



MARSHALL ISLANDS
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

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. 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.

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 proceedings can take a protracted time to resolve.

Although the Marshall Islands generally encourages foreign investment, the Foreign Investment Business License (Amendment) Act established a Natural 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 shop
- Video rental
- Handicraft shop
- Delicatessen, Deli Shop, or Food take-out

Other Investment Policy Reviews

In the past three years the Government of the Marshall Islands has not conducted an investment policy review through any organization or institution.

Laws/Regulations of 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 7-10 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. Describe the country/economy's legal system as it relates to foreign investment.

Industrial Promotion

The fisheries sector is the strongest growth industry in the country. The RMI is a member of the Parties to the Nauru Agreement (PNA), which coordinates purse seiner fishing policy among eight Pacific Island nations. According to PNA estimates, the value of the skipjack tuna within PNA-governed waters is USD 3.9 billion in 2013. 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), to which the Marshall Islands is also a member, provides necessary scientific and biological information on the marine species within the EEZ.

Limits on Foreign Control

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.

The Marshall Islands operates the third largest ship registry in the world, with over 100 million tons registered as of 2013. 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.

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 to ensure that lease agreements include all relevant landowners; failure to include a landowner may result in judicial proceedings.

Privatization Program

The Marshall Islands is in the very early stages of privatizing state-owned enterprises. 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 in fact no record of FDI is available.

Competition Law

Nothing to report for the Marshall Islands on this topic.

Investment Trends

Nothing to report for the Marshall Islands on this topic.

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	139 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	Not Listed	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 4,310	data.worldbank.org/indicator/NY.GNP.PCAP.CD

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 RMI. 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.

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 RMI due to the very 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 informally or only after protracted court disputes. Domestic civil society has traditionally not been actively engaged in dispute resolution.

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. There is a full-time Supreme Court Justice, two High Court judges, 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. Currently, the Chief Justice of the Supreme Court and both judges on the High Court are American citizens on limited-term contracts. 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. At this time the Marshall Islands has no plans to become a member of either Convention.

Duration of Dispute Resolution

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 2012 report by the RMI Judiciary, of the 20 land rights or land lease cases filed in 2012, 11 remain pending as of 2013. Of the 420 land-related cases filed since 1982, 76 remain pending. Land cases represent 5-6 percent of cases filed, but make up about 40 percent of the pending cases. Many international companies partner directly with a local landowner to avoid potential legal complications.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Not applicable.

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

Nothing to report for the Marshall Islands on this topic.

Data Storage

Nothing to report for the Marshall Islands on this topic.

6. Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity. With the exception of land titles noted elsewhere in this report, private entities may freely establish, acquire, and dispose of interests in business enterprises.

7. 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 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. As of 2013, however, the Land Registration Authority has documented a very small percentage of total land titles in the country and is largely dormant.

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.

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

8. 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 hierarchal relationships can play a role in government actions. Proposed laws and regulations are available in draft form for public comment. Generally, tax, labor, environment, health and safety, and other laws and policies do not impede investment.

9. 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. A growing number of unregulated financial service institutions have been reported, but little is known about their assets or available credit instruments.

10. Competition from State-Owned Enterprises

Nearly all major industries are controlled by state-owned enterprises (SOEs). The SOE sector, comprising a dozen public enterprises, continues to underperform and to impose significant risks and burden on the fiscal system and economy. Transfers (current subsidies) to SOEs in FY 2012 reached a record level of USD 8.8 million, up from the previous record in FY 2009 of USD 8.5 million, representing nearly 23 percent of general fund revenues. Adding capital transfers to current subsidies, FY2012 total transfers to the SOE sector were USD 11.2 million (nearly 30 percent of general fund revenues), the bulk of which was made up of transfers to Air Marshall Islands (USD 2.3 million), Kwajalein Atoll Joint Utility Resources (USD 2.9 millions), the Marshalls Electric Company (USD 2 million) and Tobolar (USD 1.4 million). The operation of the SOE sector places a significant cost on discretionary revenues, the burden being more than three times that of the external debt service.

