

AFRINIC 34 ONLINE

9:00 - 13:00 UTC 15-18th NOVEMBER 2021

Staff Impact Assessments

17 - 18 November 2021

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Update of PDP (Draft-2)

AFPUB-2021-GEN-002-DRAFT02

<https://afrinic.net/policy/proposals/2021-gen-002-d2#impact>



Staff Interpretation & Understanding of the Proposal



This policy proposal modifies some aspects of the Policy Development Process (PDP) and brings in some changes to the functioning of the Policy Development Working Group (PDWG) as follows:

1. Definition of rough consensus has been explained to match the one defined in the RFC7282 (not a classic voting mechanism)
2. Participants of the PDWG must be real people (AFRINIC can investigate, taking into consideration the rights of Personal Data Protection)
3. Possibility to have more PPMs per year to split the workload (shorter PPMs possible)
4. For every PPV/version, AFRINIC must publish an Impact Analysis (IA) in a maximum of 4 weeks (from the submitted date) and at least 1 week before the PPM.
5. A PPV expires after 6 months unless it is ratified by the AFRINIC Board of Directors
6. Any PPV must be discussed on the RPD List a minimum of 8 weeks before it is presented in the PPM.
7. The Chairs have a maximum of 2 weeks to determine whether rough consensus has been achieved (considering both list and meeting). Consensus can be determined outside the PPM.

Staff Interpretation & Understanding of the Proposal



8. The Chairs must publish the minutes of proceedings of the PPM not later than 2 weeks after the meeting.
9. All possible actions during the Last Call have been clarified, and the Chairs have 1 week after the end of the Last Call, to confirm whether consensus is maintained.
10. If consensus is declared, the Chairs will submit the PPV to the AFRINIC BoD for ratification. The Board of Directors can ratify or send the proposal back to the list for further discussion. The latter clarifies the status of the proposal in case it is not ratified by the AFRINIC Board.
11. Conditions in which the AFRINIC Board of Directors can intervene in the Policy Development Working Group discussion are explained.
12. Amendments are being proposed for Section 3.6 Varying the Process

Impact



AFRINIC Secretariat Duties

There is no limit to the number of proposals that can be put on an AFRINIC PPM agenda. Impact Assessments are comprehensively prepared and require the contributions of internal stakeholders.

The timing of these assessments to be prepared and published 1 week of the PPM needs to take into consideration the number of proposals on the agenda and the fact that updated versions of the proposal are also submitted by authors closer to the PPM

Impact



Legal Assessment

(a) Under paragraph 3.4.2 of the proposal, reference is made as follows – “*Once the minimum 8 weeks of discussion in the list and a presentation at the PPM ... are met, the Chairs have a maximum of **2 weeks to determine whether rough consensus** has been achieved*”.

Section 11.3 of the bylaws clearly states that proposals for policies are discussed and agreed during the Public Policy Meeting. Therefore, declaration of rough consensus (or not) must be made during the PPM itself.

Any proposal allowing rough consensus to be declared outside the scope and ambit of the PPM is simply not consistent with section 11.3 of the bylaws. Having said that editorial changes can be made during the Last Call before a final declaration is made by the Co-Chairs.

Impact



(b) Under paragraph 3.4.3 of the proposal, reference is made as follows – ***“A final discussion of the DPP is initiated by the Working Group Chairs by sending an announcement to the RPD List”***. Furthermore, reference is also made as follows – ***“The purpose of the Last call is to provide the community with a brief and final opportunity to comment on the DPP, especially those who didn’t earlier.”***

These amendments are clearly inconsistent with section 11.3 of the bylaws for the reason stated above.

For obvious reasons, Last-Call must to be restricted to changes to policy that are purely editorial and non-substantial in nature.

Allowing further discussions on the merits of policy proposal during the Last-Call is not only irrational but unfair to those participants who attended and participated at AFRINIC Public Policy Meeting, be it in person or virtually. Hence, allowing further discussions on the merits to be held on the mailing lists post the PPM is too risky as it may only allow a consensus (or non-consensus) prevailing during the PPM to be overturned by discussions occurring on the RPD mailing post the PPM.

