Japan

RISK & COMPLIANCE REPORT

DATE: January 2017

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Executive Summary - Japan	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering Assessment Weakness in Government Legislation to combat Money Laundering Not on EU White list equivalent jurisdictions
Medium Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

rice, sugar beets, vegetables, fruit; pork, poultry, dairy products, eggs; fish

Industries:

among world's largest and technologically advanced producers of motor vehicles, electronic equipment, machine tools, steel and nonferrous metals, ships, chemicals, textiles, processed foods

Exports - commodities:

motor vehicles 13.6%; semiconductors 6.2%; iron and steel products 5.5%; auto parts 4.6%; plastic materials 3.5%; power generating machinery 3.5%

Exports - partners:

China 18%, US 17.7%, South Korea 7.7%, Thailand 5.5%, Hong Kong 5.1% (2012)

Imports - commodities:

petroleum 15.5%; liquid natural gas 5.7%; clothing 3.9%; semiconductors 3.5%; coal 3.5%; audio and visual apparatus 2.7% (2011 est.)

Imports - partners:

China 21.3%, US 8.8%, Australia 6.4%, Saudi Arabia 6.2%, UAE 5%, South Korea 4.6%, Qatar 4% (2012)

Investment Restrictions:

The Government of Japan explicitly promotes inward FDI and has established formal programs to attract it. The Japanese government's commitment to implement policies to improve the climate for foreign investment, however, has been uneven. While the FDI stock has risen substantially since the 1990's, Japan still has the lowest ratio of FDI as a proportion of GDP of any OECD member.

Japan has gradually eliminated most formal restrictions governing FDI. One important restriction remaining in law limits foreign ownership in Japan's former land-line monopoly telephone operator, Nippon Telegraph and Telephone (NTT), to 33%. Japan's Radio Law and separate Broadcasting Law also limit foreign investment in broadcasters to 20%, or 33% for broadcasters categorized as facility-supplying.

Foreign and domestic private enterprises have the right to establish and own business enterprises and engage in all forms of remunerative activity.

However, the 2005 Companies Act includes a provision -- Article 821 -- which creates uncertainty among foreign corporations that conduct their primary business in the Japanese market through a branch company. As written, Article 821 appears to prohibit branches of foreign corporations from engaging in transactions in Japan "on a continuous basis."

Contents

Section 1 - Background

In 1603, after decades of civil warfare, the Tokugawa shogunate (a military-led, dynastic government) ushered in a long period of relative political stability and isolation from foreign influence. For more than two centuries this policy enabled Japan to enjoy a flowering of its indigenous culture. Japan opened its ports after signing the Treaty of Kanagawa with the US in 1854 and began to intensively modernize and industrialize. During the late 19th and early 20th centuries, Japan became a regional power that was able to defeat the forces of both China and Russia. It occupied Korea, Formosa (Taiwan), and southern Sakhalin Island. In 1931-32 Japan occupied Manchuria, and in 1937 it launched a full-scale invasion of China. Japan attacked US forces in 1941 - triggering America's entry into World War II - and soon occupied much of East and Southeast Asia. After its defeat in World War II, Japan recovered to become an economic power and an ally of the US. While the emperor retains his throne as a symbol of national unity, elected politicians hold actual decision-making power. Following three decades of unprecedented growth, Japan's economy experienced a major slowdown starting in the 1990s, but the country remains a major economic power. In March 2011, Japan's strongest-ever earthquake, and an accompanying tsunami, devastated the northeast part of Honshu island, killing thousands and damaging several nuclear power plants. The catastrophe hobbled the country's economy and its energy infrastructure, and tested its ability to deal with humanitarian disasters.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Japan is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

At the June 2014 FATF Plenary, FATF made the following statement: -

"The FATF is concerned by Japan's continued failure to remedy the numerous and serious deficiencies identified in its third mutual evaluation report adopted in October 2008, despite Japan's high-level political commitment.

The most important deficiencies deal with:

- the incomplete criminalisation of terrorist financing
- the lack of satisfactory customer due diligence requirements and other obligations in the area of preventive measures applicable to the financial and non-financial sectors
- the incomplete mechanism for the freezing of terrorist assets, and
- the failure to ratify and fully implement the Palermo Convention.

The FATF encourages Japan to promptly address these AML/CFT deficiencies, including through the adoption of the necessary legislation. The FATF will continue to monitor Japan's progress."

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Japan was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Japan was deemed Compliant for 4 and Largely Compliant for 19 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 2 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2008):

In general, the domestic crime rate is very low in Japan and the Police are well aware of the money laundering (ML) schemes used in Japan. The statistics held by the Japanese authorities reveal that for the last three years there were three major sources of criminal proceeds: drug offences, fraud and "loan-sharking" (i.e. illegal money lending). According to the National Police Agency (NPA), most of the drugs abused are smuggled in from overseas and then often distributed by criminal organizations, organized crime groups according to the Japanese designation, or Boryokudan, commonly known in the English-speaking world as "yakuza". In 2006, organized crime groups were involved in around 40% of the money laundering cases. The origin of the laundered funds is prostitution, illicit gambling and "loan-sharking". Recently, remittance frauds have been discovered, some of them also involve organized crime groups.

Four major types of frauds are used: i) "Ore-ore fraud" where phone calls are made to victims by swindlers pretending to be a relative, police officer, or practicing attorney under the pretext that they immediately need money to pay for something such as an automobile accident, and convince victims to transfer the money to a certain savings account; ii) fictitious billing fraud uses postal services or the Internet to send documents or e-mails demanding money and valuables based on fictitious bills, by which the general public is sometimes persuaded to transfer money to designated accounts; iii) loan-guarantee fraud is a method of fraud where a letter supposedly meant as a proposal is sent to the victim, persuading the victim to transfer money to designated accounts under the pretext of a guarantee deposit for loans and iv) refund fraud where swindlers pretending to be tax officers instruct people on the procedure for tax refunds and have victims use ATMs to transfer money to designated accounts. Another significant trend consists of the repeated loans of small amounts, around JPY 50 000 (EUR 300 / USD 475) at a higher interest rate than is legally permitted. Since 2003, the total amount of this kind of loan ranges between JPY 20 and 35 billion.

At the date of this report, Japan has not been the victim of terrorist actions committed in the country by individual terrorists or terrorist organisations listed by the United Nations. However, some groups, which committed terrorist acts are based in and have been active in Japan. The Japanese Communist League's Red Army Faction, from which the Japanese Red Army (JRA), a Marxist-Leninist revolutionary organisation, later broke away, committed felonious crimes in Japan and the JRA has been responsible for major terrorist attacks in the 1970's. Aum Shinrikyo, the cult organisation that was responsible for the Tokyo subway gas attack in 1995, is still active and recently committed crimes related to drug selling and fraud such as fund-raising activities.

US Department of State Money Laundering assessment (INCSR)

Japan was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Japan is a regional financial center but not an offshore financial center. The country continues to face substantial risk of money laundering by organized crime, including Japanese organized crime groups (the Yakuza), Mexican drug trafficking organizations, and other domestic and international criminal elements. In the past several years, there has been an increase in financial crimes by citizens of West African countries, such as Nigeria and

Ghana, who reside in Japan. The major sources of laundered funds include drug trafficking, fraud, loan sharking (illegal money lending), remittance frauds, the black market economy, prostitution, and illicit gambling. Bulk cash smuggling also is of concern. There is not a significant black market for smuggled goods, and the use of alternative remittance systems is believed to be limited.

Japan has one free trade zone, the Okinawa Special Free Trade Zone, established in Naha to promote industry and trade in Okinawa. The zone is regulated by the Department of Okinawa Affairs in the Cabinet Office. Japan also has two free ports, Nagasaki and Niigata. Customs authorities allow the bonding of warehousing and processing facilities adjacent to these ports on a case-by-case basis.

Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: NO

Criminalization of money laundering:

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

Are legal persons covered: criminally: YES ***civilly:*** YES

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES ***Domestic:*** YES

KYC covered entities: Banks; credit, agricultural, and fishery cooperatives; insurance companies; securities firms; real estate agents and professionals; precious metals and stones dealers; antique dealers; postal service providers; lawyers; judicial scriveners; certified administrative procedures specialists; accountants; certified public tax accountants; and trust companies

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 377,513 in 2014

Number of CTRs received and time frame: 1,001 in 2014

STR covered entities: Banks; credit, agricultural, and fishery cooperatives; insurance companies; securities firms; trust companies; real estate agents and professionals; precious metals and stones dealers

money laundering criminal Prosecutions/convictions:

Prosecutions: Not available

Convictions: Not available

Records exchange mechanism:

With U.S.: MLAT: YES ***Other mechanism:*** YES

With other governments/jurisdictions: YES

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

Enforcement and implementation issues and comments:

On November 20, 2014, the Government of Japan enacted three pieces of AML/CFT legislation to address recognized deficiencies in its compliance regime. The legislation – two bills that amend Japan's Terrorism Financing Act and its Law on the Prevention of the Transfer of Criminal Proceeds, and one that establishes a new Law to Freeze Terrorist Assets – criminalize the provision of direct or indirect financing, including the provision of any goods and real estate, to terrorists; enable the freezing of terrorist assets without delay, including non-financial holdings; and require financial and non-financial sectors to implement processes and procedures to perform enhanced customer due diligence. The amendment to the Terrorism Financing Act entered into force in December 2014. Japan promulgated Cabinet orders and Ministerial ordinances pertaining to the remaining legislation during 2015; the Law to Freeze Terrorist Assets came into effect on October 5, 2015 and the amendment to the Law on the Prevention of the Transfer of Criminal Proceeds will become effective on October 1, 2016. The passage of this legislation greatly improved Japan's AML/CFT regime, which had previously been notably deficient.

