



# SUPPLEMENTARY PEER REVIEW REPORT

Phase 1

## Legal and Regulatory Framework

MARSHALL ISLANDS



## *Table of Contents*

<b>About the Global Forum</b> .....	5
<b>Executive summary</b> .....	7
<b>Introduction</b> .....	9
Information and methodology used for the peer review of The Marshall Islands ..	9
<b>Compliance with the Standards</b> .....	11
<b>A. Availability of information</b> .....	11
Overview .....	11
A.1. Ownership and identity information .....	12
A.2. Accounting records .....	21
A.3. Banking information .....	25
<b>B. Access to information</b> .....	27
B.1. Competent Authority’s ability to obtain and provide information .....	27
B.2. Notification requirements and rights and safeguards .....	29
<b>C. Exchanging information</b> .....	31
C.1. Exchange-of-information mechanisms .....	31
C.2. Exchange-of-information mechanisms with all relevant partners .....	32
C.3. Confidentiality .....	33
C.4. Rights and safeguards of taxpayers and third parties .....	33
C.5. Timeliness of responses to requests for information .....	34
<b>Summary of determinations and factors underlying recommendations</b> .....	35

<b>Annex 1: Jurisdiction’s response to the review report . . . . .</b>	<b>37</b>
<b>Annex 2: List of all exchange-of-information mechanisms . . . . .</b>	<b>39</b>
<b>Annex 3: List of all laws, regulations and other material received . . . . .</b>	<b>40</b>

## About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. The standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to [www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency) and [www.eoi-tax.org](http://www.eoi-tax.org).



## Executive summary

1. This is a supplementary report on the amendments made by the Marshall Islands to its legal and regulatory framework for transparency and exchange of information. It complements the Phase 1 review report which was adopted and published by the Global Forum on Transparency and Exchange of Information for Tax Purposes in October 2012 (“the 2012 Report”).

2. The 2012 Report determined that six of the ten essential elements were in place. Two of the essential elements were determined to be not in place. These were ownership and identity information (Element A.1); and accounting records (Element A.2). Two of the essential elements were determined to be in place but certain aspects of the legal implementation of the element needed improvement. These were access powers (Element B.1) and exchange of information mechanisms (Element C.1). The Marshall Islands has amended its legal and regulatory framework in order to address the recommendations identified in the 2012 Report. In view of these amendments, the Marshall Islands asked for a supplementary peer review report pursuant to paragraph 58 and 60 of the Revised Methodology for Peer Reviews and Non-member Reviews.

3. As regards the legal framework governing the availability of ownership information in the Marshall Islands (Element A.1), significant amendments have been made since the 2012 Report. The relevant legislation now ensures that ownership and identity information is available in respect of limited liability companies, foreign limited liability companies, partnerships and limited partnerships. Amendments have also been made to ensure that appropriate sanctions apply for a failure to maintain ownership information in respect of domestic companies, limited liability companies, foreign limited liability companies, partnerships and limited partnerships.

4. No changes have been made since the 2012 Report to ensure that ownership information is available with respect to bearer shares and nominees. In this regard, the recommendations in the 2012 Report have been retained. On that basis, Element A.1 is determined to be “not in place.”

5. Significant amendments have also been made to the legal framework governing the availability of accounting records (Element A.2). Legislation now ensures that accounting records and underlying documentation must be available and retained for at least five years, in respect of domestic companies, foreign companies, limited liability companies, foreign limited liability companies, partnerships and limited partnerships. The legislative amendments also ensure that appropriate sanctions apply for a breach of these accounting records obligations. Element A.2 is therefore determined to be in place.

6. Access to information (Element B.1) in the Marshall Islands was significantly strengthened by the introduction of the Tax Information Exchange Agreement Regulations. The amendments provide investigative powers to the competent authority for the purpose of responding to an information request regardless of any domestic tax interest, and regardless of any law relating to privilege or a contractual duty of confidentiality. As such, the recommendation made in the 2012 Report has been removed and Element B.1 is determined to be in place.

7. The Marshall Islands' exchange of information mechanisms (Element C.1) have also been improved. This is by virtue of the amendments in the Tax Information Exchange Agreement Regulations, which improve the legal framework regarding exchange of information and remove legal impediments to the effectiveness of the Marshall Islands' TIEAs. Since the 2012 Report, an additional eight of the Marshall Islands' TIEAs have entered into force. The Marshall Islands is continuing to work to bring its remaining TIEA into force, and is in negotiations to conclude a TIEA with four other jurisdictions. The recommendations made in the 2012 Report have been removed and Element C.1 is determined to be in place.

8. The Marshall Islands is encouraged to continue to review and update its legal and regulatory framework to address the remaining recommendations in respect of ownership and accounting information and to continue to expand its network of information exchange agreements.

9. In light of the actions undertaken by the Marshall Islands to address the recommendations made in the 2012 Report, the Marshall Islands is in a position to move to its Phase 2 Peer Review. Any further developments in the legal and regulatory framework, as well as the application of the framework to EOI practice in the Marshall Islands, will be considered in detail in the Phase 2 Peer Review. It is proposed that the Phase 2 Peer Review be launched in the second half of 2015.

## Introduction

### Information and methodology used for the peer review of The Marshall Islands

10. The assessment of the Marshall Islands’ legal and regulatory framework contained in this supplementary peer review report was based on the international standards for transparency and exchange of information as described in the Global Forum’s Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes (“the Terms of Reference”). It was prepared pursuant to paragraphs 58 and 60 of the Global Forum’s Revised Methodology for Peer Reviews and Non-member Reviews and considers recent changes to the legal and regulatory framework of the Marshall Islands. The assessment was based on information available to the assessment team including the laws, regulations, and exchange of information arrangements in force or signed as at 31 March 2015, and information supplied by the Marshall Islands. It follows the Phase 1 Review Report on The Marshall Islands which was adopted and published by the Global Forum in October 2012.

11. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. This review assesses the Marshall Islands’ legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element, a determination is made that either *(i)* the element is in place, *(ii)* the element is in place but certain aspects of the legal implementation of the element need improvement, or *(iii)* the element is not in place.

