



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

DECENTRALIZED AUTONOMOUS ORGANIZATION (AMENDMENT) ACT, 2023

Introduced by:

SENATOR DAVID PAUL

Approved:

SPEAKER KENNETH A KEDI

SIGNATURE

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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTION REGULAR SESSION, 2023**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

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(AMENDMENT) ACT, 2023**

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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTION REGULAR SESSION, 2023



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**DECENTRALIZED AUTONOMOUS ORGANIZATION
(AMENDMENT) ACT, 2023**

A BILL FOR AN ACT to amend Title 52, Chapter 7 of the MIRC (Decentralized Autonomous Organization (DAO)(Amendment) Act, 2022), in order to clarify the management of and requirements for decentralized autonomous organizations.

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

§101. Short title.

This Act may be cited as the Decentralized Autonomous Organization (Amendment) Act, 2023.

§102. Amendments.

(1) *Section 102 of the Republic of the Marshall Islands Decentralized Autonomous Organization (Amendment) Act, 2023 is hereby amended to amend subsections (c), (d), (e), (f), (i), and (m) and add new subsections (n), (o), (p), (q), (r), (s) and (t) as follows:*

§102. Definitions.

(c) "Decentralized autonomous organization" or "DAO" means a resident domestic limited liability company organized under this chapter and may be deemed as doing business in the Republic as defined in the Business Corporations Act, 52 MIRC §2(q) or not doing business in the Republic as defined herein.

- 1
- 2 (d) "Digital asset" means a representation of economic, proprietary
- 3 or access rights that is stored in a computer readable format and
- 4 is either a digital consumer asset, digital security or virtual
- 5 currency asset;
- 6 (e) "Digital consumer asset" means a digital asset which does not
- 7 qualify as "digital security" or "virtual asset" as defined herein
- 8 that is used or bought primarily for consumptive, personal or
- 9 household purposes and may include: (A) (i) a blockchain
- 10 token constituting intangible personal property as otherwise
- 11 provided by law; which represents that a person is a Member of
- 12 a DAO LLC incorporated under this chapter; or (B) (ii) a
- 13 blockchain token constituting exclusive rights to deal with that
- 14 token which may amount to intangible personal property under
- 15 laws of the Republic; Any other digital asset which does not
- 16 qualify as "digital security" or "virtual currency" as defined
- 17 herein;
- 18 (f) "Digital security" means a digital asset which constitutes a
- 19 security, as defined in the Securities and Investments Act, Title
- 20 36 MIRC Chapter 1 §102(d), but shall exclude digital consumer
- 21 assets and virtual currency assets as defined herein;
- 22 (i) "Membership interest" means in the case of a for-profit DAO
- 23 LLC a member's ownership or financial right in a decentralized
- 24 autonomous organization, which may be represented by a
- 25 digital consumer asset as defined herein or a governance token,
- 26 and which may be determined by the organization's certificate
- 27 of formation or limited liability company agreement or
- 28 ascertainable from a blockchain or smart contracts on which the
- 29 organization relies to determine a member's interest; and in the
- 30 case of a non-profit DAO LLC, a membership interest is a voting
- 31 or governance right and not an ownership or financial right. a
- 32 member's ownership right in a decentralized autonomous
- 33 organization, which may be determined by the organization's
- 34 certificate of formation or limited liability company agreement
- 35 or ascertainable from a blockchain or smart contracts on which
- 36 the organization relies to determine a member's ownership
- 37 right;

1 (m) "Virtual asset" shall have the same meaning as provided in
2 Section 102 (hh) of the Banking Act 1987.

3 ~~(m) "Virtual currency" means a digital asset that is used as a~~
4 ~~medium of exchange, unit of account or store of value.~~

5 (n) "Not doing business in the Republic" shall mean not carrying
6 on business or conducting transactions in the Republic. A DAO
7 LLC shall not be deemed to be doing business in the Republic
8 merely because it engages in one or more or all of the activities
9 set forth in the Business Corporations Act, 52 MIRC §2(q)(i)-(xi).
10 A DAO LLC shall not be deemed to be doing business in the
11 Republic solely by being registered in the Republic. A person or
12 entity shall not be deemed to be doing business in the Republic
13 solely by reason of being a member or manager of a DAO LLC.

14 (o) "Gross revenue" shall have the same meaning as found in the
15 Income Tax Act 1989 which excludes dividends and capital
16 gains.

17 (p) "Non-fungible token" or "NFT" means a digital asset that has
18 been tokenized via a blockchain and assigned unique
19 identification codes and metadata to distinguish them from
20 other tokens.

