

GUIDELINES & MOTION TEMPLATES

Section 1.3 Approval Action Community Forum
Section 1.4 Decision Whether to Approve an Approval Action
ANNEX D, ARTICLE 1 PROCEDURE FOR EXERCISE OF EC'S RIGHTS TO
APPROVE APPROVAL ACTIONS

1. Introduction

An Approval Action is the processes set forth in Article 1, Annex D of the ICANN Bylaws that govern the escalation procedures for the Empowered Community's exercise of its right to approve the following (each, an "**Approval Action**") under the Bylaws:

1. Fundamental Bylaw Amendments, as contemplated by [Section 25.2](#) of the Bylaws;
2. Articles Amendments, as contemplated by [Section 25.2](#) of the Bylaws; and
3. Asset Sales, as contemplated by [Article 26](#) of the Bylaws.

The purpose of this document is to provide guidance to the GNSO Council concerning how: 1) the GNSO community provides feedback to the Community Forum for an Approval Action, and 2) the GNSO Council decides to support, object, or abstain from an Approval Action. See the [flowchart](#) for additional details.

By way of explanatory introduction, the ICANN Bylaws leave specific details about how each Decisional Participant in the Empowered Community plans to carry out its stated responsibilities to be determined by such Decisional Participant.

For example, the Bylaws require that a request to take some action must be filed by the GNSO no later than a particular time, yet do not specify how to fulfill this requirement in the specific GNSO context. Questions that arose when developing these guidelines included, for example: Is such a request made by a Stakeholder Group or Constituency (SG/C) of the GNSO via its representatives on the GNSO Council? Or alternatively by the SG/C leadership? Or by an SG/C member to SG/C mailing list? Or by an SG/C member directly to the Council? Each Bylaws requirement generates a multitude of such questions.

To help the GNSO Council carry out its new roles and responsibilities outlined in the post-transition Bylaws, the GNSO Drafting Team to Further Develop Guidelines and Principles for the GNSO's Roles and Obligations as a Decisional Participant in the Empowered Community ("the GNSO DT") has outlined in the table below the additional proposed steps to be taken, including guidance and motion templates. These steps fall within the GNSO's existing processes and procedures, and thus do not require any changes to the GNSO Operating Procedures or its Annexes.

Specifically, relevant Bylaws provisions have been quoted in order to differentiate those requirements that are explicitly provided by the Bylaws and the additional steps interpreted by the DT as needed to carry out the GNSO's responsibilities.

For the avoidance of doubt, where requirements are expressly specified by the ICANN Bylaws, these are noted to clarify the distinction with additional steps that have been designated by the DT as appropriate (but not explicitly necessary under the Bylaws) for the GNSO's specific circumstances.

These Guidelines and Templates are internal to the GNSO. They apply only to the exercise of the GNSO's rights and responsibilities as a Decisional Participant in the Empowered Community, as those are set out in the currently applicable ICANN Bylaws, and not to any other Decisional Participant.

All references to actions of the GNSO Representative on the EC Administration in these Guidelines and Templates mean the actions of the currently designated GNSO Representative on the EC Administration. All such actions must be carried out under instruction from the GNSO; the GNSO Representative on the EC Administration is not empowered or authorized by these Guidelines and Templates to act independently or otherwise on his/her own initiative.

2. Background

Per Annex D, Article 1 of the ICANN Bylaws, Procedure for Exercise of EC's Rights to Approve Approval Actions, Section 1.3 Approval Action Community Forum. The following is excerpted from the Bylaws:

- a. ICANN shall, at the direction of the EC Administration, convene a forum at which the Decisional Participants and interested parties may discuss the Approval Action (an "Approval Action Community Forum").
- b. If the EC Administration requests a publicly available conference call by providing a notice to the ICANN Secretary, ICANN shall, at the direction of the EC Administration, schedule such call prior to any Approval Action Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN shall promptly post on the ICANN org website.
- c. The Approval Action Community Forum shall be convened and concluded during the period beginning upon the Approval Action Board Notification Date and ending at 11:59 p.m. (as calculated by local time at the location of ICANN's principal office)¹ on the 30th day after the Approval Action Board Notification Date ("Approval Action Community Forum Period"). If the EC Administration requests that the Approval Action Community Forum be held during the next scheduled ICANN public meeting, the Approval Action

¹ ICANN's principal office is the headquarters location at 2025 Waterfront Dr #300, Los Angeles, CA 90094, USA.

