



Republic of the Marshall Islands  
*Jepililin Ke Ejukaan*

# ASSOCIATIONS LAW (AMENDMENT) ACT 2017

Sponsored by:

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**HON. MINISTER BRENSON S. WASE**

Received by:

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**HON. SPEAKER KENNETH A. KEDI**

N.B. No. 74



1                   **NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**  
2                   **38TH CONSTITUTIONAL REGULAR SESSION, 2017**



3                   Republic of the Marshall Islands  
4                   *Jepilpilin Ke Ejukaan*

**ASSOCIATIONS LAW (AMENDMENT) ACT 2017**

5     **A BILL FOR AN ACT** to amend Title 52 of the Republic of the Marshall Islands  
6     Revised Code to further develop the accounting, ownership, and other  
7     recordkeeping requirements of the Business Corporations Act, Revised Partnership  
8     Act, Limited Partnership Act, and Limited Liability Company Act in order to ensure  
9     that such records are kept, that the keeping of such records is monitored and  
10    enforced, and that such records are produced as required under the international  
11    standard.

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12           **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**

13    **§101. Short Title.**

14           This Bill may be cited as the Associations Law (Amendment) Act 2017.

15    **§102. Amendments.**

16           (1) Section 28 of the Republic of the Marshall Islands Business  
17           Corporations Act is hereby amended to read as follows:

18           (1) §28. Contents of articles of incorporation.

19           The articles of incorporation shall set forth:

- 20           (a) the name of the corporation;
- 21           (b) the duration of the corporation if other than perpetual;
- 22           (c) the purpose or purposes for which the corporation is  
23           organized. It shall be sufficient to state, either alone or with  
24           other businesses or purposes, that the purpose of the  
25           corporation is to engage in any lawful act or activity for which

1 corporations may be organized under this Act, and by such  
2 statement all lawful acts and activities shall be within the  
3 purposes of the corporation, except for express limitations, if  
4 any;

5 (d) the registered address of the corporation in the Republic and  
6 the name and address of its registered agent;

7 (e) the aggregate number of shares which the corporation shall  
8 have authority to issue; if such shares are to consist of one (1)  
9 class only, the par value of each of such shares, or a statement  
10 that all of such shares are without par value; or if such shares  
11 are to be divided into classes, the number of shares of each  
12 class, and a statement of the par value of the shares of each  
13 class or that such shares are to be without par value;

14 (f) if the shares are to be divided into classes, the designation of  
15 each class and a statement of the preferences, limitations and  
16 relative rights in respect of the shares of each class;

17 (g) subject to the provisions of section 42 of this Act, the number  
18 of shares to be issued as registered shares and as bearer shares  
19 and whether registered shares may be exchanged for bearer  
20 shares and bearer shares for registered shares;

21 (h) if bearer shares are authorized to be issued as provided in  
22 section 42 of this Act, the manner in which any required notice  
23 shall be given to shareholders of bearer shares;

24 (i) if the corporation is to issue the shares of any preferred or  
25 special class in series, then the designation of each series and a  
26 statement of the variations in the relative rights and  
27 preferences as between series insofar as the same are to be  
28 fixed in the articles of incorporation, and a statement of any  
29 authority to be vested in the board of directors to establish  
30 series and fix and determine the variations in the relative  
31 rights and preferences as between series;

32 (j) if the initial directors are to be named in the articles of  
33 incorporation, the names and addresses of the persons who are  
34 to serve as directors until the first annual meeting of the  
35 shareholders or until their successors shall be elected and  
36 qualified;

37 (k) the name and address of each incorporator;

1 (l) a statement affirming that “the corporation will comply with  
2 all applicable provisions of the Business Corporations Act,  
3 including retention, maintenance, and production of  
4 accounting, shareholder, beneficial owner, and director and  
5 officer records in accordance with Division 8 of the Act”; this  
6 statement shall, by force of law, be included in the articles of  
7 incorporation of all corporations incorporated prior to effective  
8 date of this law.

9 (4m) any provision, not inconsistent with the law, which the  
10 incorporators elect to set forth in the articles of incorporation for  
11 the regulation of the affairs of the corporation, including the  
12 designation of initial directors, subscription of stock by the  
13 incorporators, and any provision restricting the transfer of  
14 shares or providing for greater quorum or voting requirements  
15 with respect to shareholders or directors that are otherwise  
16 prescribed in this Act, and any provision which under this Act  
17 is required or permitted to be set forth in the bylaws. It is not  
18 necessary to enumerate in the articles of incorporation the  
19 general corporate powers stated in section 15 of this Act;

20 (4n) in addition to the matters required to be set forth in the articles  
21 of incorporation by this section, the articles of incorporation may also  
22 contain a provision for elimination or limitation of personal liability  
23 of a director to the corporation or its stockholders for monetary  
24 damages for breach of fiduciary duty as a director, provided that  
25 such provision shall not eliminate or limit the liability of a director:

26 (i) for any breach of the director’s duty of loyalty to the  
27 corporation or its stockholders;

28 (ii) for acts or omissions not undertaken in good faith or  
29 which involve intentional misconduct or a knowing  
30 violation of law; or

31 (iii) for any transaction from which the director derived an  
32 improper personal benefit. No such provision shall  
33 eliminate or limit the liability of a director for any act or  
34 omission occurring prior to the date when such  
35 provision becomes effective.

