



## MINUTES OF THE BOARD MEETING HELD ON 27 OCTOBER 2021 AT 09:05 UTC VIA ONLINE CONFERENCING SYSTEM

### Present:

|                           |        |                         |
|---------------------------|--------|-------------------------|
| Mr Eddy Kayihura (EK)     | Member | Chief Executive Officer |
| Mr S.Moonesamy (SM)       | Member | Indian Ocean            |
| Dr Abdalla Omari (AO)     | Member | Eastern Africa          |
| Mr Benjamin Eshun (BE)    | Member | Non-Geographical        |
| Mr Oluwaseun Ojedeji (OO) | Member | Non Geographical        |

### Apologies:

|                          |        |                 |
|--------------------------|--------|-----------------|
| Mr Serge Ilunga (SI)     | Member | Central Africa  |
| Prof Habib Youssef (HY)  | Member | Northern Africa |
| Dr Adewale Adedokun (AA) | Member | Western Africa  |

### In Attendance:

|                       |                           |
|-----------------------|---------------------------|
| Me Ashok Radhakisoorn | Legal Counsel             |
| Mrs Guylaine Laiyra   | Snr. Executive Assistant* |

## AGENDA

1. Welcome
  - 1.1 Disclosure of conflict of interest
  - 1.2 Adoption of Agenda
2. Previous Minutes
  - 2.1 Approval of minutes of Board meeting held on
    - 2.1.1 7th & 8th July 2021
    - 2.1.2 21 July 2021
    - 2.1.3 23 July 2021
    - 2.1.4 26 July 2021
    - 2.1.5 1 August 2021
    - 2.1.6 6 August 2021
    - 2.1.7 18 August 2021
    - 2.1.8 23 August 2021
    - 2.1.9 29 September & 6 October 2021
  - 2.2 Matters Arising
3. Review of Action Items
4. Committees' Reports
  - 4.1 Audit Committee
  - 4.2 Finance Committee
  - 4.3 Remuneration Committee
  - 4.4 Governance Committee
  - 4.5 Reform Committee

- 4.6 CEO Report
- 4.7 Chair Update
- 5.0 Recall Committee
- 6.0 Legal Strategy
- 6.1 Delegation of Authority
- 7.0 Casual Vacancy
- 8.0 AoB
- 8.1 Board Retreat
- 9.0 Next Meeting

## **BUSINESS OF THE DAY**

### **1. Welcome**

The Chair welcomed the members present and opened the meeting at 09:05 UTC.

A roll call was carried out to confirm quorum.

#### **1.1 Disclosure of conflict of interest**

The CEO declared conflict of interest under Agenda Item no 4.3 with respect to discussion on the CEO's KPIs.

#### **1.2 Adoption of Agenda**

The CEO proposed to add 'Recall Committee' as an item for discussion. One Board member BE proposed to add 'Legal Strategy' and 'Casual Vacancy' under the agenda.

The agenda was adopted with amendments. Proposed EK. Seconded OO.

### **2. Previous Minutes**

#### **2.1 Approval of minutes of Board meeting held on**

##### **2.1.1 7th & 8th July 2021**

###### **Resolution 202110.642**

The Board approved the minutes of the Board Meeting held on 7<sup>th</sup> & 8<sup>th</sup> July 2021 with amendments.

Proposed EK Seconded AO. Resolution passed.

##### **2.1.2 21 July 2021**

###### **Resolution 202110.643**

The Board approved the minutes of the Board Meeting held on 21 July 2021.

Proposed AO Seconded OO. Resolution passed.

### **2.1.3 23 July 2021**

#### **Resolution 202110.644**

The Board approved the minutes of the Board Meeting held on 23 July 2021.

Proposed AO Seconded EK. Resolution passed.

### **2.1.4 26 July 2021**

#### **Resolution 202110.645**

The Board approved the minutes of the Board Meeting held on 28 July 2021 with amendments

Proposed EK Seconded OO. Resolution passed.

### **2.1.5 1 August 2021**

#### **Resolution 202110.646**

The Board approved the minutes of the Board Meeting held on 1 August 2021.

Proposed EK Seconded AO. Resolution passed.

### **2.1.6 6 August 2021**

#### **Resolution 202110.647**

The Board approved the minutes of the Board Meeting held on 6 August 2021.

Proposed EK Seconded OO. Resolution passed.

