

ARIN Suggestion regarding Transfer Facilitators Accreditation Standards and Qualification

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Conformance with the Principles of Internet Number Resource Management:

This recommended revision to the Transfer Facilitators accreditation standard and qualifications is technically sound and enables fair and impartial number resource management. This suggestion upgrades and clarifies the requirements for entities and individuals to qualify and register as approved facilitators for transfers of number resources.

Problem Statement:

The “exhaustion” of the IPv4 pool of Registry-issued number resources has caused two immediate effects: (a) the resulting scarcity has generated an active, world-wide market in transfers of these number resources from those who hold them but are not using them to those entities in need; and (b) the administration of those transfers on the Registry’s records and databases has generated an increasing demand upon Registry staff to properly document and authorize such transfers. Collateral effects also include the economic reality that number blocks have become valuable and are readily bought and sold on the open market. As with other elements of the Internet’s infrastructure, such as domain name registrations, commoditization and scarcity raise everyone’s awareness of the importance of IP number resources, the redistribution through market forces of supply and demand, and the liability associated with such transfers. Registry personnel are tasked with the reregistration of such transferred number resources in order to fulfill the Registry’s primary mission of maintaining and enhancing the accuracy of the registration database. Both intra- and inter-Registry transfers make these transactions even more important for the accuracy of the global database for number resources.

In an effort to help its members and non-members, both of whom are registrants in ARIN’s registration database, ARIN recognized the role of those entities who facilitate these transfers on behalf of their clients. Brokers who represent transferors, brokers who represent transferees, attorneys, consultants, and marketplaces – all act as facilitators in these transfer transactions. Many of these facilitators, in varying levels of authority with their clients, interact with Registry staff. In 2011, ARIN began a program to allow those entities and individuals who act as facilitators to publish their identity and contract information on ARIN’s website. No standards of expertise or financial stability were required; no evaluation of the facilitators was performed by ARIN personnel. All that was required of a facilitator was to register in that capacity in ARIN’s Specified Transfer Listing Service (STLS), to create an ARIN Online account, and to accept both the ARIN Online and the STLS Terms of Service. ARIN simply validated the facilitator’s contact information for the use by other STLS participants and charged a small service fee of \$100.00.

Since September 2011, twenty-four (24) entities or individuals, under various forms of organization and DBAs, have registered as transfer facilitators. Over the intervening period, it has come to ARIN’s attention that some of these facilitators have incorrectly stated on their websites that they are “approved” by ARIN and that they also publish ARIN’s logo on their websites.

ARIN neither endorses nor guarantees the services provided by these organizations. ARIN makes no representation as to the quality or suitability of services offered. ARIN is neither responsible for nor liable for any content, data, products, goods or services provided by or through these organizations.

It is hereby proposed that ARIN seek the concurrence of its membership to eliminate the misrepresentation of ARIN's approval of these entities, as they are currently listed, and to create an actual registration and authorization process for the benefit of ARIN's members who utilize the services of these facilitators and to raise the level of facilitator accountability and expertise, in order to protect both ARIN members and ARIN.

To these ends, we request that ARIN's staff submit a proposal comparable to ICANN's policy and accreditation standards for registrars, which includes the following: Application procedures and Application Fee, qualifications to the satisfaction of ARIN in the areas of management, legal viability for service of process, communication, information systems, finance, eligibility and transactional expertise.

Upon ARIN's review of an Application, the facilitator-applicant would be notified of its authorization for registration and, upon submission of the appropriate Registration, would be permitted to be registered as an "Approved ARIN" facilitator. Upon such registration, the approved facilitator will be listed as such on ARIN's website. The registered facilitator also would be permitted to become a General Member of ARIN, with full voting rights, under Bylaws Article V(b), upon payment of the applicable Membership Fee. [This may require a Bylaw amendment, *i.e.*, to allow various groups, that do not hold number resources but represent other constituency groups among the number resources community, to be involved with and effect change in ARIN's policies.]

Suggestion:

It is hereby proposed that ARIN create a detailed application, review and accreditation process for those entities who facilitate the transfer of IPv4 number resources between and among ARIN and non-ARIN members worldwide. Through the accreditation of facilitators, Registry staff may place additional reliance upon these entities to properly document and stand behind the transfers they facilitate. Accurate and efficient transfers of IPv4 resources will further the Registry's primary mission of maintaining and enhancing the accuracy of the registrations database while reducing the demands upon Registry staff to verify and authorize such transfers.

The procedure for becoming an ARIN (American Registry for Internet Numbers) accredited facilitator includes three steps. The following summary is intended to guide an applicant through these steps.

1. The Application Process. All facilitators, whether currently registered in ARIN's Specified Transfer Listing Service (STLS) or not, must complete an Application (Facilitator Accreditation Application (/ / / /)) and submit an Application Fee of \$2,500 to cover the administrative costs of verifying the documentation and information submitted. Once an Application is deemed by the staff to be complete, the applicant will be so notified. Such a determination, however, is within the sole administrative discretion of the ARIN staff.
2. The Review Process. Complete Applications will next be reviewed by Registry legal staff for accreditation purposes. The criteria for evaluations are all of the categories set forth in the

Application. Final approval or disapproval of accreditation is within the sole discretion of ARIN. After completing its review of the Application and conducting any necessary follow-up inquiries and research, ARIN will inform the applicant by e-mail of its decision.

3. The Facilitator Accreditation Agreement. Upon approval of an Application by ARIN, the applicant will be permitted to sign a standard-form Facilitator Accreditation Agreement (___/___/___) and pay the initial accreditation fee of \$10,000. Accreditation will currently be granted for a term of two years. ARIN will generate and send your Agreement, which may include updated contractual requirements. After the initial two-year accreditation period, an accredited facilitator will receive an Accreditation Update form and an invoice for a bi-annual renewal fee of \$10,000.
4. Service Inauguration. After all of the above steps have been completed, the now-accredited facilitator may offer services to the Internet number resources community using the ARIN logo and the statements: “ARIN-Approved” or “ARIN-Accredited Facilitator”. Discovery of the unauthorized use of the ARIN Logo, trademark, service mark, or the statements above, will result in the publication of the offending party’s identity on the ARIN website.

Comments:

Timetable for Implementation: Immediate. Current entities listed on the ARIN website will be notified of the new process and will be allowed ninety days to remain listed. After ninety days, unless newly accredited, such entities will be removed.

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FACILITATOR ACCREDITATION APPLICATION

Instructions: To apply to become an ARIN accredited facilitator, you must complete this Facilitator Accreditation Application.

To assist us in processing your Application as quickly as possible, please submit very specific, thorough answers and all necessary supporting documents. The main reasons for delays in the processing of an Application include missing supporting documents and incomplete or vague answers to Application questions.

The completed Application, with all supporting documents, should be sent via email to ARIN at _____@arin.net. To help in completing the Application, or for general questions about becoming an accredited facilitator, please submit email inquiries to _____@arin.net.

NOTE: By submitting this application, you are granting ARIN permission to use your company's name and/or logo in its public announcements (including informational web pages) relating to facilitator accreditation.

GENERAL INFORMATION

1. Full legal name of the Applicant, being the established entity that will be entering into the Accreditation Agreement with ARIN, subject to ARIN's approval of this Application.
 2. Legal organization form of the Applicant (e.g., LLC, corporation, partnership, individual).
 3. The jurisdiction in which the Applicant is registered for legal purposes.
 4. Applicant's business registration number, if any, and the name of the authority that has issued this number.
 5. Every business name, dba, and/or trade name used by the Applicant or that the Applicant intends to use in connection with its activities as an accredited facilitator.
 6. Applicant's registered agent for service of process, including address and telephone number.
 7. Attach documentation demonstrating that the Applicant entity is legally established and in good standing (e.g., articles of incorporation or association, state certificate of good standing, state annual reports), or other equivalent documents (e.g., statutes, membership agreement) of the entity. Where no such certificates or documents are available in the Applicant's jurisdiction, an affidavit drafted and signed by a notary public or a legal practitioner duly qualified in the courts of the Applicant's jurisdiction, declaring that the organization is established and in good standing, must be submitted.
- Check this box to certify that you have attached required documentation

8. Type of primary function for Applicant (check all appropriate boxes):

- Broker for Sellers
- Broker for Buyers
- Attorney
- Escrow Agent
- Marketplace
- Agent for Principal

9. Correspondence address for the Applicant. This address will be used for contractual purposes, and the Applicant must be able to accept notices and service of legal process at this address. No Post Office boxes are allowed.

10. Primary phone number where the Applicant can be reached for contractual purposes.

11. Primary email address where the Applicant can be reached for contractual purposes.

12. If the location or address of Applicant's principal place of business is different from the address provided in Question #9, provide details including address, phone number and email address. ARIN may conduct site visits for audit purposes at the given address or, if no distinct address is given, at the address provided in Question #9.

13. Any other addresses where the Applicant's proposed facilitator will be operated or managed, if different from either its principal business or correspondence address provided above. (Please explain.)

14. Primary contact information (this contact will be listed as contact party for the Applicant on the Accreditation Agreement, should this Application be approved). (ARIN may conduct background investigations on any or all individuals listed in questions 14-19).

Name
Title
Address
Phone number
Email address

15. Registry liaison contact information (if different) (this person will be ARIN's main point of contact for all matters concerning actual transfers).

Name
Title
Address
Phone number
Email address

16. Enter the full name, contact information, and position of any persons or entities owning at least 25% of the Applicant's current or proposed business entity. For each entity or person listed, please specify the percentage of ownership.