36 (2) Section 39 of the Republic of the Marshall Islands Business  
37 Corporations Act is hereby amended to read as follows:

## §39. Payment for shares.

- (1) *Obligations for future payments or services not payment.* Neither obligations of the subscriber for future payments nor future service shall constitute payment or part payment for shares of a corporation.
- (2) *Payment necessary before issuance of certificates.* Certificates for shares may not be issued until the full amount of the consideration therefore has been paid.
- (3) *Rights of subscriber on full payment.* When the consideration for shares has been paid in full and, in the case of bearer shares, the subscriber and beneficial owner have provided to the corporation their names, addresses, nationalities, and, in the case of natural persons, dates of birth, and these have been recorded in accordance with section 80 of this Act, the subscriber shall be entitled to all rights and privileges of a holder of such shares and to a certificate representing his shares, and such shares shall be deemed fully paid and non-assessable.
- (3) Section 42 of the Republic of the Marshall Islands Business Corporations Act is hereby amended to read as follows:

## §42. Form and content of certificates.

- (1) *Signature and seal.* The shares of a corporation shall be represented by certificates or shall be uncertificated shares. Certificates shall be signed by an officer(s) and/or a director, however designated, of the corporation, and may be sealed with the seal of the corporation, if any, or a facsimile thereof. The signatures upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent other than the corporation itself or its employees. In case any person who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer or director before such certificate is issued, it may be issued by the corporation with the same effect as if he/she were such officer or director at the date of issue. For the purposes of this section, "uncertificated shares" are shares of a corporation which:
  - (a) are not represented by an instrument;
  - (b) the transfer of which is registered upon books maintained for that purpose by or on behalf of the corporation issuing the shares; and

- 1 (c) are of a type commonly dealt in upon securities exchanges or  
2 markets.
- 3 (2) *Registered or bearer shares.* Shares may be issued either in registered  
4 form or in bearer form provided that all records of shareholders and  
5 beneficial owners are provided to the corporation by the shareholder  
6 and/or beneficial owner and maintained in accordance with section  
7 80 of this Act and the articles of incorporation prescribe the manner  
8 in which any required notice is to be given to shareholders of bearer  
9 shares in conformity with section 11 of this Act; provided, however,  
10 that resident domestic corporations shall not be allowed to issue  
11 shares in bearer form. The transfer of bearer shares shall be by  
12 delivery of the certificates and valid upon recordation of such  
13 transfer in accordance with section 80 of this Act. The validity of  
14 bearer shares, including any and all rights and privileges of a holder  
15 of such shares and the exercise thereof, is conditional upon all records  
16 of shareholders and beneficial owners being provided to the  
17 corporation by the shareholder and/or beneficial owner and recorded  
18 and maintained in accordance with section 80 of this Act upon  
19 issuance or any subsequent transfer. The articles of incorporation  
20 may provide that on request of a shareholder his bearer shares shall  
21 be exchanged for registered shares or his registered shares exchanged  
22 for bearer shares.
- 23 (3) *Statement regarding class and series.* Each certificate representing shares  
24 issued by a corporation which is authorized to issue shares of more  
25 than one (1) class shall set forth upon the face or back of the  
26 certificate, or shall state that the corporation will furnish to any  
27 shareholder upon request and without charge, a full statement of the  
28 designation, relative rights, preferences and limitations of the shares  
29 of each class authorized to be issued and, if the corporation is  
30 authorized to issue any class of preferred shares in series, the  
31 designation, relative rights, preferences and limitations of each such  
32 series so far as the same have been fixed and the authority of the  
33 board to designate and fix the relative rights, preferences and  
34 limitations of other series.
- 35 (4) *Other statements on certificate.* Each certificate representing shares shall  
36 when issued state upon the face thereof:
- 37 (a) that the corporation is formed under the laws of the Republic;

- 1 (b) the name of the person or persons to whom issued if a  
2 registered share;
- 3 (c) the number and class of shares, and the designation of the  
4 series, if any, which such certificate represents;
- 5 (d) the par value of each share represented by such certificate, or a  
6 statement that the shares are without par value; and
- 7 (e) if the share does not entitle the holder to vote, that it is  
8 nonvoting, or if the right to vote exists only under certain  
9 circumstances, that the right to vote is limited.

10 (5) Unless otherwise provided by the articles of incorporation or bylaws,  
11 the board of directors of a corporation may provide by resolution that  
12 some or all of any or all classes and series shall be uncertificated  
13 shares, provided that such resolution shall not apply to shares  
14 represented by a certificate until such certificate is surrendered to the  
15 corporation or transfer agent. Within a reasonable time after the  
16 issuance or transfer of uncertificated shares, the corporation or  
17 transfer agent shall send to the registered owner thereof a written  
18 notice containing the information required to be set forth or stated on  
19 the certificates pursuant to subsections (3) and (4) of this section.  
20 Except as otherwise expressly provided by law, the rights and  
21 obligations of the holders of uncertificated shares and the rights and  
22 obligations of the holders of certificates representing shares of the  
23 same class and series shall be identical; provided however, that  
24 bearer shares may not be uncertificated.

25 (6) The board of directors may, by resolution, provide that some or all  
26 classes and series of uncertificated shares shall be represented by  
27 certificates, provided that such resolution shall not become effective  
28 until the share certificates are issued.

29 (7) *Lost, stolen or destroyed stock certificates; issuance of new certificate or*  
30 *uncertificated shares.* A corporation may issue a new certificate of stock  
31 or uncertificated shares in place of any certificate theretofore issued  
32 by it, alleged to have been lost, stolen or destroyed, and the  
33 corporation may require the owner of the lost, stolen or destroyed  
34 certificate, or such owner's legal representative to give the  
35 corporation a bond sufficient to indemnify it against any claim that  
36 may be made against it on account of the alleged loss, theft or

1 destruction of any such certificate or the issuance of such new  
2 certificate or uncertificated shares.

3 (4) Section 80 of the Republic of the Marshall Islands Business  
4 Corporations Act is hereby amended to read as follows:

5 §80. Requirement for keeping accounting records, minutes, and records of  
6 shareholders and beneficial owners.

