THE FINANCIAL SERVICES ROUNDTABLE

BITS

FINANCIAL SERVICES
ROUNDTABLE

June 8, 2009

VIA Email to: DNSTransition@ntia.doc.gov

Ms. Fiona M. Alexander
Associate Administrator
Office of International Affairs
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W., Room 4701
Washington, DC 20230

RE: Notice of Inquiry, Docket No. 090420688–9689–01 Assessment of the Transition of the Technical
Coordination and Management of the Internet's Domain Name and Addressing System

Dear Ms. Alexander:

The Financial Services Roundtable, including BITS, ("Roundtable") appreciates the opportunity to
comment on the National Telecommunications and Information Administration's ("NTIA") Notice of
Inquiry regarding the upcoming expiration of the Joint Project Agreement ("JPA") with the Internet
Corporation for Assigned Names and Numbers ("ICANN").[1] This agreement has been in existence since
November 25, 1998, and expires on September 30, 2009. The agreement requires ICANN to maintain
and improve its transparency, accountability, and adherence to the bottom-up, multi-stakeholder model.
The Notice of Inquiry outlines eight questions to assist in identifying key issues. The following are
responses to some of these questions as well as other concerns and observations.

The Internet and ICANN Are Critically Important. ICANN is responsible for managing the
assignment of domain names and Internet Protocol (IP) addresses which are critical to the functioning of
the Internet and e-commerce. It also is responsible for overseeing domain name registrars, some of whose
practices have been the source of cyber attacks. ICANN is a US-based non-profit corporation that was
created in 1998 to oversee a number of Internet-related tasks previously performed directly on behalf of
the U.S. government by other organizations. Since the creation of ICANN, the Internet has grown
exponentially and serves as an important innovation for economic growth generally and for a delivery and
communications channel for the financial services industry specifically. To continue to be an important,

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[1]The Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment
products and services to the American consumer. Member companies participate through the Chief Executive Officer and other
senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting
directly for $85.2 trillion in managed assets, $980 billion in revenue, and 2.3 million jobs. BITS is the technology and operations
division of The Roundtable. BITS provides intellectual capital and fosters collaboration to address emerging issues where financial
services, technology, and commerce intersect.

safe, and reliable delivery channel, the Internet must maintain consumer confidence in the security and stability of this medium. As emerging technologies, new online business models, and cyber crimes continue to add layers of complexity in operational risk management, ICANN must proactively demonstrate that it is fair, objective, and balanced in meeting the substantive and administrative needs of its stakeholders.

ICANN Should Continue as a Private Sector-Led Multi-Stakeholder Model. The Roundtable strongly supports the goal of a private sector-led model of governing the unique indicators of the Internet. For reasons discussed below, we also support the goal of maintaining ICANN as an independent, not-for-profit organization that is accountable to the multi-stakeholder global Internet community in carrying out its operational functions.

ICANN Should Remain a United States-Based Entity <u>And</u> Continue to Be Internationally Focused. We believe that ICANN should maintain its headquarters in the United States to ensure certainty and consistency in administration and enforcement of its contracts and of other stakeholder contracts. We support efforts to both continue this unique governance model and move vigorously to address the key issues mentioned below. We believe the United States Government has provided thoughtful leadership in creating the protocols for the Internet and helping to establish ICANN as a unique, private sector-led model. We believe it is appropriate for the United States Government to continue to play a similar role in the future.

We recognize that some members of the international community advocate for broader government oversight through a multi-lateral body such as the United Nations or the International Telecommunications Union. The Roundtable strongly supports, as an alternative, greater government participation in ICANN through the Government Advisory Committee ("GAC"), which will help safeguard against external capture or undue influence by individual governments or multi-lateral organizations. We support efforts to continue and to expand outreach to the global Internet community. These outreach efforts should be designed to include a diverse representation of stakeholders, including government representatives and business users in developing countries. We encourage ICANN to increasingly engage government officials (through the GAC), engage leaders from all stakeholders including the business community, and otherwise build confidence in the unique international private sector-led model.

ICANN Must Do More to Address Security and Stability Issues. ICANN must continue to increase its attention to the security and stability of the DNS. This is of particular importance to the financial services industry, which is a major target of international cyber crime. ICANN should not sacrifice this priority to the ambitious roll-out of new top level domains (gTLDs). We strongly encourage ICANN to work closely with industry sectors like financial services which have broad experience with online user acceptance, consumer perception, and online security risk. ICANN should take a consistently strong leadership role on security and stability issues. In particular, we strongly encourage ICANN to improve accuracy of the WHOIS database, continue to provide responsible parties with access to this information, and recommend that improvements be made to the WHOIS directory to make it easier to research fraudulent websites.

ICANN Must Effectively Enforce Contractual Arrangements. ICANN's self-regulatory model is founded on contractual arrangements with the providers of domain name services. Effective and timely enforcement of those contractual arrangements is essential to ICANN's legitimacy and credibility, and there are opportunities for improvement. We believe that ICANN should step up its vigilance and enforcement against registrars who willfully violate their contracts by continued registration of domain

names that infringe on the rights of rightful trademark owners (i.e., cyber squatting). A key part of these enforcement efforts should be the development of a more rapid domain takedown process for clearly fraudulent websites. In addition to the development of a more rapid process to take down fraudulent websites, we also recommend that a more stringent process be developed for requesting domain names to inhibit fraudsters from registering a legitimate brand.

