resulted in a limited number of registrars, currently 25, that have been approved to distribute .BANK domain names. While fTLD looks to work constructively with its registrar channel, its primary obligation is to serve the members of the global banking and insurance communities. It is based upon fTLD's experience with the launch of .BANK and discussions with stakeholders, including our Verification Agent, that we have chosen to require implementation of Bulk Verification Services.

To better understand the challenge fTLD is trying to solve, it is important to look at the following operational inefficiencies and potential consumer trust issues and we offer the following example. Registrant A uses Registrar X to register domain names 1, 2, 3, and 4. If the Registrar uses the bulk submission feature, fTLD's Verification Agent (Symantec) will verify the eligibility of Registrant A once, and then undertake further checks on an individual domain-name basis to ensure compliance with fTLD's Name Selection Policy. However, if the Registrar does not use the bulk submission feature, Symantec will undertake four (4) separate verifications as to the eligibility of Registrant A, particularly if the domain name orders are being processed by different members of Symantec's authentication team located in different geographic regions. This repeated verification is not only inefficient, but also creates potential consumer/registrant confusion issues as it is possible that some banks may be contacted by different Symantec representatives across the globe during the verification process. The potential of being contacted multiple times for what is effectively a single transaction (i.e., registering four domain names) has been a point of confusion for registrants, and fTLD has received numerous complaints from registrants and registrars about this inefficiency and redundancy.

It is in response to the situation as described above that fTLD has proposed the mandatory use of the existing bulk submission feature to increase the efficiency and effectiveness of its verification process for the ultimate benefit of the registrant and ensuring the trust and integrity of the gTLD through this process. Consistent with fTLD's commitment to work with its registrar channel, fTLD first notified .BANK registrars in September of 2015 about the requirement to use this feature effective 1 October 2015, and that it would be a mandatory requirement for .INSURANCE and become mandatory for .BANK as soon as the RRA was amended. Therefore, registrars have had many months to plan for their implementation of this feature.

### **Section 3.21**

**Registrar Concern:** Registrars believe that the Registry Operator should have no "bearing on what information is communicated to the Registry Operator as long as the contractual obligations between Registrar and Registered Name Holder are upheld."

fTLD recognizes and appreciates the contractual relationship that exists between a Registrar and a Registered Name Holder. However, as a community-based Registry Operator, fTLD has contractual obligations to the members of the global banking and insurance communities. What fTLD is seeking to prevent is a registrar receiving a multi-year registration fee from a Registered Name Holder, but then only paying the Registry Operator on an annual basis. fTLD believes that .BANK Registered Name Holders should receive what they paid for when they paid for it. In addition to the potential for registrant confusion if the Whois information (e.g., expiration date) does not correspond to what they expect, there is the potential for registrar insolvency.

### **Exhibit B, Paragraph 8**

**Registrar Concern:** Registrars are opposed to the Non-Compliant Bulk Verification Request Fee for the reasons cited above regarding the mandatory use of Bulk Verification Services.

As noted above, fTLD's mandatory use of Bulk Verification Service, via the bulk submission feature in the API, is designed to increase the efficiency and accuracy of the verification process. This Fee is primarily to cover the operating cost it will incur with its Verification Agent for multiple registrations from the same registrant on a given day that are submitted in individual orders vs. using the Bulk Verification Service.

In closing, fTLD has always been open to direct communication (e.g., email, teleconference, face-to-face) with registrars that have expressed their concerns regarding the RRA or any other issues related to their support of .BANK and .INSURANCE. However, as the Registry Operator of two community-based gTLDs, fTLD needs to balance the concerns of the broader RrSG, in particular .BANK registrars, with its commitments and obligations to the global banking and insurance communities as well as its fiduciary responsibilities to its founding members. fTLD believes that this letter should resolve those concerns raised by the registrars, and respectfully requests that ICANN approve the proposed RRA amendment in a timely manner.

Sincerely,

A handwritten signature in blue ink that reads "Craig S. Schwartz". The signature is fluid and cursive, with the first name "Craig" and last name "Schwartz" clearly legible.

Craig Schwartz  
Managing Director

cc: Lauren Israel, GDD Operations, ICANN  
Mike Zupke, Director, Registrar Relations, ICANN