7 (1) *Accounting records.* Every domestic corporation shall keep reliable and  
8 complete accounting records, to include correct and complete books  
9 and records of account. Accounting records must be sufficient to  
10 correctly explain all transactions, enable the financial position of the  
11 corporation to be determined with reasonable accuracy at any time,  
12 and allow financial statements to be prepared. Additionally, every  
13 domestic corporation shall keep underlying documentation for  
14 accounting records maintained pursuant to this subsection, such as,  
15 but not limited to, invoices and contracts, which shall reflect all sums  
16 of money received and expended and the matters in respect of which  
17 the receipt and expenditure takes place; all sales, purchases, and  
18 other transactions; and the assets and liabilities of the corporation. A  
19 resident domestic corporation shall keep all accounting records and  
20 underlying documentation as described in this subsection in the  
21 Republic. Every non-resident domestic corporation shall produce on  
22 demand all accounting records and underlying documentation to the  
23 registered agent for non-resident domestic entities in the Republic.  
24 Additionally, upon formation, or in the case of a corporation existing  
25 prior to effective date of this law, within 360 days of such date, and  
26 annually thereafter, an attestation, in a form prescribed by the  
27 Registrar for non-resident domestic corporations, will be made by  
28 every non-resident domestic corporation, excluding publicly traded  
29 companies, to the Registrar for non-resident domestic corporations  
30 that accounting records are being maintained in accordance with this  
31 section or, if applicable, that such records are not being maintained  
32 (wholly or partially).

33 (2) *Minutes.* Every domestic corporation shall keep minutes of all  
34 meetings of shareholders, of actions taken on consent by  
35 shareholders, of all meetings of the board of directors, of actions  
36 taken on consent by directors and of meetings of the executive  
37 committee, if any. A resident domestic corporation shall keep such  
38 minutes in the Republic.

1 (3) *Records of shareholders and beneficial owners.*

2 (a) Every domestic corporation shall keep an up-to-date record  
3 containing the names and addresses of all registered  
4 shareholders, the number and class of shares held by each and  
5 the dates when they respectively became the owners of record  
6 thereof. In addition, ~~any such~~ every domestic corporation  
7 which issues bearer shares subject to the provisions of section  
8 42 of this Act shall maintain a record of all certificates issued in  
9 bearer form, including the number, class, and dates of issuance  
10 of such certificates. A resident domestic corporation shall keep  
11 the records required to be maintained by this subsection in the  
12 Republic.

13 ~~(b) Every domestic corporation which issues registered shares~~  
14 ~~after the effective date of this law shall, in addition to the~~  
15 ~~shareholder records required under paragraph (a) of this~~  
16 ~~subsection, keep an up-to-date record containing the names~~  
17 ~~and addresses of all beneficial owners of such registered~~  
18 ~~shares. For all registered shares issued on or before such date,~~  
19 ~~every domestic corporation shall comply with the~~  
20 ~~requirements of this paragraph (b) within 360 days of such~~  
21 ~~date.~~

22 ~~(c) Every domestic corporation which issues bearer shares after~~  
23 ~~the effective date of this law shall, in addition to the~~  
24 ~~shareholder records required under paragraph (a) of this~~  
25 ~~subsection, maintain an up-to-date record of the names,~~  
26 ~~addresses, nationalities, and, in the case of natural persons,~~  
27 ~~dates of birth of all holders and beneficial owners of such~~  
28 ~~bearer shares and a record of any subsequent transfer,~~  
29 ~~including the date of transfer and the names, addresses,~~  
30 ~~nationalities, and, in the case of natural persons, dates of birth~~  
31 ~~of all new holders and beneficial owners. In order to maintain~~  
32 ~~the validity of any such bearer shares, including any and all~~  
33 ~~rights and privileges of a holder of such shares, the records~~  
34 ~~required under paragraph (a) and this paragraph (c) for the~~  
35 ~~issuance and any subsequent transfer of such bearer shares~~  
36 ~~must be recorded with the registered agent for non-resident~~  
37 ~~domestic entities. For all bearer shares issued on or before [FILL~~  
38 ~~IN ENACTMENT DATE], every domestic corporation shall comply~~

1                   with the requirements of this paragraph (c) within 360 days of  
2                   such date.

3                   (d) For the purposes of complying with paragraphs (b) and (c) of  
4                   this subsection, every domestic corporation shall notify its  
5                   shareholders and beneficial owners of their obligation to  
6                   provide the information required to be kept by the corporation  
7                   under the aforementioned paragraphs, and shall use all  
8                   reasonable efforts to obtain such information. For these  
9                   purposes, reasonable efforts include requiring a person to  
10                   produce records. In respect of shareholders of bearer shares,  
11                   any written notice shall be in accordance with section 11 of this  
12                   Act and the notice shall include a statement of the conditions  
13                   under which shareholders may exercise any and all rights and  
14                   privileges.

15                   (e) For the purpose of this Division, a shareholder or beneficial  
16                   owner of registered or bearer shares has an obligation to  
17                   provide the records required for a domestic corporation to  
18                   comply with this subsection (3).

19                   (f) For the purpose of this Division, "beneficial owner" means the  
20                   natural person(s) who ultimately owns or controls an entity  
21                   and/or the natural person on whose behalf a transaction is  
22                   being conducted. It also includes those persons who exercise  
23                   ultimate effective control over a legal person or arrangement.  
24                   Reference to ultimate ownership or control and ultimate  
25                   effective control refer to situations in which ownership/control  
26                   is exercised through a chain of ownership or by means of  
27                   control other than direct control. Provided, however, that the  
28                   requirement to keep, retain, maintain, or produce beneficial  
29                   ownership information under this section does not create an  
30                   obligation on publicly traded companies or public collective  
31                   investment funds or schemes to keep, retain, maintain, or  
32                   produce ownership information unless such information can  
33                   be obtained without giving rise to disproportionate  
34                   difficulties.

35                   (g) Every non-resident domestic corporation shall produce on  
36                   demand all records of shareholders and beneficial owners to  
37                   the registered agent for non-resident domestic entities in the  
38                   Republic. Additionally, upon formation, or in the case of a

corporation existing prior to effective date of this law within 360 days of such date, and annually thereafter, an attestation, in a form prescribed by the Registrar for non-resident domestic corporations, will be made by every non-resident domestic corporation, excluding publicly traded companies, to the Registrar for non-resident domestic corporations that records of shareholders and beneficial owners are being maintained in accordance with this section or, if applicable, that such records are not being maintained (wholly or partially).

