Anti-money laundering and counter-terrorist financing measures

Japan

Follow-up Report & Technical Compliance Re-Rating

October 2023

Follow-up report

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

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Japan's 2nd Enhanced Follow-up Report

Introduction

The FATF Plenary adopted the mutual evaluation report (MER) of Japan in June 2021[1]. Based on the MER results, Japan was placed in enhanced follow-up. Japan's 1st Enhanced Follow-up Report (FUR) with technical compliance re-ratings was adopted in June 2022[2]. This 2nd enhanced FUR analyses Japan's progress in addressing the technical compliance deficiencies identified in its MER, relating to Recommendations 5, 6, 8, 24, 25, and 28. Re-ratings are given where sufficient progress has been made.

Overall, the expectation is that countries will have addressed most, if not all, technical compliance deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Japan has made to improve its effectiveness.

The following experts, supported by Mr. Panagiotis PSYLLOS and Ms. Lisa KILDUFF, Policy Analysts from the FATF Secretariat, assessed Japan's request for technical compliance re-ratings:

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The second section of this report summarises Japan's progress in improving technical compliance. The third section sets out the conclusion and includes a table showing Japan's MER ratings and updated ratings based on this and previous FURs.

Progress to improve Technical Compliance

This section summarises Japan's progress to improve its technical compliance by addressing most of the technical compliance deficiencies identified in the MER or any previous FUR (R.5, 6, 8, 24, 25 and 28).

[1] www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/Mer-japan-2021.html

[2] www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/Fur-japan-2022.html

Progress to address technical compliance deficiencies identified in the MER

Japan has made progress to address the technical compliance deficiencies identified in the MER in relation to R.5, 6, 8, 24, 25 and 28. Because of this progress, Japan has been re-rated on Recommendations 5, 6, 8, R.24, and 28. The FATF welcomes the progress achieved by Japan to improve its technical compliance with R.25. However, insufficient progress has been made to justify an upgrade of this Recommendation's rating.

Recommendation 5

	Year	Rating
MER	**2021**	PC
FUR1	**2022**	PC (not re-assessed)
FUR2	**2023**	**↑ LC**

a) **Criterion 5.1** (*Met)* Japan did not fully meet the requirement of this criterion at the time of the MER because the Act on Punishment of Financing to Offences of Public Intimidation (TF Act) criminalised the financing of various criminal acts "conducted with the intent of intimidating the public, national, or local governments, or foreign governments and other entities, whereas Art.2(1) (a) of the convention does not have such a requirement. Although Japan's Penal Code and other statutes criminalise conspiracy, attempt, and substantive violations that would include those contemplated by the annexed treaties, these general statutes did not constitute criminalisation of TF consistent with the UN TF Convention. Since the MER, Japan revised its TF Act on 9 December 2022 and further clarified that intent is not required for the offences identified in the treaties listed in the UN TF Convention annex. Japan defines its TF Offence as when a person who intends to commit an act of public intimidation or "a specified act"[3] has funds or other benefits provided with the aim of utilizing them for its commission, by inducing or requesting the provision of those funds or other benefits (meaning benefits other than funds including, but not limited to, land, building, goods and services) that may facilitate its commission, or by any other means and the term "specified act" is meant to cover specific criminal acts, such as: (a) killing an internationally protected person; (b) killing a person or causing bodily injury by using a weapon or any other means to cause serious bodily harm when involving a civil aircraft, civil ship, international airport, fixed platforms and public facilities; and (c) any act that kills a person or causes bodily injury by using a weapon or any other means to cause serious bodily harm when involving explosives, Molotov cocktails biological weapons toxins, chemical weapons, among others (TF Act, art. 2 (1)). In addition, the TF Act criminalises the conspiracy and facilitation of the aforementioned offences and provides for more severe penalties (art. 2 to 6).

b) **Criterion 5.2** (*Mostly met)* Japan did not fully meet the requirement of this criterion at the time of the MER because the information presented at the time of the MER led to the conclusion that the TF Act did not criminalise the

[3] Japan updated its translation along with the change in legislation to include "specified act" to avoid a misunderstanding that intent is required to be proven.

financing of a terrorist organisation or individual terrorist in the absence of a link to a specific "act of public intimidation". In addition, the TF Act did not apply to self-funding (although, as a general matter, Japan's Penal Code and other statutes criminalise "preparations", including financial "preparations" for acts identified in the annexed treaties of the UN TF Convention with the additional necessary element of terrorist intent).

c) Regarding the first deficiency, Japan issued a notice to all Public Prosecutors Offices across Japan to clarify the interpretation that prosecutors should give to the TF Act when directing investigations and prosecutions, clarifying that the financing of a terrorist organisation in the absence of a link to a specific terrorist act was and is criminalised (Official Notice regarding crimes under art. 5 of the TF Act on Punishment of Financing to offence of Public Intimidation, Ministry of Justice Criminal Law No. 136, 22 December 2022). The Official Notice is directed to prosecutors because public prosecutors have investigative powers over all criminal cases (including TF) and can initiate and conduct investigations independently. Where the police initiates investigations, all cases must be referred to prosecutors who will at that stage assume active involvement in the investigation and give instructions to the police during investigations where necessary. Public prosecutors can advise police regarding the interpretation of the TF Act as needed and this continues through the investigative process.[4]

d) The Official Notice refers to Japan's 2021 MER explicitly, which indicated that "Deficiencies in the Terrorism Financing Punishment Act restrict the possibility of prosecution, as funding of terrorists or terrorist organisations without a link to a specific attack is not an offence", and recommended Japan "Adopt binding and enforceable methods or amend the Terrorism Financing Punishment Act to ensure that the financing of individual terrorists or terrorist organizations is criminalized…when it is not connected with terrorist acts." The Official Notice was issued by Japan as a response to this issue and to the recommended action identified in its MER, as a way of expanding the TF offence, and seeks to explain that crimes under article 5 of the Terrorism Financing Punishment Act do not require a link to a specific terrorist act or incident.

e) Lastly, the Official Notice mentions that Japan revised the English translation of article 5 of the TF Act in the Japanese Law Translation Database to better convey the intent of the Article and to avoid any misunderstanding.

f) According to the notice, the excerpt, "with the intention or the knowledge that such funds or other benefits could be used for the commission of an act of public intimidation", of the Ministry of Justice's Official Notice No. 214 (9 December 2014) should be interpreted as "under the condition that there is a possibility (risk) that an act of public intimidation may be carried out and with the awareness that funds to be provided may be used to carry out such criminal acts". This remedies the identified gap regarding the absence of a link

[4] Under the Act on Public Prosecutors Office (Art. 4), public prosecutors have the power to request the courts to apply the law justly in criminal cases, and they state opinions on facts or application of the law during proceedings. They can also appeal to the court of second instance when there was an error in the application of laws and regulations and it is clear that the error has affected the judgment.

to a specific “act of public intimidation”. The notice is legally binding and enforceable for all prosecutors as it is an official document in which a superior administrative organisation orders subordinate administrative organisations and personnel to follow a certain interpretation and/or application of the law in relation to their duties.

g) Regarding the second identified deficiency on the application of TF Act to self-funding, the legal framework remains unchanged. Japan provided multiple provisions from several acts relating to self-funding (Penal Code, art. 78, 93 and 113) that were examined by the assessment team at the time of the MER. These provisions do not rectify the identified gap.

h) **Criterion 5.2 bis** (*Met)* Japan did not fully meet the requirement of this criterion at the time of the MER, as the TF Act did not criminalise the financing of travel for the purpose of providing or receiving of terrorist training without a link to a specific terrorist act (i.e., “act of public intimidation”). Since the MER, Japan issued a notice to the Public Prosecutors Offices across Japan about the interpretation of the TF Act that rectifies the identified gap (see analysis in criterion 5.2 above) and therefore renders this criterion “Met”.

i) **Criterion 5.3** (*Met)* As set out in the MER, TF offences under the TF Act extend to financing that involves “funds or other benefits… including, but not limited to, land, building, goods and service[s]” (Art. 2(1)). TF offences appear to extend to “funds or other benefits” regardless of whether they are derived from legitimate or illegitimate sources (see, e.g., Penal Code, art. 236, which, unlike the TF Act, affirmatively specifies “illegal property benefits”). This sub-criterion remains unchanged from the MER (See 2021 MER, c.5.3).

j) **Criterion 5.4** (*Met)* As noted in the MER, the TF Act does not require that funds or other assets were used to carry out or attempt a terrorist act (i.e., act of public intimidation). The TF Act requires that “a person who intends to commit an act of public intimidation” attempted to provide or collect “funds or other benefits” “with the aim of utilising them for [] commission [of the act of public intimidation]” (Art. 2(4), etc.). Japan did not fully meet the requirement of this criterion at the time of the MER, because the TF Act did not establish criminal offenses for financing a terrorist organisation or individual terrorist in the absence of a link to a specific terrorist act a gap that has been remedied (please see analysis in criterion 5.2 above).

k) **Criterion 5.5** (*Met)* As noted in the MER, intent and knowledge required to prove a given TF offence may be inferred from objective factual circumstances (see, e.g., Tokyo District Court (July 1, 2015) and Tokyo District Court (March 25, 1999)).[5] This sub-criterion remains unchanged from the MER.

l) **Criterion 5.6** (*Met)* Japan did not fully meet the requirement of this criterion at the time of the MER, as proportionate and dissuasive criminal sanctions available did not apply to natural persons convicted of TF for all types of TF offences. Criminal sanctions for natural persons convicted of indirect TF were neither proportionate nor dissuasive. The more severe penalties available for the more direct forms of TF also did not allow for dissuasive or proportionate sanctions to be applied, given they were not consistent with other serious

[5] Japan provided translations of these documents to the assessment team. At the time of the on-site visit, online sources or English translations were not available.

offences in Japan. In addition, there was a gap identified in the MER regarding the mutual exclusivity of custodial and monetary penalties.

m) Since the MER, Japan amended the TF Act to introduce more severe criminal sanctions considering the directness of the TF. For direct provision or collection, a punishment of up to 12 years imprisonment or JPY 12 million (EUR 77 304) fine, or both is possible (art. 2). This goes beyond penalties available for crimes like theft and deals with the deficiency in the MER that penalties available for direct TF were lower than crimes like theft. For wilful but indirect provision or collection, the maximum sentences are now 10 years or JPY 10 million (EUR 64 420), or both. The current level of sanctions for these offences is equal or above the sanctions' level for other significant crimes such as theft. Regarding the lower end of sentences for indirect TF, the level of sanctions increased to 5 years from 2 years of imprisonment or JPY 5 million (EUR 32 210 increased from JPY 2 million), or both.

