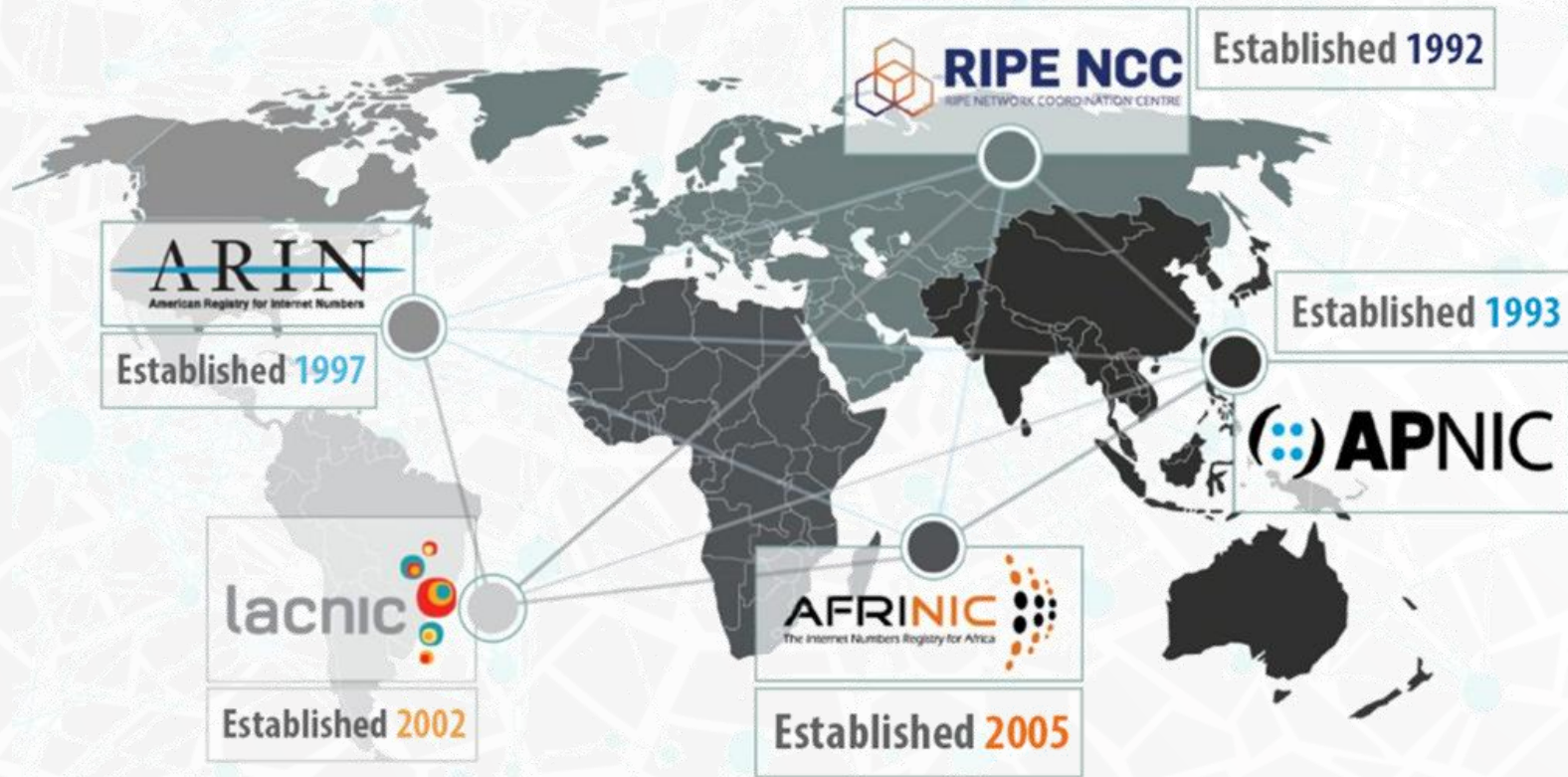


# Global RIR Update

John Curran

American Registry For Internet Numbers (ARIN)

20 October 2023



# The Regional Registry System



# Background

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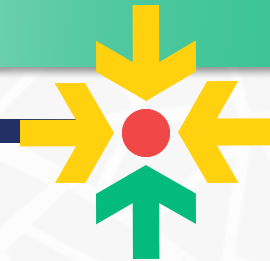


ARIN does not normally comment on disputes or related litigation occurring at another Regional Internet Registry (RIR).