(h) To the extent that records of shareholders and beneficial owners are not being maintained in accordance with this section by a non-resident domestic corporation in respect of bearer shares, the corporation shall cancel the respective share certificates:

(i) in the case of bearer shares issued on or before the effective date of this law, within 180 days of the date on which such records are required to be maintained in accordance with paragraph (c) of this subsection; and

(ii) in any other case, within 180 days of the attestation that such records are not being maintained.

(4) *Forms of records.* Any records maintained by a corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible written form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect the same. When records are kept in such manner, a clearly legible written form produced from the cards, tapes, photographs, microphotographs or other information storage device shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original written record of the same information would have been, provided the written form accurately portrays the record.

(5) *Retention Period.* All records required to be kept, retained, or maintained under this section shall be kept, retained, or maintained for a minimum of five (5) years.

1 (6) Failure to maintain or produce records or to make attestations. Any person  
2 who knowingly or recklessly fails to keep, retain, or maintain records  
3 as required under this section, or who fails to produce records within  
4 sixty (60) days upon demand or to make attestations as required  
5 under this section, or who keeps, retains, maintains, or produces false  
6 or misleading records or makes false or misleading attestations, shall  
7 be liable to a fine not exceeding \$50,000, revocation of the  
8 corporation's articles of incorporation and dissolution, or both.

9 (5) Section 83 of the Republic of the Marshall Islands Business  
10 Corporations Act is hereby amended to read as follows:

11 §83. List of directors and officers.

12 (1) List of directors and officers. If a shareholder or creditor of a resident  
13 domestic corporation, in person or by his attorney or agent, or a  
14 representative of either of the Registrars of Corporations or other  
15 government official makes a written demand on such corporation to  
16 inspect a current list of its directors and officers and their residence  
17 addresses, the corporation shall, within two (2) business days after  
18 receipt of the demand and for a period of one (1) week thereafter,  
19 make the list available for such inspection at its office during usual  
20 business hours. Every non-resident domestic corporation shall  
21 produce on demand a current list of directors and officers and their  
22 residence addresses to the registered agent for non-resident domestic  
23 entities in the Republic. Additionally, upon formation, or in the case  
24 of a corporation existing prior to effective date of this law within 360  
25 days of such date, and annually thereafter, an attestation, in a form  
26 prescribed by the Registrar for non-resident domestic corporations,  
27 will be made by every non-resident domestic corporation, excluding  
28 publicly traded companies, to the Registrar for non-resident domestic  
29 corporations that a list of current directors and officers is being  
30 maintained in accordance with this section or, if applicable, that such  
31 records are not being maintained (wholly or partially).

32 (2) Failure to maintain or produce records or to make attestations. Any  
33 person who knowingly or recklessly fails to keep, retain, or maintain  
34 records as required under this section, or who fails to produce  
35 records within sixty (60) days upon demand or to make attestations  
36 as required under this section, or who keeps, retains, maintains, or  
37 produces false or misleading records or makes false or misleading

1                   attestations, shall be liable to a fine not exceeding \$50,000, revocation  
2                   of the corporation's articles of incorporation and dissolution, or both.

3 **§103. Amendment to the Revised Partnership Act.**

4           (1) Section 37 of the Republic of the Marshall Islands Revised  
5           Partnership Act is hereby amended to read as follows:

6           §37. Requirement for keeping accounting records, minutes, and records of  
7           partners; partner's rights and duties with respect to information.

8           (1) Requirement for keeping accounting records, minutes, and records of  
9           partners.

10           (a) *Accounting records.* Every domestic partnership shall keep  
11           reliable and complete accounting records, to include correct  
12           and complete books and records of account. Accounting  
13           records must be sufficient to correctly explain all transactions,  
14           enable the financial position of the partnership to be  
15           determined with reasonable accuracy at any time, and allow  
16           financial statements to be prepared. Additionally, every  
17           domestic partnership shall keep underlying documentation for  
18           accounting records maintained pursuant to this subsection,  
19           such as, but not limited to, invoices and contracts, which shall  
20           reflect all sums of money received and expended and the  
21           matters in respect of which the receipt and expenditure takes  
22           place; all sales, purchases, and other transactions; and the  
23           assets and liabilities of the partnership. A resident domestic  
24           partnership shall keep all accounting records and underlying  
25           documentation as described in this subsection in the Republic.  
26           Every non-resident domestic partnership shall produce on  
27           demand all accounting records and underlying documentation  
28           to the registered agent for non-resident domestic entities in the  
29           Republic.

30           (b) *Minutes.* Every domestic partnership shall keep minutes of all  
31           meetings of partners and of actions taken on consent by  
32           partners. A resident domestic partnership shall keep such  
33           minutes in the Republic.

34           (c) *Records of partners.* Every domestic partnership shall keep an  
35           up-to-date record containing the names and addresses of all  
36           partners. A resident domestic partnership shall keep the

1 records required to be maintained by this subsection in the  
2 Republic. Every non-resident domestic partnership shall  
3 produce on demand all records of partners to the registered  
4 agent for non-resident domestic entities in the Republic.

5 (d) *Form of records.* Any records maintained by a domestic  
6 partnership in the regular course of its business, including its  
7 record of partners, books of account, and minute books, may  
8 be kept on, or be in the form of, punch cards, magnetic tape,  
9 photographs, microphotographs, or any other information  
10 storage device, provided that the records so kept can be  
11 converted into clearly legible written form within a reasonable  
12 time. Any domestic partnership shall convert any records so  
13 kept upon the request of any person entitled to inspect such  
14 records. When records are kept in such manner, a clearly  
15 legible written form produced from the cards, tapes,  
16 photographs, microphotographs, or other information storage  
17 device shall be admissible in evidence, and accepted for all  
18 other purposes, to the same extent as an original written  
19 record of the same information would have been, provided the  
20 written form accurately portrays the record.

21 (e) *Retention period.* All records required to be kept, retained, or  
22 maintained under this section shall be kept, retained, or  
23 maintained for a minimum of five (5) years.