12. The assessment was conducted by a team which consisted of two assessors and a representative of the Global Forum Secretariat: Ms. Nicola Guffogg of the Isle of Man, Ms. Yun-Jung Seo of the Republic of Korea, and Ms. Melissa Dejong from the Global Forum Secretariat. The assessment team examined the legal and regulatory framework for transparency and exchange of information and relevant exchange of information mechanisms in the Marshall Islands.



13. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the Terms of Reference, which takes into account the conclusions of this Supplementary Report, can be found at the end of this report.

## Compliance with the Standards

### A. Availability of information

#### Overview

14. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If the information is not kept or it is not maintained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of the Marshall Islands' legal and regulatory framework on availability of information.

15. The 2012 Report identified that the relevant legal entities and arrangements in the Marshall Islands were domestic companies, foreign companies, domestic partnerships, limited partnerships, foreign partnerships, domestic trusts, foreign trusts and foreign maritime entities.

16. In the 2012 Report, element A.1 (ownership and identity information) was determined to be not in place. Although ownership information was available for domestic and foreign companies, the legal obligations to ensure availability of this information in respect of limited liability companies, foreign limited liability companies, partnerships, limited partnership was determined to be insufficient. In addition, insufficient sanctions were applicable with regard to the availability of ownership information. These issues have now been addressed and the relevant recommendations have

been removed. Shortcomings in the legal framework were also identified with regard to the availability of ownership information on bearer shares and nominee arrangements. These issues are outstanding and the recommendations made in the 2012 Report are retained.

17. Element A.2 (accounting records) was also determined to be not in place as there were insufficient or lacking obligations on all relevant entities and arrangements to maintain accounting information and underlying documentation for at least five years. Legislative changes have been made in this regard and now require that accounting records be available in respect of domestic and foreign companies, limited liability companies, foreign limited liability companies, partnerships and limited partnerships. Element A.2 is determined to be in place.

18. The 2012 Report found that element A.3 (bank information) was “in place” and no recommendations are made in that regard.

### A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

#### *Companies (ToR A.1.1)*

19. The 2012 Report determined that ownership and identify information was required to be available with respect to domestic companies and foreign companies that are authorised to do business in the Marshall Islands. However, there was no legal requirement for records to be kept identifying the members of limited liability companies (LLCs).

20. Section 22(1)(c) of the Limited Liability Company Act (LLCA) now requires that all domestic LLCs maintain an up-to-date record of the names and addresses of all their members (*Associations Law (Amendment) Act, August 2014, section 5; Annex 1*). LLCs must retain these records for at least five years. In addition, section 22(2) of the LLCA enables any member of an LLC to request current information as to the name and address of other members, and members may take an action in the High Court of the Marshall Islands to enforce this right. This amendment became effective on 30 January 2015, and therefore from that date LLCs must have an accurate record of all of their current members.

21. The Terms of Reference also require that ownership and identity information be available in respect of foreign companies that have a sufficient nexus with the jurisdiction. A sufficient nexus for this purpose has been accepted to include companies that are tax resident and companies that have their headquarters in the jurisdiction.

22. In the Marshall Islands, any non-citizen individual or any entity or arrangement in which a non-citizen has an equity interest must apply for a licence in order to do business in the Marshall Islands. This applies to all types of entities, including companies and partnerships as described below. The licensing requirements are contained in the *Foreign Investment and Business Licence Act* (FIBLA). As FIBLA does not explicitly define what it means “to do business in the Marshall Islands,” the ordinary meaning of the phrase is applied. The 2012 Report noted that the FIBLA requirements include an obligation to submit the details of all owners of a foreign entity in the course of applying for the licence, as well as an obligation to provide notification of changes in ownership to the Registrar. These obligations have been added to by the insertion of new section 207A of FIBLA. Section 207A explicitly requires all grantees of a foreign investment business licence to maintain an up-to-date record of the names and addresses of all owners. These records must be retained for at least five years. This amendment, together with the existing provisions of FIBLA, ensures that ownership and identity information is available in respect of foreign limited liability companies that have the requisite nexus with the Marshall Islands. This amendment became effective on 30 January 2015.

23. No legislative changes have been introduced to address the recommendation that the Marshall Islands ensure that ownership and identity information is available in respect of nominee shareholding.

### ***Bearer Shares (ToR A.1.2)***

24. The 2012 Report noted that the Business Corporations Act requires that a corporation that has issued bearer shares to maintain a record of the number, class and date of issue of such shares. Bearer share holders must also be contacted in order to attend company meeting and exercise their vote. The 2012 Report concluded that these mechanisms were not sufficient to ensure that ownership and identity information in respect of the owners of bearer shares would be available.

25. No legislative changes have been introduced to address this issue. As the lack of a sufficient regime to ensure the availability of ownership of bearer shares is a significant issue in the peer review process, a recommendation has been retained on this issue. Significant weight attaches to this issue in the overall determination of Element A.1.

### ***Partnerships (ToR A.1.3)***

26. There are two types of partnerships in the Marshall Islands: general partnerships and limited partnerships. The 2012 Report determined that there was no legal requirement for records to be kept identifying the partners of general partnerships or limited partnerships.

27. Section 37(1)(c) of the Revised Partnership Act now requires every domestic partnership to keep an up to date record containing the names and addresses of all partners (*Associations Law (Amendment) Act, August 2014, section 3; Annex 1*). All domestic partnerships must retain these records for at least five years. In addition, section 37(2) of the Revised Partnership Act enables any current or former partner of a partnership to request current information as to the name and address of each of the partners (unless the partnership agreement explicitly provides otherwise), and partners may take an action in the High Court of the Marshall Islands to enforce this right. This amendment became effective on 30 January 2015, and therefore from that date domestic partnerships must have an accurate record of all of their current partners.

28. Similarly, section 32(1)(c) of the Limited Partnership Act now requires every domestic limited partnership to keep an up to date record containing the names and addresses of all partners (*Associations Law (Amendment) Act, August 2014, section 4; Annex 1*). All domestic limited partnerships must retain these records for at least five years. In addition, section 32(2) of the Limited Partnership Act enables a limited partner to request current information as to the name and address of each of the partners (unless the limited partnership agreement explicitly provides otherwise), and partners may take an action in the High Court of the Marshall Islands to enforce this right. This amendment became effective on 30 January 2015, and therefore from that date domestic limited partnerships must have an accurate record of all of their current partners.

29. The provisions of FIBLA which govern foreign businesses in the Marshall Islands (as described above in paragraph 22) are also applicable to foreign partnerships operating in the Marshall Islands.

### ***Trusts (ToR A.1.4)***

30. The 2012 Report found that Marshall Islands trusts were required to file the trust deed with the Registrar (which likely includes information on the settlor, trustee and beneficiaries), that the trustee is obligated to keep accurate accounts and records of the trusteeship, and that professional trustees must obtain a license to act as trustee. With regard to foreign trusts administered in the Marshall Islands, the trustee must also be licensed and would be subject to the fiduciary duties under the relevant foreign law. Furthermore, where either a domestic trust or foreign trust established a relationship with a financial institution or cash dealer, customer due diligence obligations under anti-money laundering rules would apply. However, the 2012 Report identified some deficiencies, as there was not a clear obligation to ensure that the identity of the settlor, co-trustees and beneficiaries in all circumstances.

31. The creation of trusts in the Marshall Islands is governed by the Trusts Act, Trust Companies Act and Trustee Licensing Act. A Marshall Islands trust can be created only by registration with the Registrar of Trusts, which is the Majuro International Trust Company. By virtue of the explicit statutory requirement to register a trust with the Majuro International Trust Company, the common law regarding trust formation is excluded. Accordingly, it is not possible to create a trust under the common law in the Marshall Islands. The only possible means by which to create a trust under Marshall Islands law is pursuant to the statute law.

32. The Majuro International Trust Company has not been active since the time of its formation in 1996 and consequently cannot accept trust registrations. It is therefore impossible to register a Marshall Islands trust. This was a deliberate policy choice made in co-operation with the Registrar of Corporations, as it was considered that it was not in the best interests of the Marshall Islands to have an active trust program. This policy choice has been continued to date, and the Marshall Islands advises that the trust program is, and will remain, inactive. On this basis, the recommendation made in the 2012 Report is removed from the box. However, this issue would require reconsideration if the Marshall Islands decided to allow the creation of trusts and the non-existence of an active trusts program in the Marshall Islands will be considered in the Phase 2 review.

33. In addition, it is not possible for a trustee to legally act in a professional capacity in the Marshall Islands, either as trustee of a domestic trust or foreign trust. This is because a professional trustee would be subject to the obligations under the Trust Company Act to obtain a licence (*Trust Company Act*, s. 205). Consistent with the deliberate choice to leave the trust program inactive in the Marshall Islands, it is impossible to obtain such a licence. However, this issue would require reconsideration if the Marshall Islands decided to allow the licensing of trustees and the non-existence of an active trustee licensing program in the Marshall Islands will be considered in the Phase 2 review.

34. It is possible that a person resident in the Marshall Islands could act, as in a non-professional capacity, as a trustee of a foreign-law governed trust. Depending on which foreign law governed a particular trust, the trustee would have common law obligations or other ownership and identity obligations in respect of the trust. Ownership and identity information would thus be available to the extent required by the trustee's duties and the terms of the relevant foreign law. It would be expected that given the function performed by, and the duties imposed on, a trustee, the identity of the settlor and beneficiaries of the trust should be known to the trustee.

35. In this case, where the trustee formed a business relationship on behalf of the trust with a financial institution or cash dealer in the Marshall

Islands, that financial institution would be subject to customer due diligence obligations. The Anti-Money Laundering and Countering the Financing of Terrorism Regulations require financial institutions and cash dealers to identify and determine the beneficial owner of the customer when forming business relationships. In respect of a customer that is a trust, section 3C.6 of these Regulations require the financial institution or cash dealer to identify the settlor(s), trustee(s) and beneficiaries whose vested interest is 10% or more of the value of the trust corpus. Section 3H of the Regulations require that financial institutions and cash dealers gather and maintain customer information on an ongoing basis and keep it up-to-date by taking reviews of existing records at appropriate times, particularly for higher risk categories of customers or business relationships.

36. It is also possible that a person in the Marshall Islands could act as a trustee of a foreign-law governed trust in a non-professional capacity and not have a business relationship with a financial institution or cash dealer subject to customer due diligence obligations. In such case, the availability of information in respect of the foreign-law governed trust would be assured only by the relevant foreign law and common law obligations, if any, which may not cover the entire scope of ownership and identity information required by the Terms of Reference. This is considered to be a narrow gap and its impact on exchange of information will be considered in the Phase 2 review.

### ***Foundations (ToR A.1.5)***

37. Foundations do not exist in the Marshall Islands.

### ***Foreign Maritime Entities***

38. A corporation created under the laws of a foreign jurisdiction can apply to the Registrar to obtain authorisation for the sole and limited purpose of owning and/or operating a Marshall Islands' flagged maritime vessel (section 119, *Business Corporations Act*). If the authorisation is obtained, the entity is licensed as a Foreign Maritime Entity (FME). An FME may have an office in the Marshall Islands for the purposes of doing all things necessary to the conduct of the business of ownership and operation of Marshall Islands flag vessels, but may not conduct any other business activity in the Marshall Islands without a licence under FIBLA, described above.

39. The 2012 Report included FMEs as a relevant entity for the purposes of the peer review. For the purposes of the Terms of Reference, a jurisdiction is expected to ensure that ownership information is available with respect to a foreign company if the foreign company has a sufficient nexus with the jurisdiction. A sufficient nexus is stated in the Terms of Reference to include being resident for tax purposes. The Terms of Reference give an example of

tax residence arising where the place of effective management of the company is located in a jurisdiction. Where tax residence is not a relevant concept in a particular jurisdiction, the peer review reports to date have accepted that a sufficient nexus may arise if the foreign company has located its headquarters in the jurisdiction. A permanent establishment has not been considered to be sufficient nexus on its own.