Japan's numbers of investigations, prosecutions, and convictions for money laundering are not available; in relation to the number of drug and other predicate offenses, they are typically low. These numbers are some of the most telling measures of effectiveness of a country's AML/CFT regime. The NPA provides limited cooperation to other domestic agencies, and most foreign governments, on nearly all criminal, terrorism, or counter-intelligence related matters. The number of currency transaction reports (CTRs) filed is very low in comparison to the number of suspicious transaction reports (STRs).

Japan should develop a robust program to investigate and prosecute money laundering offenses, and require enhanced cooperation by the NPA with its counterparts in Japan and foreign jurisdictions. The government should release the number of money laundering convictions. Japan also should provide more training and investigatory resources for AML/CFT law enforcement authorities. As Japan is a major trading power, the government should take steps to identify and combat trade-based money laundering. Japan should ratify the UN Convention against Transnational Organized Crime and the UN Convention against Corruption.

Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):

According to the US State Department, Japan does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

Ability to freeze assets without delay - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations).

States Party to United Nations Transnational Organised Crime Convention - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

States Party to United Nations Convention Against Corruption - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

Japan is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Japan is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report 2013 (introduction):

Drug control in Japan is primarily a problem of domestic drug consumption. Illicit narcotics generally do not transit Japan, nor are they generally manufactured in Japan for markets abroad. In 2012, over 80 percent of all drug arrests in Japan involved methamphetamine or amphetamine-type stimulants, the most widely-abused illegal drugs. Marijuana also continues to be popular and accounted for 12 percent of drug cases.

Japan is one of the largest and most lucrative markets in Asia for methamphetamine. The U.S. Drug Enforcement Administration notes a marked increase of methamphetamine originating from Mexico and the emergence of potential cooperation between Japanese organized crime and Mexican and other transnational criminal organizations. There is growing evidence that liquid methamphetamine is entering the country for conversion and refinement, though labouratories have not yet been discovered. There were several mail parcel seizures of liquid methamphetamine at Kansai International Airport in 2012, and also corroborated evidence of multiple successful imported shipments that evaded seizure.

Between January and June 2012, Japanese law enforcement agencies seized 146.8 kilograms (kg) of methamphetamine; 51.6 kg of marijuana; 1.9 kg of cocaine; 1 kg of heroin and 662 dosage units of MDMA (ecstasy).

While law enforcement officers in Japan are well trained and skilled at conducting reactive investigations, proactive law enforcement efforts are at times hindered by the limited investigative techniques authorized under Japanese law.

A few Japanese law enforcement agencies made notable achievements combating drug trafficking in 2012. Japan Customs has been effective in indentifying inbound drug shipments and made numerous significant seizures at international airports. Japanese authorities have recently coordinated enforcement operations on several investigations resulting in large methamphetamine seizures. The Japan Coast Guard (JCG) embedded an officer aboard a U.S. Coast Guard vessel for several weeks as an observer during a drug interdiction patrol. This officer also attended the Joint-Interagency Task Force-South as an observer. This level of coordination and cooperation is an emerging positive trend.

There were no reported cases of Japanese officials being involved in drug-related corruption in Japan in 2012. The government does not encourage or facilitate the illicit production or distribution of drugs, or the laundering of illicit proceeds.

US State Dept Trafficking in Persons Report 2014 (introduction):

Japan is classified a Tier 2 country - A country whose governments does not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards

Japan is a destination, source, and transit country for men and women subjected to forced labor and sex trafficking, and for children subjected to sex trafficking. Male and female migrant workers from China, Indonesia, the Philippines, Vietnam, Nepal, other Asian countries, Uzbekistan, and Poland are subjected to conditions of forced labor, sometimes through the government's Industrial Trainee and Technical Internship Program (TTIP). Some women and children from East Asia, Southeast Asia (mainly the Philippines and Thailand), South America, Eastern Europe, Russia, and Central America travel to Japan for employment or fraudulent marriage and are subsequently forced into prostitution. Traffickers continued to use fraudulent marriages between foreign women and Japanese men to facilitate the entry of these women into Japan for forced prostitution in bars, clubs, brothels, and massage parlors. Traffickers strictly control the movement of victims using debt bondage, threats of violence or deportation, blackmail, and other coercive psychological methods. Victims of forced prostitution sometimes face debts upon commencement of their contracts; most are required to pay employers fees for living expenses, medical care, and other necessities, leaving them predisposed to debt bondage. "Fines" for alleged misbehavior are added to victims' original debt, and the process brothel operators use to calculate these debts is typically not transparent. Trafficking victims transit Japan between East Asia and North America.

Japanese nationals, particularly runaway teenage girls and foreign-born children of Japanese citizens who acquired nationality, are also subjected to sex trafficking. The phenomenon of enjo kosai, also known as "compensated dating," continues to facilitate the prostitution of Japanese children. In a recent trend called joshi-kosei osanpo, also known as "high school walking," girls are offered money to accompany men on walks, in cafes, or to hotels, and engage in commercial sex. Sophisticated and organized prostitution networks target vulnerable Japanese women and girls in public areas such as subways, popular youth hangouts, schools, and online; some of these women and girls become trafficking victims. Japanese men continue to be a significant source of demand for child sex tourism in Southeast Asia and, to a lesser extent, Mongolia.

The Government of Japan has not, through practices or policy, ended the use of forced labor within the TTIP, a government-run program that was originally designed to foster basic industrial skills and techniques among foreign workers, but has instead become a guest worker program. The majority of technical interns are Chinese and Vietnamese nationals, some of whom pay up to the equivalent of approximately $7,300 for jobs and are employed under contracts that mandate forfeiture of the equivalent of thousands of dollars if workers try to leave. Reports continue of excessive fees, deposits, and "punishment" contracts under this program. Some companies confiscated trainees' passports and other personal identification documents and controlled the movements of interns to prevent their escape or communication. During the "internship," migrant workers are placed in jobs that do not teach or develop technical skills—the original intention of the TTIP; some of these workers experience under- or non-payment of wages, have their contracts withheld, and are charged exorbitant rents for cramped, poorly insulated housing that keeps them in debt.

The Government of Japan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government convicted 31 traffickers, compared to 30 in 2012. The National Police Agency (NPA) continued to host its annual gathering for national and prefectural police officers to share trafficking investigation stories and their anti- trafficking efforts. The Japanese government, however, did not develop or enact legislation that would fill key gaps in the law and thereby facilitate prosecutions of trafficking crimes. It failed to develop specific protection and assistance measures for trafficking victims, such as establishing a nationwide network of shelters exclusively for trafficking victims, apart from the existing network of shelters for victims of domestic violence. The TTIP continued to lack effective oversight or means to protect participants from abuse; despite some reforms, NGOs and media reported recruitment practices and working conditions did not improve for interns. The government did not prosecute or convict forced labor perpetrators despite allegations of labor trafficking in the TTIP. The number of identified victims, especially foreign trafficking victims, decreased with no evidence of a diminution in the overall scale of the problem, and the government identified no male victims of either forced labor or forced prostitution.

US State Dept Terrorism Report 2010

Overview: Japan continued to take active measures to prevent the spread of terrorism through stringent border security enforcement, counterterrorism capacity building assistance, and legislation aimed at stemming the flow of terrorist financing. In coordination with the U.S. Department of Homeland Security- Customs and Border Protection (CBP), several Japanese agencies have strengthened immigration procedures as well as port and shipping security.

Legislation and Law Enforcement: Japan's Ministry of Foreign Affairs, Japan's Immigration Bureau, the National Police Agency (NPA), and the Ministry of Land, Infrastructure, Transport and Tourism coordinated with the CBP's Immigration Advisory Program on preventing terrorists and other high-risk travelers from boarding commercial aircraft bound for the United States.

Under the Container Security Initiative (CSI), Japanese Customs authorities worked with CBP Officers at four Japanese seaports to review ship manifests and to screen suspicious containers bound for the United States. Under a reciprocal bilateral agreement, Japanese Customs also deploys officers to work with CBP at the Port of Long Beach, California to screen U.S. export shipments bound for Japan.

The NPA and the Public Security Intelligence Agency continued to monitor the activities of Aum Shinrikyo, renamed Aleph, and splinter group Hikari no Wa, or "Circle of Light."

Regional and International Cooperation: Japan continued to assist counterterrorism capacity building in neighboring countries through dialogue, seminars, workshops, and training. The Japanese Coast Guard, for example, provided capacity building services and training seminars to authorities from states that border the Straits of Malacca. In March, Japan decided to extend Counterterrorism and Security Enhancement grant aid to Uzbekistan. In June, Japan extended similar grant aid to Indonesia.

In March, the Japanese hosted an Aviation Security Ministerial Conference, attended by U.S. Homeland Security Secretary Napolitano, for top officials from the Asia/Pacific region and the International Civil Aviation Organization to discuss ways to bolster global aviation security. Also in March, the Japan-Singapore Joint APEC Seminar on Securing Maritime Trade through Counterterrorism Efforts was held in Tokyo. In June, Japanese officials took part in the

Fourth Japan-Republic of Korea (South Korea) Counterterrorism Consultations. The same month, Japan co-chaired the Fifth Japan-ASEAN Counterterrorism Dialogue in Bali, Indonesia. In December, Japan participated in the sixth annual U.S.-Japan-Australia Trilateral Strategic Dialogue Counterterrorism Consultations in Melbourne, Australia.

Countering Terrorist Finance: The Diet (Japanese Parliament) amended Customs Act secondary legislation, which addressed in part a Financial Action Task Force recommendation pertaining to cross-border currency declaration and disclosure.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	72
World Governance Indicator – Control of Corruption	91

US State Department

Japan's penal code covers crimes of official corruption. An individual convicted under these statutes is, depending on the nature of the crime, subject to prison sentences up to three years and possible fines up to 2.5 million yen (for the offering party), or prison sentences up to seven years and mandatory confiscation of the monetary equivalent of the bribe (for the recipient). With respect to corporate officers who accept bribes, Japanese law also provides for company directors to be subject to fines and/or imprisonment, and some judgments have been rendered against company directors.

The direct exchange of cash for favors from government officials in Japan is extremely rare. However, the web of close relationships between Japanese companies, politicians, government organizations, and universities has been said to foster an inwardly-cooperative business climate that is conducive to the awarding of contracts, positions, etc. within a tight circle of local players. This phenomenon manifests itself most frequently and seriously in Japan through the rigging of bids on government public works projects.

Japanese authorities have acknowledged the problem of bid-rigging and have taken steps to address it. Building on the longstanding laws on bribery of public officials and misuse of public funds, the 2006 amendments to the 2003 Bid-Rigging Prevention Act, now called the Act on Elimination and Prevention of Involvement in Bid-Rigging, aimed specifically to eliminate official collusion in bid rigging. The law authorizes the Japan Fair Trade Commission (JFTC) to demand central and local government commissioning agencies take corrective measures to prevent continued complicity of officials in bid-rigging activities, and to report such measures to the JFTC. The Act also contains provisions concerning disciplinary action against officials participating in bid rigging and compensation for overcharges when the officials caused damage to the government due to willful or grave negligence. The Act prescribes possible penalties of imprisonment for up to five years and fines of up to 2.5 million yen. Nevertheless, questions remain as to whether the Act's disciplinary provisions are strong enough to ensure officials involved in illegal bid-rigging are held accountable.

Complicating efforts to combat bid rigging is the phenomenon known as *amakudari,* whereby government officials retire into top positions in Japanese companies, frequently in industries that they once regulated. *Amakudari* employees are particularly common in the financial, construction, transportation, and pharmaceutical industries, among Japan's most heavily regulated industries. The 2007 revised National Public Service Act aimed at limiting involvement of individual ministries in finding post-retirement employment for its officials and more transparent administrative procedures may somewhat ameliorate the situation. However, the LDP administration that came to power in December 2012 has not prioritized the issue, and *amakudari* practices persist.

OECD Convention on Combatting Bribery

Japan has ratified the OECD Anti-Bribery Convention, which bans bribing foreign government officials. The OECD has identified deficiencies in Japan's implementing legislation, some of which the Japanese Government has taken steps to rectify. In 2004, Japan amended its Unfair Competition Prevention Law to extend national jurisdiction to cover the crime of bribery and in 2006 made changes to the Corporation Tax Law and the Income Tax Law expressly to deny the tax deductibility of bribes to foreign public officials. However, there are continuing concerns over the effectiveness of Japan's anti-bribery enforcement efforts, particularly the very small number of cases prosecuted by Japanese authorities compared to other OECD members

Corruption and Government Transparency - Report by Global Security

Political Climate

Japan is a parliamentary democracy with a constitutional monarchy. The dominant political party, the Liberal Democratic Party (LDP), was formed in 1955 and has essentially governed the country since, although there were two brief periods in which the opposition did manage to defeat the LDP. Overall, political corruption in Japan can be characterised by the close relationship between the LDP, the banks, and upper echelons of big businesses, and these relationships are known as the 'iron triangle' system, according to Freedom House 2012. According to the same source, former Prime Minister Junichiro Koizumi (in office from 2001 to 2006, after which, Japan has witnessed several changes in prime minister) had put the majority of his reform efforts on stamping out corruption that stems from the iron triangle system, with effort on breaking such close relationships.

According to the US Department of State 2012, it is extremely rare that direct exchange of cash for favours from government officials takes place; however, some have used the term "institutionalised corruption" to describe the situation in Japan. Similar to what the aforementioned Freedom House 2012 report has described, the US Department of State 2012 also reveals the existence of a tight-knit network of Japanese companies, politicians, government organisations, and universities that is said to nurture an inwardly-cooperative business climate conducive to the awarding of contracts, positions, etc. within an exclusive group of local players. Furthermore, this phenomenon in Japan manifests itself most frequently and most seriously through the rigging of bids on government public works projects. Aware of the seriousness of these practices, the government has taken measures to counteract such activities. Amendments made in 2006 to the Act on Elimination and Prevention of Involvement in Bid-Rigging, for example, aim to eradicate official collusion in bid rigging.

According to Transparency International's Global Corruption Barometer 2010/2011, a little over 35% of surveyed households in Japan perceive the nation's political parties as 'extremely corrupt', placing it first among the most corrupt institutions in the country, followed by the Parliament as the second most effected by corruption. The same report also shows that 45%

of Japanese households consider the government's anti-corruption initiatives to be 'ineffective', and 46% of the households perceive that the level of corruption in Japan has increased over the past 3 years. One of the most recent corruption scandals involving Japanese politics revolved around Ichiro Ozawa, a former leader within the DPJ, who is said to be responsible for fragmenting the party. Ozawa's support group, Rikuzankai, allegedly failed to report a JYN 400 million donation that financed Ozawa's aides' housing, according to a 2010 article in East Asia Forum. This prompted the Tokyo prosecutor's office to investigate the matter. Ozawa addressed the accusation of violating political funding laws as a 'misunderstanding' and politically-motivated. According to an April 2012 article by The Guardian, he pleaded not guilty in court and was eventually cleared of all charges for lack of evidence. Three of his former aides were handed suspended prison sentences, which they all appealed.

Business and Corruption

Japan has the third largest economy in the world and has for many years been a lucrative destination for foreign direct investment (FDI). According to the Heritage Foundation 2013, all areas within the Japanese economy enjoy relatively healthy levels of economic freedom. However, the foundation also warns of an otherwise well-developed and modern financial sector plagued with growing political interference, and mobility-constraining labour practices that prioritise seniority. Additionally, the government has not been consistent in its commitment to implement policies aimed at improving the environment for foreign investment, according to the US Department of State 2012. The report also reveals that investment activity within Japan continues at a level much lower than before the economic downturn in 2008 and forecasts shows no signs of improvement.

Aware of the seriousness of institutionalised-corruption, the government has taken measures to counteract the rigging of bids on government public works projects, according to the US Department of State 2012. Revisions made in 2006 to the Act on Elimination and Prevention of Involvement in Bid-Rigging is one example on how it aims to eradicate official collusion in bid rigging. However, the US Department of State 2012 also mentions that such efforts are complicated by the traditional practice of assigning retired government officials to top positions within Japanese companies; a practice known as amakudari. Often times, such positions are allocated in the same industries the officials once regulated. Such practices are most prevalent among Japan's most comprehensively regulated industries, particularly the pharmaceutical, construction, transportation, and financial industries, according to the same source. In 2007, the National Public Service Act was revised in an effort to stifle amakudari; however, the issue has since been downgraded on the political agenda and allowed to persist.

Transparency International's Bribe Payers Index 2011 ranks Japan 4th out of the 28 largest global economies, indicating that the perceived probability of Japanese companies committing acts of bribery abroad is very small. The OECD Working Group Bribery Phase 3 Report on Japan notes that since 1999, when the foreign bribery offence came into force, there have only been two cases of foreign bribery that have ended with convictions. The report mentions that the more significant of the two of the cases was an international scandal involving substantial bribe payment for a major Vietnamese infrastructure project financed in part by official development assistance (ODA) from Japan. Four people, including the representative of the foreign subsidiary, were found guilty, while the company itself received a two-year ban from ODA-funded contracting. Nonetheless, the OECD

Working Group voices concerns over the fact that only two prosecutions in two foreign bribery cases over a 12-year period seems very low, as it appears that the country is not actively implementing its foreign bribery offence. See more about the ODA scandal in 'Business Corruption' under 'Public Procurement and Contracting'.

Regulatory Environment

One problem Japan faces is the over-regulation of its economic environment, which can potentially stifle economic growth, increase the cost of doing business, hamper competition, and constrain investment, as reported in the US Department of State 2012. Furthermore, many problems companies face regarding market access and competition stem from over-regulation of the economy. The Heritage Foundation 2013 also reports that regulatory stringencies still remain, dampening dynamic commercial growth. The foundation mentions factors deterring growth include burdensome requirements for licencing, tendencies to guarantee lifetime employment, as well as seniority-based salaries. The World Bank & IFC's Doing Business 2013 reports that no new business reforms have been made since 2007.

In 2007, Japan created the Financial Instruments and Exchange Law to provide financial markets with a flexible regulatory system, encouraging foreign direct investment, according to the US Department of State 2012. In 2005-2006, revision was made to Part II of the Commercial Code and combined with existing laws regarding liability companies and audits, according to the US Department of State 2012. The new law, which took effect in May 2007, was designed to better facilitate business start-ups and allow for more flexibility for corporate structures by, among other things, eliminating minimum capital requirements. The Ministry of Economy Trade and Industry (METI) and the Japan External Trade Organization (JETRO) are the lead agencies responsible for assisting foreign firms interested in investing in Japan, while the latter provides ‘one-stop’ support services through its six Invest Japan Business Support Centres operating in major urban areas. Forming a business in Japan now takes 8 procedures, 23 days and 7.5% of income per capita, according to Doing Business 2013.

According to the Heritage Foundation 2013, contracts are respected and foreign investors are not discriminated against in Japanese courts, which enjoy independence free of political interference. Though the level of corruption within Japan's judiciary is low, it is said to lack efficiency. Furthermore, attaining and protecting patents and trademarks can be costly and time-consuming. Japan also has a legal framework for international commercial arbitration provided by the Alternative Dispute Resolution (ADR). According to the US Department of State 2012, courts have the authorisation to encourage mediated resolutions and have a supervised mediation system. The process is, however, time-consuming and judge transferral is all too frequent; as a result, settling cases out of court is common for many companies. Access the Lexadin World Law Guide for a collection of laws in Japan.

Section 3 - Economy

In the years following World War II, government-industry cooperation, a strong work ethic, mastery of high technology, and a comparatively small defense allocation (1% of GDP) helped Japan develop a technologically advanced economy. Two notable characteristics of the post-war economy were the close interlocking structures of manufacturers, suppliers, and distributors, known as keiretsu, and the guarantee of lifetime employment for a substantial portion of the urban labor force. Both features are now eroding under the dual pressures of global competition and domestic demographic change. Japan's industrial sector is heavily dependent on imported raw materials and fuels. A small agricultural sector is highly subsidized and protected, with crop yields among the highest in the world. While self-sufficient in rice production, Japan imports about 60% of its food on a caloric basis. For three decades, overall real economic growth had been spectacular - a 10% average in the 1960s, a 5% average in the 1970s, and a 4% average in the 1980s. Growth slowed markedly in the 1990s, averaging just 1.7%, largely because of the after effects of inefficient investment and an asset price bubble in the late 1980s that required a protracted period of time for firms to reduce excess debt, capital, and labor. Modest economic growth continued after 2000, but the economy has fallen into recession three times since 2008. A sharp downturn in business investment and global demand for Japan's exports in late 2008 pushed Japan into recession. Government stimulus spending helped the economy recover in late 2009 and 2010, but the economy contracted again in 2011 as the massive 9.0 magnitude earthquake and the ensuing tsunami in March disrupted manufacturing. The economy has largely recovered in the two years since the disaster, but reconstruction in the Tohoku region has been uneven. Prime Minister Shinzo ABE has declared the economy his government's top priority; he has overturned his predecessor's plan to permanently close nuclear power plants and is pursuing an economic revitalization agenda of fiscal stimulus, monetary easing, and structural reform. Japan joined the Trans Pacific Partnership negotiations in 2013, a pact that would open Japan's economy to increased foreign competition and create new export opportunities for Japanese businesses. Measured on a purchasing power parity (PPP) basis that adjusts for price differences, Japan in 2013 stood as the fourth-largest economy in the world after second-place China, which surpassed Japan in 2001, and third-place India, which edged out Japan in 2012. The new government will continue a longstanding debate on restructuring the economy and reining in Japan's huge government debt, which is exceeding 230% of GDP. To help raise government revenue and reduce public debt, Japan decided in 2013 to gradually increase the consumption tax to a total of 10% by the year 2015. Japan is making progress on ending deflation due to a weaker yen and higher energy costs, but reliance on exports to drive growth and an aging, shrinking population pose other major long-term challenges for the economy.

Agriculture - products:

rice, sugar beets, vegetables, fruit; pork, poultry, dairy products, eggs; fish

Industries:

among world's largest and technologically advanced producers of motor vehicles, electronic equipment, machine tools, steel and nonferrous metals, ships, chemicals, textiles, processed foods

Exports - commodities:

motor vehicles 13.6%; semiconductors 6.2%; iron and steel products 5.5%; auto parts 4.6%; plastic materials 3.5%; power generating machinery 3.5%

Exports - partners:

China 18%, US 17.7%, South Korea 7.7%, Thailand 5.5%, Hong Kong 5.1% (2012)

Imports - commodities:

petroleum 15.5%; liquid natural gas 5.7%; clothing 3.9%; semiconductors 3.5%; coal 3.5%; audio and visual apparatus 2.7% (2011 est.)

Imports - partners:

China 21.3%, US 8.8%, Australia 6.4%, Saudi Arabia 6.2%, UAE 5%, South Korea 4.6%, Qatar 4% (2012)

Banking

While financial system deregulation and international competitive pressure has drastically changed the face of Japanese banking (the consolidation of 19 major banks into three mega banks), the connection between corporate finance and banking institutions and non-financial corporations remains much tighter in Japan than in the United States; and extends far beyond simple lender/borrower relationships. Much corporate banking business is rooted in either business groups with interlocking shareholding (keiretsu) or in regional relationships. Japanese banks are frequently shareholders in companies that conduct banking business with them.

This unique relationship between a company and its bank has been long-standing; until recently, a Japanese company rarely changed its primary lender, although it would occasionally "shop around" for better credit arrangements. Even when credit is loose, companies sometimes borrow in excess of their need in order to maintain good relations with their bank and to ensure that funds will be available in leaner years. Banks are often large shareholders in publicly traded corporations (although banks are in the process of reducing their total equity holdings), have close relationships with both local governments and national regulatory agencies, and often play a coordinating role among their clients. It remains safe to say that the Japanese commercial bank system is much more relationship-oriented than the transaction-based U.S. system. Japanese banks were able to avoid the direct impact from the global financial crisis due to their limited exposure to structured securities.

Japanese authorities took macroeconomic and financial policy steps to sustain the economy and support the functioning of financial markets. Similarly, the direct impact of the March 2011 earthquake and tsunami on major banks was relatively minor. There were no major disruptions to the payments and settlement system, and the Bank of Japan injected substantial liquidity so that banks could meet funding needs, as well as manage demand for cash withdrawals from depositors.

While large corporations with suitable credit ratings (especially export-oriented firms) can rely on corporate bond issues rather than banks for financing, bank lending continues to be the primary financing method for small and medium sized companies and for many larger companies as well.

Japanese banks offer regular and time deposits and checking accounts for businesses. Checks are negotiable instruments that are in effect payable to the bearer (rather than to the order of the payee, as in the United States). This limits the usefulness of checks, and in fact, most payments are made by electronic bank transfer (which cost a few hundred yen on average), or by sending cash through the postal system. The banks (and now investment/securities firms) historically waged an uphill battle against the postal savings system for consumer deposits, but now that the postal savings bank must pay taxes and deposit insurance, in addition to losing its implicit government guarantee, competition for deposits has intensified.

Personal checking accounts are almost unknown in Japan. Most individuals use electronic bank transfers to settle accounts. Cash settlement is also very common and the Post Office has a mechanism for payment by "cash envelope" which is widely used in direct marketing and other applications. Many Japanese banks operate 24-hour cash machines (as do some credit card companies). Bank and other credit cards are easy to obtain and are widely accepted. Some bank credit cards offer revolving credit, but in most cases balances are paid in full monthly via automatic debiting from bank accounts.

The relationship among trading company, end user and exporter is an important feature of the financing environment in Japan. The Japanese general trading company (sogo shosha) is an integrated, comprehensive organization that embraces a range of functions including marketing and distribution, financing and shipping and the gathering of commercial information. It performs functions that in the United States would be carried out by import/export companies, freight forwarders, banks, law firms, accounting firms and business consultants. Thus, U.S. firms dealing with trading companies should familiarize themselves with the financing capabilities of such firms.

Stock Exchange

The Tokyo Stock Exchange, which is called Tōshō or TSE for short, is the principle stock exchange in Japan. It is the fourth largest stock exchange in the world by aggregate market capitalization of its listed companies, and largest in East Asia and Asia. It had 2,292 listed companies with a combined market capitalization of US$4.09 trillion as of April 2015.

In July 2012 a planned merger with the Osaka Securities Exchange was approved by the Japan Fair Trade Commission. The resulting entity, the Japan Exchange Group (JPX) was launched on January 1, 2013. Other stock exchanges are Fukuoka Stock Exchange, JASDAQ Securities Exchange and the Nagoya Stock Exchange.

Section 4 - Investment Climate

Executive Summary

Japan is the world's third largest economy and the United States' fourth largest trading partner, and is a major destination for foreign direct investment (FDI). After nearly two decades of deflation and low growth, Japan's economy is showing signs of new vitality. The Liberal Democratic Party (LDP) Government of Prime Minister Shinzo Abe, elected in December 2012 on a platform of economic recovery and revitalization, has undertaken an ambitious program comprised of fiscal stimulus, monetary easing, and a reform-focused "growth strategy" to get Japan's economy moving again.

The Abe Government's Growth Strategy includes numerous measures intended to promote inward FDI, and the Prime Minister announced in June 2013 the goal of doubling Japan's inward FDI stock to 35 trillion yen by 2020. The focus on FDI promotion is encouraging, although the commitment of past governments to implement policies to improve Japan's investment climate has been inconsistent. Japan has the lowest ratio of FDI as a proportion of GDP of all Organization for Economic Cooperation and Development (OECD) member countries, something the Abe Government is working to change.

Japan officially welcomes foreign investment and has eliminated most formal restrictions governing FDI. The Ministry of Economy Trade and Industry (METI) and the Japan External Trade Organization (JETRO) assist foreign firms wishing to invest in Japan, and many prefectural and city governments have active programs to attract foreign investors. A number of factors make Japan a potentially attractive investment destination. Japan remains a large, wealthy, and sophisticated market. Risks associated with investment in many other countries, such as expropriation and nationalization, are not of concern in Japan. Japan has an independent judiciary, consistently applied commercial law, and strong Intellectual Property (IP) protections. Japan's civil courts enforce property and contractual rights and do not discriminate against foreign investors. The government has recently lowered capital gains, registration, and license taxes on real estate with an aim to increase the liquidity of Japanese real estate markets, and has reduced inheritance and gift taxes to promote intergenerational transfer of land and other real assets. Nearly all foreign exchange transactions—including transfers of profits, dividends, royalties, repatriation of capital, and repayment of principal—are freely permitted.

Japan is confronting the demographic realities of an aging and shrinking workforce. In response, the Government is pursuing policies to keep older workers in the labor force; broaden employment options and job retention for women, especially working mothers; and attract more skilled labor from abroad in certain sectors.

Foreign investors in the Japanese market still face numerous challenges, many of which relate more to prevailing social practice rather than government regulations. These include high tax rates; an insular and consensual business culture traditionally resistant to mergers and acquisitions (M&A); a lack of independent directors on many company boards; and cultural and linguistic barriers. However, the Abe Government hopes that its initiatives will contribute to an increasingly open and investor-friendly business environment.

1. Openness To, and Restrictions on, Foreign Investment

Attitude Toward FDI

Japan is the world's third largest economy, the United States' fourth largest trading partner, and an important destination for U.S. foreign direct investment (FDI). The Government of Japan explicitly promotes inward FDI and has established formal programs to attract it. Soon after taking office, Prime Minister Shinzo Abe in early 2013 announced the government's intention to double Japan's inward FDI stock to 35 trillion yen by 2020. To that end, the government has included investment promotion as a major goal in its "Growth Strategy" package of business incentive measures and regulatory reforms rolled out in June 2013. In April 2014, the government constituted a new "FDI Promotion Council" comprised of ministers with major economic portfolios and augmented by private sector advisers. An advisory committee to the Council released a report with recommendations on how Japan can improve its investment climate (available at: http://www.invest-japan.go.jp/promotion/0425/sankou_02.pdf).