Community Forum shall be held during the next scheduled ICANN public meeting on the date and at the time determined by ICANN, taking into account any date and/or time requested by the EC Administration. If the Approval Action Community Forum is held during the next scheduled ICANN public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN's principal office) on the 30th day after the Approval Action Board Notification Date, the Approval Action Community Forum Period for the Approval Action shall expire at 11:59 p.m., local time of the city hosting such ICANN public meeting on the official last day of such ICANN public meeting.

- d. The Approval Action Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC Administration selects, and/or, only if the Approval Action Community Forum is held during an ICANN public meeting, face-to-face meetings. If the Approval Action Community Forum will not be held during an ICANN public meeting, the EC Administration shall promptly inform ICANN of the date, time and participation methods of such Approval Action Community Forum, which ICANN shall promptly post on the Website.
- e. The EC Administration shall manage and moderate the Approval Action Community Forum in a fair and neutral manner.
- f. ICANN and any Supporting Organization or Advisory Committee (including Decisional Participants) may deliver to the EC Administration in writing its views and questions on the Approval Action prior to the convening of and during the Approval Action Community Forum. Any written materials delivered to the EC Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN.
- g. ICANN staff and Directors representing the Board are expected to attend the Approval Action Community Forum in order to address any questions or concerns regarding the Approval Action.
- h. For the avoidance of doubt, the Approval Action Community Forum is not a decisional body.
- i. During the Approval Action Community Forum Period, an additional one or two Community Forums may be held at the discretion of the Board or the EC Administration. If the Board decides to hold an additional one or two Approval Action Community Forums, it shall provide a rationale for such decision, which rationale ICANN shall promptly post on the Website.
- j. ICANN will provide support services for the Approval Action Community Forum and shall promptly post on the Website a public record of the Approval Action Community Forum as well as all written submissions of ICANN and any Supporting Organization or Advisory Committee (including Decisional Participants) related to the Approval Action Community Forum.

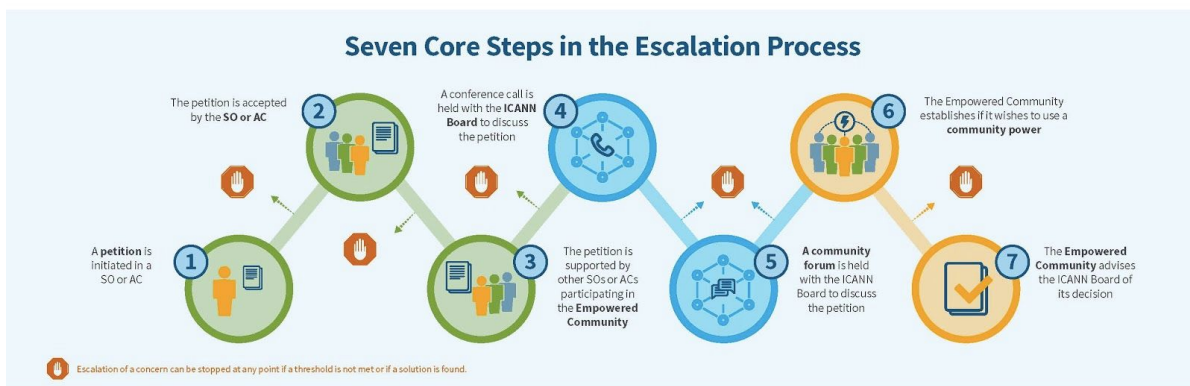
Note that per Bylaws section 1.4(b)(i)-(iii) of Decision Whether to Approve an Approval Action, an action is approved if it is (A) supported by three or more Decisional Participants and (B) not objected to by more than one Decisional Participant.

Link to the graphics below:

https://www.icann.org/empowered_community_powers_file_download?file_name=download_english

HOW DOES THE EMPOWERED COMMUNITY USE THEIR POWERS?

