

Registries Stakeholder Group Statement

Issue: **ICANN Reserve Fund - Rationale and Target Level**

Date statement submitted: **30 November , 2017**

Reference URL: <https://www.icann.org/public-comments/reserve-fund-2017-10-12-en>

Background

The ICANN Reserve Fund was established in 2007 with a target level of a minimum of 12 months of operating expenses. Withdrawals from the Reserve Fund (since 2015 and until end June 2018) were made to finance the IANA Stewardship Transition expenses for a total of US\$ 36 million. By end June 2018, without replenishment, the Reserve Fund will correspond to 4.8 months of operating expenses (US\$ 58 million).

The public comment concerns an analysis of the **rationale** and **target level** for the Reserve Fund, given the significant change in ICANN's operations and risk profile.

Rationale

Consequential Events expected to be funded from the Reserve Fund (non-exhaustive list):

- Replenishing Operating Fund levels depleted by unbudgeted and unmitigated short-term events or maintenance and replacement of assets, or payment of liabilities;
- Undertaking major downsizing or significant restructuring of ICANN's operations;
- Mitigating major security and stability threats and attacks;
- Covering unplanned legal costs;
- Undertaking new and major programs resulting from a new strategic plan or exceptional unforeseen external events;
- Continue operations after a disaster.

Target Level

The analysis and benchmarking led to the conclusion that *the target level for the ICANN Reserve Fund should be of a minimum of 12 months and maximum of 17 months of operating expenses, which is consistent with the current Target Level and no change is recommended.*

Based on the outcome of the public comment process further work will be performed on the **governance** of the Reserve Fund.

Registries Stakeholder Group (RySG) comment:

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the analysis of the ICANN Reserve Fund and its Rationale and the proposal to maintain the Fund's current Target Level.

Overall, it is the RySG's opinion that the proposed Rationale and Target Level fail to convince and we request the New Reserve Fund Project and Board Finance Committee to consider the following comments.

The report cites two historical reasons for setting up the Reserve Fund in 2007: (1) ICANN's dependence on the timely collection of domain name registration fees from a small group of contracted parties; and (2) providing resources to defend ICANN's multi-stakeholder governance model against possible litigation.

The RySG is missing a thorough evaluation of these historical motivations, which takes into account changes and evolutions since the creation of the Reserve Fund, and therefore asks the Board Committee to complete the report with:

- An analysis of historical revenue data for the period 2007-2017;
- An assessment of changes in the registry/registrar landscape since 2007 and of whether this has changed the potential of a small group of contracted parties to 'exert undue influence over ICANN';
- An overview of non-IANA transition related legal expenses in defence of the ICANN multistakeholder model for the period 2007-2017.

The 2012 Benchmarking study on how not-for-profit and other organizations set their Reserve Funds found that chosen target levels widely vary between 3 and 24 months of the organization's operating expenses. The RySG would like additional details on the organizations that were included in this benchmarking exercise (who they are, how they relate or contrast with ICANN's situation) and considers an insight in the rationale behind their decisions to set a lower or a higher target level essential for this exercise.

The New Reserve Fund Project, in turn, identified 'a few comparable organizations [...] to help benchmark [it's own] analysis, from within and outside the DNS industry.' The RySG would like to understand the choice for the three organizations (CIRA, Nominet, ASTM) and considers it essential that the report provides the grounds on which they were selected for this comparison.

The Rationale proposed by the New Reserve Fund Project indicates that the Reserve Fund is considered to be an expected source of funding for 'Undertaking major downsizing or significant restructuring of ICANN's operations'. To evaluate this rationale, the RySG would like to receive further information from ICANN on what plans to downsize, restructure or "rightsize" the organization are in place, being developed, planned or expected for the next few years.

According to the proposed Rationale the Reserve Fund is expected to provide the financial resources to allow ICANN to 'continue operations after disaster'. The RySG recommends that ICANN documents and quantifies what resources would be required to continue operations 'in survival mode', where the organization keeps providing its core function without revenue.

For the above reasons the RySG is of the opinion that the proposed Rationale insufficiently justifies the \$142M target level for the ICANN Reserve Fund (12 months), let alone that it provides valid arguments why a reserve fund of \$200M or more (17 months) could be needed.

The RySG is further concerned that the ICANN org does not address, in its report or rationale, the viable option of better controlling costs as a method of bolstering the reserve fund. Fiscal constraint should be a necessary approach in the present and future budgets in order to continue adding to the

reserve fund. The \$5M recently added to the fund is a good start and could be more in the following years based on some realistic belt tightening.

With regard to replacing the almost \$36M spent on the IANA transition, the ICANN organization should look to the auction proceeds fund before the corpus is distributed by the community.

ICANN should strive to retain no more than one year of expenses. When determining the level of expenses, however, ICANN organization should look at a fiscally restrained budget and not the current budget with over \$140M in expenses.