We recognize ICANN's decision to increase the budget dedicated to contract compliance, an important first step. In addition to appropriate budgetary allocations, ICANN staff and its Board of Directors must show their commitment to making contract compliance a priority.

ICANN Must Improve Transparency and Accountability to the Multi-Stakeholder Community. In the 2006 annex to the JPA, ICANN committed to take action on the responsibilities set out in the Affirmation of Responsibilities, including activities on: security and stability, transparency, accountability, root server security and relationships, gTLD management, multi-stakeholder model, role of governments, IP addressing, corporate responsibility, and corporate administrative structure. In order to fulfill these responsibilities, we believe ICANN must continue to improve efficiency, require greater accountability of the registrars, and strengthen the multi-stakeholder model. ICANN's accountability in this regard should be measured by its ability to take into account the concerns of the business community that often bears the cost and burden of operational failures, growth in on-line fraud, and violations in intellectual property protection. We encourage greater accountability and responsibility by ICANN for the companies that manage information and security associated with the domain name and addressing system. As discussed in the preceding section, ICANN should enforce the contractual agreements it has with registrars and registries and thereby make them more accountable.

Roundtable member institutions reported that registrars and registries have a disproportionate amount of decision-making control over the actions and priorities of ICANN, despite the fact that other constituencies represent a larger segment of ICANN's stakeholder community. ICANN needs to focus on this imbalance and neutralize the unfavorable perceptions that it creates.

ICANN Must Reform its Governance Model to Be More Responsive and Less Time-Consuming.
Our primary means of engagement with ICANN in recent years has been in responding to a proposal to establish gTLDs and urging ICANN to preserve financial institutions' access to the WHOIS database. We have submitted five comment letters to ICANN on these topics since 2006. We also submitted a comment letter to the Commerce Department in February 2008 and participated in a Commerce Department-sponsored forum on February 28, 2008 to discuss the midterm review of the JPA.[2] In addition, we have engaged senior ICANN officials on numerous occasions and ICANN leadership has reached out directly to BITS and through our members' operations and technology executives over the past three years. We appreciate ICANN's outreach efforts and encourage ICANN to reach out to other leaders from the business community.

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[2] See April 2009
(http://www.bits.org/downloads/Comment%20letters/BITSCommentLetterICANNgTLDDraftApplicantGuidebookVer2.pdf),
December 2008
(http://www.bits.org/downloads/Comment%20letters/BITSCommentLetterICANNDraftApplicantGuidebook.pdf), February
2008 (http://www.bits.org/downloads/Comment%20letters/FSRoundtablecommentsonJPAFeb2008FINAL.pdf), January 2007
(http://www.bitsinfo.org/downloads/Comment%20letters/BITSFSRWHOISCommentLetterJan122007.pdf), October 2007
(http://www.bitsinfo.org/downloads/Comment%20letters/WHOISCommentBITSFINALOct07.pdf), and April 2006
(http://www.bitsinfo.org/downloads/Comment%20letters/WHOISCommentBITSFINALApr06.pdf).

Despite these steps toward greater communication and collaboration, however, we note the substantial investment of time that is required to participate in the ICANN process. We strongly urge ICANN to develop a governance structure and process for seeking input from private sector communities to be less time-consuming. We encourage ICANN to pay closer attention to the financial and operational impacts of ICANN's proposals.

ICANN must ensure equality among the various ICANN constituencies who vote on ICANN proposals. In addition, we urge ICANN to continue to make progress in promoting best practices among industry segments and to ensure that key stakeholders are involved in the decision making. Active engagement of corporate stakeholders will significantly enhance the exchange of best practices with ICANN and its constituents. It is critical for ICANN to ensure that private sector entities that are significantly affected by ICANN's decisions, but which do <u>not</u> have a contractual relationship to ICANN, have a voice in the organization.

Conclusion

In summary, we see ICANN as a critically important partner and we believe ICANN should continue as a private sector-led, multi-stakeholder model and remain as a United States-based, but internationally focused entity. ICANN must continue to actively address critical governance and operations, issues: including security and stability, contract enforcement, transparency and accountability. We also urge ICANN to refine its governance model so that it is more responsive to all stakeholders including those from the financial services and other business communities and in a way that is less time-consuming and efficient. We hope these reforms will help instill greater confidence in ICANN.

Thank you for your consideration. If you have any further questions or comments on this matter, please do not hesitate to contact us or John Carlson, BITS' Senior Vice President for Regulatory Affairs at John@fsround.org or (202) 289-4322.

Sincerely,
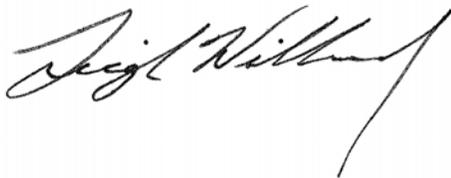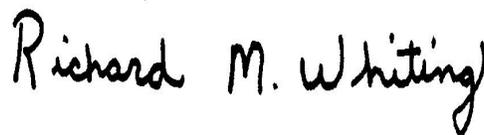
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