

Reconsideration Request Form

1. Requester Information

Name: CPA Australia Ltd

Address: Contact Information Redacted

Email: Contact Information Redacted

Phone Number (optional): Contact Information Redacted

2. Request for Reconsideration of (check one only):

Board action/inaction

Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

On or about 3 September 2015, ICANN published the New gTLD Program Community Priority Evaluation Report in response to the Requestor's application 1-1744-1971 (the "**Application**") for Community Priority Evaluation for the .cpa gTLD (the "**CPE Report**"). The CPE Report is available at <http://www.icann.org/sites/default/files/tlds/cpa/cpa-cpe-1-1744-1971-en.pdf> and is attached hereto as Annexure 1.

The CPE Report's findings are summarized as follows:

"After careful consideration and extensive review of the information provided in your application, including documents of support, the Community Priority Evaluation panel has determined that the application did not meet the requirements specified in the Applicant Guidebook. Your application did not prevail in Community Priority Evaluation. Your application may still resolve string contention through other methods as described in Module 4 of the Applicant Guidebook."

Despite the disclaimer contained in the CPE Report stating that "(...) these Community Priority Evaluation results do not necessarily determine the final result of the application", ICANN has amended the "Contention Resolution Status" of the Application from "In CPE" to "Active" as evidenced by the application page at <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/414>.

The Requestor seeks reconsideration of action taken by ICANN in accepting the CPE Report and amending the Application's Contention Resolution Status to Active.

4. Date of action/inaction:

3 September 2015.

5. On what date did you become aware of the action or that action would not be taken?

4 September 2015.

6. Describe how you believe you are materially affected by the action or inaction:

As demonstrated by the Requestor's Application obtaining full scores in all criteria other than Criterion 2, 'Nexus between Proposed String and Community', the Requestor is significantly invested in both protecting and promoting the reputation and identity of the CPA community. The Requestor would suffer harm should it be deprived of the opportunity to manage a gTLD dedicated to the CPA community as a whole as a result of the Community Priority Evaluation ("CPE") process being applied inconsistently. Due to the Requestor's vested interest in the success of the CPA community since 1886, it is adversely affected by any action that may undermine the public trust in the globally respected CPA designation, as outlined in Question 7 below.

Further, based upon the action identified in this request, the Requestor's Application would expectedly be required to resolve contention "*through other methods as described in Module 4 of the Applicant Guidebook*", likely to be an Auction of Last Resort. Based upon publicly available data on Auctions of Last Resort which have been as high as USD 25m, the Requestor may be required to expend significant funds to compete at auction, which may otherwise be allocated towards serving the CPA community in other functions. The Requestor has been financially impacted due to its significant investment in the gTLD program, and the Community Priority Application specifically, in respect of which it seeks to be treated in accordance with established processes and policies.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

The community as defined in the Requestor's Application relates to the globally recognised CPA designation/accreditation. The Requestor asserts that significant harm to this community and the established CPA designation has been actioned by ICANN in disallowing the CPE submitted by the Requestor.

The CPA designation is one of the most widely recognised and highly regarded designations in the world. CPA continues to be the standard used to identify accountants who undertake a level of education and commitment to global standards that define the way that the global economy functions. Accountants holding the additional designation of CPA are relied on around the world as being at the top of their field.

Unlike the term accountant which refers generally to an individual undertaking activity within the discipline of accountancy, the CPA designation is a classification of a highly qualified accountant who has completed significant post-graduate education and belongs to a member association that requires ongoing regular professional development in order to retain the accreditation.

Undermining the public trust in the respected CPA designation would erode the significant good-will built up over the last century and has the potential to significantly impact local, national and global economies.

The Requestor asserts that the only appropriate entity to manage the .cpa gTLD is an entity with a proven track record in managing the "traditional CPA designation", and has a documented nexus to the global CPA member community. Only an entity that explicitly understands the associated global, national and regional issues pertaining to the responsible management of the CPA designation can manage the .cpa gTLD.

Since it is highly likely that the .cpa gTLD will become the "digital CPA designation", it is fundamental that both the 'traditional CPA designation' and the 'digital CPA designation' are aligned in relation to the criteria and standards associated with how they are attained by eligible CPA's. The harm imposed upon the community as a whole should the digital CPA designation be misaligned with the traditional CPA designation, would be significant. Such misalignment would occur should a commercially focused gTLD operator gain control of the .cpa gTLD. This is of particular importance when viewed in light of the .cpa gTLD's classification as a highly regulated string, as evidenced by the Governmental Advisory Committee in their letter of 29 October 2013.¹

It is for the above reasons that material adverse harm has been occasioned on the defined community as a result of ICANN's actions.

8. Detail of Board or Staff Action – Required Information

The Requestor seeks reconsideration of ICANN's action in amending the Requestor's .cpa gTLD Application Status from 'In CPE' to 'Evaluation Complete' based upon the CPE Report.