### **2.1.7 18 August 2021**

#### **Resolution 202110.648**

The Board approved the minutes of the Board Meeting held on 18 August 2021 with amendments.

Proposed BE Seconded AO. Resolution passed.

### **2.1.8 23 August 2021**

#### **Resolution 202110.649**

The Board approved the minutes of the Board Meeting held on 23 August 2021.

Proposed OO Seconded AO. Resolution passed.

### **2.1.9 29 September & 6 October 2021**

#### **Resolution 202110.650**

The Board approved the minutes of the Board Meeting held on 29 September and 6 October 2021 with amendments.

Proposed EK Seconded BE. Resolution passed.

*The Board breaks at 10:12 UTC and resumed at 10:35 UTC. A roll carried out to confirm quorum before proceeding.*

## **2.2 Matters Arising**

None.

## **3. Review of Action Items**

**Action Item 202110.01** : The Chair to discuss with the candidates for the COO position.

**Status:** Action Item to be kept Open. The Chair informed that he is awaiting for discussion about the gross salary of the position in order to proceed.

**Action Item 202110.02:** The Chair to follow up on the recruitment of a Company Secretary .

**Status:** Action Item to be kept Open. The Chair informed that he sent questions to FINCO and is awaiting replies from FINCO.

**Action Item 202110.03:** The Audit Committee to look into the Casual Vacancy – Seat 5 Southern Africa and report to the Board.

**Status:** Action Item to be closed. Under AuditCo.

**Action Item 202110.04:** The AuditCommittee to follow up on the Legal Strategy and report to the Board.

**Status:** Action Item to be closed. Under AuditCo.

**Action item 202107.01:** The CEO and Head of Finance to follow up on the financial implications of freezing the accounts.

**Status:** Action Item to be closed. Attachment Order released Monday 15th October 2021

**Action Item 202107.01:** The Finance Committee to review the fees and discount policies by September 2021 and report to the Board.

**Status:** Action Item to be kept Open. Under FINCO

The Chair informed that the fees and discount policies should be reviewed together.

New deadline for end of december

**Action Item 202107.03:** The Management to provide the Audit Committee with clear timelines attached to the intended processes and targets to be achieved for the bulk whois incident.

**Status:** Action Item to be kept Open. Under AUDITCO

New Deadline for end of December 2021

**Action Item 202107.05:** The Remuneration Committee to review the CEO KPIs and report to the Board by 10 August 2021.

**Status:** Action Item to be kept Open. Under REMCO. Ongoing

**Action Item 202106.02:** The Finance Committee to review the delegation of authority and Bank signatories; and report to the Board by end of June 2021.

**Status:** Action Item to be kept Open. Under FINCO. New Deadline Dec 2021

**Action Item 202105.01:** The Audit Committee to meet with the Management and the external auditor on the Customer Service Report. The Committee to report back to the Board end of July 2021.

**Status:** Action Item to be kept Open. Under AUDITCO

BDO is not available for a meeting in the month of October 2021, they are fully booked. BDO proposed meeting for Mid November 2021.

**Action Item 202101.01 :** The Audit Committee to follow-up on the recommendations made on the FIRE Programme Audit Report. Deadline end of February 2021.

**Status:** Action Item to be closed. Under AUDITCO

**Action Item 202012.01:** The Finance Committee to review the Reserve Policy as per resolution 201801.60 and report back to the Board by end of February 2021

**Status:** Action Item to be closed. Under FINCO.

The Board took note of the reserve policy proposal.

**Action Item 202006.02:** The AuditCo to share the Business Continuity Plan by 17 June 20 to the Board for approval.

**Status:** Action Item to be kept Open. Ongoing.

**Action Item 201905.04:** The CEO to review the current Travel Policy. The Remuneration Committee to oversee the implementation and report to the Board

**Status:** Action Item to be kept Open. Ongoing.

## **4. Committees' Reports**

### **4.1 Audit Committee**

The Board took note of the report of the Audit Committee. The Committee recommended the following;

(i) Legal Strategy

A meeting was held with the Legal Team and the fees for the legal services were negotiated for a fixed amount irrespective of the duration of the ongoing cases and the number of incoming cases. The audit committee recommended that the Board approved that the payment be made upon request, totalling [REDACTED]

(ii) Letter of Authorisation to the CEO

The Legal Team proposed that the Board provide a formal authorisation to the CEO to represent the company in all court proceedings. The audit committee recommended that the Board passed a written resolution, as proposed, to that effect.

