

# GUIDELINES & MOTION TEMPLATES

## Section 18.12 Special IANA Function Reviews (IFRs)

### Guidelines for ccNSO-GNSO Joint Consultation on the Initiation of a Special IFR

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 a Decisional Participant no later than a particular time, yet do not specify how to fulfill this requirement in the specific context.

Therefore, these Guidelines for GNSO-ccNSO Joint Consultation on Initiation of a Special IFR (hereinafter referred to as “Joint Consultation Guidelines”) are intended to assist the ccNSO and GNSO Councils in establishing the Special IFR Coordination Team (hereinafter referred to as the “SICT”) and engaging in joint consultation as required by the ICANN Bylaws.

These Joint Consultation Guidelines support the Guidelines or other internal processes developed and adopted by each of the ccNSO and GNSO Councils in relation to Special IFRs. In the case of the GNSO, these Joint Consultation Guidelines support the [Guideline for GNSO Internal Review Process](#). In the case of the ccNSO, these Joint Consultation Guidelines support the **[INSERT ccNSO Guidelines]**.

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 ccNSO and GNSO Councils as needed to carry out their joint 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 ccNSO and GNSO Councils as appropriate (but not explicitly necessary under the Bylaws) for their specific circumstances.

These Joint Consultation Guidelines are internal to the ccNSO and GNSO. They apply only to the exercise of the ccNSO’s and 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.

In the event these Joint Consultation Guidelines do not provide guidance and/or the impact is unreasonable, the Chairs of the Councils will decide upon any questions or issues.

These Joint Consultation Guidelines will be reviewed every third year starting 2020 or earlier in the event of changing circumstances, for example a change of the Customer Standing Committee ("CSC") Remedial Action Procedure.

Any amendments to these Joint Consultation Guidelines require the approval of both the ccNSO and GNSO Councils, while each of the ccNSO and GNSO Councils remains free to separately amend their own internal guidelines and processes.

## 1.1 Introduction & Initiating a Special IFR

For Special IFRs ICANN Bylaws Section 18.12(a) states:

A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected Public Technical Identifiers ("PTI")'s performance under the IANA Naming Function Contract and IANA Naming Function SOW (a "**PTI Performance Issue**"), following the satisfaction of each of the following conditions:

- (i) The Remedial Action Procedures of the CSC set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (ii) The IANA Problem Resolution Process set forth in the IANA Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO and GNSO according to each organization's respective operating procedures;
- (iii) The ccNSO and GNSO shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations and Advisory Committees with respect to the PTI Performance Issue and whether or not to initiate a Special IFR; and

(iv) After a Public Comment Period that complies with the designated practice for Public Comment Periods within ICANN, if a Public Comment Period is requested by the ccNSO and the GNSO, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3) of the Council members) and (B) a GNSO Supermajority.

These Joint Consultation Guidelines are intended to be used by the ccNSO and GNSO in their consideration, under ICANN Bylaws Section 18.12(a)(iv), of whether their Councils should approve the initiation by the ICANN Board of a Special IFR upon satisfaction of each of the conditions specified in Bylaw Sections 18.12(a)(i) through (iii).

For the avoidance of doubt, as specified in Section 18.12(a)(i) of the Bylaws and further specified by the Remedial Action Procedures (See Section V(f): <https://www.icann.org/en/system/files/files/csc-remedial-action-procedures-19feb19-en.pdf>), the process for considering and initiating a Special IFR formally starts when the CSC notifies the ccNSO and GNSO Councils that a performance issue remains unresolved following escalation to the ICANN Board. In the timelines provided by these Joint Consultation Guidelines, this is depicted as “Day 0” of the process that initiates from this point.

Each time period specified in this document within which any decision or other action should be made is to be understood as being a “not-greater-than” time period. All actions and decisions involving affected groups and individuals in the ccNSO and GNSO must take place within the time period(s) specified under the ICANN Bylaws. The ICANN Bylaws are paramount.

## 1.2 What is the Special IFR Coordination Team (SICT)?

The Special IFR Coordination Team (SICT) shall be established to:

- Define/draft the specific detailed timeline within the parameters of the overall timeline;
- Channel communication between the ccNSO & GNSO Councils. If the SICT is informed by the Chair of either the GNSO or ccNSO Council, both Councils are deemed to be informed;
- Prepare and synchronise the decision making (schedule) of the Councils in accordance with their rules and procedures;
- Ensure decisions of Councils with respect to the SIFR are effectuated;
- Ensure the broader community is and remains to be informed about the progress of the process and decisions made by the respective Councils;
- Maintain a repository of correspondence, notification(s) and other documentation deemed to be relevant in the context of initiating a Special IFR; and
- Draft the required statements and recommendation, such as but not limited to the draft call for input and feedback from other Supporting Organisations, joint Statements and

the Recommendation to initiate the SIFR. For avoidance of doubt, Statements and recommendation must be adopted and approved by the ccNSO and GNSO Councils.

