

The Republic of the Marshall Islands

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Marshall Islands	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Not on EU White list equivalent jurisdictions Offshore Finance Centre Compliance of OECD Global Forum's information exchange standard
Medium Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering Assessment Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p>Major Investment Areas:</p> <p>Agriculture - products: coconuts, tomatoes, melons, taro, breadfruit, fruits; pigs, chickens</p> <p>Industries: copra, tuna processing, tourism, craft items (from seashells, wood, and pearls)</p> <p>Exports - commodities: copra cake, coconut oil, handicrafts, fish</p> <p>Imports - commodities: foodstuffs, machinery and equipment, fuels, beverages, tobacco</p>	
<p>Investment Restrictions:</p> <p>The Government of the Marshall Islands encourages foreign investment and recognizes its important role in encouraging private sector development. The government particularly encourages foreign investment in fisheries, tourism, and light manufacturing and provides certain investment incentives for foreign investors.</p>	

Officially, foreign investment is prohibited in the following business ventures:

- Small scale agriculture and marine culture for local markets
- Bakeries and pastry shops
- Motor garages and fuel filling stations
- Land Taxi Operations, not including airport taxis used by hotels
- Rental of all types of motor vehicles
- Small retail shops with a quarterly turnover of less than US\$1,000 (including mobile retail shops and/or open-air vendors/take-outs)
- Laundromat and dry cleaning, other than service provided by hotels/motels
- Tailor/sewing shop
- Video rental
- Handicraft shop
- Delicatessen, Deli Shop, or Food take-out

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Section 1 - Background

After almost four decades under US administration as the easternmost part of the UN Trust Territory of the Pacific Islands, the Marshall Islands attained independence in 1986 under a Compact of Free Association. Compensation claims continue as a result of US nuclear testing on some of the atolls between 1947 and 1962. The Marshall Islands hosts the US Army Kwajalein Atoll (USAKA) Reagan Missile Test Site, a key installation in the US missile defense network.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

The Republic of the Marshall Islands is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in The Republic of the Marshall Islands was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, The Republic of the Marshall Islands was deemed Compliant for 5 and Largely Compliant for 16 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

The RMI has a very limited financial sector with total banking sector assets estimated at US\$133 million in May 2010. There are two AML/CFT supervised commercial banks that dominate the financial sector in the RMI. Financial institutions and cash dealers are regulated for AML/CFT except for a few informal providers.

Money laundering (ML) and financing of terrorism (FT) vulnerabilities in the RMI derive mainly from its offshore company registration sector. The corporate anonymity afforded by companies registered in the RMI represents significant ML/FT vulnerabilities. There is no mandatory requirement for legal persons to provide information either on the legal or beneficial ownership of shareholders, and there is no supervision of company formation service providers based offshore.

The Banking Commission is the lead agency for AML/CFT in the RMI. The Banking Act provides a range of statutory powers to the Banking Commissioner, including those of a financial intelligence unit (FIU), as a prudential regulator of licensed banks, and as an AML/CFT supervisor of financial institutions and cash dealers.

Overall, the RMI has implemented reasonably sound measures concerning ML/FT criminalization, confiscation and international co- operation, and the preventive measures for the financial sectors, but technical and implementation deficiencies remain. There are deficiencies in the following: elements of the ML and FT offences; mechanisms for freezing FT funds without delay and domestic designation; controls on movement of cash across borders; supervision of non-bank financial institutions and cash dealers; and implementation

of the FATF standards amongst the designated non- financial businesses and professions (DNFBPs), in particular company service providers.

There has been no prosecution or conviction for ML and FT. Opportunities for possible ML prosecution were not pursued either due to lack of resources or expertise, and the view (by some authorities) that ML is more of an international rather than a domestic concern. The authorities consider terrorism and FT as very low risk, and there has never been a case of either event.

The main DNFBP sector is the offshore company formation services sector which is not yet included in the AML/CFT regime. Accountants, lawyers and other company service providers based in foreign jurisdictions submit applications for company formations to the RMI's offshore company registry.

Key recommendations made to the RMI include:

- address remaining legal deficiencies in the ML and FT offences;
- use available powers to investigate and prosecute the ML offence;
- provide mechanisms/procedures for freezing terrorist property without delay and for domestic designation;
- undertake further enhancements to DFIU functions;
- rectify deficiencies in the Currency Declaration Act 2009;
- take further steps to ensure all entities are aware of their obligations under the revised AML/CFT Regulations
- undertake supervision (on and off-site) to confirm implementation;
- rectify technical deficiencies in the revised AML/CFT Regulations;
- introduce AML/CFT requirements for DNFBPs with a focus on enhancing supervision of company formation service providers based offshore;
- amend relevant statutes to include mandatory information on beneficial ownership and to prevent the misuse of bearer shares; and
- address remaining deficiencies in the MLA framework.