24 (f) *Failure to maintain or produce records.* Any person who  
25 knowingly or recklessly fails to keep, retain, ~~and~~ or maintain,  
26 records as required under this section, or who fails to produce  
27 records within sixty (60) days upon demand under this  
28 section, or who keeps, retains, maintains, or produces false or  
29 misleading records, shall be liable to a fine not exceeding  
30 \$50,000, cancellation of the partnership's certificate of  
31 partnership existence, or both.

32 (2) *Partner's rights and duties with respect to information.*

33 (a) Each partner and the partnership shall provide partners,  
34 former partners and the legal representative of a deceased  
35 partner or partner under a legal disability and their agents and  
36 attorneys, access to the books and records of the partnership  
37 and other information concerning the partnership's business  
38 and affairs (in the case of former partners, only with respect to

the period during which they were partners) upon reasonable demand, for any purpose reasonably related to the partner’s interest as a partner in the partnership. The right of access shall include access to:

- (i) true and full information regarding the status of the business and financial condition of the partnership;
- (ii) promptly after becoming available, a copy of the partnership’s financial statements or tax filings, if applicable, for each year;
- (iii) a current list of the name and last known business, residence or mailing address of each partner;
- (iv) a copy of any certificate and written partnership agreement and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the certificate or the partnership agreement and any amendments thereto have been executed;
- (v) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each partner became a partner; and
- (vi) other information regarding the affairs of the partnership as is just and reasonable. The right of access includes the right to examine and make extracts from books and records and other information concerning the partnership’s business and affairs. The partnership agreement may provide for, and in the absence of such provision in the partnership agreement, the partnership or the partner from whom access is sought may impose, reasonable standards (including standards governing what information and documents are to be furnished at what time and location and at whose expense) with respect to exercise of the right of access.

(b) A partnership agreement may provide that the partnership shall have the right to keep confidential from partners for such

1 period of time as the partnership deems reasonable, any  
2 information which the partnership reasonably believes to be in  
3 the nature of trade secrets or other information the disclosure  
4 of which the partnership in good faith believes is not in the  
5 best interest of the partnership or could damage the  
6 partnership or its business or affairs or which the partnership  
7 is required by law or by agreement with a third party to keep  
8 confidential.

9 (c) A partnership and its partners may maintain the books and  
10 records and other information concerning the partnership in  
11 other than a written form if such form is capable of conversion  
12 into written form within a reasonable time.

13 (d) Any demand by a partner under this section shall be in writing  
14 and shall state the purpose of such demand.

15 (e) Any action to enforce any right arising under this section may  
16 be brought in the High Court. If the partnership or a partner  
17 refuses to permit access as described in subsection (2)(a) of this  
18 section or does not reply to a demand that has been made  
19 within five (5) business days after the demand has been made,  
20 the demanding partner, former partner, or legal representative  
21 of a deceased partner or partner under a legal disability may  
22 apply to the High Court for an order to compel such  
23 disclosure. The High Court is hereby vested with jurisdiction  
24 to determine whether or not the person making the demand is  
25 entitled to the books and records or other information  
26 concerning the partnership's business and affairs sought. The  
27 High Court may summarily order the partnership or partner  
28 to permit the demanding partner, former partner or legal  
29 representative of a deceased partner or partner under a legal  
30 disability and their agents and attorneys to provide access to  
31 the information described in subsection (2)(a) of this section  
32 and to make copies or extracts therefrom; or the High Court  
33 may summarily order the partnership or partner to furnish to  
34 the demanding partner, former partner or legal representative  
35 of a deceased partner or partner under a legal disability and  
36 their agents and attorneys the information described in  
37 subsection (2)(a) of this section on the condition that the  
38 partner, former partner or legal representative of a deceased

1 partner or partner under a legal disability first pay to the  
2 partnership or to the partner from whom access is sought the  
3 reasonable cost of obtaining and furnishing such information  
4 and on such other conditions as the High Court deems  
5 appropriate. When a demanding partner, former partner or  
6 legal representative of a deceased partner or partner under a  
7 legal disability seeks to obtain access to information described  
8 in subsection (2)(a) of this section, the demanding partner,  
9 former partner or legal representative of a deceased partner or  
10 partner under a legal disability shall first establish (a) that the  
11 demanding partner, former partner or legal representative of a  
12 deceased partner or partner under a legal disability has  
13 complied with the provisions of this section respecting the  
14 form and manner of making demand for obtaining access to  
15 such information and (b) that the information the demanding  
16 partner, former partner or legal representative of a deceased  
17 partner or partner under a legal disability seeks is reasonably  
18 related to the partner's interest as a partner in the partnership.  
19 The High Court may, in its discretion, prescribe any  
20 limitations or conditions with reference to the access to  
21 information, or award such other or further relief as the High  
22 Court may deem just and proper.

- 23 (f) The rights of a partner to obtain information as provided in  
24 this section may be restricted in an original partnership  
25 agreement or in any subsequent amendment approved or  
26 adopted by all of the partners and in compliance with any  
27 applicable requirements of the partnership agreement.

#### 28 §104. Amendments to the Limited Partnership Act.

- 29 (1) Section 12 of the Republic of the Marshall Islands Limited  
30 Partnership Act is hereby amended to read as follows:

##### 31 §12. Cancellation of certificate.

32 A certificate of limited partnership shall be cancelled upon the dissolution  
33 and the completion of winding up of the partnership, or as provided in  
34 section 32(1)(f) or section 71 of this Act, or upon the filing of a certificate of  
35 merger or consolidation if the limited partnership is not the surviving or  
36 resulting entity in a merger or consolidation, or upon the filing of a

1 certificate of transfer. A certificate of cancellation shall be filed with the  
2 Registrar of Corporations to accomplish the cancellation of a certificate of  
3 limited partnership upon the dissolution and the completion of winding up  
4 of a limited partnership and shall set forth:

- 5 (1) the name of the limited partnership;  
6 (2) the date of filing of its certificate of limited partnership;  
7 (3) the future effective date (which shall be date certain) of cancellation if  
8 it is not to be effective upon the filing of the certificate; and  
9 (4) any other information the person filing the certificate of cancellation  
10 determines.