### 1.3 Establishment & Closure of the SICT

To facilitate an efficient initiation of the process set out in these Joint Consultation Guidelines, the ccNSO and GNSO Councils will request that the CSC simultaneously inform the ICANN Board, the GNSO Council, and the ccNSO Council when the CSC gives notice of escalation to the ICANN Board Chair regarding a performance issue as defined in the CSC [Remedial Action Procedures](#). The CSC's escalation to the ICANN Board is the last escalation step in the Remedial Action Procedures.

After the CSC gives notice of escalation, the SICT shall be established within five (5) days as a preemptive measure, but without being announced to the ICANN community. Immediate formation of the SICT will enable the SICT to launch into action in a timely and efficient manner if the performance issue remains unresolved after the CSC's escalation to the Board. If the performance issue is resolved by ICANN Board intervention, the SICT will be promptly dissolved.

To form the SICT, the ccNSO and GNSO Councils shall each appoint three (3) members, including the ccNSO and GNSO Council Chairs, to the SICT according to their own internal procedures. The ccNSO and GNSO Chairs will jointly chair the SICT. The SICT may invite representatives from other relevant entities (for example the CSC or ICANN Board or other Decional participants) as liaisons or observers to stay informed of progress and/or inform the SICT of their views.

To ensure that the ccNSO and GNSO Councils can quickly constitute the SICT, the respective Councils will remind their members at the earliest time suitable every calendar year of the purpose and role of the SICT and the possibility that volunteers may be needed for the SICT at some point during the year.

When, as per Section V(f) of the CSC [Remedial Action Procedures](#), the ICANN Board notifies the CSC that the performance issue remains unresolved following the last escalation step, "the CSC may raise the issue with the ccNSO and GNSO, which may then decide to take further action, as is provided in the ICANN Bylaws, including the use of a Special IFR."

After the CSC raises the issue with the ccNSO and GNSO Councils, both Councils shall issue a joint statement informing the community of the 1) establishment of the SICT and 2) start of the joint consultation process. The ccNSO and GNSO shall publish this joint statement to their respective communities according to each of their usual practices and procedures.

The SICT once established must remain informed of developments at resolving the PTI Performance Issue by other means and consider any such developments as they may reasonably influence the work of the SICT and the actions of the ccNSO and GNSO Council, without jeopardizing the SICT's ability to remain within the timeline(s) specified by the Bylaws (including Annexes to the Bylaws).

If the ICANN Board initiates an SIFR to address a specific PTI Performance Issue(s) pursuant to Bylaw section 18.12(a), the initiation process under these Joint Consultation Guidelines ends and the SICT that was established shall conclude its work and be closed. The ccNSO and GNSO shall develop a joint statement to announce the closure of the SICT and publish this joint statement to their respective communities according to each of their usual practices and procedures.

If at any time during the work under these Joint Consultation Guidelines the PTI Performance Issue(s) is otherwise resolved to the satisfaction of the ccNSO Council or the GNSO Council or both Councils, activity under these Joint Consultation Guidelines will terminate and the SICT that was established shall conclude its work and be closed. The ccNSO and GNSO shall develop a joint statement to announce the closure of the SICT and publish this joint statement to their respective communities according to each of their usual practices and procedures.

#### 1.4 Internal Review Process to Consider the Outcome of Remedial Action Procedure and IANA Problem Resolution Process

In accordance with Section 18.12(a)(i)-(ii) of the ICANN Bylaws, the ccNSO and GNSO shall conduct their internal review process to consider the outcome of the Remedial Action Procedure and the IANA Problem Resolution Process set forth in the IANA Naming Function Contract which failed to correct the PTI Performance Issue. The internal review process shall start within five (5) days following the announcement of the establishment of the SICT, and conclude within thirty (30) days. In case of the GNSO, see the [Guideline for GNSO Internal Review Process](#) for details of the Internal Review Process.

Within five (5) days of concluding their internal review processes, the Chair of each of the ccNSO and GNSO Councils shall in writing inform the SICT of the input agreed by each Council as to the outcome of their respective internal reviews. One Council will be deemed to be informed of the other Council's input once the SICT has been informed. The ccNSO and GNSO shall publish this input to their respective communities according to each of their usual practices and procedures, subject to any redaction requested by the input provider.

## 1.5 Consultation with Supporting Organizations (SOs) and Advisory Committees (ACs)

While both the ccNSO and GNSO are conducting their internal reviews of the outcome of the Remedial Action Procedure, the SICT, on behalf of the Councils, will simultaneously conduct “meaningful consultation” (ICANN Bylaws 18.12(a)(iii)) with the other Supporting Organizations (SOs) and Advisory Committees (ACs) with respect to the PTI Performance Issue and whether to initiate a Special IFR. In this consultation, the SICT will seek input and feedback from other SOs and ACs in accordance with Section 18.12(a)(iii) of the ICANN Bylaws.