The Empowered Community has a process to raise concerns with an action or inaction made by the ICANN Board or organization. This escalation process gives ICANN's Supporting Organizations (SOs) and Advisory Committees (ACs) opportunities to discuss solutions with the ICANN Board.



What is the Empowered Community?

The Empowered Community is the mechanism through which ICANN's SOs and ACs can organize under California law to legally enforce community powers. The community powers and rules that govern the Empowered Community are defined in the ICANN Articles of Incorporation and Bylaws.



Who can participate in the Empowered Community?

All of ICANN's SOs, as well as the At-Large and Governmental ACs, can participate in the Empowered Community including: the Generic Names Supporting Organization, the Country Code Names Supporting Organization, the Address Supporting Organization, the Governmental Advisory Committee and the At-Large Advisory Committee.



WHAT ARE THE EMPOWERED COMMUNITY POWERS?



The Empowered Community has nine powers to ensure the Internet Corporation for Assigned Names and Numbers (ICANN) Board and organization are accountable:



3. Bylaws and Additional Proposed Steps

The following table sets out the applicable Bylaws provision/s, the guidance for the GNSO in relation to those Bylaws provisions, and the proposed steps that were tasked to the GNSO DT. The remaining sections of these Guidelines are intended to address the Proposed Steps.

| BYLAWS | GUIDANCE | PROPOSED STEPS |
|---|--|--|
| <p>ANNEX D, SECTION 1.3 APPROVAL ACTION COMMUNITY FORUM</p> <p>1.3(b) If the EC Administration requests a publicly-available conference call by providing a notice to the Secretary, ICANN shall, at the direction of the EC Administration, schedule such call prior to any Approval Action Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call.</p> | <p>The GNSO Council may wish to consider the following item as inputs to the EC Administration, communicated through the GNSO Representative on the EC Administration: Does the GNSO believe that a conference call will be appropriate? If so, they can direct the EC Admin rep to request one. (community conversation should take place to determine how many members of the EC Admin are required to convene the conference call.)</p> | <p>Develop motion template</p> |
| <p>ANNEX D, SECTION 1.3 APPROVAL ACTION COMMUNITY FORUM</p> <p>1.3(f) ICANN and any SO or AC (including Decisional Participants) may deliver to the EC Administration its views and questions on the Approval Action prior to the convening of and during the Approval Action Community Forum.</p> | <p>This item is not about GNSO as a participant in the EC. This item is about how the GNSO will develop inputs (views and questions) for consideration at the Community Forum. Once that process is agreed, then whatever is produced is sent for information and posting. This should not focus on any action by the EC Admin Rep.</p> | <p>Identify or develop a proposed process for developing input, within the GNSO's existing procedures.</p> |

4. Developing Input to the Approval Action Community Forum & Post Community Forum Decision Making

4.1 Approval Action Board Notice

Upon receipt of the Board Notice for an Approval Action (hereinafter referred to as the “Approval Action Board Notice”), the GNSO Representative on the EC Administration shall promptly notify the GNSO Council. The GNSO Secretariat will post the Approval Action Board Notice on the GNSO website/wiki, and publish it on the mailing lists of GNSO Stakeholder Groups and Constituencies.

4.2 Approval Action Community Forum

Immediately following the ICANN announcement of convening an Approval Action Community Forum (hereinafter referred to as the “Community Forum”), the GNSO Representative on the EC Administration shall inform the GNSO Council of the details of the Community Forum.

The GNSO Secretariat will post the notice of the Community Forum on the GNSO website/wiki, publish it on the mailing lists of GNSO Stakeholder Groups and Constituencies, and inform GNSO Stakeholder Groups and Constituencies the start of the GNSO Community Feedback period before the Community Forum per Section 4.3.1 below.

If the GNSO believe that a conference call prior to the Community Forum will be appropriate, the GNSO Council leadership, in consultation with the GNSO Council, may direct the GNSO Representative on the EC Administration to request a conference call.