US Department of State Money Laundering assessment (INCSR)

The Republic of the Marshall Islands was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

The Republic of the Marshall Islands (RMI) consists of 29 atolls and five islands, covering 70 square miles of land, spread across 750,000 square miles of ocean. The country is economically underdeveloped and has limited resources for private sector development. The RMI signed a Compact of Free Association with the United States in 1986, and relies on the United States for the majority of its economic support. Although the Marshall Islands accounts for less than one percent of the global market for offshore financial services,

making it a tiny player compared with other secrecy jurisdictions, the RMI offshore corporate sector is vulnerable to money laundering.

There are two banks in the country, the Bank of the Marshall Islands and a branch office of the Bank of Guam. There are no brokerage houses or other types of financial firms in the country.

Land is almost never sold due to customary land tenure practices. There are no realtors, nor are there casinos or other entities typically used to launder money. Domestic crime is low, but an analysis of suspicious transaction reports suggests tax evasion, smuggling, prostitution, embezzlement, counterfeit financial instruments, check fraud, and narcotics trafficking on the islands could be predicate offenses for money laundering.

Non-resident domestic corporations (NRDCs), the equivalent of international business companies, can be formed online subject to approval by the Registrar. Marketers of offshore services via the internet promote the Marshall Islands as a favored jurisdiction for establishing NRDCs and handle the incorporation process for applicants. A number of Marshall Islands NRDCs have gone public on exchanges in the U.S. and Europe. NRDCs are allowed to offer bearer shares. Corporate officers, directors, and shareholders may be of any nationality and live anywhere. NRDCs are not required to disclose the names of officers, directors, shareholders, or beneficial owners listed with the Registrar, and corporate entities may act as directors, officers, and shareholders. The Registrar does not release the number of NRDCs or other offshore corporate operations data. The corporate registry program does not allow the registering of offshore banks or insurance firms, online gaming institutions, or other companies which are financial in nature. All known parties to any corporate or maritime transaction are vetted by the Registry through a commercial database, which combines the UN, U.S., EU, and other national and international specially designated national lists. NRDCs must maintain a registered agent in the Marshall Islands, and corporations can transfer domicile into and out of the RMI with relative ease. In addition to NRDCs, the RMI offers resident partnerships, unincorporated associations, and limited liability companies through the Attorney General's office.

The Trust Company of the Marshall Islands, Inc., the Registrar for NRDCs, and the Office of the Maritime Administrator (collectively the Registry) administer a registration program of corporations and ships. The RMI shipping fleet is the third largest flagged fleet in the world, although few of the vessels frequent the Marshall Islands. The port of Majuro is visited mainly by tuna fishing boats, with a few cargo ships per month delivering food and fuel to the nation.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES KYC covered entities: Banks, credit institutions, and finance companies; insurance companies, brokers, and intermediaries; brokers and dealers of securities, exchange and interest rate instruments, futures, and options; businesses issuing, selling, or redeeming traveler's checks, money orders, or similar instruments; payroll service businesses involved in collecting, holding, and delivering cash; gaming houses, casinos, and lotteries; bullion and currency dealers and exchanges; money transmission services

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 9 in 2015

Number of CTRs received and time frame: 3,287 in 2015

STR covered entities: Banks, credit institutions, and finance companies; insurance companies, brokers, and intermediaries; brokers and dealers of securities, exchange and interest rate instruments, futures, and options; businesses issuing, selling, or redeeming traveler's checks, money orders, or similar instruments; payroll service businesses involved in collecting, holding, and delivering cash; gaming houses, casinos, and lotteries; bullion and currency dealers and exchanges; money transmission services

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 0 in 2015

Convictions: 0 in 2015

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

The Marshall Islands is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of the Marshall Islands has not filed any money laundering cases for several years. Two previous cases were dismissed by the RMI High Court. There is a need for greater institutional capacity to successfully prosecute money laundering cases.

Under RMI law, both the Banking Act and the Counter-Terrorism Act provide for the freezing, seizing, and/or detaining of terrorist assets. The Marshall Islands is negotiating a tax agreement with the United States and has signed tax treaties with 14 other jurisdictions.

The Government of the Republic of the Marshall Islands is working to ensure its offshore sector is adequately supervised, and information on company ownership and management is available to law enforcement and supervisory authorities. The RMI should tighten enforcement of tipping-off provisions, ensure designated non-financial businesses and professions are fully reporting, and ensure beneficial ownership is properly established.

EU Tax Blacklist

Marshall Islands was removed from the EU tax blacklist and placed on the EU tax grey list on 13 March 2018.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, The Republic of the Marshall Islands does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

Maintain Records over time - By law or regulation, banks are required to keep records, especially of large or unusual transactions, for a specified period of time, e.g., five years.