The SICT shall send the call for input to SOs/ACs within five (5) days following the announcement of the establishment of the SICT. The call for input shall include:

- A summary of Section 18 of the ICANN Bylaws; and
- A summary of the deliberations of the CSC explaining the performance issues; and
- The notification from the CSC to the ccNSO and GNSO Councils that a performance issue remains unresolved following the escalation to the ICANN Board and the related documentation.

The call for input shall request a response to the SICT within thirty (30) days of the date of the call for input.

After the SICT has received the feedback and input from the other SOs and ACs, it will provide a summary to inform both Councils within five (5) days of receipt.

## 1.6 Developing Draft SICT recommendation and Public Comment Period

Within ten (10) days after the publication of the outcome of the internal review process and the SO/AC consultation process as described in Sections 5.4 and 5.5 of these Guidelines, the SICT shall develop draft recommendation on whether the Special IFR shall be initiated.

To develop the draft recommendation, the SICT shall review:

- The input and recommendations from the ccNSO and GNSO as separately developed based on their respective internal procedures; and
- Input, if any, received from the SOs and ACs.

After receiving the SICT draft recommendation, within ten (10) days, the ccNSO and GNSO Councils shall each decide whether to jointly request a Public Comment Period on the draft recommendation developed by the SICT in accordance with Section 18.12(a)(iv) of the ICANN Bylaws.

A Public Comment Period will be held within five (5) days if at least one Council requests it. Such a Public Comment Period has to comply with the [designated practice](#) for Public Comment

Periods within ICANN and be held for forty (40) days at a maximum. Note that there may be a possibility of shortening the public comment period given the gravity of the situation presented by a performance issue that remains unresolved following the escalation to the ICANN Board. For example, in accordance with Annex D, Section 3.2(e) of the ICANN Bylaws, the EC Administration is able to request a 7-day SO/AC Director Removal Comment Period.

At the completion of the Public Comment period, support staff shall post a public comment summary report to facilitate SICT's review of comments received.

If neither Council decides to request a Public Comment Period on the SICT draft recommendation, the ccNSO and GNSO Councils shall request the SICT to transform its draft recommendation into a final joint recommendation within twenty-four (24) hours for consideration by the ccNSO and GNSO Councils.

## 1.7 Developing the Final Joint Recommendation

After a Public Comment Period on the SICT draft recommendation has been held, if any, the SICT shall immediately start its process of developing the SICT final joint recommendation after ICANN staff provides the public comment summary report to the SICT. The SICT shall deliver the final joint recommendation within ten (10) days after it receives the public comment summary report.

To develop the final joint recommendation, the SICT shall review and analyze:

- The input and recommendations from the ccNSO and GNSO as separately developed based on their respective internal procedures; and
- Input, if any, received from the SOs and ACs; and
- Input, if any, from the Public Comment Forum, if it is held.

The SICT shall determine whether the input received can be reconciled on the question of whether to initiate a Special IFR.

If the input received can be reconciled, the SICT will accordingly develop the final joint recommendation for consideration by the ccNSO and GNSO Councils. The SICT shall inform the ICANN Board of Directors and the EC Administration of the final joint recommendation.

If the input received cannot be reconciled on the question of whether to initiate a Special IFR, the ccNSO and GNSO Chairs shall issue a joint statement that they do not agree to jointly initiate a Special IFR. The joint statement shall be delivered to the ICANN Board of Directors and the EC Administration.

The ccNSO and GNSO shall publish the joint recommendation or joint statement to their respective communities according to each of their usual practices and procedures and also

request that ICANN Org publish the joint recommendation or joint statement by and other means available as appropriate, including the main ICANN Org website.

## 1.8 ccNSO and GNSO Council Votes on the SICT Final Joint Recommendation

Within ten (10) days after receiving the final joint recommendation from the SICT, the ccNSO and GNSO Councils shall each conduct a vote on the SICT final joint recommendation. The recommendation will be either to initiate a Special IFR or not to initiate a Special IFR.

In accordance with Section 18.12(a)(iv) of the ICANN Bylaws, a Special IFR shall have been approved by the vote of (A) a supermajority of the ccNSO Council (pursuant to the ccNSO's procedures or if such procedures do not define a supermajority, two-thirds (2/3)) and (B) a GNSO Council Supermajority, which shall mean: (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).

If both the ccNSO and GNSO approve the initiation of a Special IFR, they shall issue a joint statement that they agree to jointly initiate a Special IFR within twenty-four (24) hours after the voting processes of both Councils conclude.