40. The Marshall Islands does have an income tax, which is based on a territorial system. Income earned from business activities undertaken in the Marshall Islands are subject to tax in the Marshall Islands. The function undertaken by FMEs through an office in the Marshall Islands (if any) is not considered to be a business activity for tax purposes (Business Corporations Act ss. 2, 12). As such, FMEs are not resident for tax purposes or subject to tax in the Marshall Islands. The only revenue earned by the Marshall Islands in respect of FMEs is from the initial licensing fee and annual renewal fees. An enterprise applying for FME status will, at the time of the application, have its principal place of business outside the Marshall Islands. In the event that an FME subsequently chose to relocate its principal place of business to the Marshall Islands, it would become a tax resident in the Marshall Islands. In other words, the fact of having FME status will not of itself make the entity a tax resident in the Marshall Islands.

41. The only requirement on an FME in terms of its presence in the Marshall Islands is to have a registered agent in the Marshall Islands. The registered agent must be the Trust Company of the Marshall Islands, which is also the Registrar for Corporations for FMEs (sections 20(2) and 4(3) of the Business Corporations Act). An FME is also authorised (but not required) to have one or more offices in the Marshall Islands for the purpose of doing all things necessary to the conduct of the business of ownership and operation of Marshall Islands flag vessels (Business Corporations Act, s. 120). As noted above, an enterprise applying for FME status will, at least at the time of the application, have its principal place of business outside the Marshall Islands. As such, any office in the Marshall Islands would not be the equivalent of a headquarters in the Marshall Islands. It would be possible for an FME to subsequently relocate its principal place of business to the Marshall Islands. In order to do this, the entity would require authorisation under FIBLA. Ownership information about these FMEs that have relocated their principal place of business to the Marshall Islands will be available in accordance with the requirements under FIBLA (described above at paragraph 22), and additionally as follows.

42. When an FME applies for authority to own or operate a ship under the Marshall Islands' flag, it must submit an application for registration pursuant to section 119 of the Marshall Islands Business Corporations Act. Section 119(2) sets out the information that must be included in the



application, which is the name of the entity; the legal character or nature of the entity; the jurisdiction and date of its creation; the address of the principal place of business of the entity (and, if different to the jurisdiction of incorporation, the place of business or the name and address of its legal representative in the jurisdiction of incorporation); the full names and addresses of the persons with management of the entity; and the name and address of the entity's Registered Agent in the Marshall Islands. The application must be accompanied by a certified copy of the governing document of the entity (articles, charter or other document issued by the appropriate governmental agency), and any relevant amendments thereto. The registered agent for an FME is the Trust Company of the Marshall Islands, which is also the Registrar for Corporations for FMEs (sections 20(2) and 4(3) of the Business Corporations Act). The Trust Company of the Marshall Islands, Inc. receives administrative and technical support from a private company, International Registries, Inc.

43. In addition, the Registration Procedure Manual that is used by all registration personnel now explicitly states the requirement that ultimate beneficial ownership information of the entity must be obtained and vetted prior to the registration of every vessel. This includes identifying the ultimate beneficial owner, which means either a publicly traded company that owns 20% or more of the vessel or, if a company is not publicly traded, a list of all natural persons who ultimately own 20% or more of the vessel. If the required ownership information is not received for a vessel, the registration will not be completed and the vessel will not be able to fly the Marshall Islands flag.

44. The Registrar must be notified any time there is a change to the ownership of a vessel, in order for the vessel's registration documentation to be updated. This requires the Registrar to obtain the ownership information of the new owning entity. In addition to changes in ownership, any time there is a change in registration information, including the vessel operator, the vessel's operating status, or the vessel's name, all of the registration information is re-vetted prior to issuing the updated registration documentation. Additionally, vessels are required to periodically renew their registration, at which time the ownership information must be provided and allows the Registrar to confirm the information is current. Prior to issuing updated documentation to a vessel, any new information for the vessel will be re-vetted according to the Registration Procedures Manual. In the event that the Registrar is not notified of such a change, among the penalties would be revocation of the registration documents and removal from the Marshall Islands ship registry.

45. It is noted that no FMEs currently have, or have ever had, an office conducting any activities in the Marshall Islands. For all FMEs to date, the only presence in the Marshall Islands is though the requirement to have a

registered agent in the Marshall Islands. The registry personnel undertaking the registration process for FMEs are not located in the Marshall Islands, but in several offices around the world (reflecting the location of the companies that are operating Marshall Islands' flagged vessels). Currently there are approximately 900 FMEs registered in the Marshall Islands, a figure which has remained relatively steady over recent years (as compared with approximately 40 000 domestic companies currently registered in the Marshall Islands, and approximately 100 entities operating under a Foreign Investment Business License). The Marshall Islands has registered more than 3 400 ships, and is the third largest open register in the world. Most of the vessels registered under the Marshall Islands flag do not call at ports in the physical territory of the Marshall Islands as they are ships trading internationally. Approximately 15 Marshall Islands' registered vessels physically call in the Marshall Islands on a regular basis, most of which are fishing vessels.

46. In conclusion, it is possible that FMEs could relocate its principal place of business to the Marshall Islands and could in that scenario meet the headquarters nexus. However, no FMEs have an office in the Marshall Islands. In any case, ownership information is available with respect to FMEs. The recommendations of the 2012 Report made in respect to FMEs are therefore removed.

### ***Enforcement provisions to ensure availability of information*** *(ToR A.1.6)*

47. The 2012 Report noted that there were no sanctions with regard to the availability of ownership and identity information for any of the relevant entities and arrangements. Legislative changes have been introduced as follows.

48. In respect of domestic companies, limited liability companies, domestic partnerships and limited partnerships, any person who knowingly or recklessly fails to maintain ownership and identity records as required shall be liable to a fine not exceeding USD 5 000, cancellation of the formation of the entity, or both (section 80(6) of the *Business Corporations Act*, section 22(1)(f) of the *Limited Liability Company Act*, section 37(1)(f) of the *Revised Partnership Act* and section 32(1)(f) of the *Limited Partnership Act*, respectively). These amendments became effective on 30 January 2015.

49. In respect of foreign companies, new section 208A of the Foreign Investment and Business Licence Act (FIBLA) has been inserted, which provides that any person that violates a provision of the Act (which includes the obligation to keep up to date ownership records under section 207A, as discussed above) is liable to a maximum fine of USD 10 000.

