NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
43RD CONSTITUTIONAL REGULAR SESSION, 2022

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

DECENTRALIZED AUTONMOUS ORGANIZATION ACT 2022

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DECENTRALIZED AUTONMOUS ORGANIZATION ACT 2022

AN ACT to provide for the formation and management of decentralized autonomous organizations as domestic limited liability companies pursuant to the Limited Liability Company Act 1996, Chapter 4 of Title 52.

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

§101. Short title.

This Act may be cited as the Decentralized Autonmous Organization Act 2022.

§102. Definitions.

As used in this Chapter, unless the context otherwise requires:

(a) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records for example on a blockchain;

(b) "Blockchain" shall mean a, distributed ledger that can record transactions between two parties in a mutually verifiable and permanent manner.

(c) "Decentralized autonomous organization" or "DAO" means a resident domestic limited liability company organized under this chapter;

(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 currency;

(e) "Digital consumer asset" means a digital asset that is used or bought primarily for consumptive, personal or household purposes and includes: (A) A blockchain token constituting intangible personal property as otherwise provided by law; (B) Any other digital asset which does not qualify as "digital security" or "virtual currency" as defined herein.

(f) "Digital security" means a digital asset which constitutes a security, as defined in the Securities and Investments Act, Title 36 MIRC Chapter 1 §102(d), but shall exclude digital consumer assets and virtual currency;

(g) "Distributed ledger" means a blockchain that is publicly accessible and its ledger of transactions is transparent;

(h) "Majority of the members," means more than fifty percent (50%) of the membership interests in a vote, or any membership interests required pursuant to the decentralized autonomous organization's certificate of formation or limited liability company agreement. A person dissociated or resignation as a member as set forth in Section 36 of the Limited Liability Company Act, 52 MIRC, Chap. 4shall not be included for the purposes of calculating the majority of the members;

(i) "Membership interest" means a member's ownership right in a decentralized autonomous organization, 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 ownership right;

(j) "Registrar" means the Registrar of Resident Domestic and Authorized Foreign Corporations;

(k) "Quorum" means a minimum requirement on the sum of membership interests participating in a vote for that vote to be valid;

(l) "Smart contract" shall have the meaning ascribed to the term in Section 102 (dd) of the Non-Profit Entities Act 2020.

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

§103. Application of Limited Liability Company Act.

(1) 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.

(2) 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.

§104. Definition and Election of Decentralized Autonomous Organization Status.

(1) A decentralized autonomous organization is a resident domestic limited liability company whose certificate of formation or limited liability company agreement contain a statement that the company is a decentralized autonomous organization as described in subsection (3) of this section.

(2) A resident domestic limited liability company formed under the Limited Liability Company Act, Title 52 MIRC Chapter 4, may convert to a decentralized autonomous organization by amending its certificate of formation or limited liability company agreement to include the statement required by subsections (1) and (3) of this section and Section 106.

(3) A statement in substantially the following form shall appear conspicuously in the certificate of formation or limited liability company agreement, if applicable, in a decentralized autonomous organization:

NOTICE OF RESTRICTIONS ON DUTIES AND TRANSFERS

The rights of members in a decentralized autonomous organization may differ materially from the rights of members in other resident domestic or non-resident domestic limited liability companies. This Chapter , underlying smart contracts, certificate of formation and limited liability company

agreement, if applicable, of a decentralized autonomous organization may define, reduce or eliminate fiduciary duties and may restrict transfer of ownership interests, withdrawal or resignation from the decentralized autonomous organization, return of capital contributions and dissolution of the decentralized autonomous organization.

(4) The registered name for a decentralized autonomous organization shall include wording or abbreviation to denote its status as a decentralized autonomous organization, specifically "DAO LLC,".

(5) A statement in the certificate of formation or limited liability company agreement may define the decentralized autonomous organization as either a member managed decentralized autonomous organization or an algorithmically managed decentralized autonomous organization. If the type of decentralized autonomous organization is not otherwise provided for, the limited liability company will be presumed to be a member managed decentralized autonomous organization.

§105. Formation.

(1) Any person may form a decentralized autonomous organization which shall have one (1) or more members by signing and delivering one (1) original and one (1) exact or conformed copy of the certificate of formation and limited liability company agreement to the Registrar for filing. The person forming the decentralized autonomous organization need not be a member of the organization.

(2) Each decentralized autonomous organization shall have and continuously maintain in the Republic a registered agent as 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 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 provisions of this Act shall prevail in the event of any conflict with the Non-Profit Entities Act, 2020.

§106. Certificate of Formation or Limited Liability Company Agreement.

(1) The certificate of formation or limited liability company agreement of a decentralized autonomous organization shall include a statement that the organization is a decentralized autonomous organization, pursuant to and shall set forth the matters required by the Limited Liability Act, Title 52 MIRC Chapter 4 §9.

(2) In addition to the requirements of subsection (1) of this section, the certificate of formation or limited liability company agreement shall include a publicly available identifier of any smart contract directly used to manage, facilitate or operate the decentralized autonomous organization.

(3) Except as otherwise provided in this Chapter, the certificate of formation or limited liability company agreement or smart contracts for every decentralized autonomous organization shall govern all of the following:

(a) Relations among the members and between the members and the decentralized autonomous organization;

(b) Rights and duties under this Chapter of a person in their capacity as a member;

(c) Activities of the decentralized autonomous organization and means by which such activities are conducted;

(d) Means and conditions for amending the limited liability company agreement (s) Rights and voting rights of members;

(f) Transferability of membership interests;

(g) Withdrawal of membership;

(h) Distributions to members prior to dissolution;

(i) Amendment of the certificate of formation or limited liability company agreement;

(j) Procedures for amending, updating, editing or changing applicable smart contracts;

(k) Procedures for dispute resolution, if applicable.