4.3 GNSO Community Feedback

4.3.1 GNSO Community Feedback Before Approval Action Community Forum

Following the announcement of convening an Approval Action Community Forum, the GNSO Representative on the EC Administration will request the GNSO Council to prepare the GNSO Community Feedback to the Community Forum.

The GNSO community feedback should be developed through input/feedback from the GNSO Stakeholder Groups and Constituencies to record any GNSO views and questions on the Approval Action.

This feedback period will close at 23:59 UTC on the day prior to the Community Forum. The GNSO Council leadership will work with GNSO support staff to compile any views and questions received, and post the compilation to the GNSO Council list. The GNSO Secretariat will promptly post the compilation to the GNSO website/wiki. Note, however, that this feedback period does not preclude GNSO Stakeholder Groups and Constituencies from submitting views and questions on the Approval Action in writing during the Approval Action Community Forum.

The GNSO Council will ask the GNSO Representative on the EC Administration to transmit to the EC Administration and the ICANN Corporate Secretary the GNSO Community Feedback in writing prior to the convening of and during the Community Forum as per Annex D, Section 1.3(f) of the ICANN Bylaws.

4.3.2 GNSO Community Feedback After Approval Action Community Forum

Upon the expiration of the Community Forum Period, the GNSO Stakeholder Groups and Constituencies will be asked to provide feedback, opinions or comments on their support for, objection to, or abstention from the Approval Action under consideration.

However, this feedback period will close on the fifteenth (15th) day into the Approval Action Decision Period (hereinafter referred to as the "Decision Period"). This date is represented in the timeline set out in the table in Section 4.6 below as Day 15.

The GNSO Council leadership will work with GNSO support staff to compile any comments received, and post the compilation of comments to the GNSO Council list. The GNSO Secretariat will promptly post the compilation of comments to the GNSO website/wiki. If feasible and time permits, the GNSO Council leadership may work with GNSO support staff to categorize and summarize these comments to facilitate the review by the GNSO Council.

4.4 GNSO Council decision to support, object to or abstain from the Approval Action

Annex D, Section 1.4(a) of the ICANN Bylaws states (as excerpted from the Bylaws):

(a) Following the expiration of the Approval Action Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN's principal office) on the 21st day after the expiration of the Approval Action Community Forum Period (such period, the "**Approval Action Decision Period**"), with respect to each Approval Action, each Decisional Participant shall inform the EC Administration in writing as to whether such Decisional Participant (i) supports such Approval Action, (ii) objects to such Approval Action or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to such Approval Action), and each Decisional Participant shall forward such notice to the Secretary for ICANN to promptly post on the Website. If a Decisional Participant does not inform the EC Administration of any of the foregoing prior to the expiration of the Approval Action Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC Administration of its support or objection following the expiration of the Approval Action Decision Period).

Accordingly, the GNSO has added a new voting threshold in the ICANN Bylaws. Section 11.3(j)(iv) of the ICANN Bylaws states (as excerpted from the Bylaws):

(iv) Amendments to Fundamental Bylaws and Article Amendments as contemplated by Section 25.2 of the Bylaws, Asset Sales, as contemplated by Article 26 of the Bylaws, amendments to ICANN Articles of Incorporation: requires an affirmative vote of a GNSO Supermajority.

Per the above Section 11.3(j)(iv), the GNSO Council must decide and inform the EC Administration of its decision within twenty-one (21) days after the expiration of the Community Forum whether to support, object to, or abstain from the Approval Action by affirmative vote of a GNSO Supermajority. This date is represented in the timeline set out in the table in Section 4.6 below as Day 21.

The GNSO Council shall:

- Take a decision via a GNSO Council via a Supermajority vote -- which means: (A) two-thirds (2/3) of the Council members of each House, or (B) three-fourths (3/4) of the Council members of one House and a majority of the Council members of the other House (according to Section 11.3(i) of the ICANN Bylaws) -- on a motion whether to support, object to, or abstain from the Approval Action; and
- Convey in writing this decision to the EC Administration and the ICANN Corporate Secretary by the GNSO Representative on the EC Administration.