The Requestor submits as follows:

1. Established criteria for the evaluation of CPEs as contained in the Applicant Guidebook ("**AGB**") have not been followed. Rather, ICANN has developed through the Economic Intelligence Unit ("**EIU**"), and subsequently relied upon, criteria developed outside of ICANN policy development processes.

¹ <https://www.icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf>

2. The EIU delegated with authority to evaluate CPEs has inconsistently applied the so-called CPE Guidelines, and in particular Criterion 2, 'Nexus between Proposed String and Community'; and
3. The EIU allocated a score of '0' for Criterion 2, 'Nexus between Proposed String and Community', on the Requestor's Application due to a lack of understanding of the inclusive and accessible nature of the community, as defined by the Requestor in its Application, which could have been clarified by conducting additional public research, asking clarifying questions or considering material information available to the CPE panel at the time.

The above have resulted in the Requestor's CPE Report obtaining a '0' for Criterion 2, 'Nexus between Proposed String and Community'.

The Requestor submits the following.

- 1. Established criteria for the evaluation of CPEs as contained in the AGB have not been followed. Rather, ICANN has developed through the EIU, and subsequently relied upon, criteria developed outside of ICANN policy development processes.**

Subsequent to publication of the AGB and the Requestor having submitted its .cpa Community Priority gTLD Application, ICANN has adopted substantial amendments to the criteria against which CPEs are assessed. These amendments include clarifying documents which extend beyond and impose more stringent requirements than the language of the AGB and/or in respect of which the Applicant has had no equivalent opportunity to clarify the language of its Application.

On or around June 2012, ICANN published the final AGB as a step-by-step procedural document for new gTLD applicants². In particular, the AGB specifies what new gTLD applicants can expect during the evaluation period as well as the criteria against which the Community Priority Applications will be assessed. The publication of the AGB was the result of extensive community input and supported by ICANN's general principles of fairness, transparency and non-discrimination and the GNSO's Principles, Recommendations and Implementation Guidelines ("GNSO's Guidelines"). Published in 2008, the GNSO's Guidelines direct as follows:

ICANN must implement a process that allows the introduction of new top-level domains.

The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.

² Applicant Guidebook, published 4 June 2012, available at www.newgtlds.icann.org/en/applicants/agb.

*All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*³

In addition to publication of the AGB, ICANN announced that the EIU would be responsible for determining CPEs. Upon announcing the EIU's role as evaluator, ICANN confirmed that it was paramount to *"ensure that applications have followed the same evaluation process and have been evaluated consistently"*.⁴

Notwithstanding the above, since 2013, over a year after the Requestor submitted its Application, the EIU has introduced no less than five (5) additional documents, guidelines and/or procedures. These have been published in a period running up to two (2) years after publication of the final AGB, with the first occurring approximately 16 months after applications were submitted. These consist of the following:

- Community Priority Evaluation Guidelines, version 1.0 published on 13 August 2013 (the "First CPE Guidelines");
- Community Priority Evaluation Guidelines, version 2.0 published on 27 September 2013 (the "CPE Guidelines");
- Community Priority Evaluation Panel and Its Processes document, published on 6 August 2014;
- Updated CPE Frequently Asked Questions (FAQs), published on 10 September 2014; and
- CPE Processing Timeline, published on 10 September 2014, (together the "CPE Documents").

ICANN has described the purpose of the CPE Guidelines as *"an accompanying document to the AGB, (...) meant to provide additional clarity around the scoring principles"*, and further that they *"are intended to increase transparency"*.⁵

The publication of further CPE Guidelines demonstrates as follows:

1. The AGB resulted in uncertainty in respect of the criteria for evaluating Community Priority Applications for a number of parties, including ICANN, the EIU and applicants. Whilst ICANN has availed itself of the opportunity to clarify these perceived uncertainties within the AGB, the Requestor has not been given an equivalent opportunity to clarify its Application accordingly and thereby facilitate the EIU granting a passing score for

³ New gTLDs Summary – Principles, Recommendations & Implementation Guidelines, published 22 October 2008 (available at gns0.icann.org/en/issues/new-gtlds).

⁴ 'Preparing Evaluators for the new gTLD application process, by Michael Salazar, published 22 November 2011 (available at <http://newgtlds.icann.org/en/blog/preparing-evaluators-22nov11-en>).

⁵ <https://newgtlds.icann.org/en/applicants/cpe>

Criterion 2, 'Nexus between Proposed String and Community'.

By way of example, the Requestor's Application states that:

"At some point in the future, the CPA Australia community may review and consider expanding the community to include practicing accountants and other members of various CPA organisations around the world which also use a similar CPA designation. Any possible future expansion to the scope of the CPA Australia community would be subject to approval by members of the community through CPA Australia's normal decision-making processes, including at an Annual General Meeting (AGM). As part of this process, CPA Australia would put forward an updated registration policy and governance mechanism for making decisions under the new broader scope of the community."⁶

Had the Requestor been given the opportunity to clarify its Application following the release of the CPE Guidelines, it could have taken action to conduct such an AGM, thereby resolving any potential lack of clarity that may have been inferred by the EIU.