While these initiatives may contribute to attracting more FDI in the future, historically the Japanese government's commitment to implement policies to improve the climate for foreign investment has been inconsistent. Japan's stock of FDI, as a percentage of gross domestic product (GDP), stood at 3.4% at the end of 2012, compared with 30.6% on average for all Organization for Economic Cooperation and Development (OECD) member countries. While the FDI stock has risen substantially since the 1990's, Japan still has the lowest ratio of FDI as a proportion of GDP of any OECD member. The Ministry of Economy, Trade and Industry (METI) and the quasi-governmental Japan External Trade Organization (JETRO) are the lead agencies responsible for assisting foreign firms wishing to invest in Japan. Many prefectural and city governments also have active programs to attract foreign investors, but they lack many of the financial tools U.S. states use to attract investment.

The renewed interest of the Abe Government in attracting FDI is one component of the government's drive to revitalize the Japanese economy. Japan has largely recovered from the economic shocks caused by the March 2011 Tohoku earthquake and tsunami, but Japan continues to face the long-term challenges of low growth, deflation, and an aging population and shrinking workforce. The government seeks to restore Japan to a path of sustainable growth through its "Three Arrows" economic program combining fiscal stimulus, expansionary monetary policy, and regulatory and structural reform, collectively dubbed "Abenomics." Fiscal and monetary policies are credited with reigniting economic growth in 2013-14 and helping Japan exit deflation.

However, the reform component of "Abenomics," considered essential for long-term growth and competitiveness, has been slower to take shape. Additional impetus for reform could come from Japan's participation in the Trans-Pacific Partnership (TPP), an ambitious, high-standard free trade agreement currently under negotiation between the United States, Japan, and ten other countries. Japan joined the TPP negotiations as the newest member in July 2013. Japan must also transition over time toward fiscal sustainability. According to the International Monetary Fund's World Economic Outlook, as of April 2014 Japan's gross public debt was estimated at about 243% of GDP – the highest percentage among advanced economies. The national Diet voted in 2012 to raise the consumption tax from 5% to 10% in stages by 2015 to help reduce the fiscal imbalance; the first stage, from 5% to 8%, was implemented on April 1, 2014.

In addition to business considerations relevant to investing in a mature economy with an aging population, foreign investors seeking a presence in the Japanese market or to acquire a Japanese firm through corporate takeover face a number of challenges, many of which relate more to prevailing practices comprising the business environment rather than to government regulations. These include an insular and consensual business culture that has traditionally been resistant to mergers and acquisitions (M&A); a lack of independent directors on many company boards; exclusive supplier networks and alliances between business groups that can restrict competition from foreign firms and domestic newcomers; cultural and linguistic challenges; and labor practices that tend to inhibit labor mobility.

The Abe Government seeks to address these issues under its "Growth Strategy," including improved corporate governance and enhanced labor mobility. (A complete copy of the Strategy can be accessed at http://www.kantei.go.jp/jp/singi/keizaisaisei/pdf/en_saikou_jpn_hon.pdf). The United States has discussed these and other issues relating to the investment environment with Japan in several different fora, including the U.S.-Japan Economic Harmonization Initiative; the U.S.-Japan Dialogue to Promote Innovation, Entrepreneurship and Job Creation; the U.S.-Japan Policy Cooperation Dialogue on the Internet Economy; and bilateral negotiations on non-tariff measures (NTMs) in connection with the TPP.

Other Investment Policy Reviews

OECD and UNCTAD have not conducted any recent investment policy reviews of Japan. Japan was subject to a WTO trade policy review in 2013.

Laws / Regulations on FDI

Major laws affecting incoming foreign investment in Japan include the Foreign Exchange and Foreign Trade Act, the Companies Act, and the Financial Instruments and Exchange Act. Japan has an independent judiciary, and Japan's civil courts enforce property and contractual rights and do not discriminate against foreign investors.

A series of revisions to Japan's legal code over the past decade have served to encourage inbound foreign investment through M&A activity, even if overall levels remain low by OECD standards. Significant measures include 2005 revisions to the Companies Act, which significantly expanded the types of corporate structures available in Japan as well as the variety of M&A transactions available for corporate consolidation and restructuring; and the 2007 Financial Instruments and Exchange Act (amended in 2008), which established a flexible regulatory system for financial markets and applied a uniform set of rules for similar financial instruments.

Industrial Strategy and Sector Promotion

Under a law passed in late 2013, Japan is moving to set up new "National Strategic Special Zones" (NSSZ) to implement selected deregulation measures intended to attract new investment and boost regional growth. In March 2014, the Special Zones Advisory Council chaired by Prime Minister Abe selected six initial locations for the new Zones, including the metropolitan areas of Tokyo, Osaka, and Fukuoka. In the Tokyo "international business hub" zone, covering the city of Tokyo as well as neighboring Kanagawa Prefecture and Narita City in Chiba Prefecture, proposed deregulation measures include revisions to building codes to encourage redevelopment projects. The full deregulation menu in the six locations is still taking shape, with details to be fleshed out over the course of 2014. Further details on the concept are available at: http://www.kantei.go.jp/jp/singi/tiiki/kokusentoc_wg/pdf/concepteng.pdf.

In an effort to promote tourism-related investment and facilities development as part of its "Growth Strategy," the Abe Government in late 2013 introduced legislation in the Diet that would lead to legalization of casino gambling as part of "integrated resorts" construction. The initial bill would instruct the government to prepare implementing legislation and regulations for privately-operated casinos by 2016. The government hopes that the first "integrated resorts" can be completed and operating by the time Tokyo hosts the Summer Olympic Games in 2020.

Aiming to increase the liquidity of Japanese real estate markets, the government in recent years has progressively lowered capital gains, registration, and license taxes on real estate. It also reduced inheritance and gift taxes to promote intergenerational transfer of land and other real assets. Japan's real estate sector experienced a painful contraction following the credit crunch of 2008 as prices declined. The real estate market, particularly for premium properties, has rebounded after the Bank of Japan (BOJ) began buying real estate investment trust (REIT) shares in 2010. In April 2013 the BOJ increased its purchases of riskier assets as part of its aggressive monetary easing policy, and as of December 2013, the BOJ had 140 billion yen of REIT shares on its books, a very small portion of BOJ's total assets of 224 trillion yen but up substantially from just 2.2 billion yen in 2010. However, the real estate market remains characterized by very limited numbers of large real estate deals between unrelated parties. Additionally, U.S. investors have reported isolated instances of criminal elements interfering with real estate transactions in Japan, particularly those involving distressed assets.

Limits on Foreign Control

Japan has gradually eliminated most formal restrictions governing FDI. One remaining legal restriction limits foreign ownership in Japan's former land-line monopoly telephone operator, Nippon Telegraph and Telephone (NTT), to 33%. Japan's Radio Law and separate Broadcasting Law also limit foreign investment in broadcasters to 20%, or 33% for broadcasters categorized as "facility-supplying." Foreign ownership of Japanese companies invested in terrestrial broadcasters will be counted against these limits. These limits do not apply to communication satellite facility owners, program suppliers or cable television operators.

While not a limit on foreign control per se, Japan does continue to restrict development of retail and commercial facilities to prevent excessive concentration of development in the environs of Tokyo, Osaka, and Nagoya, and to preserve agricultural land. Conversely, many prefectural governments outside the largest urban areas make property available for development in public industrial parks. Japan's zoning laws give local officials and residents considerable discretion to screen almost all aspects of a proposed building. In some areas, these factors have hindered real estate development projects and led to construction delays and higher building costs, particularly in cases where proposed new retail development would affect existing businesses.

Privatization Program

Japan has privatized many major state-owned enterprises over the last two decades. In other instances, it has reorganized government-run businesses as separate companies, although the government remains the sole or primary shareholder of the reorganized entity.

A bill to allow the sale of airport operation management rights for 27 airports owned and operated by the central government, including large regional airports like Sendai and Hiroshima as well as 67 airports owned and operated by local governments, passed into law on June 19, 2013. Under the new law, local government operators of the airports must initiate the request for privatization of management, and the request must be approved by the central government after a stakeholder review process. If approved, private firms would be able to bid on operation rights at these airports while the central or local governments would maintain ownership of the land and buildings.

In spring 2014, an advisory panel to the Ministry of Finance began discussions for an Initial Public Offering (IPO) of Japan Post (JP) Holdings Co. Ltd., holding company for the Japan Post group. The first official step in the IPO process will be selection of one or more private sector firms as managers for the IPO, perhaps by fall 2014, with full IPO preparations expected to be completed by sometime in 2015. Separate IPOs are eventually contemplated for JP Holdings' two major financial subsidiaries, JP Bank and JP Insurance, though timing remains unclear.

Screening of FDI

The Foreign Exchange and Foreign Trade Act governs investment in sectors deemed to have national sovereignty or national security implications. If a foreign investor wants to acquire over 10% of the shares of a listed company in certain designated sectors, it must provide prior notification (and thus obtain specific approval) of the intended transaction to the Ministry of Finance and the ministry that regulates the specific industry. Designated sectors include agriculture, aerospace, forestry, petroleum, electric/gas/water utilities, telecommunications, and leather manufacturing. Amendments to the prior notification and reporting requirements, effective in 2009, reduced the administrative burden on foreign investors so as to facilitate inward investment. However, U.S. private equity firms can still face challenges when seeking to make significant investment in "strategic industries" deemed important to Japan's national interests.