11 (2) Section 32 of the Republic of the Marshall Islands Limited  
12 Partnership Act is hereby amended to read as follows:

13 §32. Requirement for keeping accounting records, minutes, and records of  
14 partners; access to and confidentiality of information.

15 (1) *Requirement for keeping accounting records, minutes, and records of*  
16 *partners.*

- 17 (a) *Accounting records.* Every domestic limited partnership shall  
18 keep reliable and complete accounting records, to include  
19 correct and complete books and records of account.  
20 Accounting records must be sufficient to correctly explain all  
21 transactions, enable the financial position of the limited  
22 partnership to be determined with reasonable accuracy at any  
23 time, and allow financial statements to be prepared.  
24 Additionally, every domestic limited partnership shall keep  
25 underlying documentation for accounting records maintained  
26 pursuant to this subsection, such as, but not limited to,  
27 invoices and contracts, which shall reflect all sums of money  
28 received and expended and the matters in respect of which the  
29 receipt and expenditure takes place; all sales, purchases, and  
30 other transactions; and the assets and liabilities of the limited  
31 partnership. A resident domestic limited partnership shall  
32 keep all accounting records and underlying documentation as  
33 described in this subsection in the Republic. Every non-  
34 resident domestic limited partnership shall produce on  
35 demand all accounting records and underlying documentation

1 to the registered agent for non-resident domestic entities in the  
 2 Republic.

3 (b) *Minutes.* Every domestic limited partnership shall keep  
 4 minutes of all meetings of partners and of actions taken on  
 5 consent by partners. A resident domestic limited partnership  
 6 shall keep such minutes in the Republic.

7 (c) *Records of partners.* Every domestic limited partnership shall  
 8 keep an up-to-date record containing the names and addresses  
 9 of all partners. A resident domestic limited partnership shall  
 10 keep the records required to be maintained by this subsection  
 11 in the Republic. Every non-resident domestic limited  
 12 partnership shall produce on demand all records of partners to  
 13 the registered agent for non-resident domestic entities in the  
 14 Republic.

15 (d) *Form of records.* Any records maintained by a limited  
 16 partnership in the regular course of its business, including its  
 17 record of partners, books of account, and minute books, may  
 18 be kept on, or be in the form of, punch cards, magnetic tape,  
 19 photographs, microphotographs, or any other information  
 20 storage device, provided that the records so kept can be  
 21 converted into clearly legible written form within a reasonable  
 22 time. Any limited partnership shall so convert any records so  
 23 kept upon the request of any person entitled to inspect such  
 24 records. When records are kept in such manner, a clearly  
 25 legible written form produced from the cards, tapes,  
 26 photographs, microphotographs, or other information storage  
 27 device shall be admissible in evidence, and accepted for all  
 28 other purposes, to the same extent as an original written  
 29 record of the same information would have been, provided the  
 30 written form accurately portrays the record.

31 (e) *Retention period.* All records required to be kept, retained, or  
 32 maintained under this section shall be kept, retained, or  
 33 maintained for a minimum of five (5) years.

34 (f) *Failure to maintain or produce records.* Any person who  
 35 knowingly or recklessly fails to keep, retain, ~~and/or~~ maintain  
 36 records as required under this section, or who fails to produce  
 37 records within sixty (60) days upon demand under this  
 38 section, or who keeps, retains, maintains, or produces false or

1                    misleading records, shall be liable to a fine not exceeding  
2                    \$50,000, cancellation of the limited partnership's certificate of  
3                    limited partnership, or both.

4                    (2)    *Access to and confidentiality of information.*

5                    (a)    Each limited partner has the right, subject to such reasonable  
6                    standards (including standards governing what information  
7                    and documents are to be furnished, at what time and location  
8                    and at whose expense) as may be set forth in the partnership  
9                    agreement or otherwise established by the general partners, to  
10                    obtain from the general partners from time to time upon  
11                    reasonable demand for any purpose reasonably related to the  
12                    limited partner's interest as a limited partner:

13                    (i)    true and full information regarding the status of the  
14                    business and financial condition of the limited  
15                    partnership;

16                    (ii)   promptly after becoming available, a copy of the limited  
17                    partnership's financial statements or income tax  
18                    returns, if applicable, for each year;

19                    (iii)   a current list of the name and last known business,  
20                    residence or mailing address of each partner;

21                    (iv)   a copy of any written partnership agreement and  
22                    certificate of limited partnership and all amendments  
23                    thereto, together with executed copies of any written  
24                    powers of attorney pursuant to which the partnership  
25                    agreement and any certificate and all amendments  
26                    thereto have been executed;

27                    (v)    true and full information regarding the amount of cash  
28                    and a description and statement of the agreed value of  
29                    any other property or services contributed by each  
30                    partner and which each partner has agreed to  
31                    contribute in the future, and the date on which each  
32                    became a partner; and

33                    (vi)   other information regarding the affairs of the limited  
34                    partnership as is just and reasonable.

35                    (b)    A general partner shall have the right to keep confidential  
36                    from limited partners for such period of time as the general  
37                    partner deems reasonable, any information which the general

1 partner reasonably believes to be in the nature of trade secrets  
2 or other information the disclosure of which the general  
3 partner in good faith believes is not in the best interest of the  
4 limited partnership or could damage the limited partnership  
5 or its business or which the limited partnership is required by  
6 law or by agreement with a third party to keep confidential.