2. Noting the addition of further information, definitions and examples contained within the CPE Guidelines, there is no other possibility than that the description of CPE criteria and their interpretation have expanded throughout the passing of time from publication of the AGB to publication of the Requestor's CPE Report. In particular, the Requestor notes the addition of several definitions, including that for "over-reaching substantially" which introduces an element of 'geographic and thematic' overreach, and a definition of "others", replacing the otherwise ordinary meaning of the word.

When the Requestor submitted its Application in 2012, it did so in reliance upon the information available to it at the time, in the AGB. However, due to the addition of 'clarifying' CPE Documents, and their subsequent retrospective application, the Requestor, asserts that the CPE panel's use of the CPE Guidelines as anything but mere guidelines rather than criteria, is inconsistent with the AGB criteria. The AGB criteria were established through a thorough policy development process and ICANN has taken insufficient action to rectify this lack of transparency and fairness. The Requestor nevertheless remains of the view that a more thorough and consistent review by the EIU of the Requestor's Application would result in a higher score against the requirements of the AGB.

⁶ Question 20e of the Requestor's Application

Whilst the Requestor acknowledges that the CPE Guidelines were developed some time ago, the action the subject of this Reconsideration Request is ICANN's acceptance of the CPE Report (described in Question 3) as determined against the above referred to CPE Guidelines.

2. The EIU delegated with authority to evaluate CPEs has inconsistently applied the CPE Guidelines, and in particular Criterion 2, 'Nexus between Proposed String and Community'.

The Requestor refers to the CPE Guidelines and notes that ICANN has persisted on the particular importance of consistency in approach in scoring applications. However, the Requestor has conducted a review of a number of CPE reports and identified a divergent approach to scoring the requirement for a nexus between the applied-for string and the community. Criterion 2 of the CPE Guidelines evaluates the nexus between the Proposed String and the Community ("Criterion 2") and is described as follows:

Nexus:

3= The string matches the name of the community or is a well-known short-form or abbreviation of the community.

2= String identifies the community, but does not qualify for a score of 3.

0= String nexus does not fulfill the requirements for a score of 2.

Further, under the section titled 'Definitions',

"Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

"Over-reaching substantially" means that the string indicates a wider geographical or thematic remit than the community has.

The Requestor refers to the CPE Report for the applied-for string .spa of 22 July 2015 (the "**SPA CPE Report**"). In respect of the nexus requirement, the SPA CPE Report found that despite the .spa string extending beyond the Community, to the tune of hundreds of thousands of google search results indicating other uses for the word SPA, as well as the community extending beyond the string itself, the CPE panel nonetheless determined that the applied-for string met all criteria for nexus and scored 3/3.

Similarly, the Requestor refers to the CPE report for the applied-for string .art of 10 September 2014 (the "**ART CPE Report**"). The .art application states that "any individual, organization or company that already belongs to one of the art community categories that have been established by e-flux, referred to in our response to Question 20 (b) below, is considered a member of the art community". Registration of a domain name requires one to be a "member" of the art community, as determined solely by the applicant. Further in the ART CPE Report, the panel places particular importance on all of the members of the community matching the string, as opposed to recognizing that there may be

members which match the string which do not form part of the community. Whilst the Application ultimately failed the CPE, it was awarded 2 out of 3 points for nexus, highlighting a significant inconsistency in the treatment of the evaluation criteria.

In neither of the above examples does the EIU provide a substantial justification as to how, why or at what point the extent of the "over-reaching of the string" becomes an impediment for satisfying the nexus criterion. Further, the EIU's consideration of some numeric limit at which the community "over-reaches" is inconsistent with and extends beyond the AGB which does not require the community to include all people covered by the string nor describe some numeric test for determining the extent of such over-reaching.

The Requestor has compared precedent CPE reports to the Requestor's CPE Report in respect of the .cpa gTLD and notes that despite the community (as described by the Requestor) not extending beyond the string, a failure to numerically include a limited set of individuals which may otherwise match the string but not form members of the community, appears to have resulted in a failure to meet the nexus requirement. The EIU has extended beyond its remit by applying a numerical concept to Criterion 2, outlined neither in the AGB nor the CPE Guidelines. The Requestor notes that whilst we disagree with the substantial findings of the EIU, we further find that the process by which such findings have been determined are inconsistent and fail to demonstrate established procedures of consistency and transparency.

In conclusion, the Requestor asserts that the EIU, in its determination of CPEs, has developed its own standards throughout CPE reports, which over the passing of time have become inconsistent as against both the precedent set by other applications and the AGB. As a result, established policies of fairness, transparency and consistency, have not been adhered to.