In taking its decision, the GNSO Council shall consider:

- The feedback, views and input received from the GNSO Stakeholder Groups and Constituencies; and
- The Community Forum; and
- The importance of the matter for the GNSO Stakeholder Groups and Constituencies; and
- Other factors deemed relevant by the GNSO Council.

The motion template in Section 5.2 of this Guideline (Motion to Support, Objection to, or Abstain from an Approval Action) may be used by the GNSO Council to accept/reject/abstain from the Approval Action.

4.5 Informing the Community, Other Decisional Participants, and the EC Administration of the Decision regarding the Approval Action

As soon as possible after the GNSO Council has taken its decision on the Approval Action, the GNSO Secretariat will publish the GNSO Council's decision on the mailing lists of the GNSO Council and Stakeholder Groups and Constituencies, as well as the GNSO website/wiki. Additionally, the GNSO Secretariat will inform the GNSO Representative on the EC Administration.

The GNSO Representative on the EC Administration by written notice shall promptly inform the EC Administration and the ICANN Corporate Secretary of the GNSO Council's decision.

If the GNSO Council has not reached a decision regarding the Approval Action, the GNSO Council will be deemed to have abstained from the Approval Action.

4.6 Timeline for the GNSO Actions regarding an Approval Action

The following is a suggested timeline to ensure that the GNSO Council is able to complete the above activities related to an Approval Action per the Bylaws-mandated deadline. If the GNSO Council is unable to meet the Bylaws-mandated deadline, its decision will automatically be recorded as an abstention.

Note:

- *Absolute maximum date means the absolute last day certain action must occur*
- *Day 0 = Expiration of the Approval Action Community Forum*

| Absolute Maximum Date | Action |
|------------------------------|--|
| Day 0 | Expiration of the Approval Action Community Forum |
| | GNSO Secretariat requests feedback from GNSO Stakeholder Groups and Constituencies |
| Day 6 | GNSO Secretariat schedules an extraordinary Meeting of the GNSO Council to occur within 14 days |
| Day 15 | Deadline for GNSO Stakeholder Groups and Constituencies to provide feedback |
| Day 20 | Extraordinary Meeting of the GNSO Council to decide whether to support, object to, or abstain from the Approval Action |
| | GNSO Secretariat informs the Stakeholder Groups and Constituencies, as well as the GNSO Representative on the EC Administration, of the Council's decision and publishes it on the GNSO website/wiki |
| Day 21 | GNSO Representative on the EC Administration promptly conveys GNSO Council's decision to the EC Administration and the ICANN Corporate Secretary |
| | Deadline for decision by Decisional Participants to the EC to decide whether to support, object to, or abstain from the Approval Action |
| | Approval Action Decision Period ends at 11:59 PM (as calculated by local time at the location of ICANN's principal office in Los Angeles) |

5. Motion Templates

5.1 Motion to Support, Object, or to Abstain from the Approval Action

Made by:

Seconded by:

Whereas:

1. Per Section 1.4(a) of Annex D of the ICANN Bylaws, “Following the expiration of the Approval Action Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN's principal office) on the 21st day after the expiration of the Approval Action Community Forum Period (such period, the ‘Approval Action Decision Period’), with respect to each Approval Action, each Decisional Participant shall inform the EC Administration in writing as to whether such Decisional Participant (i) supports such Approval Action, (ii) objects to such Approval Action or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to such Approval Action), and each Decisional Participant shall forward such notice to the Secretary for ICANN to promptly post on the Website. If a Decisional Participant does not inform the EC Administration of any of the foregoing prior to the expiration of the Approval Action Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC Administration of its support or objection following the expiration of the Approval Action Decision Period).”

2. From [insert dates of GNSO community feedback period], the GNSO Stakeholder Groups and Constituencies had the opportunity to provide feedback, opinions or comments on the merits of the Approval Action. See GNSO support staff’s compilation of any feedback received is available here [insert link].

Resolved:

1. The GNSO Council [supports] [objects to] [abstains from] the Approval Action.

2. The GNSO Council requests the GNSO Representative on the EC Administration to promptly inform the EC Administration, the other Decisional Participants, and the ICANN Corporate Secretary about the GNSO Council’s decision with respect to the Approval Action.