Disclosure Protection - "Safe Harbour" - By law, the jurisdiction provides a "safe harbour" defence to banks or other financial institutions and their employees who provide otherwise confidential banking data to authorities in pursuit of authorized investigations.

Know Your Customer Provisions - By law or regulation, the government requires banks and/or other covered entities to adopt and implement Know Your Customer/ Customer Due Diligence programs for their customers or clientele.

Criminalised Tipping Off - By law, disclosure of the reporting of suspicious or unusual activity to an individual who is the subject of such a report, or to a third party, is a criminal offense.

EU White list of Equivalent Jurisdictions

The Republic of the Marshall Islands is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

The Republic of the Marshall Islands is considered to be an Offshore Financial Centre

US State Dept Trafficking in Persons Report 2016 (introduction):

The Republic of the Marshall Islands (RMI) is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

The Republic of the Marshall Islands (RMI) is a source and destination country for RMI women and children and women from East Asia subjected to sex trafficking. RMI girls are recruited by foreign business owners to engage in prostitution with crew members of foreign fishing and transshipping vessels that dock in Majuro. Some of these foreign fishermen may themselves be subject to conditions indicative of forced labor on ships in Marshallese waters. Foreign women, most of whom are long-term residents, are subjected to forced prostitution in establishments frequented by crew members of Chinese and other foreign fishing vessels; some Chinese women are recruited with the promise of legitimate work and, after paying large recruitment fees, are forced into prostitution. Limited reports indicate some Marshallese searching for work in the United States experience indicators of trafficking, such as passport confiscation, excessive work hours, and fraudulent recruitment. Some Marshallese children are transported to the United States where they are subjected to situations of sexual abuse with indicators of sex trafficking.

The Government of the Republic of the Marshall Islands does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. The government's National Task Force on Human Trafficking (NTHT) drafted and submitted for cabinet approval a national action plan developed from its monthly meetings between law enforcement, NGOs, and other government representatives and has begun implementing part of the plan while awaiting endorsement from the cabinet. The NTHT's awareness-raising efforts to combat trafficking in persons reached more than 1,500 people during the reporting period and focused on at-risk young, economically disadvantaged Marshallese. In 2015, the government passed and enacted the Child Rights Protection Act, which addressed the gap in criminalization of domestic child trafficking in RMI's legislation. However, the government failed to effectively implement its anti-trafficking law; and government officials have not reported any trafficking prosecutions for five consecutive years. The government made no efforts to proactively identify victims, especially among vulnerable populations, such as foreign and local women in prostitution and foreign men working on fishing vessels in Marshallese waters.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	56

Corruption and Government Transparency - Report by US State Department

There are credible allegations and periodic prosecutions for misuse of government funds and abuse of public office for private gain. Government procurement and transfers appear most vulnerable to corruption, and personal relationships sometimes play a role in government decisions. Government officials at all levels are permitted to invest in and own private businesses without regard for conflict-of-interest considerations. Foreign aid has been abused and recent audits report a number of financial irregularities connected to donor-funded activities. Bribery is a second-degree felony, whether to a domestic or foreign official. The first quarter of 2014 has seen high profile charges filed in a hospital procurement bribery case, including against the associate administrator at the Ministry of Health.

The Office of the Attorney General is tasked with combating corruption and has recently concluded a prosecution a number of individuals within the government for embezzlement and theft in a case that began in 2011. One former Minister and several government employees were charged and sentenced in corruption-related cases. Regardless of intentions, however, a lack of capacity and resources hampers the Attorney General Office's efforts.

The RMI acceded to the UN Convention Against Corruption in September 2011. No international, regional, or local watchdog organizations operate in the country.

Section 3 - Economy

US assistance and lease payments for the use of Kwajalein Atoll as a US military base are the mainstay of this small island country. Agricultural production, primarily subsistence, is concentrated on small farms; the most important commercial crops are coconuts and breadfruit. Industry is limited to handicrafts, tuna processing, and copra. Tourism holds some potential. The islands and atolls have few natural resources, and imports exceed exports.

The Marshall Islands received roughly \$1 billion in aid from the US during 1986-2001 under the original Compact of Free Association (Compact). In 2002 and 2003, the US and the Marshall Islands renegotiated the Compact's financial package for a 20-year period, from 2004 to 2024. Under the amended Compact, the Marshall Islands will receive roughly \$1.5 billion in direct US assistance. Under the amended Compact, the US and Marshall Islands are also jointly funding a Trust Fund for the people of the Marshall Islands that will provide an income stream beyond 2024, when direct Compact aid ends.