3. The EIU did not fully consider material information available at the time, conduct additional public research or ask clarifying questions. As a result it did not fully apprehend the inclusive nature of the community as defined by the Requestor in its Application.

The Requestor asserts that despite being required to do so, the Panel did not consider a letter of support submitted to the EIU which demonstrates the large and inclusive size of the community of the applied-for string, as defined by the Requestor in its Application. Further, the EIU did not conduct additional public research or submit a request for clarifying questions in order to comprehend the accessible nature of CPA Australia. As a result, the CPE Report demonstrates a misinterpretation of the nexus criteria and a failure to distinguish between the community of the Requestor, as opposed to the community of the string (as defined in the Requestor's Application).

The EIU did not fully consider material information available to it

In respect of letter(s) of support, the AGB describes their purpose as determining the relevance of the (Applicant) organisation. The Requestor notes that the American Institute of Certified Public Accountants (AICPA) submitted a letter dated 15 May 2015 in support of the Requestor (the "AICPA Letter of Support"). The AICPA Letter of Support demonstrates the relevance of the Requestor as an organisation representing the string and the associated community by way of its involvement in over 128 countries directly serving the interests of a wide membership base, including CPA member organisations all over the globe and more than 400,000 individuals and firms located in the United States forming part of the AICPA. The Requestor has been able to confirm that the EIU received the AICPA Letter of Support, demonstrated in footnote 9 of the CPE Report.

The AICPA Letter of Support is key to the Requestor's Application as it demonstrates that hundreds of thousands of CPA's in the United States and many more around the globe, are not excluded from the Community described by the Applicant. On the contrary, the Applicant clearly describes in its Application that members of other accounting bodies may "become part of the CPA community" and that registration will be extended to "individuals that are either reciprocal members of or are currently enrolled in equivalent courses through leading overseas accounting bodies with which CPA Australia has, or may enter into, Mutual Recognition Agreements".

The CPE Report, whilst noting the AICPA Letter of Support, states that "Moreover, the Panel cannot, per AGB guidelines, credit the letter in any way other than as support for the applicant". The Requestor sees no valid reason for it not to be considered and/or the intent investigated by the EIU which may have been resolved by way of clarifying questions or alternative research in the public domain.

Notwithstanding the above, the CPE Report states that the Requestor's Application does not meet the criterion for nexus as "the term "CPA" in the context of accounting is often used in reference to the Uniform CPA Examination used in the US and elsewhere" and further that "there are "estimated to be about 650,000 Certified Public Accountants in the United States", the "vast majority of these individuals are not included in the applicant's defined community". These before mentioned EIU's findings are in direct contradiction to the information included in the AICPA Letter of Support and the Requestor's Application. It is therefore that the Requestor submits that whilst the EIU acknowledges the existence of the AICPA Letter of Support, it has come to an erroneous finding by failing to apply its contents and weight as would be appropriate in the circumstances.

The EIU did not conduct additional public research or ask clarifying questions

We refer to the CPE Report and in particular the findings of the EIU in respect of criterion 2 as relating to the nexus between the proposed string and the community. We note that the findings of the EIU demonstrate a misinterpretation of the Requestor's Application in respect of distinguishing between the community of the string and the community of the Applicant, which may have been resolved by way of clarifying questions or alternative research in the public domain.

The Requestor notes that the EIU has an opportunity to seek clarification, as identified in newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf. However, the EIU did not do so, despite setting a precedent of such action. As a result, the EIU relied upon incorrect information in respect of which accurate details were available to them or easily obtained by them.

This lack of clarification has resulted in two significant errors on the part of the EIU:

- a) The EIU failed to fully understand the nature of the CPA industry versus the broader accountancy industry of which CPA's are a sub-sector.
- b) The EIU used such incorrect information to make a determination which failed to distinguish between the community of the string and the community of the Applicant and caused the Requestor material harm in having its Application denied.

Had the EIU conducted a robust public research program or outreach in the form of clarifying questions to the Requestor at the time of the Applicant's 2015 CPE, the EIU would understand or reach greater insight into the fact that:

- a) The total number of global accountants number 2,393,948 as at 2012.⁷
- b) The total global membership base of individuals who may be classified as CPAs is approximately 899,776 full members (not counting additional student members), or approximately 38% of the broader accountancy industry as measured by IFAC.⁸
- c) That the Requestor is able to demonstrably include approximately 79% of this global total within the community as defined in the Application.

The Requestor submits that in light of the above clarification of the total industry size, the string can in no way be considered to be "over-reaching substantially beyond the community" as defined.

⁷ IFAC Board Report – Member Body Financial Contributions, 2012-2014

⁸ As calculated by CPA Australia based upon existing reciprocal membership agreements between CPA Australia and direct partners, as well as ongoing reciprocal membership agreements between those partners and applicable third party industry membership bodies.