(iii) Casual Vacancy

The Southern Africa seat is currently vacant, and the audit committee recommended that the vacancy should be filled the soonest possible by the Board in order to ensure a balanced regional representation on the Board and as per the relevant Articles of the AFRINIC Bylaws.

(iv) FIRE Programme Audit Report.

The Committee took note of the audit report on the FIRE programme and one of the recommendations made is for the setting up an AFRINIC Foundation to administrate the FIRE Africa programmes and other such activities. The Audit Committee recommended that the Board to consider and assess the feasibility of setting up an AFRINIC Foundation.

(v) Resignation of Internal Auditor

The committee informed that the Internal Auditor has submitted his resignation and is effective as at February 2022. The CEO after consultation with the Audit Committee accepted the resignation.

The Chair proposed to further discuss points (i) to (iii) under the relevant Agenda Items, set for the present meeting.

## **4.2 Finance Committee**

The Board took note of the report of the Finance Committee and its recommendations as follows;

(i) Discount Policy

A revised discount policy is being proposed to the Board for consideration.

The Chair proposed that further discussion on the policy be made on the mailing list.

(ii) Reserve policy

A revised discount policy is being proposed to the Board for consideration

After discussion, the Board approved the reserve policy.

### **Resolution 202110.650**

WHEREAS the Finance Committee has updated the Reserve policy;  
RESOLVED to approve the document;  
RESOLVED that the policy shall take effect from the date of this approval.

Proposed AO. Seconded EK. Resolution passed.

Vote Yes: SM EK BE AO OO

(iii) Delegation of Authority and Bank Signatories

The Committee has considered the delegation of authority and bank signatories as per assigned Action Item and the committee is of the view that no change is to be brought to the templates of bank signatories. Section 23.5 and Section 23.6 of the Bylaws are with regards to the board approval of the bankers that AFRINIC will use and any debts which the company enters need to be endorsed by the Board. The committee also recommended that no change is to be brought to the Delegation of Authority as at todate.

(iv) Financial Status

The Board took note of the financial status as at 9<sup>th</sup> October 2021 as presented by the committee. It is noted that the Management will further submit financial status as at the date the accounts were opened and report on the donations received. The finance committee recommended that the board removed the requirement to submit weekly financial report.

**Action Item 202110.01:** FINCO to submit a report on the donations received and how it was spent by 1 December 2021.

The committee also recommended that the budget lines for the payment of legal fees should be adjusted by the Board as the contingency and legal consultancy is not sufficient to cover the fees.

After discussion, the Board agreed that payment to the Legal Team to be made upon submission of invoices and to proceed the appropriate legal fees in the next budget 2022. The Board further approved the payment of C & A Law Chambers as per Invoice PRI10581 amounting to [REDACTED].

The Chair inquired whether the amount to be paid for the legal services includes any sum for the Court case against the Chair. The Chair of the Audit Committee confirmed that the payment includes legal fees pertaining to the Court case against the Chair. The Chair declared that he is conflicted in the present resolution and is abstaining in the roll call vote.

The Legal Counsel recalled to the Board that all directors should act in the best interest of the company.

After discussion, the Board resolved as follows;

**Resolution 202110.651**

WHEREAS the services of C& A Law Chambers were retained for the purpose of consolidating AFRINIC's legal team in ensuring the defence of AFRINIC;  
WHEREAS C&A Law Chambers has now submitted their invoice PRI10581 amounting to [REDACTED ] representing part payment of professional fees for services rendered;

RESOLVED to approve payment to C&A Law Chambers for the sum of [REDACTED].

Proposed EK. Seconded AO.

Vote YES = AO EK BE OO

Vote No = none

Abstention = SM

(v) Release of attachment order

Pursuant to the release of the attachment order, the committee has requested Management to start its normal and suspended activities.

(vi) Budget 2022

The committee is working on the preparation of the Budget 2022 with the Management and will be submitted to the Board for review and approval mid-November 2021.

(v) Quarter 3 Report

The Board took note of the financial status report for Quarter 3. The Management to proceed with publication of the short version.

#### **4.3 Remuneration Committee**

The Board took note of the report of the Remuneration Committee.

(i) Travel Policy

The Committee is reviewing the draft Travel Policy and will submit same for approval in its next meeting.

(ii) CEO KPI

The Committee informed that the assessment criteria to conduct the CEO KPIs for the year 2021 has been reviewed and being submitted to the Board for consideration. The Board took note of the CEO KPIs.