If any of the two Councils does not approve the initiation of a Special IFR, the ccNSO and GNSO shall issue a joint statement, also within twenty-four (24) hours after the voting processes of both Councils conclude, that they do not agree to jointly initiate a Special IFR.

The joint statement shall be delivered to the ICANN Board of Directors and the EC Administration. The ccNSO and GNSO shall publish the joint statement to their respective communities according to each of their usual practices and procedures and also request that ICANN Org publish the joint recommendation by and other means available as appropriate, including the main ICANN Org website.

## 1.9 Timeline of Activities

Note:

- Maximum date = the absolute last day certain action must occur
- Day X = date prior to Day 0 when the CSC sends the escalation notice to the ICANN Board; the exact date of Day X is unknown, but this must occur before Day 0
- Day X+5 = date prior to Day 0 when the ccNSO and GNSO Councils preemptively establish the SICT; the exact date of Day X+5 is unknown, but this must occur before Day 0

- Day 0 = date when the ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step and CSC subsequently informs the ccNSO and GNSO Councils

### 1.9.1 No Public Comment Period on the Draft SICT Recommendation Requested by ccNSO and GNSO Councils

Maximum Date	Action
Day X	CSC sends the escalation notice to the ICANN Board
Day X+5	ccNSO and GNSO Councils establish the SICT preemptively within 5 days
Day 0	ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step, the CSC subsequently informs the ccNSO and GNSO Councils
	ccNSO and GNSO Councils, via the SICT, issue a joint statement informing the community of the establishment of the SICT and the start of the consultation process
Day 5	ccNSO and GNSO Councils start conducting internal review according to their respective operating procedures
	SICT, on behalf of the ccNSO and GNSO Councils, starts conducting the meaningful consultation by seeking feedback from other SOs/ACs
Day 35	Deadline for SOs and ACs to provide feedback
	Deadline for ccNSO and GNSO Councils to complete internal review according to their respective operating procedures
Day 40	ccNSO and GNSO Councils provide summary of their internal review to the SICT
	SICT provides a summary of the SO/AC feedback to inform both ccNSO and GNSO Councils
Day 50	SICT provides ccNSO and GNSO Councils draft recommendation
Day 60	ccNSO and GNSO Councils decide whether to request a Public Comment on the SICT draft recommendation
Day 61	If no Public Comment Period is requested, SICT provides its final recommendation to the ccNSO and GNSO Councils within 24 hours after the decision of not holding a Public Comment Period is made, and also informs the

	ICANN Board and the EC Administration
Day 71	ccNSO and GNSO Councils each decide whether to request the ICANN Board to initiate a SIFR by conducting a vote
Day 72	ccNSO and GNSO Councils issue joint statement on whether to jointly initiate a Special IFR and inform the ICANN Board and the EC Administration their decisions within 24 hours after the voting processes of both Councils conclude

### 1.9.2 Public Comment Period on the Draft SICT Recommendation Requested by the ccNSO and/or GNSO Councils

Maximum Date	Action
Day X	CSC sends the escalation notice to the ICANN Board
Day X+5	ccNSO and GNSO Councils establish the SICT preemptively
Day 0	ICANN Board sends a notice to the CSC that the performance issue remains unresolved following the last escalation step, the CSC subsequently informs the ccNSO and GNSO Councils
	ccNSO and GNSO Councils, via the SICT, issue a joint statement informing the community of the establishment of the SICT and the start of the consultation process
Day 5	ccNSO and GNSO Councils start conducting internal review according to their respective operating procedures
	SICT, on behalf of the ccNSO and GNSO Councils, starts conducting the meaningful consultation by seeking feedback from other SOs/ACs
Day 35	Deadline for SOs and ACs to provide feedback
	Deadline for ccNSO and GNSO Councils to complete internal review according to their respective operating procedures
Day 40	ccNSO and GNSO Councils provide summary of their internal review to the SICT
	SICT provides a summary of the SO/AC feedback to inform both ccNSO and GNSO Councils
Day 50	SICT provides ccNSO and GNSO Councils draft recommendation

Day 60	ccNSO and GNSO Councils decide whether to request a Public Comment Period
Day 65	If a Public Comment Period is requested, ICANN org launches the Public Comment Forum for 40 days at a maximum
Day 105	Public Comment Period closes
Day 115	ICANN staff provides the public comment summary report to the SICT
Day 125	SICT provides its final recommendation to the ccNSO and GNSO Councils, and also informs the ICANN Board and the EC Administration
Day 135	ccNSO and GNSO Councils each decide whether to request the ICANN Board to initiate a SIFR by conducting a vote
Day 136	ccNSO and GNSO Councils issue joint statement on whether to jointly initiate a Special IFR and inform the ICANN Board and the EC Administration their decisions within 24 hours after the voting processes of both Councils conclude