(l) All other aspects of the decentralized autonomous organization.

§107. Amendment or Restatement of Certificate of Formation or Limited Liability Company Agreement.

Certificate of formation or limited liability company agreement shall be amended when:

(a) There is a change in the name of the decentralized autonomous organization;

(b) There is a false or erroneous statement in the certificate of formation or limited liability company agreement; or

§108. Management.

Management of a decentralized autonomous organization shall be vested in its members, if member managed, or the smart contract, if algorithmically managed, unless otherwise provided in the certificate of formation or limited liability company agreement.

§109. Standards of Conduct for Members.

Unless otherwise provided for in the certificate of formation or limited liability company agreement, no member of a decentralized autonomous organization shall have any fiduciary duty to the organization or any member except that the members shall be subject to the implied contractual covenant of good faith and fair dealing.

§110. Membership interests for Member Managed Decentralized Autonomous Organizations; Voting.

(1) Unless otherwise provided for in the certificate of formation, limited liability company agreement or smart contract:

(a) Membership interests in a member managed decentralized autonomous organization shall be calculated by dividing a member's governance tokens held divided by the total amount of the organization at the time of a vote;

(b) If members do not hold governance tokens of an organization as a prerequisite to becoming a member,

each member shall possess one (1) membership interest and be entitled to one (1) vote;

(c) A quorum shall require not less than a majority of membership interests entitled to vote, unless otherwise specified in the certificate of formation or limited liability company agreement or smart contract

§111. Right of Members, Managers and Dissociated Members to Information.

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

§112. Beneficial Ownership 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 of the applicable decentralized autonomous organization and each person applying to form the decentralized autonomous organization 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 non-expired passport,; and

(e) address (es) and block chain(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 decentralized autonomous organization shall be maintained by the Registrar for at least 5 years after the date the decentralized autonomous organization is dissolved.

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

(5) 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. 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.

§113. Withdrawal of Members.

(1) Except as provided in subsection (4) of this section, a member may only withdraw from a decentralized autonomous organization in accordance with the terms set forth in the certification of formation, the smart contracts or, if applicable, the limited liability company agreement.

(2) A member of a decentralized autonomous organization may not have the organization dissolved for a failure to return the members' contribution to capital.

(3) Unless the organization's certificate of formation, smart contracts or limited liability company agreement provide otherwise, a withdrawn member forfeits all membership interests in the decentralized

autonomous organization, including any governance or economic rights.

(4) Where the certificate of formation, limited liability company agreement or smart contracts for a decentralized autonomous organization do not specify the manner by which a person:

(i) Becomes a member of a decentralized autonomous organization, a person shall be considered a member if the person purchases or otherwise assumes a right of ownership of a membership interest or other property that confers upon the person a voting or economic right within the decentralized autonomous organization;

(ii) Withdraws membership from a decentralized autonomous organization, the person shall cease to be a member if the person transfers, sells or alienates all membership interests or other property that confers upon the person a voting or economic right within the decentralized autonomous organization and retains no further right of ownership therein.

§114. Dissolution.

(1) A decentralized autonomous organization organized under this Chapter shall be dissolved; it shall be dissolved upon the occurrence of any of the following events:

(a) The period fixed for the duration of the organization expires;

(b) By vote of the members of a decentralized autonomous organization;

(c) At the time or upon the occurrence of events specified in the underlying smart contracts or as specified in the certificate of formation or limited liability company agreement;

(d) By order of the Registrar of Corporations if the decentralized autonomous organization is deemed to

no longer perform a lawful purpose or is no longer under the control of at least one (1) natural person;

(e) Where all members of the decentralized autonomous organization have resigned in accordance with Section 36 of the Limited Liability Company Act.

(2) As soon as possible following the occurrence of any of the events specified in subsection (1) of this section causing the dissolution of a decentralized autonomous organization, the organization shall execute a statement of intent to dissolve in the form prescribed by the Registrar.

(3) Any interested party may petition a court of competent jurisdiction for dissolution of a decentralized autonomous organization upon the occurrence of any of the events specified in subsection (1) of this section and upon finding the occurrence of one (1) or more of the events specified in subsection (1) of this section the court shall enter an order dissolving the decentralized autonomous organization.

§115. Miscellaneous.

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 pre-empt any conflicting provisions of the smart contract.

§116. Training fund.

(1) A fund is hereby established purposely for training to improve the knowledge and skills of the implementers of the law.

(2) Payments made of the fund shall be approved by the Minister of Justice and for the purpose of the training, on criteria and conditions set forth in the Regulations for the use of the Fund.

§117. Regulations.

Subject to the Marshall Islands Administrative Procedure Act 1979, the Registrar shall have the authority to promulgate regulations.

§118. Transition provision.

This Chapter shall not be implemented until up to but not exceeding three months from the date of certification of this law.

§119. Effective Date.

This Chapter shall take effect on the date of certification in accordance with Article IV, Section 21 of the Constitution, subject to Section 118.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: **75ND2** was passed by the Nitijela of the Republic of the Marshall Islands on the **25th** day of **November** 2022; and

2. That I am satisfied that Nitijela Bill No: 75ND2 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 7th day of December 2022.

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

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands