auDA PUBLISHED POLICY

Policy Title: TRANSFERS (CHANGE OF REGISTRAR OF RECORD) POLICY
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1. APPLICATION OF POLICY

1.1   This auDA policy only applies to domain names that were last registered, renewed or transferred before 12 April 2021. This policy does not apply to domain names that were registered, renewed or transferred on or after 12 April 2021 at 00:00 Universal Time Coordinated (UTC).

1.2   The .au Domain Administration Rules: Licensing apply to all domain names that were registered, renewed or transferred after 12 April 2021.

1.3   This policy expires on 11 April 2026 after which time the .au Domain Administration Rules: Licensing will apply, in addition to any ongoing relevant policies.

2. BACKGROUND

2.1   This document sets out auDA's policy on the transfer of a registered domain name which results in a change to the registrar of record in the registry database. This includes the following scenarios:

   a)   where a registered domain name is transferred by the registrant from one registrar to another registrar;

   b)   where a registered domain name is transferred by a reseller on behalf of the registrant, from one registrar to another registrar; and

   c)   where the management of a registered domain name is transferred by a registrant from a reseller of one registrar to a different registrar, or to a reseller of a different registrar.

2.2   The following scenarios do <u>not</u> result in a change to the registrar of record in the registry database, and therefore are <u>not</u> addressed under this policy:

   a)   where a registered domain name is transferred by the registrant from a reseller to another reseller of the same registrar;

   b)   where a registered domain name is transferred by the registrant from a reseller of one registrar to the same registrar; and

   c)   where a domain name licence is transferred from one registrant to another registrant.

2.3   This document does not detail the technical steps required to change the registrar of record in the registry database. This information is made available to all auDA accredited registrars by the registry.

3. TERMINOLOGY

3.1   This policy uses the following terms:

   a)   "gaining registrar" means the registrar <u>to which</u> the registrant transfers their domain name;

   b)   "losing registrar" means the registrar <u>from which</u> the registrant transfers their domain name;

   c)   "domain name password" means the password that is issued to a registrant when they register a domain name, that must be used to authorise any change to the domain name

record in the registry database;

d)   "written request for transfer" means a request for transfer submitted to the gaining registrar by letter, facsimile, email or online form (request by telephone is not acceptable);

e)   "standard transfer confirmation message" means a letter, facsimile or email containing the text approved by auDA at Schedule A;

f)   "standard transfer audit message" means a letter, facsimile or email containing the text approved by auDA at Schedule B;

g)   "Registrant Agreement" means the agreement between a registrar and a registrant that sets out the terms and conditions of the domain name licence;

h)   "bulk transfer" means the transfer of a minimum of 1,000 domain names at a time with the prior written consent of auDA, pursuant to section 7 of this policy; and

i)   "standard bulk transfer notification" means a letter, facsimile or email containing the text approved by auDA at Schedule C.

4. TRANSFER POLICY PRINCIPLES

4.1   A key element of a competitive domain name marketplace is that registrants are able to transfer their domain names from one registrar to another (ie. change the registrar of record in the registry database). In the interests of promoting a competitive domain name industry in Australia, auDA has drafted this policy in accordance with the following principles:

a)   a registrant has the right to make an informed choice to transfer their domain name at any time during the domain name licence period, with no loss of remaining licence period;

b)   a registrant has the right to know all the material terms and conditions of the transfer, including any related costs or charges, before they agree to proceed with the transfer;

c)   a losing registrar does not have the right to delay or prevent a transfer; and

d)   under no circumstances may a gaining or losing registrar impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee.

4.2   Internationally, domain name transfers have given rise to problems of customer churn, customer slamming and other undesirable practices. To minimise the risk of similar problems occurring in the .au domain, this policy requires the gaining registrar to obtain a valid domain name password and to confirm the transfer request with the registrant contact, prior to initiating a transfer. The combination of these two steps ensure that the "apparent authority" conferred by the domain name password is supported by actual authorisation that the registrant wishes to proceed with the transfer. The only exceptions to this rule are outlined in sections 7 and 9 of this policy.

5. TRANSFER PROCEDURE

5.1   Prior to sending a transfer command to the registry, the gaining registrar must:

a)   receive a written request for transfer (see definition in paragraph 2.1) that includes a valid domain name password for the domain name;

b)   use the password to retrieve the full domain name record from the registry database;

c)   send a standard transfer confirmation message (see definition in paragraph 2.1) to the person who has requested the transfer and to the registrant contact listed in the database (if different);

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d) receive an affirmative response from the registrant contact by letter, facsimile or email; and

e) enter into a new Registrant Agreement for the remaining term of the domain name licence period, or for a new 1,2,3,4 or 5 year licence period where the transfer is combined with renewal.

5.2 The gaining registrar must not provide the means for a registrant, or a reseller acting on behalf of a registrant, to automatically initiate a transfer command to the registry (for example, by submitting an online form that sends a transfer command to the registry). The gaining registrar must satisfy the requirements listed in paragraph 4.1 before initiating the transfer command to the registry.

5.3 Where the gaining registrar has received a written request for transfer from a reseller and it is clear that the registrant contact email address is that of the same reseller, it is not sufficient to send a standard transfer confirmation message to that email address. In these circumstances, the gaining registrar must:

a) send a standard transfer confirmation message to the registrant contact by letter or facsimile, and receive an affirmative response from the registrant contact by letter, facsimile or email; or

b) arrange for the registrant contact email address to be updated with the registrant contact's own email address (and not the reseller), and then send the standard transfer confirmation message to that email address.

5.4 The gaining registrar must keep full records of the transfer for inspection by auDA on demand, including copies of the written request for transfer, the standard transfer confirmation message and the affirmative response from the registrant contact.

5.5 Transfers that have been properly authorised and processed according to the requirements of this section and any procedural requirements of the registry, will proceed 2 days after initiation by the gaining registrar (unless the transfer is accepted earlier by the losing registrar).

6. RIGHTS OF THE LOSING REGISTRAR

6.1 The registry will notify the losing registrar that a transfer has been initiated. The losing registrar may send a standard transfer audit message (see definition in paragraph 2.1) to the registrant in order to confirm that the transfer is properly authorised. This action will not affect the timeframe referred to in paragraph 4.4.

6.2 If the losing registrar sends a standard transfer audit message, it must send the message once only, and within 2 days of receiving the transfer notification from the registry. The losing registrar must not attempt to delay or prevent the transfer. If the registrant does not respond to the standard transfer audit message, the losing registrar must not persist in efforts to obtain a response to the message.

6.3 If a losing registrar receives a response from the registrant that the transfer has not been authorised, the losing registrar may lodge a complaint with auDA. The act of lodging a complaint with auDA will not stop the transfer from taking effect, unless auDA is of the view that to allow the transfer to proceed would cause harm to the registrant. Causing harm to the losing registrar's business is not sufficient reason to stop the transfer.

6.4 If auDA determines that the transfer has not been authorised by the registrant in accordance with this policy, auDA may:

a) allow the losing registrar to initiate a transfer back (using the procedure outlined in paragraph 4.1); or

b) direct the registry to reverse the transfer.

Circumstances under which either of these actions might occur include where the gaining registrar, or an appointed reseller of the gaining registrar, has breached the terms and conditions of the Registrar Agreement or the Code of Practice in order to secure the transfer.

7. TRANSFER FEES

7.1   The losing registrar must not impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee.

7.2   The gaining registrar must not impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee. If the gaining registrar chooses to bundle the transfer with other service offerings, then the gaining registrar must advise the registrant that the transfer is free of charge.

7.3   If the transfer takes place within the 90 day renewal period, and the registrant chooses to renew their domain name at the same time as transferring it to the gaining registrar, then the gaining registrar may charge a renewal fee. If the transfer takes place outside the 90 day renewal period, the gaining registrar must advise the registrant that the domain name cannot be renewed until 90 days before expiry.

8. BULK TRANSFERS BY REGISTRARS

8.1   Bulk transfers by registrars are only permitted:

a)   for a minimum of 1,000 domain names at a time; and

b)   with the prior written consent of auDA.

Circumstances in which auDA may consent to a bulk transfer include where the gaining registrar has acquired the losing registrar's business, or where the gaining registrar and the losing registrar are related entities.

8.2   Bulk transfers do not require the gaining registrar to follow the procedure outlined in paragraph 4.1. However, the gaining registrar must ensure that each registrant is notified of the bulk transfer and given a reasonable opportunity to opt-out of the bulk transfer by transferring their domain name to another registrar of their choice. Prior to initiating a bulk transfer, the gaining registrar must send a standard bulk transfer notification message (refer to definition in paragraph 2.1) to each of the registrant contacts listed in the registry database at 30 calendar days and again at 7 calendar days before the date of the bulk transfer.

8.3   The gaining registrar must keep full records of the bulk transfer for inspection by auDA on demand, including a copy of the standard bulk transfer notification message and evidence that the message was sent to each of the registrant contacts listed in the registry database.

8.4   Bulk transfers will not apply to domain names that are in "Expired Pending Purge", "Pending Delete" or "Pending Policy Delete" states. If the bulk transfer is due to take place within the 90 day renewal period of a domain name, a renewal may be processed in conjunction with the bulk transfer.

8.5   Bulk transfers that have been properly authorised and processed according to the requirements of this section and any procedural requirements of the registry, will proceed 2 days after initiation by the gaining registrar (unless the transfer is accepted earlier by the losing registrar).

9. BULK TRANSFERS BY RESELLERS

9.1   Bulk transfers by resellers are not permitted. Where a reseller of one registrar decides to transfer their business to another registrar, the reseller must follow the procedure outlined in paragraph 4.1 in respect of each registered domain name under their management.