Agriculture - products:

coconuts, tomatoes, melons, taro, breadfruit, fruits; pigs, chickens

Industries:

copra, tuna processing, tourism, craft items (from seashells, wood, and pearls)

Exports - commodities:

copra cake, coconut oil, handicrafts, fish

Imports - commodities:

foodstuffs, machinery and equipment, fuels, beverages, tobacco

Section 4 - Investment Climate

Executive Summary

The Republic of the Marshall Islands (RMI) is part of the former U.S.-administered Trust Territory of the Pacific Islands that gained independence in 1986 and continues to use the U.S. dollar as its currency. Since independence it has operated under a Compact of Free Association (Compact) with the United States, receiving more than USD100 million per year in development funding administered mainly by the Department of the Interior (DOI). Compact Sector Grant Funding will continue until 2023.

The Government of the Marshall Islands encourages foreign investment and recognizes its important role in growing private sector development. The government particularly encourages foreign investment in fisheries, tourism, and agriculture and provides certain investment incentives for foreign investors. Most local government officials encourage foreign investment, though attitudes may differ from island to island. Foreign investment in the Marshall Islands is complicated, however, by laws that prevent non-Marshallese from purchasing land. There is no public land in the country, and foreign businesses must lease land from private landowners in order to operate in the country.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	Not Listed	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	140 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	Not Listed	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country (\$M USD, stock positions)	2015	N/A	N/A
World Bank GNI per capita	2014	\$4,390	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Foreign investment is governed through the Foreign Investment Business License (Amendment Act (2000)), which established the Registrar of Foreign Investment and details restrictions on foreign investments. The Ministry of Resources and Development, Trade and Investment Division administers the law in coordination with the Office of the Attorney General.

The Republic of the Marshall Islands has a responsive judiciary that consistently upholds the sanctity of contracts. Land issues and disputes concerning leases are subject to customary law governing land tenure, and resolution of proceedings can be lengthy. Land cannot be purchased by investors; it can only be leased through customary practices.

Although the Marshall Islands generally encourages foreign investment, the Foreign Investment Business License (Amendment) Act established a National Reserved List, which restricts foreign investment in certain small-scale retail and service businesses. However, this law is not consistently enforced, and foreign investors may enter partnership agreements with local Marshallese businesses. Officially, foreign investment is prohibited in the following business ventures:

- Small scale agriculture and marine culture for local markets
- Bakeries and pastry shops
- Motor garages and fuel filling stations
- Land taxi operations, not including airport taxis used by hotels

- Rental of all types of motor vehicles
- Small retail shops with a quarterly turnover of less than USD 1,000 (including mobile retail shops and/or open-air vendors/take-outs)
- Laundromat and dry cleaning, other than service provided by hotels/motels
- Tailor/sewing shops
- Video rental
- Handicraft shops
- Delicatessens, Deli Shops, or Food take-out

Other Investment Policy Reviews

There have been no investment policy reviews conducted by United Nations Conference on Trade and Development (UNCTAD), World Trade Organization (WTO), or Organization of Economic Cooperation and Development (OECD).

Laws/Regulations on Foreign Direct Investment

All non-citizens wishing to invest in the Marshall Islands must obtain a Foreign Investment Business License (FIBL). The FIBL is obtained from the Registrar of Foreign Investment in the Ministry of Finance. In coordination with the Investment Promotion Unit at the Ministry of Resources and Development, the Ministry of Finance reviews the application and ensures that the business does not fall under the categories of the National Reserved List listed above. The application process usually takes seven-10 working days. The FIBL grants non-citizens the right to invest in the Marshall Islands, provided the investment remains within the scope of business activity for which the FIBL was granted.

The 2015 amendment to the Foreign Investment Business License Act requires all holders of FIBLs to maintain reliable and complete accounting records and records of ownership, and that all business records must be kept in such a way that they can be converted into written form at the request of an authorized inspector. These records must be retained for a period of five years.

The Marshall Islands Courts are generally considered fair, without undue influence or interference. Marshall Islands Court rulings, legal codes, and public law can be found on their website: <http://www.rmicourts.org/>.

Business Registration

There is no online website for registering a business in the Marshall Islands. This must be done in person. After a foreign investor receives an FIBL, detailed in the Laws and Regulations on DFI, the business owner must complete the following steps:

- Check the uniqueness of the proposed company name with the Registrar of Corporations. This costs USD 100 and takes one day.