21 (q) "Official online venue or venues" of the DAO LLC mean the
22 official places where members convene to participate in
23 activities of the DAO LLC, where the internet address or
24 addresses of those official online places are publicly available.

25 (r) "Registered agent" means MIDAO Directory Services, Inc., PMB
26 852, Long Island Rd, Majuro, Marshall Islands MH 96960.

27 (s) "Beneficial member" means any member of the DAO LLC who
28 directly or indirectly holds 25% or more of membership
29 interests or voting rights in the DAO; and where no member
30 holds 25% or more of membership interests, then the beneficial
31 member is the person or persons who have actual, effective or
32 sufficient responsibility or control.

33 (t) "Representative agent" means a designated agent and point of
34 contact for a DAO LLC to receive correspondence and
35 communicate with the registered agent and Registrar, where
36 one or more electronic or physical means of delivery of the

correspondence and communication are publicly available on the DAO LLC’s official online venue or venues.

(2) *Section §103 of the Marshall Islands Decentralized Autonomous Organization Act of 2022 is hereby amended to change the heading and add the subsections (1)-(4) as follows:*

§103. Application of ~~Limited Liability Company~~ Other Acts.

(1) **Limited Liability Company Act.**

- (a) The Limited Liability Company Act, Title 52 MIRC Chapter 4, applies to decentralized autonomous organizations to the extent not inconsistent with the provisions of this Chapter.
- (b) This Chapter does not repeal or modify any statute or rule of law that applies to a limited liability company that is organized under the Limited Liability Company Act that does not elect to become a decentralized autonomous organization.
- (c) A DAO LLC may have series pursuant to §79 (Series of members, managers of limited liability company interest) of the Limited Liability Company Act. There shall be no additional reporting requirements for individual series within a DAO LLC beyond the requirements for the DAO LLC itself as set forth in §112 of this Act.

(2) **Securities and Investment Act.**

- (a) To the extent that a DAO LLC is not, directly or indirectly, issuing, selling, exchanging or transferring any digital securities as defined in Section 102 of the Securities and Investment Act to residents of the Republic, the provisions of the Securities and Investment Act shall not apply to DAO LLCs.
- (b) Notwithstanding any other provision of this Act or any other law, all digital assets including non-fungible tokens issued, sold or transferred by a non-profit DAO LLC to its members or in advancing its non-profit purpose shall

1 not be deemed a digital security under this Act (or a
2 security under the Securities and Investment Act).

3 (c) Regulation by foreign authorities. Every DAO LLC not
4 doing business in the Republic shall be regulated by the
5 relevant authorities in the jurisdiction(s) in which the
6 DAO LLC carries out its business activities.

7 (d) Notwithstanding any other provision of this Act or any
8 other law, a governance token shall not be deemed a
9 security as defined in the Securities and Investment Act.

10 (3) Income Tax Act 1989.

11 (a) DAOs not doing business in the Republic and the
12 persons or entities doing business with them are not
13 subject to the provisions of the Income Tax Act, except
14 that DAOs that elect for-profit status are subject to §109
15 and §110 and shall pay a tax on gross revenue as defined
16 in the Income Tax Act.

17 (b) Every for-profit DAO shall be required to file a gross
18 revenue tax return annually along with its annual
19 registration renewal and shall pay, based on its gross
20 revenue the amount of tax imposed pursuant to §109 of
21 the Income Tax Act to the Secretary of Finance. The
22 Secretary of Finance, for good cause, may extend the time
23 for making payments and returns.

24 (c) Regulation by foreign authorities. Every DAO LLC not
25 doing business within the Republic shall be regulated by
26 the relevant authorities in the jurisdiction(s) in which the
27 DAO carries out its business activities.

28 (4) Banking Act of 1987.

29 No DAO LLC shall be considered a virtual asset service
30 provider as defined in the Banking Act of 1987, as amended,
31 unless it conducts any of the following activities or operations
32 for or on behalf of another natural or legal person:

33 (i) exchange between virtual assets and fiat currencies;

34 (ii) exchange between one or more forms of virtual assets;

35 (iii) transfer of virtual assets (i.e., conducting a transaction on
36 behalf of another natural or legal person that moves a

virtual asset from one virtual asset address or account to another);

(iv) safe keeping and/or administration of virtual assets or instruments enabling control over virtual assets; and

(v) participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

(3) *Section 105 of the Marshall Islands Decentralized Autonomous Organization Act of 2022 is hereby amended to amend subsections (2) and (3), move language about non-profit DAO LLCs in the original subsection (3) to a new subsection (4) and add subsection (5) as follows:*