(iii) Status of COO Recruitment

The committee informed that it is agreeable to the basic salary and other allowances pertaining to the position of the COO. The Committee recommended that the Board approves the contract and proceeds with the remaining steps for the signature of the contract by the selected candidate.

The Chair explained that he has not yet contacted the candidate and asked to put on record that he requested inputs from members regarding the gross amount and there was no feedback on the board mailing list. The CEO pointed out that the Chair has been delaying the matter longer than necessary. The REMCO Chair clarified that the gross amount was provided on the mailing list and the amount is [REDACTED].



*AO not in attendance at 13:22 UTC. The board was not quorate. The Chair made a roll call to confirm quorum and noted that there was no quorum; the Chair adjourned the meeting at 13:35 UTC to enable AO to join the meeting and resumed at 13:35 UTC.*

## **Resolution 202110.652**

WHEREAS the Remuneration Committee has recommended the recruitment of Mr Nishal Goburdhun as the Chief Operations Officer;  
RESOLVED to accept the recommendation of the Remuneration Committee relative to the appointment of the Chief Operations Officer of the African Network Information Centre (AFRINIC) Ltd.

Proposed OO. Seconded BE. Resolution passed.

Vote YES: BE EK OO AO

Vote No: SM

Abstention: None

**Action Item 202110.02:** The Chair to liaise with the COO, designate, and arrange for the finalisation and signature of the contract by 2nd November 2021. The REMCO Chair and the CEO to be in attendance to the meeting.

## **4.4 Governance Committee**

No new update.

## **4.5 Reform Committee**

No new update.

## **4.6 CEO Report**

The Board took note of AFRINIC operations update as presented by the CEO. The following was drawn to the attention of the Board.

(i) Update on Legal Cases as per board paper circulated.

A notice of appeal has been received and is being studied by the legal team.

(ii) Update on the Policy Development Process as per board paper circulated.

(iii) COO Recruitment

The CEO reiterated the need to fast track the recruitment of the COO in order to assist in the management of the daily operations of the company.

(iv) Recruitment of the Company Secretary

The CEO informed about the challenges being experienced with the present Company Secretary, responses are very slow and the Company Secretary raises concerns with regards to the ongoing legal cases and documents to be signed for Court proceedings because they

do not sit in AFRINIC board meetings. With respect to the current situation, the CEO reiterated the need to recruit a full-fledge Company Secretary to the Board.

The Chair pointed out that the recruitment of the Company Secretary is an action item on the Chair, but he requires to have a budget first before proceeding with the selection. The CEO informed that the budget line is under consultancy and the options available are to either extend the scope of the present company secretary or recruit a new company secretarial firm.

#### **4.7 Chair Update**

The Chair made an update of his activities for the month of October 2021 as circulated. He emphasised that board papers should be circulated in time to enable proper decision taking.

The Board took note of the procedures proposed by one member AO and is encouraged to follow same together with the Board Handbook to ease the flow of board proceedings.

#### **5.0 Recall Committee**

The Board took note that Mr Haitham El-Nakhal submitted his resignation as member of the Recall Committee due to a conflict interest since he is one of the co-authors of the policy under the recall petition.

*BE not in attendance at 14:31 UTC. The board was not quorate. The Chair made a roll call to confirm quorum and noted that there was no quorum; the Chair adjourned the meeting at 14:32 UTC to enable BE to join the meeting and resumed at 14:40 UTC.*

The Board approved to reconstitute the Recall Committee and passed the following resolution.

#### **Resolution 202110.653**

WHEREAS on 26 October 2021, the Board of Directors constituted the Recall Committee as per resolution 202110.641;

WHEREAS Mr Haitham El-Nakhal, who was a member of the aforesaid committee, has recused himself therefrom on the ground that he was one of the co-authors of the policy proposal titled "RPKI ROAs for Unallocated and Unassigned AFRINIC Address Space AFPUB-2019-GEN-006-DRAFT03" which forms part of the recall petition, and thus in order to avoid all perception of bias;

RESOLVED that the Board resolution 202110.641 be revoked forthwith and the Recall Committee be further reconstituted as follows:

- Dr Christian D. Bope
- Mr Kenneth Yip Tong
- Dr Ousmane Ly
- Mr Craig NG, General Counsel APNIC as Observer
- 

Proposed OO. Seconded AO. Resolution passed.