Impact



(c) As regard paragraph 3.4.5 of the proposal, the proposal, as styled, is inconsistent with sections 11.3, 11.4 and 11.5 of the bylaws. It is apposite to recall that section 11.4 of the bylaws already caters for the adoption of policies regarding the management of internet number resources where it considers that the same is necessary and urgent; and section 11.5 of the bylaws provides for the endorsement (i.e. approval) of the adopted policy by the community. Therefore, the question of the board of directors introducing its own adopted policy to the community by way of a DPP is questionable. In practice, and if section 11.4 is eventually triggered, the Chairperson of the board of directors would be required to submit a brief to the community at the next PPM substantiating the actions taken by the board of directors so that the said action may be endorsed by the community.

Implementation



Timeline of implementation can be within 6 months of Last Call as prescribed by the CPM.



Policy Compliance Dashboard (Draft-2)

AFPUB-2021-GEN-003-DRAFT02

<https://afrinic.net/policy/proposals/2020-gen-006-d2#impact>



Staff Interpretation & Understanding of the Proposal



The proposal requests AFRINIC to set up a dashboard to:

- Show Resource Members RSA/CPM compliance status
- Send notifications to the members as soon as non-compliance is detected,
- Send reminders to AFRINIC staff should non-compliance persist for 3 months

The proposal also states that following the RSA, certain non-contractual non-compliance will entail revocation of services and member closure.

The proposal lists the steps that AFRINIC shall mandatorily take before revoking resources

The proposal tells cases where the Board may extend the resource revocation period with a prior assessment conducted by staff.

Impact - Registry function



1. New sub-process/procedure to be developed for the overall non-compliance workflow
2. The dashboard on the member portal needs to be configured to send notifications as well as periodical reminders of non-compliance to the members.
3. Dashboard on member portal needs to be configured to send notifications of persistent non-compliance after 3 months
4. Resource Members follow-up in regard to persistent non-compliance will also be required
5. The dashboard will also evolve with any new resource policies that come into effect.

Impact - Legal Assessment



While the intention of the authors is evident, yet this proposal, as styled, has the effect of:

- (i) Encroaching on the internal management and operations of AFRINIC insofar as contract management of the Registration Service Agreement (RSA) is concerned.
- (ii) The fact that AFRINIC will only be able to execute the provisions of the RSA upon “3 confirmed violations” during a 12 months’ timeframe makes it impractical and unrealistic inasmuch as breach(es) committed by resource members will differ from organisation to organisation. It is difficult to envisage how this proposal is workable in practice.

(b) Besides, the RSA already empowers AFRINIC to initiate such reviews or investigations whenever it has good cause to do so. The RSA also provides for the withholding (suspension) and/or revocation of resources in cases where the concerned resource member fails to cooperate with AFRINIC. Therefore, the proposal that AFRINIC shall only trigger the termination process in cases where there is a persistent non-compliance on the part of the resource member is misconceived for the reason stated above.

Impact - Legal Assessment



(c) Should the aforesaid policy proposal, as styled, reaches consensus, it is highly likely that the board of directors acting through its management will face difficulty to give full effect to the existing terms of the RSA since AFRINIC will be debarred from taking any actions under the RSA unless and until at least 3 violations on the part of the resource member have been recorded.

(d) Further, by the time that a resource member ends up being persistently non-compliant, it is highly probable that the RSA which has an initial tenure of one calendar year would have automatically been renewed for another calendar year such that the identified breaches would then become 'caduc'. Consequently, any identified breach(es) of the RSA on the part of the resource member would be deemed to have been regularised by the mere fact that the RSA has been renewed.