OECD Guidelines on Corporate Governance of SOEs

SOE reform constituted a major component of the recently completed ADB-supported Public Sector Program (PSP). To signal its intention to strengthen governance of SOEs, the RMI Cabinet passed in 2010 a set of good practice principals which state that:

- SOEs are to prepare business plans that disclose the strategic directions and performance targets and, after the Cabinet has approved them, they are to be publicly released.
- The activities undertaken by SOEs are to be categorized as either essential or nonessential; the nonessential should then be sold or cut back.
- The RMI government will ensure that SOE boards are independent in their operation and that the boards are comprised of members who are suitably qualified and experienced in their fields.
- The government will also ensure that the senior management within SOEs has suitable qualifications and experience.
- SOEs will be required to align their prices and charges with the total cost of service delivery, except where they are being funded by community service obligation (CSO) arrangements.
- SOEs will be required to operate in accordance with sound financial management principals.
- The government has agreed to establish an SOE policy and SOE act to provide mechanisms for the effective application of good practices.

Though the Marshall Islands has pledged to privatize nonessential SOEs, only limited privatization has occurred in the telecommunications sector although there is emerging evidence of improvements in the energy sector. Some, but not all, state-owned enterprises publish annual reports, and 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 RMI representatives.

11. Corporate Social Responsibility

With the exception of a few retail businesses, the banking sector, and ship registry, there is little general awareness of corporate social responsibility (CSR) among producers or consumers. Firms that pursue CSR are viewed neither favorably nor unfavorably.

OECD Guidelines for Multinational Enterprises

With general awareness on CSR in the Marshall Islands low, the government neither encourages nor discourages OECD Guidelines for Multinational Enterprises regarding CSR.

12. Political Violence

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

13. 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 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 of 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 hamper the Attorney General Office's efforts.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

The RMI 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.

14. Bilateral Investment Agreements

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

Bilateral Taxation Treaties

The Marshall Islands has double taxation agreements with Australia and New Zealand and has an Air and Sea Transport Cooperation Agreement and Exchange of Information Agreement with the United States. The RMI also has 14 tax information sharing agreements, including with the United States and Australia.

15. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation (OPIC) provides investment insurance, financing, and loan guarantees in the RMI for qualified investors. Because the Marshall Islands uses the U.S. dollar as its national currency, there are no convertibility risks. The RMI is not a member of the Multilateral Investment Guarantee Agency.

16. Labor

The workforce in 2012 was estimated at 10,482, of which 45 percent worked in the public sector. Preliminary results from the 2010 RMI census indicate the country has a 31 percent unemployment rate, and a significant portion of the population remains underemployed as well. Unemployment rates among youth and young adults could be as high as 50–60 percent. Official reported unemployment is 4.7 percent however, by including all household production such as fishing or making handicrafts for personal consumption.

Under the Compact of Free Association, Marshallese citizens are entitled to live, attend school, and work in the United States visa-free as “nonimmigrant residents.” Accordingly, many skilled and professional workers migrate to the U.S. for its higher wages and standards of living. Professional, medical, management, and other special labor skills are in high demand in the Marshall Islands.

Given the scarcity of resident qualified workers, the Marshall Islands allows investors to employ non-resident workers provided they agree to cover the cost of repatriation, that they hire and train at least one citizen to perform the same work, and pay a fee of USD 1,000. The National Training Council provides training resources for Marshallese workers. The rules concerning non-resident workers do not apply to U.S. citizens and citizens of the Federated States of Micronesia, and Palau. While many consider the law discriminatory against foreign workers, employers are willing to pay the fee in order to hire skilled labor, which is not widely available in the country. Some companies, particularly in fisheries, seeking to expand business and hire additional workers are limited by other infrastructure constraints, such as the lack of available land, water, and power.

There is no legislation concerning collective bargaining or trade union organization. The country has a very limited history or culture of organized labor. The only union ever created in the country, the Teachers' Union, was formed several years ago. Since the death of the founder, the union has become inactive. The Marshall Islands has been a member of the International Labor Organization (ILO) since 2007 but has only had limited engagement with the ILO.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

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

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2012	184	2013	191	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)	2012	4,059	2013	Not Available	
Host country's FDI in the United States (\$M USD, stock positions)	2012	Not Available	2013	Not Available	http://bea.gov/international/factsheet/factsheet.cfm?Area=658
Total inbound stock of FDI as % host GDP	2012	2.2%	2013	Not Available	

Table 3: Sources and Destination of FDI

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

Table 4: Sources of Portfolio Investment

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

19. Contact for More Information

POC at Post:

Pol/Econ/Consular Officer
P.O. Box 1379, Majuro, MH 96960
692-247-4011
<http://majuro.usembassy.gov>