Overall, Japan increased the severity of sanctions for both imprisonment terms and fines and rectified the gap concerning the mutual exclusivity of the custodial and monetary penalties. Therefore, criminal sanctions for natural persons convicted of indirect TF appear proportionate and dissuasive.

n) **Criterion 5.7** (*Met)* As at the time of Japan's 2021 MER, legal persons are criminally liable and fines apply to them, independently of sanctions applied to natural persons involved. Japan did not fully meet the requirement of this criterion at the time of the MER, because the sanctions applied to legal persons were equivalent to those available for natural persons, and these were insufficient to be considered proportionate and dissuasive, and especially so for indirect provision or collection (TF Act, art.5(1), etc.). Since the MER, Japan amended the TF Act to introduce more severe criminal sanctions on both legal and natural persons to the same extent (See analysis of criterion 5.6) and therefore addressed this issue.

o) **Criterion 5.8** (*Met)* As noted in the MER (a-d):

p) The TF Act establishes criminal offenses for attempts to commit financing of acts of public intimidation (i.e., terrorist acts) (Articles 2(2), 3(4), 4(2), and 5(3)). As applicable to the TF Act (pursuant to Art.8 of the Penal Code), the Penal Code provides that participation as an accomplice in a TF offence or attempted offence is itself an offence (Penal Code, articles 60, 61(1), and 62(1); see, also, TF Act, art.8). As applicable to the TF Act, the Penal Code provides establishes criminal liability for "induc[ing] another to commit a crime" and that such a person "shall be dealt with in sentencing as a principal" (Art.61(1)). In addition, the Penal Code establishes criminal liability for indirectly "induc[ing] another to induce" another person to commit a crime (Art.61). This is considered equivalent to organising or directing others to commit a TF offence or attempted offence.

q) The TF Act, taken with relevant articles of the Penal Code, provides that contribution or attempted contribution to a TF offence or attempted offence is also an offence (TF Act art. 2(1), 3(1), 3(2), 3(3), 4(1), 5(1), and 5(2)) (Penal Code, art. 60, 61(1), and 62(1)). This includes attempted facilitation or contribution towards an offence (TF Act art.2(2), 3(4), 4(2), and 5(3)). This sub-criterion remains unchanged from the MER.

r) **Criterion 5.9** (*Met*) As noted in the MER, the Act on the Punishment of Organised Crime and Control of Criminal Proceeds (APOC) establishes various predicate offences for ML, which include all substantive and attempted TF offences established pursuant to the TF Act (APOC, art.2(2)(i)(a)). This sub-criterion remains unchanged from the MER.

s) **Criterion 5.10** (*Met)* As noted in the MER, TF offences apply regardless of whether the person who committed the offence(s) is in the same or different country from the country in which the terrorist/terrorist organization/terrorist act would occur (TF Act, art.7; Penal Code, art. 3 and 4(2)). This sub-criterion remains unchanged from the MER.

t) **Weighting and conclusion**: Since the MER, Japan amended the TF Act to ensure the TF offence was in line with the UN TF Convention (art. 2). The revised act covers the provision and collection of assets for a terrorist organisation or individual terrorist in the absence of a link to a terrorist act or acts and increased the severity of sanctions against natural persons. Some shortcomings remain, although of minor nature given Japan's risk and context, namely the non-application of the TF Act to self-funding. Therefore, **Recommendation 5 is re-rated as Largely Compliant**.

Recommendation 6

	Year	Rating
MER	**2021**	PC
FUR1	**2022**	PC (not re-assessed)
FUR2	**2023**	**↑ LC**

a) **Criterion 6.1** (*Met)* (c.6.1(a)) As noted in the MER, the Ministry of Foreign Affairs (MoFA) is the competent authority for proposing persons or entities to the 1267/1989 and 1988 Committees (Committees) for designation (Act on the Establishment of MoFA, Articles 3, 4(1)(a), 4(3), and 4(5)). This sub-criterion remains unchanged from the MER. (c.6.1(b)) As also noted in the MER, the Interagency Meeting on Terrorist Asset-Freezing (IAM) is the mechanism by which Japan identifies targets for designation based on designation criteria in relevant UNSCRs (Memorandum of Agreement: Establishment of Interagency Meeting on Terrorist Asset-Freezing, May 2002). This sub-criterion remains unchanged from the MER. (c.6.1(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not demonstrate that an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" is applied in deciding whether to propose designations. Since the MER, Japan adopted the *"Rules of Procedure on the operation of the Inter-Agency Meeting (*hereinafter Rules of Procedure*)" (March 2023),* which clarified that evidentiary standard of proof of "reasonable grounds" in deciding whether to propose designations pursuant to including UNSCR 1267/1989 (Al Qaida) and 1988 sanctions regimes.

b) (c.6.1(d)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not demonstrate that relevant authorities follow the procedures and standard forms for nominations to the Committees ("UN Procedures"), and Japan had not submitted any nominations of its own (vice co-sponsoring other countries' nominations). In addition, Japan did not provide

formal domestic procedures regarding adherence to the UN Procedures. Since the MER, Japan adopted the *"Rules of Procedure"* that instruct relevant authorities to follow the UN procedures and standard forms for nominations (Guidelines of 1267/1989/2253 Sanctions Committee and 1988 Sanctions Committee)[6].

c) (c.6.1(e)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not demonstrate that relevant authorities provide as much relevant information as possible in support of nominations to the Committees, and as Japan has not submitted any nominations of its own (vice co-sponsoring other countries' nominations). In addition, Japan did not provide formal domestic procedures regarding the provision of such information. Since the MER, Japan adopted the *"Rules of Procedure"* that address these gaps. The Rules of Procedure stipulate that when making a proposal of the designation, the MoFA should provide to the Sanctions Committees as much relevant information as possible, based on the information provided by the relevant ministries and agencies using detailed forms on: (1) individuals, (2) entities, and (groups) of each Sanctions Committee serving as a template to provide as much relevant information as possible on the proposed name; a statement of case which contains as much detail as possible on the basis for the listing.

d) **Criterion 6.2** (*Met*) (c.6.2(a)) As noted in the MER, the IAM has responsibility for designating persons or entities under UNSCR 1373, either responsive to requests from other countries or on Japan's own motion. This sub-criterion remains unchanged from the MER. (c.6.2(b)) As noted in the MER, the IAM is the mechanism for identifying targets for designation under UNSCR 1373. This sub-criterion remains unchanged from the MER.

e) (c.6.2(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it was unclear whether the IAM made a prompt determination based on the information provided to it by the MoFA. Since the MER, Japan updated the Rules of Procedure to address the identified gap. The Rules of Procedure stipulate that "*MoFA shall promptly request the members of the IAM to hold a meeting, which also promptly decides whether or not to make a designation*" - when receiving a request from another country for designating the targets for sanctions (par.2).

f) (c.6.2(d)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as the Foreign Exchange and Foreign Trade Act (FEFTA) did not demonstrate whether an evidentiary standard of proof for designation applies, and Japan did not demonstrate that the IAM and other relevant authorities apply an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" in deciding whether to designate individuals or entities. Since the MER, Japan adopted the *"Rules of Procedure"* that address the identified gap. These *"Rules of Procedure"* clarify the application of an evidentiary standard of proof of "reasonable grounds" or "reasonable basis". In addition, they indicate that the IAM should apply an evidentiary standard of proof of "reasonable grounds" or

[6] The "Rules of Procedure" are adopted proactively at the Director-General level of the ministries and agencies responsible for Japan's TFS regime. Once the ministries/agencies agree to an arrangement in writing, they commit to abide by that agreement. All the participating ministries/agencies have agreed to follow these rules and they are therefore binding in practice.

"reasonable basis" in deciding whether to designate individuals or entities (par. 1 – 2).

g) (c.6.2(e)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not demonstrate that relevant authorities provide as much identifying and other specific information as possible to support a designation request to another country, and as Japan did not make any such requests. Japan also did not provide formal domestic procedures regarding the provision of such information. Since the MER, Japan adopted the above noted *"Rules of* Procedure" to address this gap, and which stipulate that when requesting another country to designate the targets for sanctions, the MoFA should provide as much relevant information as possible, based on the information provided by the relevant ministries and agencies (See analysis under criterion 6.1 (e)).

h) **Criterion 6.3** (*Met*) (c.6.3(a)) As noted in the MER, the National Police Agency (NPA) and the Public Security Intelligence Agency (PSIA), which are members of the IAM, have legal authorities and mechanisms to collect information to identify persons and entities for designation under relevant UNSCRs, such as information relating to terrorism and TF. This sub-criterion remains unchanged from the MER. (c.6.3(b)) As noted in the MER, competent authorities can operate *ex parte* against individuals or entities whose designations are being considered by using the provisions in the TAFA (Arts. 4(4) and 8(1)-(9)). This sub-criterion remains unchanged from the MER.

i) **Criterion 6.4** *(Met)* Japan did not fully meet the requirement of this criterion at the time of the MER because it implemented targeted financial sanctions (TFS) related to TF with delay. Since the MER, Japan revised its administrative procedures to implement TF-TFS within 24 hours. Japan abolished the procedural step that required to coordinate the draft among relevant MoFA divisions and other ministries and agencies. Japan provided a list of UN designations and updates covering the period between June 2021 and January 2023, which demonstrates that Japan has_implemented all the cases of TF-TFS without delay and proves that the framework for implementing TF-TFS in Japan works in line with the requirements of R.6. In addition, to ensure the effectiveness of the asset-freezing measures, the Ministry of Finance (MoF) notifies the financial institutions, including virtual assets services providers (VASPs), and other operators of the targets designated by the UN Sanctions Committees through e-mail distribution service prior to the public notice in the Official Gazette. Moreover, the MoFA, the MoF, and the Minister of Economy, Trade and Industry (METI) jointly issue a press release on the day of the public notice, and the list of the targets is updated on the websites of the NPA, the MoF, and the MoFA to inform the widest audience possible. The measures taken by Japan since its MER demonstrate that implementation of TF-TFS takes place without delay, within 24 hours as required by R.6.

j) **Criterion 6.5** (*Partly met)* (c.6.5(a)) As set out in the MER, Japan requires all natural and legal persons within the country to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities (FEFTA art. 16 and 21, etc. and TAFA art.3 &4). This sub-criterion remains unchanged from the MER.

