

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



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

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

Index

Section	Page
§101. Short title.....	3
§102. Amendments.....	3
§103. Effective Date.....	11

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



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

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

AN ACT to amend Title 52, Chapter 7 of the MIRC (Decentralized Autonomous Organization (DAO) 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 Decentralized Autonomous Organization Act, 2022 is hereby amended to amend subsections (d), (e), (f), (i), and (m) and add new subsections (n), (o), (p), (q), (r), and (s) as follows:*

§102. Definitions.

- (d) "Digital asset" means a representation of economic, proprietary or access rights that is stored in a computer readable format and is either a digital consumer asset, digital security or virtual asset;
- (e) "Digital consumer asset" means a digital asset which does not qualify as a "digital security" or "virtual asset" as defined herein

that is used or bought primarily for consumptive, personal or household purposes and may include: (i) a “blockchain token” which represents that a person is a Member of a DAO LLC incorporated under this Chapter; or (ii) a blockchain token constituting exclusive rights to deal with that token which may amount to intangible personal property under the laws of the Republic;

- (f) “Digital security” means a digital asset which constitutes a security, as defined in the *Securities and Investments Act* but shall exclude digital consumer assets and virtual assets as defined herein;
- (i) “Membership interest” means in the case of a for-profit DAO LLC a member’s ownership or financial right in a decentralized autonomous organization, which may be represented by a digital consumer asset as defined herein or a governance token, and which may be determined by the organization’s Certificate of Formation or limited liability company agreement or ascertainable from a blockchain or smart contracts on which the organization relies to determine a member’s interest; and in the case of a non-profit DAO LLC, a membership interest is a voting or governance right and not an ownership or financial right;
- (m) “Virtual asset” shall have the same meaning as provided in Section 102 (hh) of the *Banking Act 1987*;
- (n) “Gross revenue” shall have the same meaning as found in the *Income Tax Act 1989* which excludes dividends and capital gains.
- (o) “Non-fungible token” or “NFT” means a digital asset that has been tokenized via a blockchain and assigned unique identification codes and metadata to distinguish them from other tokens;
- (p) “Official online venue or venues” of the DAO LLC means the official places where members convene to participate in activities of the DAO LLC, where the internet address or addresses of those official online places are publicly available;
- (q) “Registered agent” shall be defined in the regulations promulgated under this Chapter;

- (r) “Beneficial owner” shall have the same meaning pursuant to Section 22(1)(c)(v) of the *Limited Liability Act of 1996*. In the case of a non-profit DAO LLC, the beneficial owners have responsibility and voting rights but do not have an ownership interest or economic rights;
 - (s) “Representative agent” shall be defined in the regulations promulgated under this Chapter.
- (2) Section §103 of *Decentralized Autonomous Organization Act, 2022* is hereby amended to change the heading and add the subsections (1)-(4) as follows:

§103. Application of Other Acts.

(1) *Limited Liability Company Act of 1996.*

- (a) The *Limited Liability Company Act of 1996* applies to DAO LLC’s 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 of 1996* that does not elect to become a DAO LLC.
- (c) A DAO LLC may have series pursuant to Section 79 (Series of members, managers of limited liability company interest) of the *Limited Liability Company Act of 1996*. 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 Section 112 of this Chapter.

(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 not be deemed a digital security under this Act (or a security under the Securities and Investment Act).
 - (c) Notwithstanding any other provision of this Act or any other law, a governance token conferring no economic rights shall not be deemed a security as defined in the *Securities and Investment Act*.
- (3) *Income Tax Act 1989.*
- (a) DAO LLCs and the persons or entities doing business with them are not subject to the provisions of the Income Tax Act, except that DAOs that elect for-profit status are subject to §109 and §110 and shall pay a tax on gross revenue as defined herein.
 - (b) Every DAO LLC shall be required to file a gross revenue tax return annually along with its annual registration renewal and shall pay, based on its gross revenue the amount of tax imposed pursuant to Section 109 of the Income Tax Act 1989 to the Secretary of Finance. The Secretary of Finance, for good cause, may extend the time for making payments and returns.
- (4) *Foreign Investment Business License Act of 1990*
- (a) Section 207A and Section 205(2)(d), (f), (g) and (h) shall not apply to a DAO LLC.
 - (b) The application referred to in Section 205 of the Foreign Investment Business License Act shall require the names and other information of beneficial owners or other members that have 25% or more governance rights in DAO LLCs but shall not require any information about other members.

