

IDESG COMPLAINT PROCEDURE
Proposed by the Ombudsman - 14 January 2013
Revised – 1 February 2013 Posted - 1 March 2013
For Consideration by the Plenary pursuant to ROA Proviso #3

Transmittal Message

To the Members of the IDESG:

Below please find a draft of a complaint procedure mandated by ROA Proviso #i3. This procedure has been posted on the IDESG website since the 14th of January and was the subject of a presentation on the 7th of February in Phoenix, Arizona. This final version includes comments I have received from Members during that time. During this period prior to the on-line meeting on the 22nd of March and the electronic deliberation to follow thereafter I invite the members of the Plenary to review this document, provide feedback and participate in the webinar that will be announced soon. As I stated when I introduced the procedure, I endeavored to remain true to the letter of the Proviso; however, I am certainly open to any further suggestions that would provide a strong and reliable complaint procedure to advance the objectives of the IDESG. I look forward to working with you to move this procedure forward for approval as a Special Rule of Order.

Respectfully submitted,



Steven G. Mednick
Ombudsman

Introductory Statement

Members who have complaints, problems, concerns, or disputes arising out of actions taken by (1) the Plenary, the Management Council or any other entity of the IDESG; (2) any IDESG Officer (including Chairs of the Committees or other entities of the IDESG); or (3) another IDESG Member, may initiate an informal or formal administrative review in accordance with the following procedures and in furtherance of upholding the NSTIC Guiding Principles¹.

Section 1 – The Standard for the Consideration of Complaints.

1.1 Such complaints must relate to:

1.1.1 the operation of the IDESG and the application of the Rules of Association and the policies of the Plenary thereto;

¹ See, ROA §2.2.5.

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1.1.2 the activities of the Officers and bodies of the IDESG to assure that the actions and decisions that uphold the NSTIC Guiding Principles²;

1.1.3 ensuring that the interests of consumers or other individuals and underrepresented groups are represented and advocated;

1.1.4 Safeguarding against individual Stakeholder Categories exerting excessive influence.

The Ombudsman shall act with the objective of resolving complaints and concerns, reviewing procedural irregularities and/or broader systemic problems as set forth in this section. Accordingly, the Ombudsman may issue further clarifications regarding the administration of this procedure.

1.2 This procedure is intended to serve as a means for harmonious settlement of disputes within the IDESG. Extension of times beyond those indicated in the formal steps of the procedure outlined below should be agreed to, in writing, by the parties

² See, Introduction to the ROA, page vi, ¶(1) – (4), which delineates the Guiding Principles, as follows: “1. **Identity solutions will be privacy-enhancing and voluntary.** The Identity Ecosystem will be grounded in a holistic, integrated implementation of the Fair Information Practice Principles to promote the creation and adoption of policies and standards that are privacy-enhancing, including the preservation of the capacity to engage in anonymous and pseudonymous activities online. Ideally, identity solutions within the Identity Ecosystem should preserve the positive privacy benefits associated with offline identity-related transactions while mitigating some of the negative privacy aspects. Finally, participation in the Identity Ecosystem will be voluntary: the government will neither mandate that individuals obtain an Identity Ecosystem credential nor that companies require Identity Ecosystem credentials from consumers as the only means to interact with them. Individuals shall be free to use an Identity Ecosystem credential of their choice, provided the credential meets the minimum risk requirements of the relying party, or to use any non-Identity Ecosystem mechanism provided by the relying party. Individuals’ participation in the Identity Ecosystem will be a day-to-day—or even a transaction-to-transaction—choice. 2. **Identity solutions will be secure and resilient.** Identity solutions within the Identity Ecosystem will provide secure and reliable methods of electronic authentication by being grounded in technology and security standards that are open and collaboratively developed with auditable security processes. Credentials within the Identity Ecosystem are: issued based on sound criteria for verifying the identity of individuals and devices, when appropriate; resistant to theft, tampering, counterfeiting, and exploitation; and issued only by providers who fulfill the necessary requirements. Identity solutions must detect when trust has been broken, be capable of timely restoration after any disruption, be able to quickly revoke and recover compromised digital identities, and be capable of adapting to the dynamic nature of technology. 3. **Identity solutions will be interoperable.** Interoperability encourages and enables service providers to accept a wide variety of credentials and enables users to take advantage of different credentials to assert their identity online. Two types of interoperability are recognized in the Identity Ecosystem: technical interoperability is the ability for different technologies to communicate and exchange data based upon well-defined and testable interface standards; policy-level interoperability is the ability for organizations to adopt common business policies and processes. 4. **Identity solutions will be cost-effective and easy to use.** The Identity Ecosystem will promote identity solutions that enable individuals to use a smaller number of identity credentials across a wide array of service providers. These identity solutions must be cost-effective for users, identity and attribute providers, and relying parties. Furthermore, identity solutions should be simple to understand, intuitive, easy-to-use, and enabled by technology that requires minimal user training.