- 7 (c) A limited partnership may maintain its records in other than a  
8 written form if such form is capable of conversion into written  
9 form within a reasonable time.
- 10 (d) Any demand under this section shall be in writing and shall  
11 state the purpose of such demand.
- 12 (e) Any action to enforce any right arising under this section shall  
13 be brought in the High Court. If a general partner refuses to  
14 permit a limited partner to obtain from the general partner the  
15 information described in subsection (2)(a) of this section or  
16 does not reply to the demand that has been made within five  
17 (5) business days after the demand has been made, the limited  
18 partner may apply to the High Court for an order to compel  
19 such disclosure. The High Court is hereby vested with  
20 exclusive jurisdiction to determine whether or not the person  
21 seeking such information is entitled to the information sought.  
22 The High Court may summarily order the general partner to  
23 permit the limited partner to obtain the information described  
24 in subsection (2)(a) of this section and to make copies or  
25 abstracts therefrom, or the High Court may summarily order  
26 the general partner to furnish to the limited partner the  
27 information described in subsection (2)(a) of this section on the  
28 condition that the limited partner first pay to the limited  
29 partnership the reasonable cost of obtaining and furnishing  
30 such information and on such other conditions as the High  
31 Court deems appropriate. When a limited partner seeks to  
32 obtain the information described in subsection (2)(a) of this  
33 section, the limited partner shall first establish (a) that the  
34 limited partner has complied with the provisions of this  
35 section respecting the form and manner of making demand for  
36 obtaining such information, and (b) that the information the  
37 limited partner seeks is reasonably related to the limited  
38 partner's interest as a limited partner. The High Court may, in

1 its discretion, prescribe any limitations or conditions with  
2 reference to the obtaining of information, or award such other  
3 or further relief as the High Court may deem just and proper.  
4 The High Court may order books, documents and records,  
5 pertinent extracts therefrom, or duly authenticated copies  
6 thereof, to be brought and kept in the Marshall Islands upon  
7 such terms and conditions as the order may prescribe.

- 8 (f) The rights of a limited partner to obtain information as  
9 provided in this section may be restricted in an original  
10 partnership agreement or in any subsequent amendment  
11 approved or adopted by all of the partners and in compliance  
12 with any applicable requirements of the partnership  
13 agreement. The provisions of this subsection shall not be  
14 construed to limit the ability to impose restrictions on the  
15 rights of a limited partner to obtain information by any other  
16 means permitted under this section.

17 **§105. Amendments to the Limited Liability Company Act.**

- 18 (1) Section 11 of the Republic of the Marshall Islands Limited Liability  
19 Company Act is hereby amended to read as follows:

20 §11. Cancellation of certificate.

21 A certificate of formation shall be cancelled upon the dissolution and  
22 completion of winding up of a limited liability company, or at any other  
23 time that there are no members, or as provided in section 5 or section  
24 22(1)(f) of this Act, or upon the filing of a certificate of merger or  
25 consolidation if the limited liability company is not the surviving or  
26 resulting entity in a merger or consolidation, or upon the conversion of a  
27 domestic limited liability company approved in accordance with section 80  
28 of this Act. A certificate of cancellation shall be filed in the Office of the  
29 Registrar of Corporations to accomplish the cancellation of a certificate of  
30 formation upon the dissolution and the completion of winding up of a  
31 limited liability company or at any other time there are no members or upon  
32 the conversion of a domestic limited liability company approved in  
33 accordance with section 80 of this Act and shall set forth:

- 34 (1) the name of the limited liability company;  
35 (2) the date of filing of its certificate of formation;

- 1 (3) the reason for filing a certificate of cancellation;
- 2 (4) the future effective date (which shall be a date or time certain) of
- 3 cancellation if it is not to be effective upon the filing of the certificate;
- 4 (5) in the case of the conversion of a domestic limited liability company,
- 5 the name of the entity to which the domestic limited liability
- 6 company has been converted; and, (6) any other information the
- 7 person filing the certificate of cancellation determines.
- 8 (2) Section 22 of the Republic of the Marshall Islands Limited Liability
- 9 Company Act is hereby amended to read as follows:

10 §22. Requirement for keeping accounting records, minutes, and records of

11 members; access to and confidentiality of information.

- 12 (1) Requirement for keeping accounting records, minutes, and records of
- 13 members.
- 14 (a) *Accounting records.* Every domestic limited liability company
- 15 shall keep reliable and complete accounting records, to include
- 16 correct and complete books and records of account.
- 17 Accounting records must be sufficient to correctly explain all
- 18 transactions, enable the financial position of the limited
- 19 liability company to be determined with reasonable accuracy
- 20 at any time, and allow financial statements to be prepared.
- 21 Additionally, every domestic limited liability company shall
- 22 keep underlying documentation for accounting records
- 23 maintained pursuant to this subsection, such as, but not
- 24 limited to, invoices and contracts, which shall reflect all sums
- 25 of money received and expended and the matters in respect of
- 26 which the receipt and expenditure takes place; all sales,
- 27 purchases, and other transactions; and the assets and liabilities
- 28 of the limited liability company. A resident domestic limited
- 29 liability company shall keep all accounting records and
- 30 underlying documentation as described in this subsection in
- 31 the Republic. Every non-resident domestic limited liability
- 32 company shall produce on demand all accounting records and
- 33 underlying documentation to the registered agent for non-
- 34 resident domestic entities in the Republic.
- 35 (b) *Minutes.* Every domestic limited liability company shall keep
- 36 minutes of all meetings of members, of actions taken on
- 37 consent by members, of all meetings of the managers, and of

1 actions taken on consent by managers. A resident domestic  
2 limited liability company shall keep such minutes in the  
3 Republic.

4 (c) *Records of members.* Every domestic limited liability company  
5 shall keep an up-to-date record containing the names and  
6 addresses of all members. A resident domestic limited liability  
7 company shall keep the records required to be maintained by  
8 this subsection in the Republic. Every non-resident domestic  
9 limited liability company shall produce on demand all records  
10 of members to the registered agent for non-resident domestic  
11 entities in the Republic.

12 (d) *Form of records.* Any records maintained by a limited liability  
13 company in the regular course of its business, including its  
14 record of members, books of account, and minute books, may  
15 be kept on, or be in the form of, punch cards, magnetic tape,  
16 photographs, microphotographs, or any other information  
17 storage device, provided that the records so kept can be  
18 converted into clearly legible written form within a reasonable  
19 time. Any limited liability company shall so convert any  
20 records so kept upon the request of any person entitled to  
21 inspect such records. When records are kept in such manner, a  
22 clearly legible written form produced from the cards, tapes,  
23 photographs, microphotographs, or other information storage  
24 device shall be admissible in evidence, and accepted for all  
25 other purposes, to the same extent as an original written  
26 record of the same information would have been, provided the  
27 written form accurately portrays the record.