Competition Law

Several sections of the Japanese Anti-Monopoly Act (AMA) are relevant to FDI. The stated purpose of these provisions is to restrict shareholding, management, joint venture, and M&A activities that may constitute unreasonable restraints on competition or involve unfair trade practices. The Japanese Government has emphasized that these provisions are not intended to discriminate against foreign companies or discourage FDI.

Investment Trends

Outbound investment continued climbing during 2012 as Japanese companies' large cash holdings combined with low global equity values and the strong yen supported their active merger and acquisition (M&A) activity abroad. Meanwhile, investment activity inside Japan showed a modest increase in numbers of M&A transactions during 2013, with the largest number of deals since 2009. Preliminary 2013 statistics for FDI in Japan show a net outflow of about 129 billion yen for the year. Notwithstanding the imbalance between inward and outward FDI, and the increase in M&A activity by Japanese firms overseas, Japan's outward FDI as a percentage of GDP also remains among the lowest of major OECD members.

Table 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
TI Corruption Perceptions index	2013	(18 of 177)	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	(25 of 178)	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	(27 of 189)	http//doingbusiness.org/rankings
Global Innovation Index	2013	(22 of 142)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 47,880	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Generally, all foreign exchange transactions to and from Japan – including transfers of profits and dividends, interest, royalties and fees, repatriation of capital, and repayment of principal – are freely permitted. Japan maintains an ex-post facto notification system for foreign exchange transactions that prohibits specified transactions, including certain foreign direct investments (e.g., from countries under international sanctions) or others that are listed in the appendix of the Foreign Exchange and Foreign Trade Act.

Japan has not intervened in the foreign exchange markets in over two years. The Japanese government joined the G-7 statement of February 2013, affirming that economic policies would be based on domestic objectives using domestic instruments and would not target exchange rates. Since then, Japanese officials have clearly ruled out purchases of foreign assets as a monetary policy tool and have largely refrained from public comment on the desired level of the exchange rate. Japan was also part of the subsequent G-20 consensus and statement at the February 2013 Finance Ministers and Central Bank Governors Meeting in Moscow that countries would not target exchange rates for competitive purposes. This commitment was affirmed by G-20 Leaders in September 2013 at the St. Petersburg Summit.

Terrorism Finance / Money Laundering / Remittances

Japan is an active partner in combating terrorist financing. In coordination with other OECD members, Japan has strengthened due-diligence requirements for financial institutions and has had a "Know Your Customer" law since 2002. In April 2011, Japan amended its basic Anti-Money Laundering (AML) law, the Criminal Proceeds Act (CPA), to improve customer due diligence requirements, including requiring financial institutions to identify the customer's name, address, and date of birth; and to verify the purpose of a transaction, business activities, and beneficial owners. These requirements came into effect in April 2013.

Customers wishing to make cash transfers exceeding 100,000 yen must do so through bank clerks, not ATMs, and must present photo identification. However, Japan has yet to fully rectify deficiencies noted in the 2008 Financial Action Task Force (FATF) evaluation of Japan's anti-money-laundering and terrorist finance regime, particularly on customer due diligence, international cooperation, freezing terrorist assets, and criminalizing terrorist finance. Japan has begun to implement a risk-based approach to AML/CFT. Following its investigation into three major Japanese banks' relations with organized crime organizations, the Financial Services Agency (FSA) in December 2013 implemented a new financial monitoring policy for financial institutions. The policy calls on institutions to conduct enhanced due diligence for higher-risk customers, business relationships, and transactions, as well as to sever relationships with suspicious entities and individuals. This is an improvement over the April 2011 amendments to the CPA that called for financial institutions to verify a customer's assets and income in certain higher-risk situations, but only delineated those situations as being instances in which the use of false identity was suspected, rather than those presented by such factors as business type, customer location, or type of transaction.

3. Expropriation and Compensation

In the post-war period, the Japanese Government has not expropriated any enterprises and the expropriation or nationalization of foreign investments in Japan is extremely unlikely. Historically, nationalizations of enterprises have been rare and have all involved Japanese firms. These include the 1998 nationalization of two large, capital-deficient Japanese banks and the 2002 nationalization of two failed Japanese regional banks as part of the government's efforts to clean up the banking system after its near-collapse in 1998. The government also nationalized Japan Airlines in 2010 as a part of a two-year corporate reorganization plan. The airline has since been re-privatized.

Most recently, in the wake of the March 2011 nuclear accident at the Fukushima Daiichi Nuclear Power Station, the Tokyo Electric Power Company (TEPCO) was placed under "temporary public control" when the government injected $12.5 billion through the Nuclear Damage Liability Facilitation Fund to procure a 50.1% stake in the company in May 2012. Total government support for TEPCO and its compensation payments to victims and evacuees of the nuclear accident reached $37 billion in December 2012. The utility is scheduled to pay back the funds over time, but the plan is contingent on the uncertain restart of TEPCO's large nuclear plant on Japan's west coast.

4. Dispute Settlement

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

Japan has a fully independent judiciary and a consistently applied body of commercial law. An Intellectual Property High Court was established in 2005 to expedite trial proceedings in IP cases. Foreign judgments are recognized and enforced by Japanese courts under certain conditions.

Bankruptcy

An insolvent company in Japan can face liquidation under the Bankruptcy Act or take one of four roads to reorganization: the Civil Rehabilitation Law; the Corporate Reorganization Law; corporate reorganization under the Commercial Code; or an out-of-court creditor agreement. The Civil Rehabilitation Law focuses on corporate restructuring in contrast to liquidation, provides stronger protection of debtor assets prior to the start of restructuring procedures, eases requirements for initiating restructuring procedures, simplifies and rationalizes procedures for the examination and determination of liabilities, and improves procedures for approval of rehabilitation plans. Amendments to Japan's Corporate Reorganization Law made corporate reorganization for large companies more cost-efficient, speedy, flexible and available at an earlier stage. Previously, most corporate bankruptcies in Japan were handled through out-of-court creditor agreements because court procedures were lengthy and costly. Since bankruptcy trustees had limited powers to oversee restructuring, most judicial bankruptcies ended in liquidation, often at distressed prices. Out-of-court settlements in Japan tend to save time and expense, but can sometimes lack transparency and fairness. In practice, because 100% creditor consensus is required for out-of-court settlements and the court can sanction a reorganization plan with only a majority of creditors' approval, the last stage of an out-of-court settlement is often a request for a judicial seal of approval.

Investment Disputes

There have been no major bilateral investment disputes since 1990.

International Arbitration

There have been no cases of international binding arbitration of investment disputes between foreign investors and the Government of Japan since 1952.

ICSID Convention and New York Convention

Japan has been a contracting member of the Convention on the Settlement of Investment Disputes (ICSID Convention) since 1967 and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) since 1961.

Duration of Dispute Resolution

As in other countries, legal proceedings in Japan can be slow, and depending on the circumstances of the case, Japanese courts may be ill-suited for litigation of investment and business disputes. Japanese courts lack powers to compel witnesses to testify or a party to comply with an injunction. Timely temporary restraining orders and preliminary injunctions are difficult to obtain. Courts have the power to encourage mediated settlements and there is a supervised mediation system. However, this process is often time-consuming and judges transfer frequently, so continuity is often lost. As a result, it is common for companies to seek to settle cases out of court.

5. Performance Requirements and Investment Incentives

Performance Requirements

Japan does not maintain performance requirements or requirements for local management participation or local control in joint ventures.

Investment Incentives

JETRO operates six Invest Japan Business Support Centers in major urban areas to provide investment-related information and "one-stop" support services to foreign companies interested in investing in Japan. (Detailed information is available at http://www.jetro.go.jp/en/invest.) Most national ministries also have information desks to help guide potential investors in navigating Japanese Government administrative procedures. Many city or regional governments also work to attract foreign capital through outreach to prospective foreign investors, business start-up support services, and limited financial incentives.

The Government of Japan has sought to encourage investment in the Tohoku region that was devastated by the March 11, 2011 earthquake and tsunami. The Diet has allocated 25 trillion yen to date for Tohoku region reconstruction; the appropriations cover the five years from FY2011 to FY2015 (designated as the "concentrated reconstruction period"). Under GOJ guidelines, participation in Tohoku reconstruction should be open to foreign contractors and investors. Japan's Reconstruction Agency, established in February 2012, maintains a website on the reconstruction status at http://www.reconstruction.go.jp/english/, and accepts queries at https://www.reconstruction.go.jp/enquete/opinion/enquete.html from the private sector, including foreign companies, interested in investing in the disaster-hit regions.

Local governments in the Tohoku region play a central role in formulating reconstruction plans and implementing nationally-approved measures. Local municipalities may choose from a given menu of regulatory, tax relief, and other measures from which to craft special economic zones specific to their needs. As of February 2014, 106 reconstruction promotion plans that feature special zones have been approved; the complete list is available on the Reconstruction Agency website. Each locality determines the aspects of its own special zone, so tax incentives and relaxed zoning may vary from locality to locality. Companies wishing to participate in Tohoku reconstruction should be aware of these circumstances, and may wish to seek a Japanese partner to negotiate the various zones and research opportunities through the diverse proposals presented by local governments.

While Tohoku reconstruction efforts present significant potential opportunities for investors, challenges remain. The Reconstruction Agency reports that public infrastructure reconstruction has largely progressed according to the projected plan and time schedule, but shortages of skilled labor and construction materials have hindered progress in housing relocation and reconstruction. As a result, many local municipalities have been unable to begin housing projects and their allocated budgets have not been used. The GOJ is working with local governments to address these challenges.

6. Right to Private Ownership and Establishment

Foreign and domestic private enterprises have the right to establish and own business enterprises and engage in all forms of remunerative activity. However, Article 821 of the 2005 Companies Act appears to prohibit branches of foreign corporations from engaging in transactions in Japan "on a continuous basis." This wording has created uncertainty among foreign corporations that conduct their primary business in the Japanese market through a branch company. The Japanese Diet subsequently issued a clarification of the legislative intent of Article 821 that makes clear the provision should not apply to the activities of legitimate entities, and the Government has said it will ensure Article 821 will not adversely affect the operations of foreign companies duly registered in Japan and conducting business in a lawful manner.