In summary, the EIU did not fully consider material information available at the time, conduct additional public research or ask clarifying questions as would have been appropriate. Additionally, the understanding of the EIU on the size of the CPA industry and associated community may have been deficient, significantly affecting their evaluation. These inactions and lack of understanding of the industry resulted in a material misapprehension of the inclusive nature of the community as defined by the Requestor in its Application.

9. What are you asking ICANN to do now?

Based upon the information and arguments included in this Reconsideration Request, the Requestor respectfully requests ICANN to:

1. award the Requestor's CPE Report a score of a minimum of '2' points in relation to Criterion 2, 'Nexus between Proposed String and Community';
OR
2. reject the analysis provided by the EIU contained in the CPE Report in relation to Criterion 2, 'Nexus between Proposed String and Community';
and
3. instruct staff to return the Application Status of the string to a status of 'In CPE'; and
4. instruct the EIU to convene a panel composed of new members to evaluate Criterion 2, 'Nexus between Proposed String and Community', including engagement with the Requestor and consideration of the information provided in this submission which should have been identified by the original CPE panel.

The Requestor reserves the right to submit supplemental information to this Reconsideration Request in the event new information is forthcoming as a result of a request submitted to ICANN in accordance with the Documentary Information Disclosure Policy.

In the event that the Requestor or AICPA are not successful in their respective applications for the .cpa gTLD, this Reconsideration Request submitted in accordance with ICANN's accountability mechanisms, does not signify a waiver of the Requestor's rights and remedies with respect to its Application. The Requestor reserves all rights and remedies it may have with respect to its Application.

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

The Requestor is responsible for the Application numbered 1-1744-1971 for the string .cpa and therefore has grounds to assert this submission for Request for Reconsideration under the terms of the ICANN bylaws. The direct and indirect financial harm and adverse impact on the Requestor and the Requestor's represented community is directly related to the CPE Report published by ICANN on 03 September 2015, as outlined in detail above.

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)

Yes

No

11a. If yes, is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties? Explain.

Not applicable.

Do you have any documents you want to provide to ICANN?

Please refer to the CPE Report in response to the Requestors application 1-1744-1971 for CPE for the .cpa gTLD attached hereto as Annexure 1.

Terms and Conditions for Submission of Reconsideration Requests

The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.



Signature

18 SEPTEMBER 2015

Date

Annexure 1



New gTLD Program
Community Priority Evaluation Report
Report Date: 3 September 2015

Application ID:	1-1744-1971
Applied-for String:	CPA
Applicant Name:	CPA Australia Ltd

Overall Community Priority Evaluation Summary

Community Priority Evaluation Result	Did Not Prevail
<p>Thank you for your participation in the New gTLD Program. After careful consideration and extensive review of the information provided in your application, including documents of support, the Community Priority Evaluation panel determined that the application did not meet the requirements specified in the Applicant Guidebook. Your application did not prevail in Community Priority Evaluation.</p> <p>Your application may still resolve string contention through the other methods as described in Module 4 of the Applicant Guidebook.</p>	

Panel Summary

Overall Scoring	12 Point(s)	
Criteria	Earned	Achievable
#1: Community Establishment	4	4
#2: Nexus between Proposed String and Community	0	4
#3: Registration Policies	4	4
#4: Community Endorsement	4	4
Total	12	16

Minimum Required Total Score to Pass 14

Criterion #1: Community Establishment	4/4 Point(s)
1-A Delineation	2/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as defined by the application met the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook (AGB), as the community defined in the application demonstrates sufficient delineation, organization, and pre-existence. The application received a score of 2 out of 2 points under criterion 1-A: Delineation.</p> <p><u>Delineation</u> Two conditions must be met to fulfill the requirements for delineation: there must be a clear, straightforward membership definition and there must be awareness and recognition of a community (as defined by the application) among its members.</p>	

According to the application, the

CPA Australia community consists of CPA Australia members, incorporating full CPA members, Associate members enrolled in a CPA professional program and students registered in the CPA Australia passport program, as well as reciprocal members who have applied, or are eligible to apply, for membership of CPA Australia...

The last category of "reciprocal members" are accountants associated with accounting bodies

with which CPA Australia has Mutual Recognition Agreements, comprising the following:

- Certified General Accountants and Certified Management Accountants in Canada
- Chartered Institute of Public Finance and Accountancy and Chartered Institute of Management Accountants in Europe
- Institute of Certified Public Accountants in Ireland
- Hong Kong Institute of Certified Public Accountants
- Institute of Chartered Accountants in India
- Malaysian Institute of Accountants
- Institute of Certified Public Accountants in Singapore

Individuals wishing to become reciprocal members of CPA Australia must in their application to CPA Australia verify their membership in one of the above organizations. According to the application, "A CPA is a finance, accounting and business professional with a specific qualification." Elsewhere in its application, CPA is referred to as a "Certified Practicing Accountant". Their organization also includes members of reciprocal organizations that define CPA as "Certified Public Accountant".

