



December 15, 2008

Submitted Electronically

Mr. Peter Dengate Thrush
Chairman
Internet Corporation for
Assigned Names and Numbers
1875 I Street, NW, Suite 501
Washington DC, 20006

Re: Request for Comment, Draft Applicant Guidebook, New Generic Top Level Domain Program

Dear Mr. Thrush,

On behalf of the Federal Deposit Insurance Corporation (FDIC), I respectfully submit to you our comments and concerns regarding the Internet Corporation for Assigned Names and Numbers (ICANN) draft Applicant Guidebook for the New Generic Top Level Domain (gTLD) Program. Our concerns focus on the financial service sector, and in particular, over 8,000 institutions whose deposits are insured by the FDIC, as well as on consumers who conduct Internet banking in the United States.

The FDIC was created by the Banking Act of 1933. The FDIC insures the deposits of consumers in US banks and serves as the primary Federal regulator of over five thousand US financial institutions. In these roles, FDIC enforces consumer protection laws, including a variety of laws and policies on Internet-based fraud. To ensure the safety and soundness of the US banking system, the FDIC has broad enforcement and examination authority over US financial institutions and their technology service providers.

We have led the effort to ensure consumer confidence in Internet banking to the same extent that we regulate traditional brick and mortar banking. Our programs have resulted in stronger industry-wide authentication of Internet banking, customer notice rules, mandatory information security standards, and consumer fraud protection.

Regulatory Concerns

Through its deposit insurer and regulatory roles, the FDIC is a community leader for the US financial sector on the Internet and is at the forefront of issues related to consumer confidence in the banking systems, including Internet banking. While the FDIC has historically encouraged industry-led technical innovations, and prefers an industry-led effort to establish standards and

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guidance for the safe and sound implementation of those innovative technologies, we are very concerned that new gTLDs could potentially create new rounds of financial fraud, consumer confusion, misdirected trust in a gTLD, and could force trade name protection costs onto the financial industry during a period of economic stress. As such, we encourage ICANN to include industry representatives such as financial trade associations (e.g., American Bankers Association, Financial Services Roundtable, Independent Community Bankers, etc.) in its deliberations regarding the value of financial sector specific gTLDs.

The FDIC is also concerned that financial sector gTLDs could potentially impact consumer trust and confidence in Internet banking, and the banking system in general, if such gTLDs are misused. Financial sector gTLDs such as “.bank” could intuitively, and mistakenly, imply industry (including regulatory) endorsement to the public. The draft application processes does not provide sufficient requirement that such industry endorsement exists. Without sufficient industry endorsement, and an integrated governance requirement for financial sector gTLDs, we believe that a financial sector gTLD could be detrimental to consumers and undermine established confidence in Internet banking.

Recommendations

With respect to the proposed gTLD Guidebook, the FDIC believes more consideration should be given to the regulated environment of the financial sector and the potential impact that a financial sector gTLD could have on the financial industry and consumers. To remedy these concerns, the FDIC recommends a separate and distinct application process for financial sector gTLDs. Specifically, we offer the following suggestions for a financial sector gTLD process:

- 1) The draft Guidebook permits gTLD applications as either “open” applications or “community-based” applications. The FDIC recommends that a financial sector gTLD be implemented from a top down approach to ensure that no unsponsored gTLDs are issued, and that if issued, such gTLDs are managed within an industry and regulatory framework. Furthermore, the FDIC recommends that the financial sector gTLDs process not permit “open applications” and that any applications include explicit endorsement of the financial industry community including regulatory bodies.
- 2) The FDIC recommends that financial sector gTLDs be subject to community-established governance rules, including various laws, regulations, guidance and policy established by the financial sector regulators. Additionally, applicants should demonstrate their intent and ability to comply with these governance rules in the application process. The governance requirement should include, at a minimum:
 - a. Financial capability to carry out its governance requirements
 - b. A process for ensuring intellectual property rights such as trade names
 - c. A requirement for registrant due diligence

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- 3) The draft Guidebook provides a process for objecting to applications. The FDIC recommends that the process and rules for objecting to any financial sector gTLD applications include the ability to object on the grounds of insufficient governance as proposed by the application as well as a process for financial regulatory objection.
- 4) The FDIC recommends an additional process to permit financial sector gTLD ownership to be revocable or transferable at any time in the future when the represented community or regulatory body determines and shows that the sponsored gTLD has not satisfied its governance requirements.

Closing

The FDIC thanks the ICANN Board and its committees for allowing and considering our comments on this subject. The FDIC is willing to work with ICANN and any community or industry group to further establish a workable solution to these concerns and recommendations.

Sincerely,



Michael L. Jackson

Associate Director

FDIC

Division of Supervision and Consumer Protection