7. Protection of Property Rights

Real Property

In Japan, secured interests in real property are recognized and enforced. Mortgages are a standard lien on real property, and they are reliably recorded. On the World Bank's "Doing Business Report," Japan ranks 66th for "ease of registering property." This is a result of the many bureaucratic steps and fees associated with purchasing improved real property in Japan, even when it is already registered and has a clear title. The required amount of documentation for property purchase can be burdensome. Additionally, it is common practice in Japan for appraisal values to be lower than the actual sale value, increasing the deposit required of the purchaser as the bank will finance only up to the appraisal value.

Intellectual Property Rights

Intellectual property (IP) in Japan enjoys relatively strong legal protection and good enforcement, and Japan is not listed in USTR's Special 301 report. However, prospective investors should be aware of costs and procedures associated with IP registration, and companies doing business in Japan should be clear about rights and obligations with respect to IP in any trading or licensing agreements.

Registering Patents, Trademarks, Utility Models and Designs

Japan has worked to improve IP registration procedures in recent years, including through revisions to Japanese law to make patent and trademark registrations easier and less costly to obtain. Japan is a signatory to the Madrid Protocol, which provides for a cost-effective and efficient way for trademark holders to ensure protection for their marks in multiple countries through the filing of one application with a single office, in one language, with one set of fees, in one currency.

Prompt filing of patent applications is very important. Printed publication of a description of the invention anywhere in the world, or knowledge or use of the invention in Japan prior to the filing date of the Japanese application, could in some circumstances preclude the granting of a patent. Japan grants patents on a first-to-file basis. It accepts initial filings in English (to be followed by a Japanese translation), but companies should be careful as translation errors can have significant negative consequences. Unlike the United States, where examination of an application is automatic, in Japan an applicant must request examination of a patent application within three years of filing. Japan's Utility Model Law allows registration of utility models (a form of minor patent) and provides a 10-year term of protection from the date of filing. Under a separate design law, effective April 2007, protection is available for designs for a 20-year term from the date of registration.

The Japanese Patent Office publishes all patent applications 18 months after filing, and after the patent is granted it is published in the Patent Gazette. The patent is valid for 20 years from the date of filing. Since 2008 the Patent Prosecution Highway (PPH) has allowed filing of streamlined applications for inventions determined to be patentable in other participating countries, reducing the average processing time. Semiconductor chip design layouts are protected for 10 years under a special law, if registered with the Japanese "Industrial Property Cooperation Center" – a government-established public corporation.

Unfair Competition and Trade Secrets

The Unfair Competition Prevention Law provides for protecting trademarks prior to registration. The owner of the mark must demonstrate that the mark is well known in Japan and that consumers will be confused by the use of an identical or similar mark by an unauthorized user. The law also provides some protection for trade secrets, such as know-how, customer lists, sales manuals, and experimental data. Recent amendments to the law provide for injunctions against wrongful use, acquisition, or disclosure of a trade secret by any person who knew, or should have known, the information in question was misappropriated. Criminal penalties were also strengthened. In 2011, Japan enacted a partial amendment to the Unfair Competition Prevention Law that protects trade secrets from being disclosed during court trials and makes it illegal to sell items designed to circumvent technological protection measures, even if the device has other legal uses.

Copyrights

Japan maintains a non-formality principle for copyright registration; i.e., registration is not a pre-condition to the establishment of copyright protection. However, the Cultural Affairs Agency maintains a registry for such matters as date of first publication, date of creation of program works, and assignment of copyright. United States copyrights are recognized in Japan by international treaty.

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

Resources for Rights Holders

Contact at U.S. Embassy Tokyo:

Blake Johnston, Economic Section (until June 19, 2014)

+81-3-3224-5859
JohnstonBA@state.gov

Robin Cromer, Economic Section (from July 14, 2014)

+81-3-3224-5859
CromerRS@state.gov

Country/Economy Resources:

The American Chamber of Commerce in Japan (ACCJ):

Tokyo Office
Masonic 39 MT Bldg. 10F
2-4-5 Azabudai, Minato-ku
Tokyo 106-0041
http://www.accj.or.jp/

Embassy Tokyo's List of Lawyers:

http://japan.usembassy.gov/e/acs/tacs-7113.html

8. Transparency of the Regulatory System

The Japanese economy continues to suffer from over-regulation, which can restrain potential economic growth, raise the cost of doing business, restrict competition, and impede investment. It also increases the costs for Japanese businesses and consumers. Over-regulation underlies many market access and competitive problems faced by U.S. companies in Japan.

The United States has for several years called on Japan to make improvements in its regulatory system to support domestic reform efforts and ensure universal access to government information and the policymaking process.

The Japanese Government has taken steps to improve its public comment procedures, but these improvements are not uniform throughout the government. The United States continues to urge Japan to apply consistently high standards of transparency, including by issuing new rules to ensure transparency and access for stakeholders in the rulemaking process; by allowing effective public input into the regulatory process; and by giving due consideration to comments received. The United States also has asked Japan to lengthen its public comment period and to require ministries and agencies to issue all new regulations or statements of policy in writing or provide applicable interpretations to interested stakeholders in plain language.

In the financial sector, the Financial Services Agency (FSA) has made efforts to expand the body of published written interpretations of Japan's financial laws, and has improved outreach to the private sector regarding these changes.

The United States has engaged in bilateral working-level discussions since 2002 in an effort to encourage the Japanese Government to promote deregulation, improve competition policy, and undertake administrative reforms that could contribute to sustainable economic growth, increase imports and foreign direct investment into Japan. Most recently, the United States has engaged Japan on these issues in the context of bilateral talks on non-tariff measures (NTMs) in connection with the TPP free trade negotiations. The National Trade Estimate Report on Foreign Trade Barriers, issued by the Office of the U.S. Trade Representative (USTR), contains a description of Japan's regulatory regime as it affects foreign exporters and investors.

9. Efficient Capital Markets and Portfolio Investment

Stock Exchanges

Japan maintains no formal restrictions on inward portfolio investment, and foreign capital plays an important role in Japan's financial markets. However, many company managers and directors resist the actions of activist shareholders, especially foreign private equity funds, potentially limiting the attractiveness of Japan's equity market to large-scale foreign portfolio investment. Some firms have taken steps to facilitate the exercise of shareholder rights by foreign investors, including the use of electronic proxy voting. The Tokyo Stock Exchange (TSE) maintains an Electronic Voting Platform for Foreign and Institutional Investors, the IJC platform, in which more than 430 listed companies participated as of December 2013. All holdings of TSE-listed stocks are required to transfer paper stock certificates into electronic form.

In part to improve their competitiveness internationally, Japan's two biggest stock exchanges, Tokyo and Osaka, completed a merger on January 1, 2013 to form the Japan Exchange Group (JPX). Under JPX, both exchanges continue to operate, with cash equity trading consolidated on the TSE in July 2013 and derivatives trading consolidated on the Osaka Exchange as of March 2014. As a result of the merger, at the end of 2013, 3,406 companies were listed in TSE, compared to 2,293 in December 2013. TSE reports that only five companies delisted in 2013.

Environment for Mergers and Acquisitions (M&A)

Japan's aversion to M&A is receding gradually, accelerated by the unwinding of previously extensive corporate cross-shareholding networks between banks and corporations in the same business family, improved accounting standards, and government mandates that began in the late 1990s that require banks to divest cross-holdings above a set threshold. The majority of M&A over the past decade has been driven by the need to consolidate and restructure mature industries or in response to severe financial difficulties. In response to the Abe Government's economic program, which heightened interest in business opportunities in Japan, M&A activity increased in 2013.

Friendly transfer of wholly-owned or majority-owned subsidiaries remains by far the more common form of M&A in Japan. Similarly, unlisted, owner-operated firms – which traditionally would only sell out as a last resort before bankruptcy – are becoming more amenable to acquisition, including by foreign investors. Nevertheless, there remains a strong preference among Japanese managers and directors for M&A that preserves the independence of the target company. If companies are forced to seek an acquirer, they are often most comfortable receiving an investment from or being acquired by a domestic firm with which they have a pre-existing business relationship.

Hostile Takeovers

After the Companies Act took full effect in 2007, expanding the types of M&A structures available in the Japanese market, many companies adopted defensive measures against hostile takeovers. The prevalence of such measures has since declined, although hostile takeovers remain relatively uncommon in Japan's consensus-driven business culture.

Changes in Corporate Governance

Reflecting growing concern within Japan that weaknesses in existing systems of corporate governance were a disincentive for foreign investors, the Japanese Government in the last few years has taken an increasingly strong stance towards corporate misconduct. In March 2012, the Financial Services Agency (FSA) implemented an amendment to corporate disclosure rules to require disclosure of information on the degree of independence of outside directors and outside company auditors, such as the relationship between the company and the current or previous employer of those outside directors/auditors. The FSA has recently published draft amendments aimed at introducing systems to help domestic trust banks and pension funds verify financial information provided by discretionary investment management companies, as well as increasing the volume of information which discretionary investment management companies are required to provide. In addition, the FSA proposes implementing heavier penalties for false statements made by discretionary investment management companies and introducing a more rigorous system of regulatory supervision and inspection.

The Liberal Democratic Party included the goal of improved corporate governance in its campaign platform for the December 2012 election that brought the Abe Government to power, and the Government reiterated that objective in the Growth Strategy released in June 2013. In December 2013, the Government submitted to the Diet proposed amendments to the Companies Act that would encourage listed companies to appoint at least one outside director to their boards, or to publicly explain in their annual report and at their annual shareholders meeting why the company considers the appointment of an outside director to be inappropriate (known as the "comply or explain" provision). The amendments also create an alternative structure where companies may institute an audit and supervisory committee (*kansa kantoku iinkai setchi gaisha*) whose members do not serve as directors. The amendment bill was still under Diet consideration as of April 2014.