§105. Formation

(2) ~~Each decentralized autonomous organization DAO LLC shall have and continuously maintain in the Republic the registered agent as defined herein upon whom process against a DAO LLC or any notice or demand required or permitted by law to be served may be served. if they had a place of business in the Republic as provided in the Limited Liability Act, 52 MIRC Chapter 4§5~~

(3) ~~A decentralized autonomous organization DAO LLC may form and operate for any lawful purpose, regardless of whether for profit. A decentralized autonomous organization may register as a non-profit entity pursuant to the Non-Profit Entities Act, 2020, Title 18 MIRC Chapter 2, so long as the decentralized autonomous organization engages in non-profit activity under Section 106 of the Non-Profit Entities Act 2020. The formation document and limited liability agreement may state that the purpose of the DAO LLC is to engage in any lawful act or activity for which DAO LLCs may now or hereafter be organized under this Act. The formation documents shall specify that the registered address of a DAO LLC in the Marshall Islands is MIDAO Directory Services, Inc., PMB 852, Long Island Rd, Majuro, Marshall Islands MH 96960. The name of a DAO LLC's registered agent at such address is MIDAO Directory Services, Inc.~~

- 1 (4) A DAO LLC may register as a non-profit entity pursuant to the
2 Non-Profit Entities Act, 2020, Title 18 MIRC Chapter 2, so long
3 as the decentralized autonomous organization engages in non-
4 profit activity under Section 106 of the Non-Profit Entities Act
5 2020. The provisions of this Act shall prevail in the event of
6 any conflict with the Non-Profit Entities Act, 2020.
- 7 (4) Formation of a DAO LLC that is in compliance with this Act
8 shall be approved and registered within 30 days of the initial
9 application.

- 10
- 11 (4) *Section 111 of the Marshall Islands Decentralized Autonomous Organization*
12 *Act of 2022 is hereby amended to amend the title and incorporate the original*
13 *language into new subsections (1)-(5) as follows:*

14

15 **§111. Recordkeeping, right to information, signatures, retention**
16 **period**

17 ~~Members and dissociated members shall have no right under~~
18 ~~the Limited Liability Company Act, 52 MIRC Chapter 4 Section~~
19 ~~22(2) to separately inspect or copy records of a decentralized~~
20 ~~autonomous organization and the organization shall have no~~
21 ~~obligation to furnish any information to members or~~
22 ~~disassociated members concerning the organization's activities,~~
23 ~~financial condition or other circumstances to the extent the~~
24 ~~information is available on a distributed ledger.~~

- 25 (1) Recordkeeping and Retention. Notwithstanding §22(1) of the
26 Limited Liability Company Act, as long as actions,
27 transactions, voting, and decisions of a DAO LLC take place
28 on a distributed ledger, and where human readable
29 explanations of those actions, transactions, voting and
30 decisions are publicly available for a period of three(3) years
31 after the date the decentralized autonomous organization is
32 dissolved, there shall be no separate requirement to keep
33 books of accounts and meeting minutes.
- 34 (2) Record in Writing. A requirement for a record to be in writing
35 is satisfied where the details of a blockchain transaction are
36 recorded in electronic form only and where the transaction has
37 been authorised by a person's cryptographic signature.

(3) A company agreement may be composed in computer readable format and maintained on blockchain or distributed ledger technology in full or in part if the record of the agreement is capable of being retained for the record-keeping period stipulated under law and accurately reproduced for later reference.

(4) Right to Information. No one shall have the right under the Limited Liability Company Act, 52 MIRC Chapter 4, §22(2) to demand to separately inspect or copy records of a DAO LLC and the organization shall have no obligation to furnish any information to anyone concerning the organization's activities, financial condition or other circumstances to the extent the information is publicly available on a distributed ledger.

(5) A requirement for a person's wet or electronic signature is satisfied by the cryptographic signature recorded when a person, with the proper authority and rights, signs or approves a blockchain transaction.

(5) *Section 112 of the Marshall Islands Decentralized Autonomous Organization Act of 2022 is hereby amended to change the heading "Beneficial Owner Information Report" to "Beneficial Member Information Report" and all references to "beneficial owner" to "beneficial member," delete subsection (4) and replace it with the original language of subsection (5), and add new subsection (5) as follows:*

§112. ~~Beneficial Owner~~ Member Information Report

(1) Each decentralized autonomous organization shall submit to the Registrar a report that contains the information described in subsection (2) of this section at the following times:

- (a) at the time of formation; and
- (b) at the time of each annual report.