- Have the company charter(s) notarized. Notarization can be done at the Office of the Attorney General. It takes two days on average and costs USD 10.
- Register the company with the Registrar of Corporations. This takes five days and costs USD 250. Limited Liability Companies need to file a Certificate of Formation and need to have LLC agreements detailing how the LLC will be operated and managed, and distributions divided.
- Obtain an Employer Identification Number from the Marshallese Social Security Administration. This number will also serve as the company's tax identification number. This process takes two days and costs USD 20.
- Apply for a business license. The business owner needs to submit a company charter along with the business license. Business licenses are usually issued in seven days. Licensing fees vary depending on the type of business. Fees are as follows:
 - Retail Business: USD 150
 - Banks: USD 5,000
 - Professional: USD 3,000
 - Hotels: USD 500

The Marshall Islands Office of Commerce and Investment (OCI) can assist foreign investors. Services are available to all investors. OCI's website has helpful information regarding investment and doing business in the Marshall Islands. <http://www.investmarshallislands.com>.

The Ministry of Finance segments the business sector for tax purposes using annual gross revenue amounts, not number of employees. There are no other segmentations recognized by the Marshall Islands, and no incentives are based on business size. There is a Small Business Development Center in Majuro.

Industrial Promotion

The marine technology sector, mainly fisheries, is the strongest growth industry in the country. The Marshall Islands are a member of the Parties to the Nauru Agreement (PNA), which coordinates purse seiner fishing policy among eight Pacific Island nations. The PNA estimates that they control about 50 percent of the global supply of skipjack tuna, the most common species used for canning. Non-citizens wishing to invest in the fisheries sector must negotiate a fishing license agreement with the Marshall Islands Marine Resources Authority (MIMRA). The agreement governs fishing and management practices to ensure sustainability and to ensure that the investment does not endanger local food security. Investors in other coastal maritime activities also require a license from MIMRA. The license application must demonstrate that the investment will lead to local net benefits while also ensuring sustainability and the preservation of environmental resources.

The Marshall Islands is a member of a regional arrangement known as the Forum Fisheries Agency (FFA). The FFA Secretariat assists its member countries in managing and conserving its region-wide tuna stock, in cooperation with Non-Pacific Island countries fishing in the region. The Secretariat of the Pacific Community (formerly known as South Pacific

Commission), in which the Marshall Islands is also a member, provides necessary scientific and biological information on the marine species within the EEZ.

The Marshall Islands operates the third largest ship registry in the world, with over 100 million tons registered as of 2015. Since 1990, Virginia-based International Registries, Inc., in affiliation with the Trust Company of the Marshall Islands, Inc. and Marshall Islands Maritime and Corporate Administrators, Inc., administers the ship and corporate registry, per a joint venture agreement with the government of the Marshall Islands. Those wishing to register a vessel or incorporate a non-resident domestic corporation in the Marshall Islands should contact International Registries, Inc. directly, which maintains offices in 24 cities worldwide.

Tourism in the Marshall Islands is a small but growing industry. The Marshall Islands has warm waters, unique diving experiences, water sport opportunities, and thriving reefs and marine life. Development is challenging given the country's customary land-tenure system, expensive air travel, and under-development of tourism infrastructure. The Marshall Islands are a popular stop for yachts and super-yachts traversing the Pacific.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities are allowed to establish and own business enterprises, but land may not be owned outside of the customary land-tenure system. Non-citizen business enterprises must further incorporate as a domestic limited company or register as a foreign entity. An application for a domestic limited company is submitted to the Registrar of Domestic Corporations in the Office of the Attorney General, and information regarding incorporation is included with the FIBL application.

All businesses must negotiate with local landowners and local government authorities regarding lease provisions and approval for the proposed business activities. In the case of land use and land tenure, foreign investors are not accorded the same treatment as Marshallese citizens. Non-Marshallese may not purchase land, and local landowners possess full rights to their land at all times. Individual parcels of land may be owned by three or more different individuals simultaneously through the country's complex customary land-tenure system. Foreign investors are responsible for ensuring that lease agreements include all relevant landowners; failure to include a landowner may result in judicial proceedings.

Privatization Program

Currently, foreign investors are allowed to purchase shares only in the National Telecommunications Agency, but foreign investors may not own a majority of shares. Bidding criteria are not readily available, and the process remains largely controlled by the national government.

Screening of FDI

Official Foreign Direct Investment plays a very marginal role in the economy of the Marshall Islands, and no record of FDI is available.

Competition Law

There is no law or agency governing competition in the RMI.

2. Conversion and Transfer Policies

Foreign Exchange

The government does not impose any restrictions on converting or transferring funds associated with an investment. The Marshall Islands uses the U.S. dollar as its official currency, and there is no central bank. There are no official remittance policies and no restrictions on foreign exchange transactions. There have been no reported difficulties in obtaining foreign exchange as the vast majority of funds are denominated in U.S. dollars.

Remittance Policies

While the government encourages reinvestment of profits locally, there are no laws restricting repatriation of profits, dividends, or other investment capital acquired in the Marshall Islands. To comply with international money laundering commitments, cash transactions and transfers exceeding USD 10,000 are reported by the banks to the Banking Commission, which monitors this information and has the authority to investigate financial records when necessary. To date, however, the country has not successfully prosecuted any money laundering cases.