Implementation



Implementation of the dashboard can be effected by Q3-2022



AFRINIC Number Resources Transfer Policy (Draft-2)

AFPUB-2020-GEN-006-DRAFT02

<https://afrinic.net/policy/proposals/2020-gen-006-d2#impact>



Staff Interpretation & Understanding of the Proposal



The proposal will replace the current transfer section 5.7 of the CPM

- It allows the transfer of IPv4 and ASN resources within the region and between AFRINIC and other RIRs that permits the transfer of IPv4 address space and ASNs between its own region and AFRINIC
- It introduces the categorization of resources and a set of transfer rules and specifies the resource categories eligible for transfer. These Categories are for resource policy administrative purposes and shall not reflect in the WHOIS. The Categorization of resources is as follows:
 - AFRINIC pool == Regional
 - Special-Purpose pool == Reserved
 - Legacy == Legacy
 - Others == Global

Staff Interpretation & Understanding of the Proposal



- Policy rules and procedures are:
 - Only Legacy resources and resources transferred in from other regions will be transferable out of the AFRINIC service region
 - Intra region transfers shall permit "Regional", "Global" or "Legacy"
 - Outward Inter region transfers shall permit Legacy and Global(resources that have been transferred into the AFRINIC region)
 - Inward Inter region transfers shall permit "any" as long as they are compliant with the policies of the source RIR
 - The size of the IPv4 address prefix should be a minimum of /24
 - The resource transferred will be covered by AFRINIC policies after transfer into the region
- Resources from the Special-Purpose pool shall not be transferable on basis of this policy
- The source must be the rightful holder of the resources to be transferred with no disputes

Staff Interpretation & Understanding of the Proposal



- The recipient must meet the conditions of the AFRINIC policies in force
- The recipient must sign RSA and transferred legacy space will no longer be considered legacy (become category Global)(to be confirmed by authors)
- A new member recipient that does not have prior resources must demonstrate justifiable needs to receive the resource and in the case of ASN, the recipient must meet the criteria for the assignment of ASN according to the policies in force.
- An existing member recipient with prior resources must:
 - Demonstrate justifiable needs to receive the resource and in the case of ASN, the recipient must meet the criteria for the assignment of ASN according to the policies in force.
 - Show past usage rate and evidence of compliance with AFRINIC policies with respect to past allocations/ assignments.
- The policy has no resource hold-down time.
- Resources deemed to be transferred without AFRINIC's prior approval will be deemed non-compliant with the policy and shall be reclaimed

Recommendations for editorial edits and definitions



Since "Resource" means IPv4, IPv6, and ASN in general, it is suggested that;3.1 Definitions be reworded to 3.1 Definitions applicable to this section of the proposal

Under the heading "Definitions", more precisely under sub-paragraph 3.1.5, the term "Others" appears to be vague. The authors may wish to reformulate so that the definition also mentions that incoming legacy resources lose their legacy status after the transfer.

- Under the heading "Rules and procedures for selecting resources eligible for transfers", more precisely under sub-paragraph 3.3.5, the term "Any" appears to be vague; to avoid present assumptions and potential future misinterpretation, it would be important to have a specific definition.

Bullet point 2 of Section 3.4 of the proposal reads "The resource must qualify for the type of transfer requested." This use of "type of transfer" is ambiguous since there are no transfer types defined in the proposal and is open to misinterpretation. Since a definition exists in Section 2, the authors may consider including the types of transfers in Section 3 of the proposal.

Recommendations for editorial edits and definitions



Absence of “hold down” time of new allocations/assignments and transferred resources may lead to abuse of the registry before a resource can be put to an effective justified need.

- Under the under heading “Conditions on the source”, more precisely with respect to the first bullet under paragraph 3.5 of the policy proposal, same to be rephrased as follows “The source holder must be the rightful holder of the resources being the subject of the transfer and that the resources must not be the subject of any dispute, known or contemplated.
- The author may wish to update Section 3 of the proposal with “ Resources deemed to be transferred without AFRINIC's prior approval will be deemed non-compliant with the policy and shall be reclaimed” .