(2) A report delivered under in subsection (1) of this section shall identify each ~~beneficial owner~~ member of the applicable decentralized autonomous organization and each person applying to form the decentralized autonomous organization by:

- (a) full legal name;

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- (b) date of birth;
- (c) residential or business street address, current as of the date the report is delivered;
- (d) unique identifying number from a nonexpired passport; and
- (e) address(es) and blockchain(s) of all wallets associated with the decentralized autonomous organization held by said beneficial owner or person.

(3) Beneficial ~~ownership~~ member information required under subsection (2) of this section relating to each decentralized autonomous organization shall be maintained by the Registrar for at least ~~5~~ 3 years after the date the decentralized autonomous organization is dissolved.

~~(4) For the purpose of this Chapter, "beneficial owner" shall have the same meaning as defined in the Limited Liability Act, 52 MIRC Chapter 4, §22(1)(c)(v).~~

~~(4)~~(5) It shall be unlawful for any person to: (a) wilfully provide, or attempt to provide, false or fraudulent beneficial ~~ownership~~ member information, including a false or fraudulent identifying photograph or document, to the Registrar pursuant to subsection (2) of this section; or (b) wilfully fail to report complete or updated beneficial ownership information to the Registrar in accordance with subsection (2) of this section. Any person that violates this subsection: (i) shall be liable to pay a civil penalty of not more than \$500 for each day that the violation continues or has not been remedied; and (ii) may be fined not more than \$10,000, imprisoned for not more than 2 years, or both.

~~(5)~~ Foreign Investment Business License not required. If the DAO LLC is not doing business in the Republic, then the Beneficial Member Information Report (BMIR) shall be the only report required to be submitted containing the reports and verification documents of members to whom this subclause applies as required by this section. In such a case where the DAO LLC is not doing business in the Republic, the DAO LLC shall not be required to obtain a Foreign Investment Business

License and the Foreign Investment Business License Act shall not apply.

(6) *Section 114(3) of the Marshall Islands Decentralized Autonomous Organization Act of 2022 is hereby amended as follows:*

§114. Dissolution

(3) After using best efforts in good faith to remediate the consequences of any of the events specified in subsection (1) of this section, Any interested party may petition a court of competent jurisdiction for dissolution of a decentralized autonomous organization once that interested party determines further efforts are futile, and upon the court finding the occurrence of one (1) or more of the events specified in subsection (1) of this section and that further efforts would be futile, the court shall enter an order dissolving the decentralized autonomous organization.

(7) *Section 115 of the Marshall Islands Decentralized Autonomous Organization Act of 2022 is hereby amended to add a subsection (a) that contains the original language and new subsection (b) as follows:*

§115 Miscellaneous.

(1) The certificate of formation, limited liability company agreement, and smart contracts of a decentralized autonomous organization are effective as statements of authority. Where the underlying certificate of formation or limited liability company agreement and smart contract are in conflict, the certificate of formation or limited liability company agreement shall preempt any conflicting provisions of the smart contract.

(2) Nature of business permitted; powers. A DAO LLC may carry on any lawful business, purpose or activity. DAO LLCs are permitted to use a blockchain as defined herein and crypto currencies. No DAO LLC shall be deemed a virtual asset service provider as defined in the Banking Act merely because

1 it uses a blockchain or crypto currencies. If a DAO LLC is a
2 virtual asset service provider as defined in the Banking Act, it
3 shall comply with the provisions of the Banking Act. DAO
4 LLCs are permitted to create open source software, which is
5 then used by other people on a blockchain independent of the
6 DAO LLC's involvement. DAO LLCs are permitted to
7 organize and support the community of people engaged in an
8 activity, where the activity is not actually conducted by the
9 DAOLLC.

10
11 (8) *Section 117 of the Marshall Islands Decentralized Autonomous Organization*
12 *Act of 2022 is hereby amended as follows:*
13

14 **§117 Regulations and Forms.**

15 Subject to the Marshall Islands Administrative Procedure Act 1979,
16 the Registrar shall ~~have the authority to~~ promulgate regulations and
17 issue new forms that relate specifically to DAO LLCs, including the
18 annual filing form and charter form. Where the promulgated
19 regulations are in conflict with the Decentralized Autonomous
20 Organization Act of 2022, as amended, the Act shall preempt any
21 conflicting provisions of the regulations.
22

23 **§103. Effective Date.**

24 This Act shall take effect on the date of certification in accordance with the
25 relevant provisions of the Constitution of the Republic of the Marshall
26 Islands and the Rules of Procedure of the Nitijela.
27

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTION REGULAR SESSION, 2023

DECENTRALIZED AUTONOMOUS ORGANIZATION
(AMENDMENT) ACT, 2023

BILL SUMMARY

This Bill proposes to amend the Decentralize Autonomous Organization (DAO) Act of 2022 to clarify several issues and correct some misunderstandings and perceptions regarding DAOs as a relatively new legal form of organization in the law, and how DAOs should work in the Marshall Islands. The amendments clarify definitions, requirements, management, procedures, application of the law, and applicability of other laws in relation to DAO LLCs so that the MIDAO registry may become a leader in DAO registrations worldwide. Below is an explanation of the main amendments to the Bill.