28 (e) *Retention period.* All records required to be kept, retained, or  
29 maintained under this section shall be kept, retained, or  
30 maintained for a minimum of five (5) years.

31 (f) *Failure to maintain or produce records.* Any person who  
32 knowingly or recklessly fails to keep, retain, ~~and/or~~ maintain  
33 records as required under this section, or who fails to produce  
34 records within sixty (60) days upon demand under this  
35 section, or who keeps, retains, maintains, or produces false or  
36 misleading records, shall be liable to a fine not exceeding  
37 \$50,000, cancellation of the limited liability company's  
38 certificate of formation, or both.

1 (2) *Access to and confidentiality of information.*

2 (a) Each member of a limited liability company has the right,  
3 subject to such reasonable standards (including standards  
4 governing what information and documents are to be  
5 furnished at what time and location and at whose expense) as  
6 may be set forth in a limited liability company agreement or  
7 otherwise established by the manager or, if there is no  
8 manager, then by the members, to obtain from the limited  
9 liability company from time to time upon reasonable demand  
10 for any purpose reasonably related to the member's interest as  
11 a member of the limited liability company:

12 (i) true and full information regarding the status of the  
13 business and financial condition of the limited liability  
14 company;

15 (ii) a current list of the name and last known business,  
16 residence or mailing address of each member and  
17 manager;

18 (iii) a copy of any written limited liability company  
19 agreement and certificate of formation and  
20 amendments thereto, together with executed copies of  
21 any written powers of attorney pursuant to which the  
22 limited liability company agreement and any certificate  
23 and all amendments thereto have been executed;

24 (iv) true and full information regarding the amount of cash  
25 and a description and statement of the agreed value of  
26 any other property or services contributed by each  
27 member and which each member has agreed to  
28 contribute in the future, and the date on which each  
29 became a member; and

30 (v) other information regarding the affairs of the limited  
31 liability company as is just and reasonable.

32 (b) Each manager shall have the right to examine all of the  
33 information described in subsection (a) of this section for a  
34 purpose reasonably related to his position as a manager.

35 (c) The manager of a limited liability company shall have the right  
36 to keep confidential from the members, for each period of time  
37 as the manager deems reasonable, any information which the

1 manager reasonably believes to be in the nature of trade  
2 secrets or other information the disclosure of which the  
3 manager in good faith believes is not in the best interest of the  
4 limited liability company or could damage the limited liability  
5 company or its business or which the limited liability company  
6 is required by law or by agreement with a third party to keep  
7 confidential.

8 (d) A limited liability company may maintain its records in other  
9 than a written form if such form is capable of conversion into  
10 written form within a reasonable time.

11 (e) Any demand by a member under this section shall be in  
12 writing and shall state the purpose of such demand.

13 (f) Any action to enforce any right arising under this section shall  
14 be brought in the High Court of the Republic.

15 **§106. Effective Date.**

16 This Bill, and all Acts contained herein, shall take effect in accordance with  
17 the Constitution and the Rules of Procedures of the Nitijela.  
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1                   **NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**  
2                   **38TH CONSTITUTION REGULAR SESSION, 2017**

3                   **ASSOCIATIONS LAW (AMENDMENT) ACT 2017**

4                   **BILL SUMMARY**

5                   This Bill proposes to amend Title 52 of the Republic of the Marshall Islands Revised  
6                   Code to further develop the accounting, ownership, and other recordkeeping  
7                   requirements of the Business Corporations Act, Revised Partnership Act, Limited  
8                   Partnership Act, and Limited Liability Company Act in order to ensure that such  
9                   records are kept, that the keeping of such records is monitored and enforced, and  
                    that such records are produced as required under the international standard.

10                  As a member of the Organization for Economic Co-operation and Development  
11                  Global Forum, the Republic of the Marshall Islands (“RMI”) undergoes peer reviews  
12                  and is assigned a rating based on its compliance with the international standard of  
13                  transparency and exchange of information on request (“EOIR”). It has recently been  
14                  announced that EOIR peer review ratings will form a part of criteria for identifying  
15                  “non-cooperative jurisdictions” in new blacklists being developed by the G20 and  
16                  the European Union (“EU”).

17  
18                  The RMI’s latest EOIR peer review rating, published in November 2016, puts the  
19                  RMI at risk of being listed as a “non-cooperative jurisdiction.” However, the Global  
20                  Forum has developed a Fast-Track review process that the RMI may use to seek a  
21                  provisional upgrade of its rating and avoid blacklisting by the G20 and EU. To  
22                  show adequate progress to merit an upgrade, the Associations Law must be  
23                  amended.

24  
25                  The proposed amendments require non-resident domestic entities to produce certain  
26                  records to the Registered Agent for Non-Resident Domestic Entities upon demand,  
27                  require corporations to state in their articles of incorporation that the corporation  
28                  will comply with recordkeeping requirements, require corporations to maintain up-  
29                  to-date records of their beneficial owners, require non-resident domestic  
30                  corporations to make an annual attestation to the Registrar of Non-Resident  
31                  Domestic Corporations that records are being maintained as required, and clarify  
32                  the penalties for failing to meet these obligations. In addition, with regard to non-  
33                  resident domestic corporations, the amendments require the issuance and transfer of  
34                  bearer shares to be recorded with the Registered Agent for Non-Resident Domestic

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Entities, condition the validity of bearer shares on such recordation, and provide for the cancellation of such shares if required records are not maintained.

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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
38TH CONSTITUTION REGULAR SESSION, 2017

ASSOCIATIONS LAW (AMENDMENT) ACT 2017

SIGNATURES

DATE: 2-7-17 INTRODUCED BY BRENSON S. WASE [Signature]  
*Print Name* *Signature*

DATE: \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_  
*Print Name* *Signature*