50. The 2012 Report noted that although a trustee could be penalised for breach of trustee's duties, there were no specific enforcement provisions

related to the failure to maintain ownership and identity information. However, as noted above, it is not possible to register a trust under Marshall Islands law, and the recommendations made in the 2012 report relating to sanctions in respect of trusts are therefore removed from the box. This issue would require reconsideration if the Marshall Islands decided to allow the creation of trusts and the licensing of trustees, and the non-existence of an active trust program in the Marshall Islands will be considered in the Phase 2 review.

51. Penalties in respect of failure of FMEs with their principal place of business in the Marshall Islands to provide correct or updated information include those described under FIBLA, as well as revocation of the registration documents and removal from the Marshall Islands ship registry.

52. As such, the enforcement provisions are now in place for all relevant entities and arrangements, and their effectiveness will be considered in the Phase 2 Peer Review.

**Determination and factors underlying recommendations**

Determination	
<b>The element is not in place.</b>	
Factors underlying recommendations	Recommendations
Bearer shares can be issued by non-resident domestic corporations in the Marshall Islands. Appropriate mechanisms to allow identification of owners of bearer shares are not in place.	The Marshall Islands should ensure that appropriate mechanisms to identify owners of bearer shares are in place.
Ownership and identity information for <del>resident and non-resident domestic LLCs, Foreign Maritime Entities, nominee shareholdings and limited partnerships, Marshall Islands trusts and foreign trusts</del> is not available in all circumstances.	The Marshall Islands should ensure that ownership and identity information is available in respect of nominee shareholdings <del>for all entities.</del>
<del>There are no sanctions for not maintaining ownership and identity information under Marshall Islands law.</del>	<del>The Marshall Islands should introduce effective sanctions against entities and arrangements where they fail to comply with requirements to maintain ownership and identity information.</del>

## A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

### ***General requirements (ToR A.2.1), Underlying documentation (ToR A.2.2) and Document retention (ToR A.2.3)***

53. The Phase 1 report determined that Element A.2 was not in place, as the accounting record obligations on domestic corporations and Marshall Islands trusts was not sufficient to meet the standard, and there were no explicit accounting obligations applicable to LLCs, foreign corporations, partnerships and FMEs to keep accounting records and underlying documentation for five years. Amendments have been made to address this determination, as follows.

54. Section 80(1) of the Business Corporations Act has been amended to require that domestic companies keep reliable and complete accounting records, to include correct and complete books and records of account. Section 80(1) further states that accounting records must be sufficient to correctly explain all transactions, enable the financial position of the corporation to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. Additionally, every domestic corporation is required to keep underlying documentation, such as invoices and contracts, which shall reflect all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place, all sales, purchases, and other transactions, and the assets and liabilities of the corporation. Domestic corporations must keep all accounting records and underlying documentation in the Marshall Islands for at least five years. In addition, section 80(6) provides that any person who knowingly or recklessly fails to keep, retain, or maintain accounting records and underlying documentation for at least five years is liable to a fine not exceeding USD 5 000, revocation of the corporation's articles of incorporation and dissolution, or both. This amendment became effective on 30 January 2015.

55. Section 22(1) of the Limited Liability Company Act has been amended in a similar manner. It now requires that every domestic limited liability company keep reliable and complete accounting records, to include correct and complete books and records of account. Section 22(1)(a) states that accounting records must be sufficient to correctly explain all transactions, enable the financial position of the limited liability company to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. Additionally, every domestic limited liability company is required to keep underlying documentation for accounting records, such as invoices and contracts, which shall reflect all sums of money received and expended and the matters in respect of which the receipt and expenditure

takes place, all sales, purchases, and other transactions, and the assets and liabilities of the limited liability company. A domestic limited liability company is required to keep all accounting records and underlying documentation for at least five years. Section 22(1)(f) provides that any person who knowingly or recklessly fails to keep, retain, and maintain accounting records as required under this section shall be liable to a fine not exceeding USD 5 000, cancellation of the certificate of formation, or both. This amendment became effective on 30 January 2015.

56. In respect of foreign companies, foreign limited liability companies and foreign partnerships doing business in the Marshall Islands, section 207A of the Foreign Investment and Business Licence Act (FIBLA) now requires that every foreign entity granted a business license maintain reliable and complete accounting records. Section 207A requires that accounting records be sufficient to correctly explain all transactions, enable the financial position of the entity to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. The amended Act also requires that underlying documentation for accounting records is maintained, including but not limited to invoices and contracts. Section 207A further states that this underlying documentation must reflect all sums of money received and expended and the matters in respect of which the receipt and expenditure took place, all sales, purchases, and other transactions, and the assets and liabilities of the entity. These accounting records and underlying documents must be retained for at least five years. New section 208A of the Foreign Investment and Business Licence Act has been included, which provides that any person that violates a provision of the Act is liable to a maximum fine of USD 10 000. This amendment became effective on 30 January 2015.

57. Section 37(1) of the Revised Partnership Act has also been amended. It requires that every domestic partnership shall keep reliable and complete accounting records, to include correct and complete books and records of account. Section 37(1)(a) provides that accounting records must be sufficient to correctly explain all transactions, enable the financial position of the partnership to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. Additionally, every domestic partnership is required to keep underlying documentation for accounting records, such as invoices and contracts, which shall reflect all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place, all sales, purchases, and other transactions, and the assets and liabilities of the partnership. These records must be retained for at least five years. Section 37(1)(f) provides that any person who knowingly or recklessly fails to keep, retain, and maintain accounting records as required shall be liable to a fine not exceeding USD 5 000, cancellation of the certificate of partnership, or both. This amendment became effective on 30 January 2015.

58. Section 32(1) of the Limited Partnership Act has similarly been amended. Section 32(1)(a) now requires that every domestic limited partnership shall keep reliable and complete accounting records, to include correct and complete books and records of account. Section 32(1)(a) further states that accounting records must be sufficient to correctly explain all transactions, enable the financial position of the partnership to be determined with reasonable accuracy at any time, and allow financial statements to be prepared. Additionally, every domestic limited partnership shall keep underlying documentation for accounting records, such as invoices and contracts, which shall reflect all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place, all sales, purchases, and other transactions, and the assets and liabilities of the limited partnership. These accounting records and underlying documentation must be retained for at least five years. Section 32(1)(f) provides that any person who knowingly or recklessly fails to keep, retain, and maintain accounting records as required shall be liable to a fine not exceeding USD 5 000, cancellation of the certificate of limited partnership, or both. This amendment became effective on 30 January 2015.

59. In respect of trusts, the 2012 report determined that Marshall Islands domestic trusts, and trustees in the Marshall Islands acting for foreign trusts, were not required to maintain all accounting records, including underlying documentation, for at least five years. No changes to the legal and regulatory framework have been made. However, the discussion above at section A.1.4 noted that it is not possible to create a Marshall Islands trust, and that it is not possible for a Marshall Islands person to act as a professional trustee of a foreign trust. As such, the recommendation is removed. This issue would require reconsideration if the Marshall Islands decided to allow the creation of trusts and the non-existence of an active trusts program in the Marshall Islands will be considered in the Phase 2 review. It is possible that a person resident in the Marshall Islands could act as a non-professional trustee of a foreign trust. Accounting records would thus be available to the extent required by the trustee's duties and the terms of the relevant foreign law. These obligations would not necessarily cover the full scope of obligations under the Terms of Reference, and the significance of this should be assessed during the Phase 2 review.

60. In respect of FMEs, the Phase 1 report noted that there were no applicable accounting obligations in the Marshall Islands. As described in under Element A.1, FMEs are neither tax resident nor have their headquarters in the Marshall Islands, and no FME has ever had an office in the Marshall Islands. However, it is possible that an enterprise with FME status could relocate its principal place of business to the Marshall Islands. In that case, such FMEs would be subject to the provisions of FIBLA, and the accounting record requirements described at paragraph 56 above.

### Determination and factors underlying recommendations

Determination	
<b>The element is not in place.</b>	
Factors underlying recommendations	Recommendations
All resident and non-resident domestic corporations and Marshall Islands trusts are required to maintain correct and complete books and records of account. However, it is uncertain that these requirements ensure keeping of accounting records consistent with the standard. Additionally, the laws of the Marshall Islands do not contain explicit obligation for foreign corporations, FMEs, LLCs and partnerships to keep accounting records.	The Marshall Islands should ensure that its laws explicitly require all entities to keep full accounting records that would allow the entity to correctly explain all transactions, enable financial position of the entity to be determined with reasonable accuracy at any time and allow financial statements to be prepared.
The laws of the Marshall Islands do not contain explicit obligations requiring all types of entities to keep underlying documentation consistent with the standard.	The Marshall Islands should ensure its laws explicitly require all entities to keep full underlying documentation consistent with the standard.
The laws of the Marshall Islands do not explicitly stipulate a retention period for accounting records and underlying documentation in respect of all entities.	The Marshall Islands should ensure that its laws explicitly require all entities to keep accounting records and underlying documentation for at least five years.
The commercial and tax laws of the Marshall Islands do not contain any sanctions for not keeping accounting records.	The Marshall Islands should ensure that its laws prescribe appropriate sanctions against entities and arrangements for their failure to keep reliable accounting records consistent with the standard.

### A.3. Banking information

Banking information should be available for all account-holders.

#### *Record-keeping requirements (ToR A.3.1)*

61. No recommendation was made with regard to availability of banking information and no relevant legislative changes have been made since the 2012 Report. The determination for A.3 was, and remains, in place.

#### **Determination and factors underlying recommendations**

<b>Determination</b>
<b>The element is in place.</b>





## B. Access to information

62. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information.

### B.1. Competent Authority’s ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

#### *Ownership and identity information (ToR B.1.1) and Accounting records (ToR B.1.2)*

63. No recommendation was made with regard to access to ownership and identity information or accounting records, and no relevant legislative changes have been made since the 2012 Report.

#### *Use of information gathering measures absent domestic tax interest (ToR B.1.3)*

64. The 2012 Report found that Element B.1. was in place but that certain aspects of the legal framework required improvement. The Marshall Islands has separate legislation governing the TIEA with the United States of America (the Tax Information Exchange Agreement (Implementation) Act 1989), and separate legislation governing the exchange of information for tax purposes with all other jurisdictions (Tax Information Exchange (Execution and Implementation) Act 2010, or the “TIEA Act”). The 2012 Report found that all information gathering measures were in place with regard to the Tax Information Exchange Agreement (Implementation) Act 1989, however it was recommended with respect to the TIEA Act that the Marshall Islands clarify its laws to ensure that access to information is available even in the absence of a domestic tax interest.

65. In 2013, the Marshall Islands enacted regulations pursuant to the TIEA Act, the Tax Information Exchange Agreement (TIEA) Regulations 2013 (“TIEA Regulations”). Section 1(a) of the TIEA Regulations provides that the Minister of Finance has power to execute a Tax Information Exchange Agreement and the authority to use all information gathering powers to provide information requested pursuant to a TIEA. Section 1(b) of the TIEA Regulations allows for the delegation of this authority, including to the Competent Authority. Section 1(c) of the TIEA Regulations explicitly provide that these powers to access information may be exercised regardless of the existence of a domestic tax interest. The TIEA Regulations came into force on April 8, 2014.

#### ***Compulsory powers (ToR B.1.4)***

66. No recommendations were made with regard to this element in the 2012 Report. However, the Marshall Islands has clarified the legislative regime by setting out all of the relevant compulsory powers in the TIEA Regulations (where previously they were contained in the Income Tax Act, Banking Act and Mutual Assistance in Criminal Matters Act).

67. Section 2 of the TIEA Regulations provide explicit information gathering powers that are available to the Minister or his authorised person for the purposes of administering the TIEA Act or meeting the obligations under a tax information exchange agreement. These include examining books and records, obtaining and providing information from financial institutions and others (notwithstanding that the person acts in an agency or fiduciary capacity), obtaining and providing information on the ownership of entities including persons in an ownership chain, summoning a taxpayer or any other person having control, possession or custody of documents to attend to appear before the Minister or authorised person and to give testimony under oath, and to inspect and obtain copies of sales records.