However, ARIN has a responsibility to keep its community reasonably informed about the status of the Internet Number Registry System, and this includes the status of AFRINIC.

# Notable Legal Developments



# Notable Legal Developments

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**2020**

- AFRINIC completed a Registry Audit.
- More information was required from an AFRINIC customer — “Cloud Innovation” (principle, Mr. Lu Heng).
- AFRINIC determined that resources were not being utilized for the purposes for which they were issued and would be revoked (after a suitable time to allow customer migration of those resources).
- Mr. Lu and his businesses disputed AFRINIC's authority to enforce this provision of its customer agreement.

# Notable Legal Developments

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**2020**

- Mr. Lu engaged in several legal actions in the courts in Mauritius to prevent having to return the address blocks to AFRINIC (majority of cases involve Cloud Innovation Limited [CIL]).
- One motion froze AFRINIC's accounts, and thus had the potential to hamper AFRINIC's operations.
- After approximately 2.5 months, AFRINIC successfully had the freezing order removed.

# Notable Legal Developments

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2022

- Injunction entered in Court that prevented AFRINIC from holding its annual elections just prior to the AFRINIC Annual General Members' Meeting (AGMM)
- As a result, after the AGMM, the AFRINIC Board of Directors lacked sufficient directors to meet quorum – thus unable to conduct business or convene a subsequent AGMM for purposes of holding an election for new directors

# Notable Legal Developments

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**2022**

- Several unsuccessful petitions made to the court for appointment of temporary directors
- AFRINIC CEO Eddy Kayihura's employment was not extended beyond November 2022 by the Board Chair Benjamin Eshun
- Absent a quorate Board of Directors and without a CEO, AFRINIC's staff faces challenges in operating the registry



# Notable Legal Developments

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**2023**

- **13 April** - Filing by a director/registered member of AFRINIC seeking the ability to hold elections.
- **12 September** – An Order entered appointing Official Receiver (OR) of Mauritius to oversee the affairs of AFRINIC, hold an election for the AFRINIC Board within six months, and work toward the appointment of a CEO.

## 14 September 2023- NRO Statement on Appointment of an Official Receiver for AFRINIC



*"The NRO welcomes recent developments in the legal proceedings affecting AFRINIC. With successful execution, these developments will restore AFRINIC to functional governance with the election of an Executive Board and appointment of a CEO."*

# Notable Legal Developments

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2023

- **28 September** - Appeal lodged by AFRINIC's external litigation counsel to challenge Order appointing the OR - resulting in an automatic stay of Order and suspension of OR's authority.
- **2 October** - Filing by CIL challenging acceptance of AFRINIC's appeal, suspending the automatic stay and restoring authority of the Official Receiver (OR)
- **4 October** - Injunction/gag Order entered preventing previous directors Benjamin Eshun and Viv Padayatchy from acting on behalf of AFRINIC and/or interfering with the OR.

# Notable Legal Developments

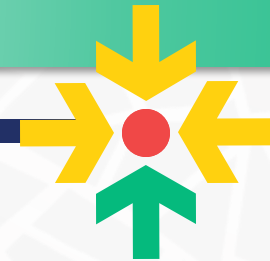
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**2023**

- **16 October** - Benjamin Eshun obtains discharge of injunction/gag Order. In addition, there is a discharge of suspension of automatic stay of the OR Order, and thus OR's authority is again suspended – ending work towards a member election of new directors.

# ARIN's Assessment



# AFRINIC – Status Summary

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- There remains significant pending litigation.
- There are insufficient directors to convene a Board Meeting or call a Members Meeting (which would be necessary to elect additional directors).
- Petitions to court for appointment of temporary directors have not been granted.
- There is a pending appeal to Order appointing Official Receiver to oversee AFRINIC and hold elections – an appeal process likely to take a year (or more)
- At this time, AFRINIC operations do not appear to be significantly impacted: registry services, customer requests, etc. are all proceeding as usual – a testament to the dedication of AFRINIC staff.

# AFRINIC – Next Steps

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- Next steps are still to be determined, as at the present time there is no clear path to a member election for new directors
- Monitoring for further development regarding the current challenge to the appointment of an Official Receiver to oversee AFRINIC's affairs, including the holding of an election for the AFRINIC Board.
- ARIN is standing by to assist and has offered technical and/or financial support as needed (the other RIRs and ICANN have extended similar offers of support.)

# Thank You



**Questions or Comments?**