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involved; unless otherwise modified, in writing, by the Ombudsman.

1.3 Failure by the Member to comply with any requirements of this procedure shall constitute withdrawal of the complaint. Failure by the Chair of the IDESG entity (“IDESG Chair”), an Officer or Member to comply with the time limitations shall constitute the right of the complaining Member to proceed to the next step of the complaint procedure.

1.4 This procedure shall not (a) impede or inhibit the Ombudsman from initiating a review or investigation of issues associated with IDESG process independent of any complaint³; or (b) any Member from requesting advisory information, recommendations⁴ and the resolution of issues pertaining to the facilitation of balanced representation⁵, upholding the provisions of the IDESG Governance Documents⁶ and the responsibilities of the Ombudsman as set forth in ROA §2.2.5.

Section 2 - Problem Resolution Process. Members who believe that have grounds for a complaint that falls within the standard set forth in §1, above, shall initiate the following problem resolution process:

2.1 Initial Attempt to Resolve Complaint Against an IDESG Entity. In the event a Member has reason to consider filing a complaint against an IDESG entity, the Member shall take necessary actions to raise, discuss and seek resolution of such issue(s) before the entity of the IDESG in which the issue has arisen; or, if not practicable, by direct communication with the Chair of the IDESG entity.

2.1.1 If a resolution cannot be reached through discussion within the IDESG entity or the Chair of such entity, the Member may file a complaint, in writing, to the Chair of the IDESG entity (with notice to the Ombudsman). The Officer will take the matter under consideration and attempt to provide a satisfactory resolution or explanation to the complaining Member within fifteen (15) business days.

³ See, ROA §2.2.5.3.4.

⁴ See, ROA §2.2.5.3.7.

⁵ See, ROA §2.2.5.3.2.

⁶ See, ROA §2.2.5.3.1.

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2.2 Initial Attempt to Resolve Complaint Against an IDESG Officer or Member. In the event the Member has reason to consider filing a complaint against an IDESG Officer or another Member, said Member shall address the issue with the IDESG Officer or Member for the purpose of seeking resolution; unless granted a waiver under §2.2.1, below.

2.2.1 The Member may request a waiver from direct contact with the IDESG Officer or Member, by filing a confidential waiver request with the Ombudsman stating the reasons why such matter should immediately proceed to the Ombudsman for resolution. In the event the waiver is granted, in writing, said Ombudsman shall not reveal the identity of the complaining Member without that Member's express written consent, except in the case of a finding under §3.2.1, below, and the matter shall proceed to §3 of this procedure. Said waiver provisions shall not apply to §2.1, above.

2.2.2 Unless a written waiver has been granted in accord with the provisions of §2.2.1, above, or if a resolution has not been reached with the IDESG Officer or Member, the complaining Member may file a complaint, in writing, to the IDESG Officer or Member (with notice to the Ombudsman). The IDESG Officer or Member will take the matter under consideration and attempt to provide a satisfactory resolution or explanation within fifteen (15) business days.

2.3 The Chair of the IDESG entity, such IDESG Officer or Member may request, from the Ombudsman, additional time to respond under §§2.1.1 and 2.2.2, explaining the reasons therefor.

2.4 Filing Written Materials with the Ombudsman. If a resolution still has not been reached following the actions taken under §§2.1 and 2.2, above, the Member may withdraw said complaint or, in the alternative, present the written material (his or her complaint and the response of the Chair of the IDESG entity, IDESG Officer or Member, if applicable) to the Ombudsman, within five (5) business days of the receipt of the response provided by the Chair of the IDESG entity, IDESG Officer or Member.

2.4.1 Failure to Respond to Complaint. In the event the Chair of the IDESG entity, IDESG Officer or Member failed

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to respond to the complaint within fifteen (15) business days of the filing of the complaint, the transmittal by the complaining Member to the Ombudsman shall so state in writing.

2.4.2 Notice to the Chair of the IDESG entity, IDESG Officer or Member. Not later than forty-eight (48) hours following receipt of the complaint the Ombudsman shall notify the Chair of the IDESG entity, IDESG Officer or Member. However, with respect to complaints filed under §2.2; the Ombudsman may delay the such notification if it is determined, in the sole discretion of the Ombudsman, that such notice will compromise a thorough review and inquiry pertaining to the complaint. In that case, the timing of notice will be determined in the sole discretion of the Ombudsman.

Section 3 – Review by the Ombudsman. Upon receiving the Member's written request, the Ombudsman shall commence a review of the complaint. The Ombudsman shall provide the parties with a scheduling memorandum setting forth the phases of the complaint procedure.

3.1 Initial Meeting. The Ombudsman shall arrange an initial meeting (in person or by telephonic means) with the complaining Member in order to listen to the Member and allow for the presentation of a personal and complete description of the situation for the purpose of indentifying and framing the issues for resolution.