Impact



3.1) Impact on Registry Functions

Myafrinicv2 (Member Portal)

- Request dashboard
- Changes in preconditions and checks
- New workflow for Inter RIR transfer
- Resource Tagging

Resource Tagging currently being implemented will be updated to include the requirements of this policy

- Handling Legacy and resulting statuses
- Transfer Logs updates
- Changes to transfer requests forms to include ASNs

3.2) Member Services Operations

- Impact on Processes and procedure - Complete process and procedural reviews will be undertaken including the handling of inter-rir transfer and ASNs.

Impact



3.3) Impact on staffing/human resources

Resource transfer evaluations are resource-intensive and expanding the scope to include inter-rir will necessity need for additional Hostmasters to effectively process requests as per conditions of section 3.6 of the proposal

3.4) Contractual agreements

- Revision of transfer Agreement & Registration Services Agreement may be required.

Impact



3.5) Member Services Tool/Systems

Hostmasters Portal

- There will be a major code review required to integrate the marking/categorisation proposed

Automated resource transfer tool

- The automated transfer tool will require code rewrite to accommodate the ASN resources and integration with external systems for other RIR'

Impact



Legal Assessment

- The decision of allowing, or not, inter-RIR transfers of IPv4 resources from and to the AFRINIC region is not strictly a legal one. In fact, it is purely and simply a business decision to be taken judiciously and prudently both by the PDWG and the Board of Directors having regard to the directors' duties provided in the Companies Act, i.e. to act in the best interests of the company. Acting in the best interests of the company in this context means considering the real financial impact of such policy for AFRINIC so that the sustainability and business continuity of AFRINIC, both as a company and RIR, is not compromised.

Impact



Legal Assessment

- It is important to highlight that, as a matter of law, legacy resource holders existing within the AFRINIC's service region are not contractually bound by AFRINIC's adopted policies such that these policies have no direct effect on legacy resource holders, and it is up to those legacy-holders to adhere to AFRINIC's policies. Thus, the authors should bear in mind that obligations impacting legacy resource holders may not necessarily achieve the intended results if the legacy resource holders refuse to opt for voluntary registration of the transfer with AFRINIC.

Impact



Legal Assessment

- The other question arising relates to outbound transfers of resources. It is understood that the intended transfers will be channelled through AFRINIC. Therefore, other than simply setting out the conditions for transfers, AFRINIC's role in the whole process must also be adequately defined. In particular, it is unclear as to whether AFRINIC's role in the whole process would be limited to facilitating the administrative aspect of the intended transfers only with or without such legal responsibilities attached thereto, more so that AFRINIC will be relying on representation made to it when attending to similar requests. Accordingly, it is proposed that the burden of conducting such adequate due diligence with respect to the source holder or the concerned IPv4 number resources be borne by the intended recipient, and that AFRINIC's role should be limited to act as a facilitator only without bearing any legal responsibility whatsoever in that process.

Impact



Legal Assessment

- In regard to the inbound transfer of legacy resources into the AFRINIC's region and whilst clause 3.6 of the proposed policy will require the recipient to sign an RSA, it is not clear in the proposed policy whether the concerned IPv4 legacy resource will lose its legacy status upon transfer into the AFRINIC's service region in as much as the current RSA is not presently tailored for that purpose.
- Further, it is also important to clarify whether, in case of inbound transfers of legacy resources, AFRINIC will be able to execute its RSA with the obvious risk of the concerned IP number resources being reclaimed by AFRINIC in case of subsequent breach of the RSA, despite that the recipient organisation would have most probably paid good consideration (financial value) for such transfers.

Impact



Financial Assessment

- Since IPv4 & ASN resources from the AFRINIC Pool can only be transferred in-region(Intra), AFRINIC will not lose its current resource members to other RIRs in outgoing transfers. This proposal will therefore have a minimal financial impact on AFRINIC's revenue.

Implementation



Timeline - Earliest we can implement same will be in Q4 2022 on MyAFRINIC V2 based on the updated plan

AFRINIC 34 ONLINE

9:00 - 13:00 UTC
15-18th NOVEMBER 2021

AFRINIC-34 Website:

<https://meeting.afrinic.net/afrinic-34>

Contact us: meeting@afrinic.net



ORGANISER