k) (c.6.5(b)) Japan does not meet the requirement of this sub-criterion and it remains unchanged since the MER. At the time of the MER, Japan did not demonstrate that the asset-freezing obligations extended to (i) all funds or other

assets that are owned or controlled by the designated person or entity; (ii) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) funds or other assets derived from or generated from or other assets owned or controlled directly or indirectly by designated persons or entities; and (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. Since the MER, Japan rectified the scoping gap regarding the definition of "payments" to bring it in line with the FATF definition of "funds and other assets" (Interpretive Note for Implementing FEFTA, 20 October 2020). According to the 2021 MER, this notice defines "payments" as used in Article 16 of the FEFTA in the same terms as "funds or other assets" in the FATF Standards (footnote no. 4, pg.83). In addition, Japan initiated the process of issuing several public notices of MoF and a ministry notification detailing the interpretation of the TAFA relevant to the identified gaps for point (i) to (iv) of criterion 6.5 (b), however these came into force only on 1 June 2023, after the FUR reporting deadline (20 April 2023) and were therefore not available for analysis, and could not be considered in this FUR.

l) (c.6.5(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it was unclear whether the prohibitions under FEFTA and TAFA extended to transactions indirectly involving designated parties, including entities acting on behalf or at the direction of designated parties. Since the MER, Japan initiated work on several measures that aim at addressing the identified deficiency. However, the public notices of MoF and a ministry notification detailing the interpretation of the TAFA that set out these measures came into force only on 1 June 2023, after the FUR reporting deadline. The identified deficiency therefore remains for c.6.5(c).

m) (c.6.5(d)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it was unclear when supervisors, other than MoF and the National Public Safety Commission (NPSC), distribute corresponding notices to DNFBPs, and whether these notices reach all DNFBPs. Since the MER, Japan conducted a review that confirmed that corresponding notices to DNFBP supervisor reach all DNFBPs, principally within one working day after the issue of the public notice (March 2023). However, these notices reach DNFBPs with delay when notices are issued in weekends and public holidays.

n) (c.6.5(e)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not require DNFBPs to report frozen assets or other actions taken. Also, the TAFA did not require FIs or DNFBPs to report frozen assets. These gaps remain as the TAFA has not clarified whether DNFBPs are obliged to report frozen assets. DNFBPs in Japan are not expected to take custody of assets from their customers in most cases and FEFTA does not require DNFBPs to report the status of capital transactions between DNFBPs and designated persons or entities, requiring only a permission before making payments or other capital transactions to designated persons or entities. Although taking custody of assets by DNFBPs is not expected and thus not subject to reporting as per domestic procedures, Japan did not demonstrate that such custody of assets by DNFBPs is in fact reported upon enforcement. Moreover, the reporting requirement is limited to making transactions, payments or other capital transactions by both FIs and DNFBPs, whereby the requirement is to report custody of assets or actions taken in compliance with the prohibition requirements of the relevant UNSCRs.

o) (c.6.5(f)) As noted in the MER, Japanese authorities take measures sufficient to protect the rights of *bona fide* third parties (See 2021 MER, c.6.5, FEFTA art.16 and TAFA art.24). This sub-criterion remains unchanged from the MER.

p) **Criterion 6.6** (Mostly *Met)* (c.6.6(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER as it did not have publicly known procedures to submit de-listing requests to the relevant UN Sanctions Committee in case of designated persons and entities that do not continue to meet the criteria for designation. Since the MER, Japan adopted the *"Rules of Procedure"*, which provide that the IAM shall review the lists of the persons and entities designated by the relevant Sanctions Committees (1267/1989 & 1988) at least once per year (par.1), and that the MoFA submits the request in case of proposal. This process is available on MoFA's public website.

q) (c.6.6(b)) As noted in the MER, the NPSC is obligated to revoke designation under UNSCR 1373 when the person is no longer designated (TAFA, Art.7(ii)). With respect to designations pursuant to the FEFTA, the MoFA initiates an informal process to publish de-listing updates via Official Gazette. This sub-criterion remains unchanged from the MER. (c.6.6(c)) As noted in the MER, the Administrative Case Litigation Act provides for review of designations pursuant to UNSCR 1373 before a court. In addition, except in cases where authorities determine there is risk of asset flight, a public hearing occurs prior to finalization of designations under UNSCR 1373. This sub-criterion remains unchanged from the MER.

r) (c.6.6(d)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not have formal procedures to facilitate review of designations pursuant to UNSCR 1988 by the 1988 Committee, in accordance with applicable Committee guidelines and procedures. Since the MER, Japan adopted the *"Rules of Procedure"* that rectify the identified gap and stipulate that when the IAM decides to propose amendment or de-listing to the relevant Sanctions committees, MoFA shall submit the request in line with procedures adopted by the UN 1988 Sanctions Committee (annex 6-2, par.4). (c.6.6(e)) As noted in the MER, Japan provides a description of and links to the United Nations Office of the Ombudsperson regarding designations on the Al-Qaida Sanctions List on the MoFA public website. This sub-criterion remains unchanged from the MER.

s) (c.6.6(f)) As noted in the MER, the requirements under FEFTA and TAFA to seek governmental approval before making certain transactions involving a designated party constitutes publicly known procedures to unfreeze funds or other assets of persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by a freezing mechanism. This sub-criterion remains unchanged from the MER.

t) (c.6.6(g)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not provide information demonstrating that authorities provide guidance to FIs and DNFBPs regarding obligations to respect de-listing and unfreezing actions. Since the MER, Japan took measures to ensure communication of designations/updates to FIs and DNFBPs within 24 hours. However, Japan does not provide guidance in relation to de-listing or unfreezing action, other than a reminder to screen the customers against the relevant UN sanctions lists to unfreeze assets of individuals or entities that have been de-listed.

u) **Criterion 6.7** (*Mostly met*) Japan did not fully meet the requirement of this criterion at the time of the MER, as the application of the mechanism for exemptions it had, had not been tested in practice. The identified gap remains.

v) **Weighting and conclusion:** Since the MER, Japan took several positive measures such as the adoption of the *"Rules of Procedure"* that addressed all identified gaps in criteria 6.1, 6.2 & 6.4. Criteria 6.3 and 6.7 were rated met and mostly met respectively in the 2021 MER. In Japan's context, these positive measures are weighted heavily, in particular, addressing the need to implement TFS without delay. Other aspects of the TFS regime relevant to criterion 6.5 remain unclear (therefore more minor), including: a) whether TFS applies to funds or other assets per se; irrespective of transactions or actions involved (which is not a full scope gap), and (b) whether both FIs and DNFBPs report custody of assets per se. Therefore, **Recommendation 6 is re-rated as Largely Compliant**.

Recommendation 8

	Year	Rating
MER	2021	NC
FUR1	2022	NC (not re-assessed)
FUR2	2023	↑ PC

a) **Criterion 8.1** (*Mostly met)* (c.8.1(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not identify NPOs that are not legally incorporated or that fall outside of its six categories' legal framework of NPOs (e.g., ad hoc collection of donations in response to a specific natural disaster). Such NPOs, were not required to register these, which nonetheless may fall within the FATF definition. The MER noted that the assessment did not consider significant necessary information (including basic necessary information, such as geographic areas of operation) and reached only general conclusions without significant bearing of TF risk. Since the MER, Japan updated its NRA (2022) elaborating further on NPOs. MoFA and the Japan NGO Center for International Cooperation (JANIC) issued the "Data Book on NPOs in Japan 2021", which used relevant sources of information (i.e., basic information, financial data, project sites, questionnaires, surveys, etc) to identify organisations that engage in the nexus of "good works" by virtue of their activities or characteristics. However, NPOs that are not legally incorporated and engaging in the nexus of "good works" other than the predefined categories in Japan's NPO legal framework, which may fall within the FATF definition, are still not identified.

b) (c.8.1(b)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not identify the nature of threats posed by terrorist entities to Japanese at-risk NPOs or how terrorist actors abuse those NPOs. Since the MER, Japan identified the nature of threats posed by terrorist entities to Japanese at-risk NPOs or how terrorist actors abuse those NPOs in its 2022 NRA (e.g., diversion of funds of NPOs; affiliation with a terrorist entity; abuse of Programming of NPOs; support for recruitment; false representation and sham NPOs). However, these threats are based on the conclusions of the 2019 FATF Guidance on TF Risk Assessment, rather than based on information pertaining to the NPO sector of Japan. This is a minor

gap, as there is no case indicating that NPOs in Japan were abused for TF purposes.

c) (c.8.1(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not recently and substantially review the adequacy of measures to respond appropriately to TF risk in the NPO sector. Since the MER, Japan has taken some positive steps to approach measures that relate to at-risk NPOs of TF abuse (i.e., issuing the "Terrorist Financing Risk Assessment Guidelines for Corporations Engaging in Specified Non-profit Activities"; the "CFT measures for Public Interest Corporations"), including consultations and conferences. However, it has not reviewed the adequacy of measures to respond appropriately to TF risk in the NPO sector.

d) (c.8.1(d)) Japan did not fully meet the requirement of this sub-criterion at the time of the MER, as it did not provide information demonstrating that it intended to reassess the NPO sector for potential vulnerabilities, including those relating to terrorist activities, although TF risk in the NPO sector had been assessed in 2019 and included in the overarching ML/TF NRA in 2018. Since the MER, the 2022 NRA reassessed the NPO sector by reviewing new information from several sources (please see more in c8.1(a)), including the conduct of individual thematic risk assessments of NPOs by category.

e) **Criterion 8.2** *(Partly met)* (c.8.2(a)) Japan did not fully meet the requirement of this sub-criterion at the time of the MER, because although its legal framework provided clear policies to promote accountability and integrity, it was unclear whether there were policies for NPOs within the FATF definition that are not captured within Japan's NPO legal framework. Since the MER, Japan took some positive steps by way of guidelines and measures. However, it is still unclear whether policies have been introduced that promote accountability, integrity, and public confidence in the administration and management of NPOs in line with the FATF definition. Japan indicated that the materiality and risk of this sector is small and that this gap is minor. However, Japan did not provide sufficient information to support this conclusion.

f) (c.8.2(b)) Japan did not fully meet the requirement of this sub-criterion at the time of the MER, as it did not appear to have undertaken outreach or educational programmes on TF risks with some types of NPOs both within Japan's NPO framework or those outside of the framework. Since the MER, competent authorities in Japan undertook surveys, held a meeting, conferences, issued educational leaflets and administrative communications to all types of NPOs to raise and deepen awareness against TF abuse and TF risk. However, these outreach activities did not include NPOs that fall outside of Japan's legal framework. It is also unclear whether outreach and educational programmes included measures that can be taken by NPOs to safeguard against TF abuse.

g) (c.8.2(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not work with NPOs to develop and refine best practices to address TF risk and vulnerabilities. Since the MER, Japan worked with NPOs through surveys, conferences, and study groups, which led to developing best practices to address TF risks and vulnerabilities, including the production of guidelines and other measures (e.g., Terrorist Financing Risk Assessment Guidelines for Corporations Engaging in Specified Non-profit Activities).

h) (c.8.2(d)) As noted in the MER, the NPO supervisors are instructed (Cabinet Office, MEXT, and MHLW) to advise NPOs of general TF vulnerabilities (e.g., “activities carried out in and around areas exposed to terrorism” and “foreign remittance(s)”) and encourage NPOs to use regulated financial channels to the greatest extent possible. This sub-criterion remains unchanged from the MER.

i) **Criterion 8.3** *(Partly met)* Japan did not meet the requirement of this criterion at the time of the MER, as it did not supervise or monitor NPOs based on risk of TF abuse. Since the MER, Japan undertook several outreach activities to enhance NPOs understanding of TF risk. Outreach is focused on NPOs that fall within the NPO legal framework of Japan. In addition, some competent authorities have started to require some types of high-risk NPOs, which conduct overseas activities, to submit a specific report regarding overseas activities, which is risk-based. However, as mentioned in the MER, Japan does not yet supervise or monitor all NPOs based on risk of TF abuse.

j) **Criterion 8.4** (*Partly met)* (c.8.4(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as the supervisory measures in place related to the governance procedures, meaning there were no risk-based for NPOs at risk of TF abuse. Since the MER, Japan issued guidelines and undertook outreach and training programmes to promote the understanding of risk of TF abuse among NPOs falling within its legal framework. However, supervision cannot be considered risk-based. (c.8.4(b)) As noted in the MER, NPO-specific penalties combined with those provided for in the Penal Code allow Japanese authorities to apply effective, proportionate, and dissuasive sanctions for NPO-related violations. This sub-criterion remains unchanged from the MER.

k) **Criterion 8.5** (*Partly met*) (c.8.5(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not ensure that effective coordination and info sharing exists among agencies that hold relevant information on NPOs. Since the MER, Japan established the “Inter-Ministerial Council for AML/CFT/CPF Policy”, and other councils to improve co-ordination among ministries and agencies, including those hold information on NPOs. Since 2021, the “Policy Council” has resumed four times to discuss issues including CFT measures for NPOs. Nonetheless, it is unclear whether prefectural and local governments effectively cooperate and share information with relevant agencies regarding NPOs.

l) (c.8.5(b)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not have specific investigative expertise to examine NPOs suspected of TF. Since the MER, outreach and educational programmes are a factor in the RBA Governance framework relating to NPOs. In October 2021, the Supreme Public Prosecutor's Office, the NPA, and the Ministry of Justice established a task force that gave lectures with the aim of using the capacity enhanced through training and other means to strengthen investigations and prosecutions. Although this is a positive measure, it is unclear the extent to which competent authorities developed investigative expertise to examine NPOs suspected of TF abuse.

m) (c.8.5(c)) As noted in the MER, while LEAs have the powers and authority to fully access information on the administration and management of particular NPOs suspected of abuse for TF during the course of an investigation as

highlighted in the MER, this is not as clear in the case of investigations conducted by non-law enforcement authorities. This sub-criterion remains unchanged from the MER.

n) (c.8.5(d)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as information sharing about suspect of TF abuse is reliant on the Code of Criminal Procedures, and prosecutors and judicial police officers' ability to seizure documents and records (Criminal Procedures Act, art. 197). Since the MER, Japan established several mechanisms to improve information sharing on NPOs (please see sub-criterion 8.5(a)). However, the identified gap, although minor, remains outstanding.

o) **Criterion 8.6** *(Met)* Japan did not meet the requirement of this criterion at the time of the MER, as it did not identify specific points of contact and procedures to respond to international requests for information regarding NPOs suspected of terrorist financing or involvement in other forms of terrorist support. Since the MER, Japan took some positive steps to identify appropriate points of contact to respond to international requests for information regarding NPOs suspected of terrorist financing or involvement in other forms of terrorist support. Japan has assigned MoFA, MoJ, NPA, FSA, NTA, and MoF as specific points of contact. Japan noted that these competent authorities have already established contacts with their foreign counterparts. In addition, Japan adopted procedures to respond to requests pertaining to NPOs, which clarify the role of relevant ministries and agencies.

p) **Weighting and conclusion:** Since the MER, Japan took several positive steps to address multiple deficiencies highlighted in the MER, such as updating its NRA, developing thematic risk assessments, establishing an Inter-Ministerial Council, conducting outreach to the NPO sector and providing educational programmes. However, several shortcomings have been identified with respect to: (a) review of laws and regulations in order to be able to take proportionate and effective action to the address risks identified, (b) raise NPO understanding of measures to be taken to protect themselves against TF abuse, (c) have nuanced investigative expertise and capability to examine NPOs suspected of TF abuse or exploitation; including full access of information to all competent authorities, and (d) monitor compliance by NPOs with the requirements of R.8 including risk-based approach being applied to them. Considering some Japanese NPO operations are present in high threat areas, these deficiencies are considered as moderate. A deficiency also remains regarding identifying NPOs that are not legally incorporated and engaging in the nexus of "good works" other than the predefined categories in Japan's NPO legal framework, which may fall within the FATF definition. Therefore, **Recommendation 8 is re-rated as Partially Compliant**.

Recommendation 24

	Year	Rating
MER	2021	PC
FUR1	2022	PC (not re-assessed)
FUR2	2023	↑ LC

a) **Criterion 24.1** (*Met*) As noted in the MER, the different types of legal persons that exist in Japan are identified in the relevant, publicly available legal acts. Stock companies and membership companies are identified in the Companies Act, and general incorporated associations (associations) and general incorporated foundations (foundations) are identified in the Act on General Incorporated Associations and Foundations (GIAF Act). General descriptions of the types and forms of legal person are available from the relevant government agency websites[7]. This sub-criterion remains unchanged from the MER. As noted in the MER, the website of the Legal Affairs Bureau (MOJ) contains information regarding the process for creating the different types of legal persons. There is publicly available information regarding the process to obtain and record basic information on legal persons through the incorporation process (Companies Act, art. 49, 579 and 911 to 914; GIAF Act, art 22, 163, 301-2and 330) and method for registering a company at the Commercial Register (Commercial Registration Act, art. 17). Information on the process for recording basic information in relation to publicly listed companies is available from the relevant legislation (Financial Instruments and Exchange Act; relevant Cabinet Office Ordinances). Publicly available information on the mechanisms for obtaining and recording beneficial ownership (BO) information by notaries during the company formation process is available in the relevant Ordinance (Ordinance for the Enforcement of the Notary, Article 13-4) and from the Notary Association Website. Details of the process for obtaining and recording BO information by FIs and DNFBPs are detailed in the relevant laws and guidelines which are publicly available (Act on the Prevention of Transfer of Criminal Proceeds, APTCP, article 4, paragraph 1, item (iv); APTCP Ordinance, article 11, paragraph 1-3 etc.). (See also R. 10 in 2021 MER). This sub-criterion remains unchanged from the MER.

b) **Criterion 24.2** *(Mostly met)* Japan did not fully meet the requirement of this criterion at the time of the MER, as it had assessed the ML/TF risks associated with all types of legal person created in the country only to some extent (2014 NRA-Baseline Analysis, Section 2.2.(4); 2018 NRA-Follow-up report, Section 4.3.(5), See R.24, c.24.2 in 2021 MER). Since the MER, measures remain unchanged, and the identified gaps remains.

c) **Criterion 24.3** (*Mostly met*) Japan did not fully meet the requirement of this criterion at the time of the MER, as the summary of company information requested on payment of a fee (Commercial Registration Act, art.11) contained all of the information required under 24.3, except for the names of the directors. Since the MER, the legal framework remains unchanged, and the identified gaps remains.

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[7]. See http://houmukyoku.moj.go.jp/homu/touki2.html, in Japanese only and www.jetro.go.jp/en/invest/setting_up/, both in English and Japanese. Accessed July 2023.

d) **Criterion 24.4** (*Mostly met*) Japan did not meet the requirement of this criterion at the time of the MER, as there was no requirement to maintain the shareholder, member and councillor information for legal persons at a location in the country regardless of the act of incorporation of legal persons including some information. The identified gap remains.

e) **Criterion 24.5** (*Mostly met*) Japan did not meet the requirement of this criterion at the time of the MER, as there was: (a) no requirement for the information in the Commercial Registry to be updated, unless a company is dissolved, merges with another, or a wholly owned subsidiary is transferred (Commercial Registration Act, arts. 79-89); (b) no similar mechanism required for the articles of incorporation of Membership Companies; and (c) no equivalent requirement in place for membership companies, associations or foundations. Since the MER, Japan informed on factual errors concerning the assessment of this criterion. Japan provided clear explanation to justify its position on this matter, which was considered by the experts. This is in line with the FUR process, which stipulate the following: "*in highly exceptional circumstances, you may identify a deficiency not assessed or incorrectly assessed due to a material or factual error in the previous MER or FUR (e.g., an element of the criteria was not considered, a law not in force and effect was taken into account, the lack of requirements in a relevant overseas territory has not been taken into account, etc.)*".

f) The FUR process identified a misunderstanding regarding the requirement for the Registry to be updated, and that the MER did not reflect the factual situation concerning stock companies. Thus, (a) is mostly addressed (See explanation in d. below). However, the analysis of sub-criteria (b) and (c) remains the same as in the MER. Given the facts presented on the number and types of incorporated legal persons in Japan, stock companies are the largest and most frequently held type of legal person in Japan, thus the remaining gaps are of minor nature.

g) Regarding (a), the Companies' Act, art.915 (registration of change) specifically mentions that when there is a change to the matters listed in the items of art.911(3) or in terms of the preceding three Articles with regards to a Company, the registration of the change shall be completed at the Commercial Registry, at the location of the head office within two weeks. In addition, it specifies the detail that can be updated in respect of a Stock Company, which includes inter alia the following (Article 911(3)): "*The purpose, the trade name, the address of the head office and branch office, capital, details of the shares issued, the total number of shares issued, the classes of issued shares, if there is an Administrator of the Shareholder registry, the name, domicile and business office of the Administrator, the names of the directors, the names of representative directors etc. Section 130 further stipulates that no change to shareholding may be affected in respect of a Stock Company, unless the details of the person acquiring the shares is recorded in the shareholder register*."

h) As regards (b), the Companies' Act is applicable to the Registration of Incorporation of a General Partnership Company, the Registration of Incorporation of a Limited Partnership Company, and the Registration of Incorporation of a Limited Liability Company (art.915). Thus, where there are changes to the information described under Articles 912, 913 and 914, these are also to be updated within two weeks (at the location of the head office) for membership companies. There is no specific equivalent s130 of the Companies' Act requirement for membership Companies. However, the Act dictates what

must be specified in the articles of Incorporation of Membership Companies, including the names and addresses of all members, the details as to the membership (limited/unlimited liability), and it speaks to the requirements for membership companies to admit new members (article 576 & 604). The admission of members only takes effect when a change is done in the articles of incorporation. This mechanism, if utilised can contribute to ensuring that the information is accurate and up to date.

i) Regarding (c), Associations, the Act on General Incorporated Associations and General Incorporated Foundations states (art.303): *"If there is a change to the matters listed in the items of Article 301, paragraph (2) or in any of the items of paragraph (2) of the preceding Article with regard to a general incorporated association, etc., the registration of that change must be completed at the location of the principal office within two weeks."* However, the Act does not refer to detail of members being required to be updated (art.301). The GIAF states that "*The* general *incorporated association must prepare a registry (hereinafter referred to as a "member registry") of members that includes or has recorded therein the names and addresses of members"* (art.31). Whilst this is the case, there is no explicit requirement that this information needs to be maintained and kept up to date. Further, Japan has clarified that member registry and employee record book have the same meaning so there is not gap in terms of updating the member registry.

j) Regarding (d), Foundations, **t**he mechanism for foundations is the similar to the one for the Associations. The Act on General Incorporated Associations and General Incorporated Foundations states (art.303): *"If there is a change to the matters listed in the items of Article 301, paragraph (2) or in any of the items of paragraph (2) of the preceding Article with regard to a general incorporated association, etc., the registration of that change must be completed at the location of the principal office within two weeks."* The Act also notes the "preceding article" that is linked to the General Incorporated Foundations and there is no requirement to update any member registry (art.302).

k) **Criterion 24.6** *(Mostly met)* (a-b) (*Non-Applicable*) N/A as in the MER. (c24.6(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, because although it had two mechanisms to ensure access to BO information (one based on public notaries, and one based on existing information obtained and kept up to date by FIs/DNFBPs), these were recently enacted, and the MER concluded that BO information might have been not always available to competent authorities for all legal persons (though the issue was also flagged that notaries files might have not always been available to authorities and scope issues regarding DNFBPs). Since the MER, Japan introduced an additional mechanism combining different elements: a list of shareholders, a BO of legal persons list system, and ongoing CDD by FIs/DNFBPs. The first element of the list of shareholders implies BO information would be held in the Registry Office in certain cases (e.g., where a change in shareholders is requested, in which case it mandatorily has to go through the register). This mechanism is only applicable to entities that are stock companies, but this represents most of the companies incorporated in Japan. The second element (BO list) is a new BO registry system that Japan established in January 2022, applicable also just to stock exchange companies (albeit this covers majority of companies incorporated in Japan) and for which companies can voluntarily apply to (The Government is actively promoting its use). Lastly,

Japan relies on ongoing DD to the extent that FIs and DNFBPs are subject to AML/CFT obligations (e.g., there are some remaining scoping issues regarding lawyers which are expected to be solved fully by 2024 and therefore not considered for the analysis of this FUR).

l) **Criterion 24.7** (*Partly met*) As in its 2021 MER, Japan does not fully meet the requirement of this criterion as: (a) not all DNFBPs were required to undertake CDD that includes checks on the beneficial owner – in particular lawyers and legal professional corporations (See 2021 MER, R.10 and R.22); (b) the requirement for FIs and DNFBPs (excluding lawyers and legal professional corporations) to identify and take reasonable measures to verify the identity of the BO was established in the Act on Prevention of Transfer of Criminal Proceeds in October 2016, and so there was no BO information available for customers that were legal persons and on-boarded before October 2016; and (c) BO information was only collected by notaries when the legal person was formed. Since the MER, Japan amended the APTCP, in December 2022, to require that all DNFBPs undertake full CDD, including checks on the BO after spring of 2024. Concerning lawyers, a similar amendment was made by the Japan Federation of Bar Associations. However, both requirements will come into force post the FUR reporting deadline and hence cannot be considered for this FUR.

m) **Criterion 24.8** (*Mostly met*) (c.24.8(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as there are no specific measures requiring a natural person resident in the country to be accountable to competent authorities for providing basic or BO information for legal persons, or similar measures for membership companies, associations or foundations. (c.24.8(b)) As set out in the MER, DNFBPs in the country are authorised by the company, and accountable to competent authorities, for providing all basic information and available BO information, and giving further assistance to the authorities. This sub-criterion remains unchanged from the MER.

n) (c.24.8(c)) As set out in the MER, the representative director or equivalent is required to represent the company (Companies Act, art. 349). In addition, a stock company may hire a shareholder administrator to prepare and update the shareholder register kept at the head office of the company (Companies Act, art.123). These points of contact may aid the competent authorities when seeking for basic information on stock companies. In addition, since the MER, Japan took some steps to address the identified gap via "other comparable measures identified by the country" that allow for companies to cooperate with authorities to obtain BO information (please see criteria 24.5 (information in the Register is publicly available) and 24.6,) and which allow the overall criterion could be re-rated to Mostly Met, even though there is still no direct requirement for a natural person resident in the country to be accountable to competent authorities for providing basic or BO info for legal persons and, measures for general incorporated associations and general incorporated foundations do not exist.

o) **Criterion 24.9** *(Met)* As noted in the MER, FIs and DNFBPs are required to keep transaction records and information obtained through CDD measures, including BO information for 7 years after termination of the business relationship (APTCP, art.6, para.1 and 2; APTCP Ordinance, art. 19, 20 and 21, see R. 11). In addition, information in the commercial registry should be kept for 20 years

after a company has been dissolved or liquidated (Regulation on Commercial Registration, art.34 (4) (ii)). In terms of the basic information (including shareholder information) kept at the head office of legal persons (See criteria 24.3), the information collected and maintained must be kept at all times. When legal persons are liquidated, liquidators are required to maintain books of the liquidated entity for 10 years from the completion of the liquidation (Companies Act, art. 508 and 672; Act on General incorporated associations and general incorporated foundations, art. 241). This sub-criterion remains unchanged from the MER.

p) **Criterion 24.10** (*Mostly met*) Japan did not fully meet the requirement of this criterion at the time of the MER, as: (a) it was not clear the extent to which shareholder information is available in the Commercial Registry; (b) there were no specific measures in place to enable competent authorities to obtain timely access to basic information held by companies; and (c) although Japan had indicated that private and public sector organisations cooperative effectively and respond swiftly to requests to provide information on basic and BO, it was not clear how the information above may be obtained on a timely basis in every case (except for basic information available from the company registry). The identified gaps remain.

q) **Criterion 24.11** *(Mostly met)* (a-e) Japan did not meet the requirement of these sub-criteria at the time of the MER, as despite the prohibition, it was possible that bearer shares still existed in Japan. In addition, it was not clear whether the holders of bearer share options must be registered in the shareholder register or may only be listed in the share option register without including their names and addresses. Since the MER, Japan clarified that bearer share options are different from bearer share warrants defined in the FATF glossary (i.e., bearer share option of Japan only confers a right to subscribe for ownership in a legal person at specified conditions, but not ownership or entitlement to ownership, unless and until the instruments are exercised). However, it is still possible that bearer shares exist even if prohibited, as there is no evidence to suggest that penalties have been enforced. It also mentioned in the MER that after the prohibition, companies with bearer shares had to provide a public notice and call a shareholder meeting. There was no evidence of any public notice, etc. at the time provided. No further steps were taken by Japan post the request for a public notice and shareholder meeting. Despite the absence of a public notice as mentioned in the MER, this means that bearer shares could still exist and the level of effectiveness of the prohibition remains a concern.

r) **Criterion 24.12** (a-c) (*Non-Applicable*) As noted in the MER, these criteria remain non-applicable because Japanese law does not recognise the concept of nominee ownership or directorship.

s) **Criterion 24.13** (*Mostly met*) Japan did not fully meet the requirement of this criterion at the time of the MER, as the sanctions available for legal persons were limited, and there were no sanctions applicable to legal persons themselves in relation to their obligation to register and submit basic information to the company registry. The identified gaps remain.

t) **Criterion 24.14** (a–c) (*Mostly met*) Japan did not fully meet the requirement of these criteria at the time of the MER, as there was no specific requirement regarding the rapid provision of basic and BO information to foreign competent authorities. The identified gaps remain.

u) **Criterion 24.15** *(Mostly met)* Japan did not fully meet the requirement of this criterion at the time of the MER, as there was no formal mechanism to monitor the quality of assistance received from other countries in response to requests for basic and BO information even if Japan considered and responded as needed when the quality of assistance is unsatisfactory. Since the MER, Japan took steps to address the identified gap. The NPA, the Ministry of Justice, and the FIU monitor the assistance received as to its completeness, although there are no specific criteria in place to assess quality.

v) Regarding the International Criminal Police Organisation (ICPO-INTERPOL) route, Mutual Legal Assistance, and information exchange procedures of the FIU, in March 2023, Japan established evaluation items such as whether or not the counterpart country responded to the request, the time taken to receive the response, and whether the response satisfied its request. As regards the International Organization of Securities Commissions (IOSCO) route, Japan provided information indicating the requirements based on which assistance should be provided (IOSCO MMoU, art.7 "Scope of Assistance"). However, these criteria are not explicitly set out to satisfy monitoring of quality of assistance received.

w) **Weighting and conclusion:** As at the time of the MER, basic information on legal persons is available to competent authorities rapidly through the Registry or Companies. Since the MER, availability of BO information generally has improved and compliance with criteria 24.8, 24.11 and 24.15 has improved to some degree.

x) As per Japan's request, the team of experts reconsidered the analysis of the 2021 MER in criterion 24.5, as there was a misunderstanding in the 2021 MER concerning the requirement for the Registry to be updated and the MER did not reflect the factual situation concerning stock companies. Thus, the identified gap is considered as mostly addressed. Other identified gaps remain under criteria: 24.2 (need to improve risk assessment of legal persons), 24.3 (need to include information on directors), 24.4 (no requirement to maintain the shareholder, member and councillor information for legal persons at a location in the country regardless of act of incorporation of legal persons including some information), 24.5 (lack of requirement to update information for associations and foundations), 24.6 (needs for improvement in some of the means to obtain BO information which are in progress), 24.7 (gaps in ensuring information is as accurate and up to date as possible, including obligation for all DNFBPs to keep information up to date), 24.8 (no requirement for a natural person resident in the country to be accountable to competent authorities for providing basic or BO information for legal persons, or similar measures for membership companies, associations or foundations, 24.10 (doubts on ability to obtain information in a timely manner), 24.11 (gaps on preventing misuse of bearer shares), 24.13 (gaps in sanctions), 24.14 (no specific requirement regarding the rapid provision of basic and BO information to foreign competent authorities) and 24.15 (gap in ability to monitor quality of assistance), although these are of minor nature considering basic requirements in place and materiality, as stated in the MER (See para.81 of MER). Therefore, **Recommendation 24 is re-rated as Largely Compliant.**