17. Enter the full name, contact information, and position of all directors of the Applicant.

18. Enter the full name, contact information, and position of all officers of the Applicant.

19. Enter the full name, contact information, and position of all relevant managers of the Applicant.
20. For every person or entity mentioned in the answers to questions 16 to 19, indicate if that person or entity:
- within the past ten years, has been convicted of a felony or of a misdemeanor related to financial activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that is similar or related to any of these;
Answer “yes” or “no”. If the answer is “yes” then list individual(s) or entity involved.
 - within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of funds of others;
Answer “yes” or “no”. If the answer is “yes” then list individual(s) or entity involved.
 - is currently involved in any judicial or regulatory proceeding that could result in a conviction, judgment, determination, or discipline of the type specified in questions #20(a) or 20(b); or
Answer “yes” or “no”. If the answer is “yes” then list individual(s) or entity involved.
 - is the subject of a disqualification imposed by ARIN and in effect at the time of this Application.
If any of the above events in (a)-(d) have occurred, please provide details.
21. Has the Applicant and/or any of the persons or entities mentioned in the answers to questions 16 to 19 submitted to ARIN within the past year an Application or material accompanying an Application that ARIN has been found to contain a material misrepresentation, material inaccuracy, or materially misleading statement? If yes, then please explain the circumstances.
22. Identify any member of ARIN’s staff or ARIN’s Board of Trustees affiliated or associated in any way with the Applicant.
23. Please list all websites and/or domain names the Applicant uses or intends to use for conducting its services at the time of approval.
24. Attach your current Website or other on-line documentation which describe your activities as a facilitator.

BUSINESS OVERVIEW / BUSINESS PLAN

25. Give an overview of the Applicant's current business or business plan.
26. What volume of IP number resource transfers does the Applicant reasonably project to be able to handle per month? If the Applicant is already providing transfer facilitator services, how many transfers is it currently managing?
27. In which Regional Internet Registry area(s) will this transfer facilitator service be offered?
28. How many employees (full time and part time, stated separately) will the Applicant have dedicated to the transfer facilitator business? Please indicate the number of employees (full-time equivalents) in each area (e.g., customer service, research, legal, programming, etc.).

29. Attach your standard Brokerage Agreement, Fee Agreement, Listing Agreement, Escrow Agreement, Agency Agreement, etc. under which you contract with transferees and/or transferors as a facilitator.

OPERATIONAL AND TECHNICAL CAPABILITIES

30. Please provide a technical overview of the Applicant's proposed transfer facilitator operations, including details concerning the type and size of transfers that will be facilitated through this organization.
31. Please explain how the Applicant plans to comply with ARIN's Inter-RIR Transfer Policy – specifically, please describe the procedures the Applicant will implement to accept and process transfer requests.
32. Please describe the steps the Applicant takes or will take to verify with reasonable assurance that a proposed transferor is the legitimate holder of the IP number resources in question.
33. On average, how long has it taken the Applicant to complete transfer requests?
34. Does the Applicant intend to utilize the services of escrow agents in completing transfers? If so, state all escrow agents utilized in the past or intended to be used in the future.
35. Which method(s) does the Applicant use or propose to use for retention of records relating to its transfer facilitator business, including a description of all records to be retained, the location at which they will be retained, the form in which they will be retained and the length of their retention?

FINANCIAL AND INSURANCE OBLIGATIONS

36. An Applicant must demonstrate that it has adequate working capital available for the operation of the transfer facilitator business, given the volume of transfers reasonably projected by Applicant. In cases where an Applicant cannot demonstrate that it has access to at least \$50,000 in liquid working capital, the Applicant must demonstrate that it has sufficient resources available to meet its business needs in addition to adequate cash reserves, and that its business model does not require US\$50,000 in liquid working capital for day-to-day operations.

Factors that may demonstrate this include:

- a. verifiable and reliable cash flow that is sufficient to maintain ongoing operations;
 - b. the facilitator is an affiliate of another existing, sufficiently capitalized entity;
 - c. the facilitator's projected transfer volume warrants lesser capitalization;
 - d. the facilitator's operating costs are projected to be demonstrably less than industry norms, or identifiable circumstances will result in more predictable and stable operating costs; or
 - e. the facilitator has submitted a letter of Credit from a bank guaranteeing that the facilitator's credit is sufficient.
37. Please provide a certificate of insurance in the name of the Applicant for a Commercial General Liability or equivalent policy with coverage of at least US \$500,000 or equivalent in the applicant's local currency, or a document evidencing the ability to obtain such an insurance policy. If the

proposed insurance is not in force at the time this application is submitted, it will have to be in place prior to completion of the accreditation process.

38. List the bank(s) where Applicant's accounts are held and include the type of account (i.e., savings, checking).

Submitted to
ARIN
via ACSP 2018.20

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