According to the AGB, "Delineation relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low." As required by the AGB, the application shows a clear and straight-forward membership definition, given the clarity of CPA Australia's own membership structure, used by the applicant for the purposes of defining the proposed community. The membership process for CPA Australia includes an application, verification of completion of educational and practical training requirements, as well as payment of fees for assessment of application and membership dues.¹ Thus, membership in the community as defined by the applicant can be clearly verified by way of organizational membership in CPA Australia.

According to the AGB's second Delineation criterion, "community" implies "more of cohesion than a mere commonality of interest" and there should be "an awareness and recognition of a community among its members." The community as defined in the application has awareness and recognition among its members. This is because the community as defined consists entirely of finance, accounting and business professionals who have opted to organize themselves by way of membership in CPA Australia. These members cohere by way of a shared organizational mission, professional status, and participation in the several events and training programs hosted by CPA Australia on a yearly basis in and outside of Australia².

The Panel determined that the community as defined in the application satisfies both of the conditions to fulfill the requirements for delineation.

Organization

Two conditions must be met to fulfill the requirements for organization: there must be at least one entity mainly dedicated to the community and there must be documented evidence of community activities.

According to the AGB, "*organized* implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities." The applicant, CPA Australia Ltd, is itself an organization that is expressly dedicated to its membership, i.e., the community as defined in the application.

¹ See fee section of CPA Australia website: <https://www.cpaaustralia.com.au/member-services/fees/australia>

² See events section of CPA Australia website: <https://www.cpaaustralia.com.au/training-and-events/conferences>

CPA Australia Ltd has not organized itself or its members for the purposes of obtaining a TLD but has served the members of its defined community as a matter of its mission. Additionally, as required by the AGB, CPA Australia Ltd hosts regular activities serving its membership in Australia and elsewhere, both online and offline.³

The Panel determined that the community as defined in the application satisfies both of the conditions to fulfill the requirements for organization.

Pre-existence

To fulfill the requirements for pre-existence, the community must have been active prior to September 2007 (when the new gTLD policy recommendations were completed) and must display an awareness and recognition of a community among its members.

The community as defined in the application, i.e., the CPA Australia membership, has been active prior to September 2007 as required by the AGB, section 4.2.3. The organization was founded in 1886 and has been increasingly active since then.⁴ As discussed above, CPA Australia's membership, in addition to being active prior to 2007, demonstrate the AGB's requirements for awareness and recognition.

The Panel determined that the community as defined in the application fulfills the requirements for pre-existence.

1-B Extension

2/2 Point(s)

The Panel determined that the community as identified in the application met the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the application fulfilled the requirements for the size and longevity of the community. The application received a score of 2 out of 2 points under criterion 1-B: Extension.

Size

Two conditions must be met to fulfill the requirements for size: the community must be of considerable size and must display an awareness and recognition of a community among its members.

The community as defined in the application is of considerable size. According to the applicant's website, "CPA Australia is one of the world's largest accounting bodies with a global membership of more than 150,000 members working in 120 countries around the world."⁵ Additionally, as discussed above, the community defined by the application demonstrates the recognition and awareness required by the AGB.

The Panel determined that the community as defined in the application satisfies both of the conditions to fulfil the requirements for size.

Longevity

Two conditions must be met to fulfill the requirements for longevity: the community must demonstrate longevity and must display an awareness and recognition of a community among its members.

The community as defined in the application demonstrates longevity. CPA Australia's membership has continued to grow since its founding and the organization has established itself strongly within the finance, accounting, and business professions. Moreover, demand for individuals with the CPA qualification is likely to continue to be robust. According to the Australian Department of Employment, "Employers generally sought bachelor degree qualified accountants with most also requiring certification as a Chartered Accountant (CA) or Certified Practising Accountant (CPA)"⁶. In addition, the Australian Labour Force

³ See training and events: <https://www.cpaustralia.com.au/training-and-events>

⁴ See CPA Australia History archive: <https://www.cpaustralia.com.au/about-us/our-history/archives>

⁵ See <https://www.cpaustralia.com.au/about-us>; note that below, in Nexus, the Panel cites the application's figures which, at the time of submission, were different than the website currently states.

⁶ See http://docs.employment.gov.au/system/files/doc/other/2211accountantaus_1.pdf

Survey figures show that employment of accountants increased by 9.4% year on year in May 2014 to 181,900⁷. Based on the above, the Panel has determined that the pursuits of the community are of a lasting, non-transient nature. Additionally, as discussed above, the community defined by the application demonstrates the recognition and awareness required by the AGB.

The Panel determined that the community as defined in the application satisfies both of the conditions to fulfill the requirements for longevity.