The 2014 International Narcotics Control Strategy Report Volume II: Money Laundering and Financial Crimes lists the Marshall Islands as a "Country of Concern."

3. Expropriation and Compensation

All land is privately owned by Marshallese citizens through complex family lineages. Although the Government of the Marshall Islands may legally expropriate property under the country's constitution, the government has only exercised this right on one occasion and only for a temporary period of time. Given the importance of private land ownership in customary law and practice, it is very unlikely that the government will exercise this right in the foreseeable future.

If a business activity is subsequently added to the reserved List, the Registrar of Foreign Investment may not cancel or revoke an existing Foreign Investment Business License if the investment has already commenced.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

There is a very limited record of foreign investment disputes in the Marshall Islands due to the small size of foreign investment in the country. The most common type of business disputes are with landowners over land use, and land rights issues, and these are frequently resolved either informally or after protracted court disputes. Domestic civil society has traditionally not been actively engaged in dispute resolution. The Marshall Islands Courts are generally considered fair, without undue influence or interference.

The legal system in the Marshall Islands is patterned on common law proceedings as they exist in the United States. The country has a judicial branch composed of a Supreme Court, a High Court, a Traditional Rights Court, District Courts, and Community Courts. The Supreme Court is made up of one Chief Justice and two Associate Justices. The High Court consists of

the Chief Justice and one Associate Justice. The Chief Justices are both U.S. Citizens serving 10-year terms. There are also three Traditional Rights Court judges, two District Court judges, and several Community Court judges serving the Marshall Islands. On certain occasions, as necessary, the Marshall Islands Judicial Service Commission recruits qualified judges on contract from the United States to serve with the Chief Justice on the Supreme Court and to temporarily fill vacancies on the High Court as there are few qualified and independent Marshallese who can fill these positions. The Traditional Rights Court deals with customary law and land disputes.

Bankruptcy

There is no legal provision for bankruptcy in the Marshall Islands.

Investment Disputes

Both companies and individuals have access to the legal system through the High Court of the Marshall Islands. Laws patterned on U.S. laws govern most aspects of commercial transactions, and the courts have generally enforced these laws in a transparent and consistent manner. A foreign investor has the right of recourse to the courts with respect to the settlement of disputes. Most investment disputes concern land issues, especially regarding lease payments. Land disputes can be very protracted and are resolved through a combination of customary law arbitration and through the courts, per the Arbitration Act of 1980.

International Arbitration

The Government of the Marshall Islands is not a signatory to any investment agreement in which binding international arbitration of investment disputes is recognized.

ICSID Convention and New York Convention

The Marshall Islands is not a member of the International Center for Settlement of Investment Disputes, nor is it a member of the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

Duration of Dispute Resolution – Local Courts

Local investment or commercial dispute resolution proceedings can be very lengthy, especially when related to land disputes. Because land rights are based on customary and traditional law (frequently unwritten and unrecorded), delays are nearly unavoidable. According to the Marshall Islands Judiciary's 2014 Annual Report eight new land dispute cases were filed with the Marshallese High Court that year, and only two were resolved in the same year. In 2015 the High Court ruled on a domestic land dispute case that was filed in 1980, and had been awaiting resolution for 35 years.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The RMI is not a member nor does it have observer status in the World Trade Organization (WTO). It also does not adhere to TRIMS.

Investment Incentives

All imports are subject to import duties, and the only current duty exemptions are for renewable and alternative energy items. Import duties are generally low ad valorem rates on cost, insurance, and freight (CIF), and the number of tariff categories is small to facilitate administration. Goods in transit are exempt from the import tax, and the import tax on re-exported goods is refundable. The Marshall Islands has no taxes on exports.

Under the terms of the Compact of Free Association, as amended, all items grown, made or produced in the Marshall Islands are exempt from U.S. duties with the following exceptions:

- Watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;
- Buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such schedule;
- Textile and apparel articles which are subject to textile agreements; and
- Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible for the generalized system of preferences in the Trade Act of 1974.

Tuna in airtight containers exported to the U.S. is duty-free, provided it does not exceed 10 percent of total U.S. tuna consumption during the previous calendar year. The Compact also stipulates that U.S. products imported to the Marshall Islands receive Most-Favorable Nation status, and the country must consult with the U.S. should they enter into a Free Trade Agreement with another country or customs territory.

The Marshall Islands offers tax and duty exemptions for investments in certain private sector industries. These investment incentives apply uniformly to both domestic and foreign investors through submission of a letter to the Minister of Finance. Tax incentives are specified by law, but have been rarely awarded, given the relative lack of large-scale investment.