Recommendation 25

	Year	Rating
MER	2021	PC
FUR1	2022	PC (not re-assessed)
FUR2	2023	Maintained at PC

a) **Criterion 25.1** (*Mostly met*) (c.25.1(a)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as there were no specific requirements for trustees of civil trusts to obtain and hold adequate, accurate, and current information on the identity of the settlor, the protector (if any), the other beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. The identified gaps remain.

b) (c.25.1(b)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it did not require trustees of any trust governed under its law to hold basic information on other regulated agents of, service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. The identified gaps remain. (c.25.1(c)) As noted in the MER, professional trustees to maintain this information for at least five years (Seven to ten years; see 2021 MER, c.25.1) after their involvement with the trust ceases (APTCP, art.6, para.1 and 2; APTCP Ordinance, articles 19, 20 and 21; and Trust Act art.37). This sub-criterion remains unchanged from the MER.

c) **Criterion 25.2** (*Mostly met*) Japan did not fully meet the requirement of this criterion at the time of the MER, as obligations to keep CDD information collected up-to-date obligations did not apply to persons settling and administering civil trusts. Since the MER, the legal framework remains unchanged. Therefore, the identified gaps remain.

d) **Criterion 25.3** (*Not met)* Japan did not meet the requirement of this criterion at the time of the MER, as there were no specific measures placed on trustees, of any domestic or foreign trust, to disclose their status to an FI or DNFBP when forming a business relationship or carrying out an occasional transaction above the threshold. Since the MER, Japan took initiatives to address the identified gaps. However, the planned changes to Japan's legal framework came into force on 1 June 2023 (post the FUR reporting deadline).

e) Regarding the information provided, it remains unclear as to whether there is an explicit duty on trustees to disclose their status to FIs and DNFBPS when *forming* a business relationship or carrying out an occasional transaction above the threshold. The changes that took place on 1 June 2023, clarify that the APTCP requirements on confirming customer's purpose of transaction includes the case of acting as a trustee of a trust, when, not but limited to, forming a business relationship or carrying out transaction above the threshold pursuant to the Article 4.1.2, 3 of the APTCP. However, this requirement was not in effect at the time of submission for this FUR and cannot be considered. It is noted that for trusts that have trustees making transactions with real estate in a trust, the status of trusts and the trustees will be available due to the real estate registration.

f) **Criterion 25.4** (*Met*) As noted in the MER, there were no laws or enforceable means that prevent trustees from providing any information to competent authorities relating to the trust; or from providing FIs and DNFBPs, upon

request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship. This sub-criterion remains unchanged from the MER.

g) **Criterion 25.5 (***Mostly met*) Japan did not meet the requirement of this criterion at the time of the MER, as there was no specific requirement to ensure that beneficial ownership information can be obtained in a timely manner, although law enforcement, FIU and supervisors have access to it (See 2021 MER, c.25.5). The identified gaps remain.

h) **Criterion 25.6** *(Mostly met)* (a-c) Japan did not meet the requirement of this criterion at the time of the MER, as there was no specific requirement or mechanism in place in Japan to support the rapid provision of information, including BO information, on trusts to foreign competent authorities. The identified gaps remain, even if measures in R.37 – R.40 apply.

i) **Criterion 25.7** (*Mostly met)* As noted in the MER, for trust companies and businesses, trustees may be legally liable for failing to perform their duties, and there are proportionate and dissuasive sanctions for failing to comply. Japan did not meet the requirement of this sub-criterion at the time of the MER, as the financial sanction for noncompliance available on trustees of civil trusts is not proportionate and dissuasive and therefore not an effective deterrent. Since the MER, the legal framework remains unchanged. The identified gaps remain.

j) **Criterion 25.8** *(Mostly met)* Japan did not meet the requirement of this criterion at the time of the MER, as there were no specific sanctions applicable when trusts do not grant timely access to information referred to in c.25.1 except for supervisors (See 2021 MER, c.25.8). The identified gaps remain.

k) **Weighting and conclusion**: Since the MER, Japan took steps to rectify some identified gaps. However, it remains unclear whether there is an explicit duty on trustees to disclose their status to FIs and DNFBPS when forming a business relationship or carrying out an occasional transaction above the threshold. In addition, Japan issued legislation to rectify issues concerning trustee transactions on 1 June 2023 (post the FUR reporting deadline). It is noted that for trusts that have trustees making transactions with real estate in a trust, the status of trusts and the trustees (to confirm at that time if it includes all trustees) will be available due to the real estate registration. This criterion is important from a materiality perspective and the rating thus remains the same. **Recommendation 25 remains rated as Partially Compliant.**

Recommendation 28

	Year	Rating
MER	2021	PC
FUR1	2022	PC (not re-assessed)
FUR2	2023	↑ LC

a) **Criterion 28.1** (*Met*) As noted in the MER, this criterion was non-applicable. Since the MER, Japan amended its legal framework to allow the operation of casinos (Act on Development of Specified Integrated Resort Districts (ADSIRD) came into effect on 19 July 2021). (c.28.1(a)) Japan requires casinos to be licensed. Licence is granted according to the requirements of ADSIRD (art.39). Currently there are no casinos operating in Japan. (c.28.1(b)) The ADSIRD sets out requirements that prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino (art.41). (c.28.1(c)) The Casino Regulatory Commission (JCRC) is the supervisory authority for casinos, including supervision on AML/CFT matters (ADSIRD art. 196-212).

b) **Criterion 28.2** (*Met)* As noted in the MER, several competent administrative authorities, as set out in the APTCP, have responsibility for regulating and supervising DNFBPs' compliance with AML/CFT requirements (APTCP, art. 2, para. 2; art. 22; and APTCP Order, articles 34 to 36). This sub-criterion remains unchanged from the MER.

c) **Criterion 28.3** (*Mostly met)* Japan did not meet the requirement of this criterion at the time of the MER, as general compliance controls for DNFBPs did not amount to AML/CFT monitoring and supervision systems. Since the MER, Japan undertook several steps to address the identified gap. Japan's National Action Plan established that supervisors would update/develop supervisory guidelines for AML/CFT, develop an appropriate supervisory regime and strengthen risk-based supervision and inspection. Furthermore, the respective supervisors and NPA would enhance DNFBP's understanding on AML/CFT risks by raising their awareness robustly on AML/CFT obligations. In addition, strengthen the implementation of AML/CFT measures with a specific focus on ongoing CDD requirements, enhanced due diligence (EDD) measures, and improving the quality of suspicious transaction reporting (STR). It was evident from the information provided by Japan for this FUR that guidelines have been developed with regards to DNFBP sectors including real estate brokers, dealers in precious metals and stones, postal receiving service providers and telephone receiving telephone forwarding service providers and there is now specific AML/CFT monitoring rather than general controls. The obligation for verification at the time of transactions was expanded in line with the amendment of the APTCP in December 2022 and to strengthen AML/CFT through RBA by attorneys. The clarification that it is required to "carefully examine whether the purpose of the instruction relates to a transfer of criminal proceeds in view of the contents of 'Risk Assessment of Money Laundering in Legal Practice' formulated by the Japan Federation of Bar Associations and other circumstances in addition to the attributes of the client, business relationship with the client, and the details of the instruction, when Attorneys intend to accept instructions for legal matters" has been provided. Concerning public accountants, the APTCP was revised in December 2022. This expanded

the obligation for certified public accountants and audit firms to verify at the time of transaction and imposed on them the obligation to report STRs.

d) Supervisory action was taken in the case where a trading firm in the DPMS sector was found to be non-compliant with the APTCP (STR reporting deficiencies, training and education of employees as well as the development of new rules were imposed). Further supervisory action (public notice of disciplinary action) was taken against an individual in the legal sector where he failed to submit annual reports for the purpose of verification of client identity as well as retention of records for the previous year. The failures occurred for the years 2017, 2018 and 2019. The disposition was effective from 24 June 2022.

e) Furthermore, the respective supervisors and NPA would enhance DNFBP's understanding on AML/CFT risks by raising their awareness robustly on AML/CFT obligations. RBA guidance has been issued in respect of Legal Professionals in March 2023. AML/CFT monitoring is conducted for judicial scriveners and corporations in accordance with the Judicial Scriveners Act (JSA) and the obligation for judicial scriveners and corporations to conduct verification at the time of transaction was expanded based on the APTCP was revised in December 2022. Similarly, the obligation for certified administrative procedures legal specialists and corporations to conduct verification at the time of transaction was expanded and imposed on them the STR obligation.

f) Inspections, guidance and awareness/outreach sessions have also begun for some of the DNFBP sectors. It is evident from the information provided that guidelines have been developed with regards to DNFBP sectors including real estate brokers, dealers in precious metals and stones, postal receiving service providers and telephone receiving telephone forwarding service providers. The obligation for verification at the time of transactions was expanded in line with the amendment of the APTCP in December 2022 and to strengthen AML/CFT through RBA by attorneys. A handbook on the identification of clients for the Japanese Federation of Administrative Scrivener's Associations has also been compiled. The information provided indicates that there is an enhanced focus on AML/CFT requirements in respect of DNFBPs.

g) **Criterion 28.4** (*Mostly met)* (c.28.4(a)) As noted in the MER, the relevant supervisory bodies are empowered to supervise AML/CFT compliance and take relevant measures, including general powers to perform their functions and powers to monitor compliance (APTCP, articles 15-18, 22). (c.28.4(b)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as not all DNFBPs were required to take measures to prevent people from holding a significant or controlling interest or a management function. The identified gaps remain. (c.28.4(c)) Japan did not meet the requirement of this sub-criterion at the time of the MER, as it was unclear if all DNFBPs supervisors can impose an appropriate range of sanctions for failure to comply with all AML/CFT requirements. Since the MER, Japan provided examples of sanctions, including the overall number of sanctions imposed by supervisors.