Criterion #2: Nexus between Proposed String and Community

0/4 Point(s)

2-A Nexus

0/3 Point(s)

The Panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The string does not identify or match the name of the community as defined in the application, nor is it a well-known short-form or abbreviation of the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.

To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus (of 2 out of 3 points; 1 point is not possible), the applied-for string must identify the community. "Identify means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community."

According to the application, the applied for string .CPA is

an exact match to CPA Australia's globally recognised and respected "CPA" Program and "CPA" designation. The fast-growing CPA Australia community is one of the leading global accounting communities with nearly 140,000 CPA members in 114 countries and an international network of accountants and young professionals. The term "CPA" originates from CPA Australia and CPAs are globally recognised as belonging to the CPA Australia community...

As such, a CPA working in one of the world's leading business hubs, such as Sydney, Hong Kong, Shanghai, London and New York, is clearly identified as a member of the CPA Australia community. The new .cpa gTLD is synonymous with the CPA Australia community, the identification of members of CPA Australia community, and CPA Australia's globally recognised professional accountancy program and designation.

According to the AGB, "identify means that the applied for string closely describes the community or the community members, *without over-reaching substantially beyond the community*" (AGB, 4.2.3, emphasis added), and the applied-for string must at least identify the community for full or partial credit. Despite the applicant's claim above, "a CPA working in one of the world's leading business hubs" is not necessarily "identified as a member of the CPA Australia community". That is because, the term "CPA" in the context of accounting is often used to mean Certified Public Accountant and to identify an individual who has passed a CPA exam, often in reference to the Uniform CPA Examination used in the US and elsewhere. Indeed, there are estimated to be about 650,000 Certified Public Accountants (i.e., individuals who have passed the Uniform CPA Examination) in the United States⁸. The vast majority of these individuals are not included in the applicant's defined community (which has a size of about 150,000 individuals), but the applied-for string nevertheless refers to them.⁹ The Panel has determined, therefore, that the string is "over-reaching

⁷ Ibid.

⁸ <http://www.forbes.com/sites/peterjreilly/2013/06/26/enrolled-agents-deserve-more-respect/>, <http://nasba.org/blog/2010/01/07/january-2010-nasba-addresses-aicpa-sec-conference/>

⁹ The Panel acknowledges receipt of a letter from the American Institute of Certified Public Accountants (AICPA) in support of CPA Australia's application. The letter makes reference to how the two organizations will "jointly operate this extension" and that the AICPA's membership will be included in the community represented by the string. However, despite the letter, the substance of CPA Australia's application, in particular its sections on Delineation and

substantially beyond the community” (AGB) and cannot identify the community as required for credit on Nexus.

The Panel determined that the applied-for string does not match or identify the community or the community members as defined in the application. It therefore does not meet the requirements for Nexus.

2-B Uniqueness

0/1 Point(s)

The Panel determined that the application did not meet the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the string does not score a 2 or a 3 on Nexus. The application received a score of 0 out of 1 point under criterion 2-B: Uniqueness.

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application does not demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. This is based on the Panel’s determination that the applied-for string “CPA” does not identify the community defined by the application according to AGB standards. Therefore, since the string does not identify the community, it cannot be said to “have no other significant meaning *beyond identifying the community*” (AGB, emphasis added). The Panel determined that the applied-for string does not satisfy the condition to fulfill the requirements for Uniqueness.

Criterion #3: Registration Policies

4/4 Point(s)

3-A Eligibility

1/1 Point(s)

The Panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.

To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. According to the application:

As a restricted gTLD, registration will only be open to members of the defined CPA Australia community who meet the eligibility requirements set out in the registration policy, and no other third parties will be able to register domain names under .cpa domain space.

The application therefore demonstrates adherence to the AGB’s requirement by restricting domain registration to entities who are members of the community defined by the application. The Panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.

3-B Name Selection

1/1 Point(s)

The Panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as name selection rules are consistent with the articulated community-based purpose of the applied-for TLD. The application received a score of 1 out of 1 point under criterion 3-B: Name Selection.

According to the application:

The types of domain names, which must be related to the CPA Australia community, permitted under the .cpa gTLD will include the following:

- Generic words including program.cpa, practice.cpa, congress.cpa, passport.cpa, member.cpa and associate.cpa
- Personalised names, for example, johnsmith.cpa
- Geographic names such as australia.cpa, uk.cpa and hongkong.cpa
- Combination of personalised and geographic names, for example, johnsmith.uk.cpa

Nexus, is unchanged. Moreover, the Panel cannot, per AGB guidelines, credit the letter in any way other than as support for the applicant.

Therefore, the Panel determined that the application did satisfy the conditions to fulfill the requirements for Name Selection rules that are consistent with the applicant's community-based purpose, which is to serve "the interests of CPA Australia's membership of accounting, finance and business advisory professionals across the world, as well as internet users more generally."