68. Section 3 of the TIEA Regulations provides the Minister or authorised person with the authority, for the purpose of administering the TIEA Act or meeting the obligations under a tax information exchange agreement, to access all premises, documents and data storage devices of financial institutions, to make copies of the same, to access any documents that may be material in responding to an exchange of information request, to retain such documents and to retain a data storage device to copy the required information.

#### ***Secrecy provisions (ToR B.1.5)***

69. The 2012 Report found that professional privilege in the Marshall Islands extended to accountants, and its impact on effective exchange of information was unclear.

70. Section 4 of the TIEA Regulations has been amended, and now gives the Competent Authority power to access information regardless of any law relating to privilege or a contractual duty of confidentiality. Accordingly, the recommendation of the 2012 Report is removed.

#### Determination and factors underlying recommendations

Determination	
<b>The element is in place but certain aspects of the legal implementation of the element need improvement.</b>	
Factors underlying recommendations	Recommendations
The access powers of the Secretary of Finance to obtain information for EOI purposes may be constrained by a domestic tax interest.	The Marshall Islands should clarify its laws to ensure that its competent authority has the power to obtain information for EOI purposes in all cases.
The scope of professional privilege in the Marshall Islands extends to accountants and its impact on effective exchange of information is unclear.	The Marshall Islands should ensure that domestic provisions on professional privileges relating to accountants allow exchange of information in line with the standard.

## B.2. Notification requirements and rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

### *Not unduly prevent or delay exchange of information (ToR B.2.1)*

71. No recommendation was made with regard to Element B.2. and no relevant legislative changes have been made since the 2012 Report.

#### Determination and factors underlying recommendations

Determination
<b>The element is in place.</b>



## C. Exchanging information

### C.1. Exchange-of-information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

#### *Foreseeably relevant standard (ToR C.1.1)*

72. No recommendation was made with regard to Element C.1.1 and no relevant legislative changes have been made since the 2012 Report.

#### *In respect of all persons (ToR C.1.2)*

73. No recommendation was made with regard to Element C.1.2 and no relevant legislative changes have been made since the 2012 Report.

#### *Obligation to exchange all types of information (ToR C.1.3)*

74. No recommendation was made with regard to Element C.1.3 and no relevant legislative changes have been made since the 2012 Report.

#### *Absence of domestic tax interest (ToR C.1.4)*

75. The 2012 Report found that the lack of clarity with regard to the access powers of the Competent Authority in the absence of a domestic tax interest were also relevant in considering Element C.1.4.

76. As discussed above at Element B.1, these recommendations have been explicitly addressed in the 2013 amendment to the TIEA Regulations. As such, Element C.1. is now determined to be in place.

#### *Absence of dual criminality principles (ToR C.1.5)*

77. No recommendation was made with regard to Element C.1.5 and no relevant legislative changes have been made since the 2012 Report.

***Exchange of information in both civil and criminal tax matters (ToR C.1.6)***

78. No recommendation was made with regard to Element C.1.6 and no relevant legislative changes have been made since the 2012 Report.

***Provide information in specific form requested (ToR C.1.7)***

79. No recommendation was made with regard to Element C.1.7 and no relevant legislative changes have been made since the 2012 Report.

***In force (ToR C.1.8)***

80. No recommendation was made with regard to Element C.1.8 and no relevant legislative changes have been made since the 2012 Report.

***In effect (ToR C.1.9)***

81. No recommendation was made with regard to Element C.1.9 in the 2012 Report. Since the 2012 Report, an additional seven of the Marshall Islands’ TIEAs have entered into force.

**Determination and factors underlying recommendations**

<b>Determination</b>	
<b>The element is in place but certain aspects of the legal implementation of the element need improvement.</b>	
<b>Factors underlying recommendations</b>	<b>Recommendations</b>
The access powers of the Secretary of Finance to obtain information for EOI purposes may be constrained by a domestic tax interest.	The Marshall Islands should clarify its laws to ensure that its competent authority has the power to obtain information for EOI purposes in all cases.

**C.2. Exchange-of-information mechanisms with all relevant partners**

The jurisdictions’ network of information exchange mechanisms should cover all relevant partners.

82. No recommendation was made with regard to Element C.2. and no relevant legislative changes have been made since the 2012 Report. Peer input received in the course of preparing this report indicates that the Marshall

Islands has never refused to enter into a TIEA when requested. Since the 2012 Report, an additional eight of the Marshall Islands' TIEAs have entered into force. The Marshall Islands is continuing to work to bring its remaining TIEA into force, and is in negotiations to conclude a TIEA with four other jurisdictions.

#### Determination and factors underlying recommendations

Determination	
The element is in place.	
Factors underlying recommendations	Recommendations
	The Marshall Islands should continue to develop its EOI network to the standard with all relevant partners.

### C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

***Information received: disclosure, use, and safeguards (ToR C.3.1) and All other information exchanged (ToR C.3.2)***

83. No recommendation was made with regard to Element C.3. and no relevant legislative changes have been made since the 2012 Report.

#### Determination and factors underlying recommendations

Determination
The element is in place.

### C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

***Exceptions to requirement to provide information (ToR C.4.1)***

84. No recommendation was made with regard to Element C.4. and no relevant legislative changes have been made since the 2012 Report.



**Determination and factors underlying recommendations**

<b>Determination</b>
<b>The element is in place.</b>

**C.5. Timeliness of responses to requests for information**

The jurisdiction should provide information under its network of agreements in a timely manner.

85. No recommendation was made with regard to Element C.5. and no relevant legislative changes have been made since the 2012 Report.