h) **Criterion 28.5** (*Partly met)* (a-b) Japan did not meet the requirement of these sub-criteria at the time of the MER, as DNFBP supervisors did not implement supervision on a risk-based approach. Since the MER, Japan conducted the 2022 NRA, which identified to some extent the level of risk from a sectoral perspective. NRA indicators revealed that many of the higher risks present

themselves when transactions are linked to anonymity. It is also evident where DNFBPs do not take effective risk mitigating measures corresponding to their risks. In some instances, surveys have been issued by supervisors to establish whether there are effective ML/TF risk mitigation controls in place. The JFBA also conducts monitoring in respect of attorneys, and it seems inspections will be utilised over surveys when ML/TF is apparent. There has been some progress, however it is not clear how many institutions are in place per DNFBP sector, how many have had inspections or undergone monitoring, and how the level, frequency and intensity of supervision will differ in accordance with the risk rating per entity to adequately demonstrate that supervision is conducted on a risk sensitive basis.

i) **Weighting and conclusion**: Since the MER, Japan took several steps to meet the requirements of this Recommendation. Japan amended its legal framework to allow the operation of casinos and set out relevant requirements in the ADSIRD. Japan also took steps towards the application of a risk-based approach to supervision. However, it is unclear to what extent this is effectively applied across all the institutions constituting the DNFBP sectors and there does not seem to be an indication of how often the institutions across the sectors will be assessed in line with the degree of risk posed.

j) The rating takes into consideration the new legal framework for casinos, including activities undertaken by the respective authorities and supervisors, such as the issuance of guidelines to sectors, conducting outreach/awareness sessions and amending legislation accordingly where this enables certain DNFB sectors to comply with STR requirements. The NRA demonstrates some understanding of the risk in the DNFBP sectors. However, this has not been delved into finer detail in terms of evidencing how the institutions within the DNFBP sectors have been risk rated, and furthermore how often the institutions will be monitored/inspected, and the degree of intensity of supervision does not appear risk-based from the text, for the majority of the DNFBP sectors. Further clarity is required in terms of the data provided, i.e., set out how many institutions have been risk profiled, how many of those have been inspected/monitored, the intensity of the supervision and the frequency etc. Therefore, **Recommendation 28 is re-rated as Largely Compliant**.

Conclusion

Overall, Japan has made progress in addressing technical compliance deficiencies identified in its MER and has been upgraded on R.5, R.6, R.8, R.24 and R.28. R.25 is maintained at PC.

The table below shows Japan's MER ratings and reflects the progress it has made, and any re-ratings based on this and previous FURs:

Table 1. Technical compliance ratings, October 2023

R.1	R.2	R.3	R.4	R.5
LC	***LC** (FUR 2022)* PC	LC	LC	***LC** (FUR 2023)* PC
R.6	**R.7**	**R.8**	**R.9**	**R.10**
***LC** (FUR 2023)* PC	PC	***PC** (FUR 2023)* NC	C	LC
R.11	**R.12**	**R.13**	**R.14**	**R.15**
LC	PC	LC	LC	LC
R.16	**R.17**	**R.18**	**R.19**	**R.20**
LC	N/A	LC	LC	LC
R.21	**R.22**	**R.23**	**R.24**	**R.25**
C	PC	PC	***LC** (FUR 2023)* PC	PC
R.26	**R.27**	**R.28**	**R.29**	**R.30**
LC	LC	***LC** (FUR 2023)* PC	C	C
R.31	**R.32**	**R.33**	**R.34**	**R.35**
LC	LC	LC	LC	LC
R.36	**R.37**	**R.38**	**R.39**	**R.40**
LC	LC	LC	LC	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Japan has six Recommendations rated PC. Japan will report back to the FATF on progress achieved in improving the implementation of its AML/CFT measures in October 2024.

Annex to the FUR

Summary of Technical Compliance –Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	• Deficiencies in the NRA methodology which does not enable a comprehensive overview of Japan's ML/TF risks. • It is not clear that the results of the NRA have been used as a basis for a risk-based approach at the national level and for the allocation of resources of relevant authorities. • There are technical deficiencies affecting some financial supervisors and DNFBP supervisors' risk-based approach to the supervision of AML/CFT obligations, and risk assessments and risk mitigation measures required from FIs and DNFBPs.
2. National cooperation and coordination	PC (**LC 1st FUR**)	• It is unclear whether the mandate of the Council would fully satisfy the requirements of criterion 2.5. In particular, the Council's mandate does not clarify itself to what extent AML/CFT is a focus of the liaison meetings, chaired by the Chairman of the Personal Information Protection Commission (PIPC).
3. Money laundering offences	LC	• There is a minor gap in the range of offences included in the category of environmental offences. • Sanctions available to be imposed on natural or legal persons are not proportionate and dissuasive.
4. Confiscation and provisional measures	LC	• The minor gap in the scope of coverage of environmental offences as predicate offences affects the scope of confiscation. • There are gaps with confiscation of proceeds when criminals who have absconded, died or whose whereabouts is unknown.
5. Terrorist financing offence	PC (**LC 2nd FUR**)	The following deficiencies were updated in this 2nd FUR: • The TF Act does not apply to self-funding.
6. Targeted financial sanctions related to terrorism & TF	PC (**LC 2nd FUR**)	The following deficiencies were updated in this 2nd FUR: • Japan has not demonstrated that the asset-freezing obligations extend to (i) all funds or other assets that are owned or controlled by the designated person or entity; (ii) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) funds or other assets derived from or generated from or other assets owned or controlled directly or indirectly by designated persons or entities; and (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. • It is unclear whether the prohibitions under FEFTA and TAFA extend to transactions indirectly involving designated parties, including entities acting on behalf or at the direction of designated parties. • Japan does not require DNFBPs to report frozen assets or actions taken in relation to TFS.
7. Targeted financial sanctions related to proliferation	PC	• Japan does not implement TFS without delay. • Japan cannot freeze the funds of a designee in Japan between two Japanese residents if a Japanese resident is subject to designation. • It is unclear whether freezing obligations extend to all funds or other assets in line with the FATF definition. • Japan has not demonstrated that the asset-freezing obligations extend to (i) all funds or other assets that are owned or controlled by the designated person or entity; (ii) funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) funds or other assets derived from or generated from or other assets owned or controlled directly or indirectly by designated persons or entities; or (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities. • Japan does not appear to provide specific guidance to FIs and DNFBPs as to their asset-freezing obligations under the FEFTA. • Japan does not require DNFBPs to report assets frozen or related actions.

Recommendations	Rating	Factor(s) underlying the rating
		• Japan does not systematically monitor DNFBPs for compliance with FEFTA. • Japan has not provided guidance to FIs and other persons and entities, including DNFBPs, that may be holding funds or other assets on their obligations to respect a de-listing or unfreezing action. • It is not clear that Japan must submit prior notification to the Security Council of the intention to make or receive such payment or to authorise, where appropriate, the unfreezing of funds or other assets in relation to a payment due under a contract entered into prior to the listing.
8. Non-profit organisations	NC **(PC 2nd FUR)**	The following deficiencies were updated in this 2nd FUR: • NPOs that are not legally incorporated or that fall outside of the specific categories provided for in the Japanese framework are not required to register. As a result, Japan has not identified these limited types of NPOs, which nonetheless may fall within the FATF definition. • Japan has not recently and substantially reviewed the adequacy of measures to respond appropriately to TF risk in the NPO sector. Japan has not taken steps to promote effective supervision or monitoring such that they are able to demonstrate that risk-based measures apply to NPOs at risk of terrorist financing abuse. • Japan has in place a legal framework that allows the relevant authorities to demand records, conduct on-site inspections and impose remedial actions. However, these only relate to governance procedures and there are no risk-based measures applied to NPOs at risk of TF abuse. • It is not clear how foreign counterparts become aware of information of contact points.
9. Financial institution secrecy laws	C	• All criteria are met.
10. Customer due diligence	LC	• There is no explicit prohibition for FIs to keep anonymous accounts or accounts in obviously fictitious names. • The verification method of the identity of a person that claims to be acting on behalf of the customer is not reliable, and the exemption from verification based on the FI's own knowledge should be substantiated by the production of documented evidence of this knowledge. • The required information to identify legal arrangements is not specified. Although trust businesses and companies are subject to the APTCP and must register, there are no similar requirements for civil trusts that are not considered trust businesses or companies. There is also no requirement for trustees to declare their status to FIs. • The APTCP Order and Ordinance are not explicit that the settlor, the trustee(s) and the beneficiaries or class of beneficiaries should be identified. • There is no clear requirement for FIs either to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable, or to take enhanced measures including identifying and verifying any change in the identity of the BO of the beneficiary at the time of payout. • There is no provision for FIs that are not supervised by the JFSA to apply EDD in any situation assessed as higher risk. • FIs have some flexibility to continue to engage into the relationship or conduct the transaction, if a customer does not respond to the request for verification (CDD measures) at the time of transaction. In addition, FIs are not required to terminate the business relationship under this scenario. • There is no legal provision that permit FIs not to pursue the CDD process in cases where they form a suspicion of ML/TF and reasonably believe that performing the CDD process will tip-off the customer
11. Record keeping	LC	• Small transactions are exempt from the record-keeping requirements. • There is no explicit provision that CDD information and transaction records should be available swiftly to competent authorities.
12. Politically exposed persons	PC	• FIs that are not supervised by the JFSA are not required to put in place risk management systems to determine whether a customer or the BO is a PEP. • In the case where a customer is a foreign PEP, FIs are required to obtain approval of a "senior compliance officer" who is not required to be part of the FIs' senior management to commence or continue the business relationship.