- (3) *Section 105 of the Decentralized Autonomous Organization Act, 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) The existence of a DAO LLC begins upon filing of the Certificate of Formation. A 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.
- (3) A DAO LLC shall form and operate for any lawful purpose, regardless of whether for profit. The Certificate of Formation and limited liability agreement shall 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 Certificate of Formation shall specify that the registered address of a DAO LLC is that of the registered agent's pursuant to regulations promulgated under this Chapter.
- (4) A DAO LLC may register as a non-profit entity pursuant to the Non-Profit Entities Act, 2020, so long as the DAO LLC engages in non-profit activity under Section 106 of the Non-Profit Entities Act, 2020.
- (5) Formation of a DAO LLC that is in compliance with this Act shall be approved and registered within 30 days of the initial application.
- (4) *Section 111 of the Decentralized Autonomous Organization Act, 2022 is hereby amended to amend the title and incorporate the original language into new subsections (1)-(5) as follows:*

§111. Recordkeeping, right to information, signatures, retention period

- (1) Recordkeeping and Retention. Notwithstanding Section 22(1) of the *Limited Liability Company Act of 1996*, as long as actions, transactions, voting, and decisions of a DAO LLC take place on a distributed ledger, and where human readable explanations of those actions, transactions, voting and decisions are publicly available for a period of five (5) years after the date the DAO LLC is dissolved, there shall be no separate requirement to keep books of accounts and meeting minutes.
 - (2) Record in Writing. A requirement for a record to be in writing is satisfied where the details of a blockchain transaction are recorded in electronic form only and where the transaction has 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. Except for relevant government officials with reasonable grounds to investigate a violation of the laws of the Republic, no one shall have the right under the *Limited Liability Company Act of 1996*, 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 Decentralized Autonomous Organization Act, 2022 is hereby amended and the original subsection (4) is deleted and replaced with amended language from the original subsection (5) as follows:"*

§112. Beneficial Owner Information Report

- (1) Each DAO LLC 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 pursuant to subsection (1) of this section shall identify each beneficial owner of the applicable DAO LLC by:
 - (a) full legal name;
 - (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 information required under subsection (2) of this section relating to each DAO LLC shall be maintained by the Registrar for at least 5 years after the date the DAO LLC is dissolved.
- (4) It shall be unlawful for any person to: (a) wilfully provide, or attempt to provide, false or fraudulent beneficial ownership 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.
- (6) *Section 114(3) of the Decentralized Autonomous Organization Act, 2022 is hereby amended as follows:*

§114. Dissolution

- (3) Any interested party may petition a court of competent jurisdiction for dissolution of a DAO LLC 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 DAO LLC.

- (7) *Section 115 of the Decentralized Autonomous Organization Act, 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 DAO LLC 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 pre-empt any conflicting provisions of the smart contract.
- (2) Nature of business permitted; powers. A DAO LLC shall carry on any lawful business, purpose or activity. DAO LLCs are permitted to use a blockchain as defined herein and cryptocurrencies. If a DAO LLC is a virtual asset service provider as defined in the *Banking Act 1987*, it shall comply with the provisions thereunder. DAO LLCs are permitted to create open-source software, which is then used by other people on a blockchain independent of the DAO LLC's involvement.

- (8) *Section 117 of the Decentralized Autonomous Organization Act, 2022 is hereby amended as follows:*

§117 Regulations and Forms.

Subject to the *Marshall Islands Administrative Procedure Act 1979*, the Registrar shall promulgate regulations and issue new forms that relate specifically to DAO LLCs, including the annual filing form, charter and Certificate of Formation.

(9) Section 117A is hereby added to the Decentralized Autonomous Organization Act of 2022 as follows:

§117A. Sanctions for Violations.

(1) Sanctions for violation of this Chapter shall be made pursuant to regulations promulgated hereunder.

§103. Effective Date.

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

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 109ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 22nd day of September 2023; and
2. That I am satisfied that Nitijela Bill No: 109ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 25th day of October 2023.



Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:



Carl Alik
Assistant Clerk
Nitijela of the Marshall Islands