Vote YES = AO BE EK OO SM

Vote No = none

Abstention = none

#### **6.0 Legal Strategy**

The Board took note of the board paper with regards to the delegation authority to the CEO.

## 6.1 Delegation of Authority

Further to the recommendation received from the Legal Team, the Board resolved to appoint the CEO as the representative of the company and to take all actions that he may deem necessary for the defence and protection of the rights and interests of the Company

### Resolution 202110.654

**WHEREAS**, the Board of Directors is fully aware of all cases, directly or indirectly, concerning or relating to the African Network Information Centre (AfriNIC) Ltd, also known as AFRINIC.

#### **RESOLVED THAT:**

Mr. Mabano Eddy Kayihura, Chief Executive Officer at African Network Information Centre (AfriNIC) Ltd, also known as AFRINIC, (the "**Company**") be hereby duly authorised by the Board of Directors to take all actions that he may deem necessary for the defence and protection of the rights and interests of the Company as well as:

1. To instruct Counsel and Attorney-at-Law in order that they may enter all main actions, apply for all injunctions, whether interim, interlocutory, or perpetual, whether such actions be based on tort or in contract, to apply for all remedies and reliefs connected with same, to claim all damages, make all seizures, attachments or execution of any sort (and whether provisional or otherwise), to allow same to be cancelled or annulled, to claim, state, contest, compound, finally settle and adjust all claims, to compromise disputes and refer same to arbitration, to sign and execute all necessary bonds, submissions, and references, and to enforce any award;
2. To appear for the Company before any Tribunal, Court or other body in Mauritius or elsewhere, either as applicant, plaintiff, respondent, defendant, third party or intervenient and to sign and grant any necessary proxy or proxies to any Counsel and Attorney-at-Law of the said Courts and prosecute and defend any suit or suits or other proceedings brought by or against the Company and to proceed to judgment thereon or to suffer judgment, by way of non-suit or default to be entered against the Company and any judgments, order or decree of any of the said Courts, to appeal to any Court of Appeal and/or to the Judicial Committee of the Privy Council and to give necessary securities and sign all necessary bonds upon such appeal, to initiate or defend or give up or withdraw any appeal or proceedings judicial or extra-judicial;
3. To swear all affidavits and make all declarations judicial or otherwise, sign all petitions and applications, serve and accept service of any process as may be necessary or desirable at his discretion in connection with or incidental to the matter or matters referred to above and to perform all or any of the obligations imposed on the Company by virtue of the same;
4. To claim, state, contest, compound, finally settle and adjust all debts, claims, accounts, reckonings, and demands whatsoever between us and any person or persons whatsoever; and
5. To substitute and appoint one or more attorney or attorneys with the same or more limited powers, to remove such substitute or substitutes, and to appoint others in his or their places.

For avoidance of doubts, this power of attorney and/or delegation of authority shall apply to all cases directly or indirectly concerning or relating to the Company, whether on-going or to be lodged.

Proposed BE . Seconded AO. Resolution passed.

Vote Yes: BE AO OO SM EK

Vote No = none

Abstention = none

## **7.0 Casual Vacancy**

The Board took note of the board paper with regards to the Casual Vacancy on the Board Seat – Southern Africa. The Board thoroughly discussed about the terms of filing the casual vacancy in line with Section 13.14 and 13.7 of the AFRINIC Bylaws, whether it should be until the next AGMM in June 2022 or for a longer period on or around June 2024.

The Legal Counsel clarified that as per the AFRINIC Bylaws, the filling of a casual vacancy should be until the next following Annual General Members' Meeting at which the Directors are elected and shall then be eligible for re-election. The Legal Counsel also clarified that the subject of the elections as in the paper was not relevant to the filing of the casual vacancy. Legal Counsel confirmed that the filing of the casual vacancy for the Southern Africa seat cannot be conducted in AGMM 2022 or in the AGMM 2023.

After discussion, the member BE withdrew the board paper and discussion on the agenda item was deferred to the next board meeting. No decision to be taken in the present meeting, the paper is withdrawn for further review and to be resubmitted in the next board meeting.

## **8.0 AoB**

### **8.1 Board Retreat**

The Board discussed about the possibility to host a board retreat end of November or early December 2021.

### **9.0 Next Meeting**

The next meeting is scheduled on the 24 November 2021 at 09:00 UTC

## **10.0 Closure**

The Chair moved to close the meeting at 15:48 UTC. Proposed OO Seconded AO.

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**SIGNED**