Recommendations	Rating	Factor(s) underlying the rating
		• FIs are required to conduct verification of the source of wealth and source of funds, but only when the transaction involves transfer of property exceeding JPY2 million (EUR 15,837/USD 19,261) • FIs that are not supervised by the JFSA are not required to conduct enhanced ongoing monitoring on relationship with foreign PEPs. • Domestic PEPs or persons who have been entrusted with a prominent function by an international organisation are not recognised as a specific category of customers. • Requirements of criteria 12.1 (a)-(d) do not apply to family members or close associates of domestic PEPs or persons who have been entrusted with a prominent function by an international organisation. • There is no clear provision requiring FIs to determine if the beneficiaries and/or the BO of beneficiary of life insurance policies are PEPs
13. Correspondent banking	LC	• For FIs entering cross-border correspondent banking relationships, the requirement is not specific enough regarding the need to determine if the respondent has been subject to a ML/TF investigation or regulatory action. • There is no provision to control services for "payable-through accounts (PTA)" under Japanese legislation.
14. Money or value transfer services	LC	• Japanese MVTS providers are not specifically required to include their agents in their AML/CFT programmes and monitor them for compliance with these programmes.
15. New technologies	LC	• FIs that are not supervised by JFSA are not required to analyze and evaluate ML/TF risks before offering new products and services, or to conduct transactions using new technologies or those with new characteristics. • The deficiencies with respect to the understanding, assessment and mitigation of AML/CFT risks identified in R.1 carry through to c.15.3 regarding VA/VASPs. • There is a scope deficiency in the Japanese definition of VASPs, with regard to iii) and iv) of the FATF definition. • There are no legal or regulatory measures to prevent criminals or their associates from holding, or being the BO of, a significant or controlling interest of a VCEP. • A person who provides VC exchange services without obtaining registration is not subject to appropriate pecuniary sanctions. • The deficiencies highlighted in the risk-based approach to JFSA supervision (c. 26. 4 to 6) are also relevant for VCEPs. • The minor deficiencies identified in R.35 apply to VCEPs. • The analysis of R.9 to 21, including the deficiencies identified, applies to VCEPs. • The shortcomings identified in the TFS for TF and PF are also relevant for VCEPs. • It is not clear if the JFSA has a legal basis for exchanging information with foreign counterparts regardless of the supervisors' nature or status and differences in the nomenclature or status of foreign VASPs.
16. Wire transfers	LC	• FIs are not required to acquire originator and beneficiary information below the threshold of JPY 100 000 (EUR 792/USD 963) • There is no clear provision that prohibits the ordering FI to execute the wire transfer if it does not comply with the requirements specified at c.16.1-c.16.7 • There is no special requirement on intermediary FIs as specified under the FATF Methodology c.16.12. • Beneficiary FIs are not obliged to take reasonable measures to specifically identify cross-border wire transfers that lack required originator information or required beneficiary information. • Beneficiary FIs are not required to take actions specified under the FATF Methodology c. 16.15, although there is a general requirement. • There is no specific requirement applicable in cases where MVTS providers control both the ordering and the beneficiary side of a wire transfer.
17. Reliance on third parties	N/A	
18. Internal controls and foreign branches and subsidiaries	LC	• FIs senior compliance official responsible for internal compliance program is not necessarily at the senior management level. • Financial groups are not specifically required to share account information among all branches and majority-owned subsidiaries or implement group-wide measures to safeguard confidentiality and use of information exchanged.

Recommendations	Rating	Factor(s) underlying the rating
		• There is no specific requirement that financial groups should apply appropriate additional measures to manage the ML/TF risks besides informing the responsible supervisory authorities.
19. Higher-risk countries	LC	• FIs not under the supervision of JFSA are not specifically required to apply commensurate risk mitigating measures including EDD to transactions linked to countries for which this is called for by the FATF. • There is no express link made between higher risk countries identified by Japan and jurisdictions designated as higher risk by the FATF, and with the obligation to apply countermeasures when called upon to do so by the FATF. • There is no general requirement for Japan to apply countermeasures for any country for which this is not called for by FATF.
20. Reporting of suspicious transaction	LC	• A requirement to report attempted transaction is not explicitly covered. • The scope of the STR reporting obligation is affected by a minor gap in the predicate offence category of environmental offences
21. Tipping-off and confidentiality	C	• All criteria are met.
22. DNFBPs: Customer due diligence	PC	• Deficiencies highlighted in R.10, 11, 12 and 15 in relation to the provisions of the APTCP, APTCP Order and APTCP Ordinance are also relevant for DNFBPs. • Legal professionals, certified public accountants and certified public tax accountants and their respective corporations are not required to apply other CDD requirements than conducting customer identification/verification. • For lawyers, there is no specific PEP requirement as required in R.12 other than strict verification of identity of the customer, and no new technologies requirement as required in R.15.
23. DNFBPs: Other measures	PC	• Deficiencies highlighted in R. 18, 19 and 20 are relevant for DNFBPs. • Judicial scriveners or corporations, certified administrative procedures legal specialists or corporations, certified public accountants or audit firms, certified public tax accountants or corporations, as well as lawyers are not required to file STRs. • There is no clear requirement for DNFBPs to implement group-wide programmes to all branches and majority-owned subsidiaries, nor to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country. • Lawyers are not specifically required to apply appropriate measures to transactions linked to higher risks countries.
24. Transparency and beneficial ownership of legal persons	PC **(LC 2nd FUR)**	The following deficiencies were updated in this 2nd FUR: • Japan has not fully assessed the ML/TF risks associated with all types of legal person created in the country. • The company registry does not record lists of company directors and this information is not publicly available in the registry. • It is not clear whether the information kept in the register of shareholders at the company head office of a stock company includes information on the nature of the voting rights associated with the shareholding. • There is no requirement to maintain shareholder, member and councilor information for legal persons in the country. • There are gaps in the mechanisms used by Japan (existing information via FIs and some DNFBPs, notarial checks, lists of shareholders and BO of legal persons list system) to ensure that information on beneficial ownership of a legal person is available to law enforcement in a timely manner. • It is not clear whether competent authorities, and in particular law enforcement authorities, can obtain basic and beneficial ownership information in a timely manner, with the exception of the basic information stored in the company registry. • Although the issuance of bearer shares was prohibited in 1990, while it is unlikely that bearer shares are still in circulation, no specific mechanisms have been put in place in line with R.24 to prohibit any bearer shares in circulation or ensure that they are not misused. • There are limited sanctions available for legal persons should that fail to comply with their requirements. • The rapid provision of information on basic and beneficial ownership for international co-cooperation is limited by the breadth and accuracy of information available in Japan.

Recommendations	Rating	Factor(s) underlying the rating
25. Transparency and beneficial ownership of legal arrangements	PC	• There are no specific requirements for trustees of civil trusts to obtain and hold adequate, accurate, and current information on the identity of the settlor, the protector (if any), the other beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. • Japan does not require trustees of any trust governed under its law to hold basic information on other regulated agents of, service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. • There are no requirements to keep the information on the beneficiary and settlor up to date for persons settling and administering civil trusts. • There are no specific measures placed on trustees, of any domestic or foreign trust, to disclose their status to an FI or DNFBP when forming a business relationship or carrying out an occasional transaction above the threshold. • There are no specific requirements to ensure that information on the basic and beneficial owner(s) of trusts held by relevant parties can be accessed in a timely manner. • There is no specific requirement or mechanism in place in Japan to support the rapid provision of information, including BO information, on trusts to foreign competent authorities. • There are only fines available to trustees of civil trusts that fail to meet their obligations, which are not proportionate or dissuasive. • There are no sanctions available for failing to grant competent authorities timely accessing to information on trusts under 25.1 apart from in the case when a trust company or business fails to provide supervisors with a requested report or material.
26. Regulation and supervision of financial institutions	LC	• Financial leasing companies and currency exchange operators are not required to be registered nor licensed, and the requirements to prevent criminals or their associates from holding a significant or controlling interest, or holding a management function do not apply to those FIs. • There is no explicit requirement to apply consolidated group supervision for AML/CFT purposes to Core principles FIs. • Not all financial supervisors have developed a risk-based approach to AML/CFT supervision. • There is no clear information available regarding how the supervisory resources are allocated for FIs that are not supervised by the JFSA, as well as for the periodical review of the ML/TF risk profile of those FIs.
27. Powers of supervisors	LC	• The range of sanctions applicable by the JFSA does not include financial sanctions, which is a limit to its ability to impose an appropriate range of sanctions, in line with R. 35. • It is unclear if other financial supervisors can impose a range of disciplinary and financial sanctions, in line with R. 35.
28. Regulation and supervision of DNFBPs	PC (**LC 2nd FUR**)	The following deficiencies were updated in this 2nd FUR: • Not all DNFBPs are required to take measures to prevent people from holding a significant or controlling interest or a management function. • DNFBP supervisors have not implemented supervision on a risk-based approach.
29. Financial intelligence units	C	• All criteria are met.
30. Responsibilities of law enforcement and investigative authorities	C	• All criteria are met.
31. Powers of law enforcement and investigative authorities	LC	• There is a minor gap of failing to have an express provision which could provide sufficient legal basis for the competent authorities to conduct undercover operations.
32. Cash couriers	LC	• Competent authorities are not empowered to stop or restrain currency or BNIs in the events of a false declaration or suspicion of ML or TF.
33. Statistics	LC	• Some authorities do not maintain statistics on STRs and on MLA. • Comprehensive statistics are not available on property frozen, seized and confiscated.
34. Guidance and feedback	LC	• Insufficient guidance has been provided to DNFBPs for the application of national AML/CFT measures.
35. Sanctions	LC	• In relation to R.6, sanctions are not explicitly linked to FI or DNFBP's failure to apply preventive measures related to TFS for TF. • In relation to R.9-23, AML/CFT supervisors do not have powers to impose direct financial sanctions to individuals or FIs and DNFBPs.

Recommendations	Rating	Factor(s) underlying the rating
		• It is not clear if financial supervisors other than JFSA can impose a range of disciplinary and financial sanctions for AML/CFT failures. • There is no specific provision on the application of sanctions to directors and senior managers, when FI or DNFBPs are sanctioned as legal persons.
36. International instruments	LC	• There are deficiencies in implementing measures required under the Vienna Convention and the TF Convention.
37. Mutual legal assistance	LC	• The scope of MLA is affected by minor gaps in the predicate offence category of environmental offences. • Undercover operations are not available pursuant to and MLA request. • Some minor concerns remain in relation to requirements for dual criminality
38. Mutual legal assistance: freezing and confiscation	LC	• The scope of MLA is affected by minor gaps in the predicate offence category of environmental offences. • Gaps with a basis to provide assistance for non-conviction based confiscation proceedings and related provisional measures, at a minimum in circumstances when a perpetrator is unavailable by reason of death, flight, absence, or the perpetrator is unknown
39. Extradition	LC	• The scope of MLA is affected by minor gaps in the predicate offence category of environmental offences. • No legal basis to provide for simplified extradition mechanisms.
40. Other forms of international cooperation	.LC	• There are no specific legal provisions for the international cooperation of JBFA in its role as AML/CFT supervisor. • No information is available on the secure gateways and mechanisms used by other FI supervisors than JFSA and by DNFBP supervisors. • There is no process for the prioritisation or timely execution of requests for agencies others than JAFIC and Japan Customs. • There is no specific requirement on competent authorities to provide feedback on request and in a timely manner to competent authorities from which they have received assistance. • There is no specific provision which allow financial supervisors' exchanges of domestically available information related to or relevant for AML/CFT purposes with foreign counterparts. • There is no clear provision that would ensure that financial supervisors get the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use that information for supervisory or non-supervisory purposes. • There is no specific provision on joint investigation teams with foreign authorities for NPA

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October 2023

Anti-money laundering and counter-terrorist financing measures in Japan

Follow-up Report & Technical Compliance Re-Rating

As a result of Japan's progress in strengthening its measures to fight money laundering and terrorist financing since the assessment of the country's framework, the FATF has re-rated the country on five Recommendations.

Follow-up report