Gross Revenue Tax Exemption

Investors who invest a minimum of USD 1 million or provide employment and wages in excess of USD 150,000 annually to Marshallese citizens are exempt from paying gross revenue tax for a five-year period in the following sectors:

- Off-shore or deep sea fishing
- Manufacturing for export, or for both export and local use
- Agriculture
- Hotel and resort facilities

Seabed Mining Tax Exemption

Investors in seabed hard mineral mining are exempt from paying all taxes, duties, and other charges (except taxes on wages and salaries, individual income tax, and social security

contributions). In return, investors are required to pay the Government of the Marshall Islands a share of net proceeds accruing from the investment in the form of royalties, production charge, or some combination thereof as agreed to between the government and investor.

Research and Development

Nothing to report for the Marshall Islands on this topic.

Performance Requirements

Generally the Marshall Islands will require a promise of local employment in the FIBL application. This requirement is set and evaluated on a case by case basis, and is usually included as part of a whole package that also includes investment incentives such as favorable taxation status. U.S. Citizens do not require a visa to enter the Marshall Islands, and may be employed in the Marshall Islands without obtaining a work permit or a visa. Though use of local products is encouraged, the government does not force localization.

Data Storage

There are no requirements for foreign IT providers to turn over source code or provide access to surveillance.

6. Protection of Property Rights

Real Property

Land rights are a highly complex and frequently contentious issue in the Marshall Islands. Land ownership is through family lineage and according to social class. Paramount Chiefs (Iroij) have title to entire islands or portions of islands within an atoll, clan elders (alaps) have title to several parcels of land under their Paramount Chiefs, and workers (dri-jerbal) have title to the parcel of land associated with their Paramount Chief on which they live. Each parcel of land is thus owned by at least three separate individual landowners, one each from the classes described above. Non-Marshallese may not purchase land, and land purchases by Marshallese are also very rare. Paramount Chiefs may grant land rights to others, though they retain their share of ownership in all circumstances.

Available land for development is scarce, particularly in the two major urban areas of Majuro and Ebeye. Non-citizen investors must negotiate lease agreements directly with customary groups of landowners. Land may be leased in perpetuity with many leases having a term of 50 years, and options for renewal. The Kwajalein land lease to the U.S. Government runs fifty years (to 2066) with an option to renew for another twenty years, for example. Mortgages against the title of land are not permitted, but commercial lease agreements and land lease payments may be used as collateral. There is limited written documentation of titles to land in the Marshall Islands, although local citizens generally know who controls each parcel of land on their particular atoll. In 2003, the Government of the Marshall Islands established a Land Registration Authority to create a voluntary register of customary land and establish a legal framework for recording documents related to ownership rights.

In the World Bank's Doing Business 2016 report, the Marshall Islands rank 189th out of 189 countries for registering property.

Intellectual Property Rights

The Marshall Islands is not a member of the World Trade Organization, the World Intellectual Property Organization (WIPO), or any other international agreement on intellectual property rights. There is inadequate protection for intellectual property, patents, copyrights, and trademarks. The only intellectual property-related legislation relates to locally produced music recordings, and it has never been enforced. The Marshall Islands are not listed on the USTR's Special 301 Report, nor are they listed in the notorious market report.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>

Resources for Rights Holders

Embassy Point of Contact:

Pol/Econ/Consular Officer

P.O. Box 1379, Majuro, MH 96960

692-247-4011

<http://majuro.usembassy.gov>

Lawyers List: http://majuro.usembassy.gov/lawyers_list.html

7. Transparency of the Regulatory System

Regulatory and accounting systems are generally transparent and consistent with international norms. Bureaucratic procedures are generally transparent, although nepotism and customary hierarchical relationships can play a role in government actions. Proposed laws and regulations are available in draft form for public comment pursuant to the Administrative Procedures Act, Title 6 of the Marshall Islands Revised Code. Generally, tax, labor, environment, health and safety, and other laws and policies do not impede investment. There are no informal regulatory processes managed by nongovernmental organizations or private sector associations.

8. Efficient Capital Markets and Portfolio Investment

The Marshall Islands is closely tied to U.S. financial markets, and foreign investors are generally able to obtain credit in U.S. dollars on the local market. However, the financial and banking sector in the country is very underdeveloped with few credit instruments and insufficient liquidity in the markets to enter and exit sizeable positions. Total bank assets in the country were estimated to be USD 121.5 million in 2012.

Money and Banking System, Hostile Takeovers

There are currently two banks with branches in the Marshall Islands. The Bank of Guam is a publicly-owned U.S. company with its headquarters in Guam. It complies with all U.S. regulations and is FDIC-insured. The Bank of the Marshall Islands is a privately-owned Marshallese company with headquarters in Majuro. There are no stock exchanges or financial institutions in the country.