3-C Content and Use

1/1 Point(s)

The Panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the content and use rules included are consistent with the articulated community-based purpose of the applied-for TLD. The application therefore received a score of 1 point under criterion 3-C: Content and Use.

To fulfill the requirements for Content and Use, the registration policies for content and use must be consistent with the articulated community-based purpose of the applied-for gTLD. According to the application:

Domain names under the .cpa gTLD must only provide content that is related to CPA profession and business and be used in a professional manner in accordance with CPA Australia's Code of Professional Conduct relevant to community members....

The Registrant must represent and warrant that:

- (i) it meets, and will continue to meet, the eligibility criteria at all times and must notify the Registrar if it ceases to meet such criteria;
- (ii) the Domain Name will only be used to provide content that relates to the CPA profession and business and will at all times be used in a professional manner in compliance with CPA Australia's Code of Professional Conduct and regulations relevant to community members...

The application therefore demonstrates adherence to the AGB's requirement of content and use rules that are consistent with the application's community-based purpose, which is to serve "the interests of CPA Australia's membership of accounting, finance and business advisory professionals across the world, as well as internet users more generally."

3-D Enforcement

1/1 Point(s)

The Panel determined that the application meets the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The application provides specific enforcement measures and outlines a coherent and appropriate appeals mechanisms. The application received a score of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. According to the application:

The Registrant acknowledges that the Registry may suspend, transfer, cancel or revoke a Domain Name immediately at its sole discretion:

- (i) in the event that the Registrant breaches any Registry Rules;
- (ii) in the event that the Registrant breaches the terms and conditions of this registration policy;
- (iii) in the event that the Registrant breaches CPA Australia's Code of Professional Conduct or other applicable regulations;
- (iv) to comply with applicable law, court order, government rule or under any dispute resolution processes...

Upon receipt of a complaint or allegation of a breach by a CPA Australia Community member of the terms and conditions of this registration policy, CPA Australia's Constitution and By-Laws or other applicable rules and regulations in relation to the registration or use of a Domain Name, the Registry will undertake a rigorous and transparent enforcement process consisting of:

- (i) Investigation;
- (ii) Hearing;

- (iii) Evaluation & disciplinary action (where appropriate); and
- (iv) Right to appeal

The applicant outlined policies that include specific enforcement measures constituting a coherent set and an appeals mechanism. The Panel determined that the application satisfies both of the two conditions to fulfill the requirements for Enforcement and therefore scores 1 point.

Criterion #4: Community Endorsement

4/4 Point(s)

Support for or opposition to a CPE gTLD application may come by way of an application comment on ICANN's website, attachment to the application, or by correspondence with ICANN. The Panel reviews these comments and documents and as applicable attempts to verify them as per the guidelines published on the ICANN CPE website. Further details and procedures regarding the review and verification process may be found at <http://newgtlds.icann.org/en/applicants/cpe>. The table below summarizes the review and verification of all support for and opposition to the CPA Australia Ltd. application for the string "CPA".

Summary of Review & Verification of Support/Opposition Materials as of 10 July 2015

	Total Received and Reviewed	Total Valid for Verification	Verification Attempted	Successfully Verified
Application Comments	0	0	0	0
Attachments to 20(f)	9	6	6	3
Correspondence	3	1	1	1
Grand Total	12	7	7	4

4-A Support

2/2 Point(s)

The Community Priority Evaluation panel determined that the application fully met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the applicant had documented support from the recognized community institution(s)/member organization(s).

The application received a maximum score of 2 points under criterion 4-A: Support. To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. "Recognized" means those institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance.

Because the applicant, CPA Australia, is applying for a gTLD intended for use by the membership of CPA Australia, the Panel determined that the applicant was itself the recognized community institution/member organization. A recognized community institution or member organization is one which not only (1) represents the entirety of the community as defined by the application, but is also (2) recognized by the same community as its representative. CPA Australia's role in establishing educational and professional standards for certified public accountants in its membership means that both of these standards are met. The Community Priority Evaluation Panel determined that the applicant therefore satisfies the requirements for full credit for Support.

4-B Opposition

2/2 Point(s)

The Community Priority Evaluation panel has determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application received no relevant opposition. The application received a score of 2 out of 2 points under criterion 4-B: Opposition.

To receive the maximum score for Opposition, the application must not have received any opposition of relevance. To receive a partial score for Opposition, the application must have received opposition from, at most, one relevant group of non-negligible size. The Community Priority Evaluation panel has determined that there is no relevant opposition to the application. Therefore, the Panel has determined that the applicant partially satisfied the requirements for Opposition.

Disclaimer: Please note that these Community Priority Evaluation results do not necessarily determine the final result of the application. In limited cases the results might be subject to change. These results do not constitute a waiver or amendment of any provision of the AGB or the Registry Agreement. For updated application status and complete details on the program, please refer to the AGB and the ICANN New gTLDs microsite at <newgtlds.icann.org>.