**Determination and factors underlying recommendations**

<b>Determination</b>
<b>This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.</b>

## Summary of determinations and factors underlying recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities ( <i>ToR A.1</i> )		
<b>The element is not in place.</b>	Bearer shares can be issued by non-resident domestic corporations in the Marshall Islands. Appropriate mechanisms to allow identification of owners of bearer shares are not in place.	The Marshall Islands should ensure that appropriate mechanisms to identify owners of bearer shares are in place.
	Ownership and identity information for-nominee shareholdings is not available in all circumstances.	The Marshall Islands should ensure that ownership and identity information is available in respect of nominee shareholding.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements ( <i>ToR A.2</i> )		
<b>The element is in place.</b>		
Banking information should be available for all account-holders ( <i>ToR A.3</i> )		
<b>The element is in place.</b>		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) ( <i>ToR B.1</i> )		
<b>The element is in place.</b>		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information ( <i>ToR B.2</i> )		
<b>The element is in place.</b>		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should allow for effective exchange of information ( <i>ToR C.1</i> )		
<b>The element is in place.</b>		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners ( <i>ToR C.2</i> )		
<b>The element is in place.</b>		The Marshall Islands should continue to develop its EOI network to the standard with all relevant partners.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received ( <i>ToR C.3</i> )		
<b>The element is in place.</b>		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties ( <i>ToR C.4</i> )		
<b>The element is in place.</b>		
The jurisdiction should provide information under its network of agreements in a timely manner ( <i>ToR C.5</i> )		
<b>This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.</b>		

## **Annex 1: Jurisdiction’s response to the review report<sup>1</sup>**

The Republic of the Marshall Islands (“Marshall Islands”) would like to express its support for its Phase 1 Supplementary Report (“Supplementary Report”) and to thank the Global Forum for the considerable work that went into the Supplementary Report. The Marshall Islands would also like to thank its assessment team for their dedication and hard work preparing the Supplementary Report. Finally, the Marshall Islands would like to reiterate its continued commitment to the Global Forum, international efforts to promote international tax transparency, and the effective and efficient exchange of information for tax purposes.

The Marshall Islands Phase 1 Report (“Phase 1 Report”) was adopted in late 2012. In the short time since the Phase 1 Report was adopted, the Marshall Islands has made several changes to its laws and regulations in order to address the various recommendations contained in the Phase 1 Report. To begin, the Marshall Islands amended its Associations Law to further clarify, in keeping with the terms of reference, the requirement that ownership information must be maintained by all relevant domestic entities. These same amendments also further clarify that all relevant domestic entities must keep accounting records, including underlying documentation, sufficiently detailed to meet the international standard. Additionally, the amendments to the Associations Law introduced an explicit retention period for both ownership and accounting records, as well as applicable sanctions for violation of the record keeping requirements.

To ensure that all relevant entities are required to maintain sufficient ownership and accounting records, the Marshall Islands also amended its Foreign Investment Business License Act (“FIBLA”), which applies to all foreign entities that do business in the Marshall Islands. Pursuant to these amendments to FIBLA, all foreign entities doing business in the Marshall Islands are required to keep ownership and accounting records to the same standard as domestic entities, those records must be maintained for a

---

1. This Annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

minimum of five years, and there are applicable sanctions for violation of FIBLA. Between the amendments to the Associations Law and the amendments to FIBLA, the Marshall Islands has addressed the recommendations under elements A1 and A2 that are contained in the Phase 1 Report.

In addition to the steps taken to address the recommendations to A1 and A2 contained in the Phase 1 Report, the Marshall Islands has also taken steps to fully address the recommendations in relation to B1 and C1. To this end, the Marshall Islands has introduced regulations under the TIEA Act that further clarify the access powers available to the competent authority to access information in response to an exchange of information request. The TIEA Regulations clarify that there are no constraints under Marshall Islands law, including no constraints due to a lack of domestic tax interest, that would limit the Marshall Islands' ability to exchange information with partner jurisdictions. Additionally, the TIEA Regulations clarify that the access powers are available regardless of any law relating to privilege or the public interest with respect to providing information, or any contractual duty of confidentiality. As such, with the TIEA Regulations the Marshall Islands has fully addressed the recommendations from its Phase 1 Report regarding elements B1 and C1.

As evidenced in the Supplementary Report, the Marshall Islands has worked hard to address the recommendations contained in its Phase 1 Report. The Marshall Islands would like to again express its gratitude to the assessment team for the support and guidance it has received during this process, the PRG for its adoption of the Supplementary Report, and the Global Forum as a whole. The Marshall Islands remains dedicated to the development of international tax transparency, and looks forward to continuing this work as it moves on to phase 2 of the review process.

## Annex 2: List of all exchange-of-information mechanisms

	Jurisdiction	Type of EOI arrangement	Date signed	Date in force
1	Australia	Taxation information exchange agreement (TIEA)	12-May-2010	25-Nov-2011
2	Denmark	TIEA	28-Sep-2010	3-Dec-2011
3	Faroe Islands	TIEA	28-Sep-2010	28-Nov-2014
4	Finland	TIEA	28-Sep-2010	2-Dec-2011
5	Greenland	TIEA	28-Sep-2010	19-Mar-2015
6	Iceland	TIEA	28-Sep-2010	30-Aug-2014
7	Ireland	TIEA	2-Sep-2010	10-Feb-2015
8	Korea	TIEA	31-May-2011	9-Mar-2012
9	Netherlands	TIEA	14-May-2010	8-Nov-2011
10	New Zealand	TIEA	6-Aug-2010	9-Apr-2015
11	Norway	TIEA	28-Sep-2010	19-Jun-2011
12	Sweden	TIEA	28-Sep-2010	Not yet in force
13	United Kingdom	TIEA	20-Mar-2012	7-May-2014
14	United States	TIEA	14-Mar-1991	14-Mar-1991

## **Annex 3: List of all laws, regulations and other material received**

### **Anti-money laundering laws**

Anti-Money Laundering and Countering the Financing of Terrorism  
(AML/CFT) Regulations

### **Commercial laws**

Associations Law (Consequential Amendment) Act 2015

Business Corporations Act

Foreign Investment Business License Act

Foreign Investment Business Licence Amendment Act 2015

Limited Partnership Act

Limited Liability Company Act

Revised Partnership Act

Trust Act

Trust Companies Act

Trustee Licensing Act

### **Taxation laws**

Income Tax Act

Tax Information Exchange (Execution and Implementation) Act 2010  
(TIEA Act 2010)

Tax Information Exchange Agreement (Implementation) Act 1989 (TIEA  
USA Act 1989)

Tax Information Exchange Agreement Regulations 2013

For more information  
**Global Forum on Transparency and  
Exchange of Information for Tax Purposes**  
[www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)  
[www.eoi-tax.org](http://www.eoi-tax.org)  
Email: [gftaxcooperation@oecd.org](mailto:gftaxcooperation@oecd.org)