3.2 Fact Finding and Review. Thereafter, the Ombudsman will take the matter under consideration; assemble and review the facts presented by the Member; and, conduct an independent review into the complaint, including, but not limited to the actions set forth in §§3.3 and 3.4, below. The Ombudsman may consider issues, develop perceptions and interpretations, discover information and consider concerns about the acts, omission or irregularities which are the subject of the complaint.

3.2.1 Determination of a Meritless Complaint. The Ombudsman may determine a complaint to be frivolous, vexatious, and trivial or made in bad faith. In such event, the Ombudsman shall make such determination, in writing,

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setting forth the reasons therefore. The factors to be considered are the following:

3.2.1.1 Evidence of persistent complaints from the complaining Member (a) against another Member or entity about an issue that has been disposed of in the past; (b) seeking additional review of the same issue following initial fact-finding and review when no new evidence or material is provided; (c) regarding the making and withdrawing of repetitive complaints by the complaining Member; or (d) based upon the complaints on an issue which has previously been determined to be frivolous, vexatious, trivial or made in bad faith.

3.2.1.2 The presence of a complaint based upon false statement of fact by the complaining Member.

The Ombudsman shall provide written notification of such finding to the complaining Member and, in the sole discretion of the Ombudsman, to the Chair of the IDESG entity, IDESG Officer or Member. Said notice shall advise that no further action will be taken and that the complaint will be deemed closed, stating the reasons therefor.

The extent of publication and dissemination of such determination shall be decided upon in concordance with the nature of the complaint, in the sole discretion of the Ombudsman. Release of such determination shall not require the consent of the complaining Member.

3.3 Meeting with Other Parties and Fact Witnesses. The Ombudsman may meet with the Chair of the IDESG entity, the IDESG Officer or Member and any other parties necessary to review the complaint and assemble the information necessary to provide the basis for a resolution of the issues raised in the complaint.

3.4 Actions of the Ombudsman. The Ombudsman may engage in informal third-party interventions, such as shuttle diplomacy, facilitating communication and informal mediation, with the permission of the Member and the Chair of the IDESG entity, the IDESG Officer or Member.

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3.4.1 The Informal mediation, if any, shall be voluntary and may or may not produce a written agreement. However, any documents or written agreements resulting from resolution through informal processes shall not be maintained by the Ombudsmen but rather by the entity responsible for the administration of the IDESG.

3.4.2 Any other records pertaining to a complaint, inquiry or investigation either provided to or discovered by the Ombudsman under regarding complaints initiated under §2.2 shall be deemed confidential and not subject to disclosure by the Ombudsman; with the exception of determinations rendered under §3.2.1, above. The Ombudsman may deem information generated as a result of complaints pursuant §2.1 confidential if such determination is in the best interests of the IDESG.

3.4.3 The Ombudsman shall not disclose and is not required to disclose any information provided in confidence by the complaining, except with the express written consent of the Member; unless such information is readily available from the official proceedings or records of the IDESG.

3.5 Final Steps. The Ombudsman shall not issue binding decisions, mandate policies, formally adjudicate issues of the IDESG or, otherwise, participate in the formal management functions or other complaint and grievance process of the IDESG. However, following multi-lateral engagements either the Ombudsman or the parties may determine that further interactions may prove futile. Upon such termination the complaining Member may take a final appeal as set forth in §4 below.

3.5.1 Time-Frame for Completion of Ombudsman Review. The Ombudsman shall endeavor to complete the process within ninety (90) business days following the initial meeting with the complaining Member; unless, the Ombudsman determines, in writing that there are reasons for extending the time for completion; or, in the alternative, the circumstances of the complaint require more urgent and immediate action. Such written determination shall be in the sole discretion of the Ombudsman.

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Section 4 – Final Action. Upon termination of actions by the Ombudsman the complaining party may appeal the matter for a final determination. Final determinations shall be rendered by the following:

4.1 Complaints Against the Plenary. Decision by determination of the Chair of the Management Council; in the event of a conflict of said Chair, the Vice Chair of the Management Council and, then, a majority vote of the Members of the Management Council shall render such decision.

4.2 Complaints Against the Management Council or a Committee or other entity of the Plenary. Decision by determination of the Chair of the Plenary; in the event of a conflict of said Chair, the Vice Chair of the Plenary.

4.3 Third Party Decisions. The officials charged with final decisions may request the services of a third party if necessary to uphold the integrity of the decision and if funds are available for such services.

4.4 Final and Conclusive Decision. Such decisions under §4.1, 4.2 and 4.3 shall will be final and conclusive. Said decisions shall be rendered in writing within sixty (60) business days of receipt of the appeal. Procedures shall be established by the Plenary to address a procedure for assembling information upon which to render such final determination.