The Bill clarifies that DAO LLCs are not “doing business in the Republic” according to existing RMI statutes. Therefore, they are not subject to the FIBL Act. However, DAO LLCs currently are being required to apply for a FIBL. This amendment defines “not doing business in” based on existing RMI statutes and clarifies that DAO LLCs are not subject to the FIBL Act, which only applies to foreign entities “doing business in the Republic.”

In place of the FIBL, the amendment requires a Beneficial Member Information Report (BMIR) requiring the same fee amount and information as the FIBL process regarding background checks and approvals.

The Banking Act as amended has a section defining “virtual asset service provider” or VASP. If a DAO LLC would like to operate as a VASP, it would have to request a license from the Banking Commissioner. However, such licenses currently are not being issued to anyone. Today DAO LLCs are sometimes classified as VASPs merely because they use digital assets and even though they are not providing financial services and do not fit under the legal definition of VASP. This amendment sets forth that the language of the law applies and requires that DAO LLCs be designated as such only if they fit the specific definition.

This amendment enables and requires government officials to separate the treatment of a DAO LLC from the people who use its software and from what its members do outside of their activity with the company.

1 This amendment also provides that new and more relevant forms can be developed
2 and used by the Registrar that are relevant and appropriate for DAOs.

3 DAO LLCs often have no Managers, and so it is important to have a legal
4 representative for each one that can be their point person for official matters. This is
5 similar in practice to what is done in the non-resident registry. A point person at an
6 official "address of record" as provided upon incorporation communicates with IRI
7 on behalf of the company. Therefore, we included the role of "Representative
8 Agent" in the amendment.

9 Many potential DAO LLC applicants are confused about MIDAO vs IRI, so this
10 amendment confirms that MIDAO is the registered agent for DAOs. It is included
11 the same way that The Trust Company of the Marshall Islands, Inc. is included in the
12 Business Corporations Act as the registered agent for non-residents.

13 DAO LLCs are allowed by the existing LLC Act, which is modeled after Delaware
14 Law in the United States, to create Series LLCs, and there is no additional reporting
15 requirement placed on a LLC for each Series. However, today Series are required to
16 report additional information not required by law. This amendment makes it clear
17 that these Series will not be subject to additional reporting requirements.

18 RMI securities laws apply only to selling securities "in the Republic" (like securities
19 laws in most of the world), and only if they meet the legal definition of what makes
20 a security. This amendment makes it clear that just by virtue of being a DAO LLC
21 registered in the RMI, that does not mean you are "selling in the Republic."

22 The amendment also clarifies that governance tokens representing voting rights in
23 Non-profit DAO LLCs are not securities by default, since they do not represent any
24 economic rights but only governance rights.

25 There are conflicting and sometimes confusing recordkeeping requirements from the
26 LLC Act, FIBL Act (which would be removed by this amendment) and other laws.
27 This amendment clarifies that as long as the DAO LLCs are keeping full records of
28 their activity on open, public blockchains, there is no other recordkeeping
29 requirement.

30 The amendment sets forth that a DAO LLC may form and operate for any lawful
31 purpose, regardless of whether for profit. Further, it provides that the formation
32 document and limited liability agreement may state that the purpose of the DAO
33 LLC is to engage in any lawful act or activity. The formation documents must also
34 specify that the registered agent is MIDAO Directory Services, Inc. at its address in
35 Majuro.

36 The amendment provides a required timeframe of within 30 days of the initial
37 application in which a DAO LLC that is in compliance with this Act must be

1 approved and registered. This is important to be competitive with other
2 jurisdictions that are registering DAOs.
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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
44TH CONSTITUTION REGULAR SESSION, 2023

DECENTRALIZED AUTONOMOUS ORGANIZATION
(AMENDMENT) ACT, 2023

SIGNATURES

DATE: _____ INTRODUCED BY Joe Bejang [Signature]
Print Name Signature

DATE: _____ INTRODUCED BY DAVID PAM [Signature]
Print Name Signature

DATE: _____ INTRODUCED BY Wesley Zachras [Signature]
Print Name Signature

DATE: _____ INTRODUCED BY Andrew W. Heine _____
Print Name Signature

DATE: _____ INTRODUCED BY [Signature] [Signature]
Print Name Signature