9. Competition from State-Owned Enterprises

Nearly all major industries are controlled by state-owned enterprises (SOEs). The SOE sector, comprising 11 public enterprises, continues to underperform and to impose significant risks and burdens on the fiscal system and economy. In the Republic of the Marshall Islands Single Audit for FY2014, the government recognized the need for continued reforms of SOEs. Air Marshall Islands, Marshall Islands Resort, Marshall Islands National Communications Agency, and Tobolar all have negative cash flows and require subsidies each year. The Marshall Islands Marina Resource Authority (MIMRA) is the only SOE to be a net revenue provider for the Marshall Islands, but the audit cautioned that long-term future support from the fisheries sector cannot be taken for granted.

OECD Guidelines on Corporate Governance of SOEs

In 2015 the Marshallese parliament passed the State-Owned Enterprises Act which set standards for the formation and operation of SOEs. The Act set minimum reporting requirements for the 11 SOEs.

All SOEs are required to have their books independently audited as part of the government's overall audit.

Sovereign Wealth Funds

The Marshall Islands has no sovereign wealth fund (SWF) or asset management bureau (AMB), but the Compact of Free Association established a Trust Fund for the Marshall Islands that is independently overseen by a committee composed of the United States, Taiwan, and Marshall Islands representatives.

10. Responsible Business Conduct

The Marshall Islands has some basic worker protection laws, including a minimum wage and protections for foreign workers. With the exception of a few retail businesses, the banking sector, and the ship registry, there is little general awareness of corporate social responsibility or responsible business conduct among producers or consumers. Firms that pursue these objectives are viewed neither favorably nor unfavorably.

11. Political Violence

There have been no reported incidents involving politically motivated damage to projects or installations.

12. Corruption

There are credible allegations and periodic prosecutions for misuse of government funds and abuse of public office for private gain. Government procurement and transfers appear most vulnerable to corruption, and personal relationships sometimes play a role in government decisions. Government officials at all levels are permitted to invest in and own private businesses without regard for conflict-of-interest considerations. Foreign aid has been abused and past audits report a number of financial irregularities connected to donor-funded activities. Bribery is a second-degree felony, whether to a domestic or foreign official.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

The Marshall Islands acceded to the UN Convention against Corruption in September 2011.

Resources to Report Corruption

No international, regional, or local watchdog organizations operate in the country.

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

The Marshall Islands does not have a bilateral investment treaty with any country.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

There are no geographic foreign trade zones or free ports in the Marshall Islands.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2013	\$191	2014	\$188	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2013	\$2,028	2014	Not Available	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States (\$M USD, stock positions)	2013	Not Available	2014	\$29	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2013	1.06%	2014	Not Available	Not Available

Table 3: Sources and Destination of FDI

There is no foreign direct investment position data available on the Marshall Islands.

Table 4: Sources of Portfolio Investment

There is no portfolio investment data available for the Marshall Islands.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

Mixed legal system of US and English common law, customary law, and local statutes

International organization participation:

ACP, ADB, AOSIS, FAO, G-77, IAEA, IBRD, ICAO, IDA, IFAD, IFC, ILO, IMF, IMO, IMSO, Interpol, IOC, ITU, OPCW, PIF, Sparteca, SPC, UN, UNCTAD, UNESCO, WHO

Section 6 - Tax

Exchange control

The Republic of the Marshall Islands does not have exchange controls

Treaty and non-treaty withholding tax rates

Marshall Islands has signed **14 agreements (0 DTC and 14 TIEA agreements)** providing for the exchange of information.

About this list of agreements »

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Australia	TIEA	12 May 2010	25 Nov 2011	Yes	Yes	
Denmark	TIEA	28 Sep 2010	3 Dec 2011	Yes	Yes	
Faroe Islands	TIEA	28 Sep 2010	not yet in force	Unreviewed	Yes	
Finland	TIEA	28 Sep 2010	2 Dec 2011	Yes	Yes	
Greenland	TIEA	28 Sep 2010	not yet in force	Unreviewed	Yes	
Iceland	TIEA	28 Sep 2010	not yet in force	Yes	Yes	
Ireland	TIEA	2 Sep 2010	not yet in force	Yes	Yes	
Korea, Republic of	TIEA	31 May 2011	9 Mar 2012	Yes	Yes	
Netherlands	TIEA	14 May 2010	8 Nov 2011	Yes	Yes	
New Zealand	TIEA	4 Aug 2010	not yet in force	Yes	Yes	
Norway	TIEA	28 Sep 2010	19 Jun 2011	Yes	Yes	
Sweden	TIEA	28 Sep 2010	not yet in force	Yes	Yes	
United Kingdom	TIEA	20 Mar 2012	not yet in force	Yes	Yes	
United States	TIEA	14 Mar 1991	14 Mar 1991	Yes	No	

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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