10. TRANSFERS CAUSED BY TERMINATION OF REGISTRAR ACCREDITATION

10.1   Where a registrar has its accreditation terminated by auDA, its domain name records will be transferred to auDA as caretaker registrar of record (ie. auDA will be listed as the registrar of record in the registry database).

10.2   auDA will notify the affected registrants that they must transfer their domain name to another registrar by following the procedure outlined in paragraph 4.1.

11. BREACH OF POLICY

11.1   auDA reserves the right to investigate any transfer or bulk transfer under this policy. Where a registrar has breached auDA policy, or otherwise acted in bad faith with respect to a transfer or bulk transfer, auDA reserves the right to reverse that transfer or bulk transfer.

SCHEDULE A

STANDARD TRANSFER CONFIRMATION MESSAGE

Under paragraph 4.1 of the policy, the gaining registrar must send a standard transfer confirmation message to the person who has requested the transfer and to the registrant contact listed in the registry database (if different).

The purpose of the message is to safeguard both the registrant and the gaining registrar by confirming that:

a)   the transfer request is properly authorised; and

b)   the registrant has been informed of the material terms and conditions of the transfer.

The message must contain the text below, or equivalent text approved by auDA. DOMAIN NAME

TRANSFER - REQUEST FOR CONFIRMATION

Attention: <insert registrant contact name>

Re: Transfer of <insert domain name>

The current registrar of record for this domain name is <insert name of losing registrar>

We have received a request from <insert name of person requesting transfer> for us to become the new registrar of record.

You have received this message because you are listed as the registrant contact for this domain name in the WHOIS database.

Please read the following important information about transferring your domain name:

• You must agree to enter into a new Registrant Agreement with us. You can review the full terms and conditions of the Agreement at <insert URL>
• Once you have entered into the Agreement, the transfer will take place within 2 calendar days.
• The transfer will not change the expiry date of your domain name, which is <insert expiry date>.

If you wish to proceed with the transfer, please contact us <insert gaining registrar contact details> with the following message:

"I confirm that I have read the Domain Name Transfer - Request for Confirmation Message.

I confirm that I wish to proceed with the transfer of <insert domain name> from <insert name of losing registrar> to <insert name of gaining registrar>."

Please note that all registrars must comply with the .au Domain Name Suppliers' Code of Practice (http://www.auda.org.au/policies/auda-2004-04.txt) and auDA's transfers policy (http://www.auda.org.au/policies/auda-2013-02).

SCHEDULE B

STANDARD TRANSFER AUDIT MESSAGE

Under paragraph 5.1 of the policy, the losing registrar may send a standard transfer audit message to the registrant contact.

The message must contain the text below, or equivalent text approved by auDA.

DOMAIN NAME TRANSFER

Attention: <insert registrant contact name>

Re: Transfer of <insert domain name>

We are the current registrar of record for this domain name.

We received notification on <insert date of notification> that you have requested a transfer to <insert name of gaining registrar>. This means that <insert name of gaining registrar> will become the new registrar of record for your domain name on <add 2 days to date of notification>.

If you have authorised this transfer, you are under no obligation to respond to this message.

If you did not authorise this transfer, please contact us <insert losing registrar contact details>.

Please note that all registrars must comply with the .au Domain Name Suppliers' Code of Practice (http://www.auda.org.au/policies/auda-2004-04) and auDA's transfers policy (http://www.auda.org.au/policies/auda-2013-02).

SCHEDULE C

STANDARD BULK TRANSFER NOTIFICATION

Under paragraph 7.2 of the policy, the gaining registrar must send a standard bulk transfer notification to each registrant contact listed in the registry database at 30 calendar days and again at 7 calendar days before the date of the bulk transfer.

The purpose of the message is to safeguard both the registrant and the gaining registrar by ensuring that the registrant:

a) receives due notice of the transfer; and

b) is given a reasonable opportunity to transfer their domain name to a different registrar if they do not want their domain name to be transferred to the gaining registrar.

The message must contain the text below, or equivalent text approved by auDA.

DOMAIN NAME TRANSFER NOTIFICATION

Attention: <insert registrant contact name>

Re: Transfer of <insert domain name>

The current registrar of record for this domain name is <insert name of losing registrar>

You have received this message because you are listed as the registrant contact for this domain name in the WHOIS database.

<insert reason for bulk transfer>

<insert name of gaining registrar> will be assuming the obligation to provide registrar services to you.

Your domain name will be transferred to <insert name of gaining registrar> on <insert date of bulk transfer>.

If you do not want your domain name to be transferred to <insert name of gaining registrar>, then you must take action to transfer your domain name to another registrar prior to <insert date of bulk transfer>.

Please note that all registrars must comply with the .au Domain Name Suppliers' Code of Practice (http://www.auda.org.au/policies/auda-2004-04) and auDA's transfers policy (http://www.auda.org.au/policies/auda-2013-02).