While the proposed amendments are viewed as a positive step, the international business community has expressed concern that they do not go far enough to strengthen corporate governance, particularly as they would not make appointment of outside directors mandatory. In spring 2014 the LDP's Research Committee initiated discussions on a strengthened corporate governance "code of conduct" for possible inclusion in a new round of Growth Strategy measures to be announced in June 2014. While details are pending, one issue reportedly under discussion is restriction of cross-shareholding between Japanese listed companies, which complicates market-based M&A activity and reduces the potential impact of shareholder-based corporate governance.

The Tokyo Stock Exchange (TSE) has taken steps over time to require stronger corporate governance measures by listed companies. These include a revised (2009) Principles of Corporate Governance for Listed Companies, which added points to enhance corporate governance not only of the parent company, but of the corporate group as a whole; strengthen statutory auditors' functions; and identify suitable governance models. In March 2012, TSE relaxed rules for listed firms' earnings forecasts, giving firms more flexibility to choose items to include, how to present items, and which periods to cover. The changes are intended to steer firms preparing disclosure in the direction of dialogue with investors, rather than "perfunctory conformity with rules." In line with Companies Act amendments currently before the Diet, the TSE in late 2013 implemented its own "comply or explain" requirement on outside directors for all TSE listed companies. As of March 2014, more than 60% of the companies listed in the first section of the TSE reported having at least one outside director on their boards, although less than 50% of companies had an independent outside director.

Under Japan's Companies Act and the Industrial Revitalization Law, publicly traded companies have the option of adopting a U.S.-style corporate governance system instead of the traditional Japanese statutory auditor (*kansayaku*) system of corporate governance. This system requires the appointment of executive officers and the establishment of a board committee system in which at least the audit, nomination, and compensation committees are composed of a majority of outside directors. Initially available only under the Industrial Revitalization Law and effectively limited to distressed companies, the Companies Act makes these options available to all listed companies, but to date very few listed Japanese companies have adopted the board committee system.

Accounting and Disclosure

Consolidated accounting has been mandatory since 1999 and "effective control and influence" standards have been introduced in place of conventional holding standards, expanding the range of subsidiary and affiliated companies included for the settlement of accounts. Consolidated disclosure of contingent liabilities, such as guarantees, is also mandatory. All marketable financial assets held for trading purposes, including cross-shareholdings and other long-term securities holdings, are recorded at market value. Companies are required to disclose unfunded pension liabilities by valuing pension assets and liabilities at fair value. Fixed asset impairment accounting, in effect since 2005, requires firms to record losses if the recoverable value of property, plant, or equipment is significantly less than book value.

In December 2009, the FSA issued an order allowing companies to submit their financial statements based on international accounting standards. This order prepares the legal groundwork for a complete switch to International Financial Reporting Standards (IFRS) in the future, but FSA has not made a final decision on the mandatory introduction of IFRS.

Taxation and M&A

On April 1, 2014, the government raised the national consumption tax rate from 5% to 8%, with a second increase from 8% to 10% planned for October 2015. Japan's standard tax rate for individual capital gains is 20%. Starting January 1, 2014, earned income from new investments of up to 1 million yen will be exempt from capital gains and dividend tax for up to five years. The Nippon Investment Saving Account (NISA) program will be in effect until December 31, 2018, during which time taxpayers can make an investment of up to 1 million yen in stocks and stock funds each year, aggregating to a maximum of 5 million yen in total.

Japanese business associations and the foreign investor community have urged the government to reduce the effective tax rate for corporate income, currently about 35%. They note that Japan’s corporate tax rate is substantially higher than that of other Asian countries (about 25% in China and South Korea, and 17% in Singapore). The government has discussed corporate tax reform in the context of the Growth Strategy but has not yet proposed legislation.

In June 2013, Japan signed the Foreign Account Tax Compliance Act (FATCA) bilateral agreement requiring Japanese financial institutions to report to the IRS information about financial accounts held by U.S. taxpayers, or by entities in which U.S. taxpayers hold a substantial ownership interest.

Credit Markets

Domestic and foreign investors have free access to a variety of credit instruments at market rates. Most foreign firms obtain short-term credit from Japanese commercial banks or one of the many foreign banks operating in Japan. Medium-term loans are available from commercial banks or from trust banks and life insurance companies. Large foreign firms tend to use foreign sources for long-term financial needs.

10. Competition from State-Owned Enterprises

Japan has privatized most former state-owned enterprises. Regarding the companies of the Japan Post group, postal privatization laws were initially enacted in 2005; under 2012 amendments, the Government remains under legal obligation to fully privatize Japan Post Insurance and Japan Post Bank, but without a fixed deadline. A government subcommittee began preliminary discussions in spring 2014 on preparations for an IPO for Japan Post Holdings, perhaps to be conducted in 2015.

The U.S. Government has continued to raise concerns about the preferential treatment that Japan Post entities receive compared to private sector competitors and the impact of these advantages on the ability of private companies to compete on a level playing field. A full description of U.S. Government concerns with regard to Japan Post, and efforts to address these concerns, is available in USTR's 2014 National Trade Estimate (NTE) report for Japan.

Japan does not have a sovereign wealth fund (SWF).

11. Corporate Social Responsibility

Awareness of corporate social responsibility among both producers and consumers in Japan is high and growing, and foreign and local enterprises generally follow accepted CSR principles. Business organizations also actively promote CSR.

12. Political Violence

Political violence is rare in Japan. Acts of political violence involving U.S. business interests are virtually unknown.

13. Corruption

Japan's penal code covers crimes of official corruption. An individual convicted under these statutes is, depending on the nature of the crime, subject to prison sentences up to three years and possible fines up to 2.5 million yen (for the offering party), or prison sentences up to seven years and mandatory confiscation of the monetary equivalent of the bribe (for the recipient). With respect to corporate officers who accept bribes, Japanese law also provides for company directors to be subject to fines and/or imprisonment, and some judgments have been rendered against company directors.

The direct exchange of cash for favors from government officials in Japan is extremely rare. However, the web of close relationships between Japanese companies, politicians, government organizations, and universities has been said to foster an inwardly-cooperative business climate that is conducive to the awarding of contracts, positions, etc. within a tight circle of local players. This phenomenon manifests itself most frequently and seriously in Japan through the rigging of bids on government public works projects.

Japanese authorities have acknowledged the problem of bid-rigging and have taken steps to address it. Building on the longstanding laws on bribery of public officials and misuse of public funds, the 2006 amendments to the 2003 Bid-Rigging Prevention Act, now called the Act on Elimination and Prevention of Involvement in Bid-Rigging, aimed specifically to eliminate official collusion in bid rigging. The law authorizes the Japan Fair Trade Commission

(JFTC) to demand central and local government commissioning agencies take corrective measures to prevent continued complicity of officials in bid-rigging activities, and to report such measures to the JFTC. The Act also contains provisions concerning disciplinary action against officials participating in bid rigging and compensation for overcharges when the officials caused damage to the government due to willful or grave negligence. The Act prescribes possible penalties of imprisonment for up to five years and fines of up to 2.5 million yen. Nevertheless, questions remain as to whether the Act's disciplinary provisions are strong enough to ensure officials involved in illegal bid-rigging are held accountable.

Complicating efforts to combat bid rigging is the phenomenon known as *amakudari,* whereby government officials retire into top positions in Japanese companies, frequently in industries that they once regulated. *Amakudari* employees are particularly common in the financial, construction, transportation, and pharmaceutical industries, among Japan's most heavily regulated industries. The 2007 revised National Public Service Act aimed at limiting involvement of individual ministries in finding post-retirement employment for its officials and more transparent administrative procedures may somewhat ameliorate the situation. However, the LDP administration that came to power in December 2012 has not prioritized the issue, and *amakudari* practices persist.

OECD Convention on Combatting Bribery

Japan has ratified the OECD Anti-Bribery Convention, which bans bribing foreign government officials. The OECD has identified deficiencies in Japan's implementing legislation, some of which the Japanese Government has taken steps to rectify. In 2004, Japan amended its Unfair Competition Prevention Law to extend national jurisdiction to cover the crime of bribery and in 2006 made changes to the Corporation Tax Law and the Income Tax Law expressly to deny the tax deductibility of bribes to foreign public officials. However, there are continuing concerns over the effectiveness of Japan’s anti-bribery enforcement efforts, particularly the very small number of cases prosecuted by Japanese authorities compared to other OECD members.

14. Bilateral Investment Agreements

As of March 2014, Japan has concluded or signed bilateral investment treaties (BITs) with 22 trading partners: Egypt, Sri Lanka, China, Hong Kong SAR, Turkey, Pakistan, Bangladesh, Russia, Mongolia, Vietnam, South Korea, Cambodia, Laos, Uzbekistan, Peru, Colombia, Papua New Guinea, Kuwait, Iraq, Saudi Arabia, Mozambique and Myanmar. There is also a trilateral agreement with China and South Korea. The Japanese Government is currently negotiating bilateral BITs with Kazakhstan, Angola, and Uruguay, and is preparing to initiate BIT negotiations with Qatar, Algeria, and Ukraine. The 1953 U.S.-Japan Treaty of Friendship, Commerce, and Navigation gives national treatment and most favored nation treatment to U.S. investments in Japan. In July 2013, Japan joined negotiations for the Trans-Pacific Partnership (TPP) free trade agreement with 11 other member countries, including the United States. The TPP, when completed, will include provisions governing investment.

The United States and Japan have a bilateral tax treaty. The current treaty allows Japan to tax the business profits of a U.S. resident only to the extent those profits are attributable to a "permanent establishment" in Japan. It also provides measures to mitigate double taxation. This "permanent establishment" provision, combined with Japan's currently high 40 percent corporate tax rate, serves to encourage foreign and investment funds to keep their trading and investment operations off-shore.

Local branches of foreign firms are generally taxed only on corporate income derived within Japan, whereas domestic Japanese corporations are taxed on their worldwide income. Calculations of taxable income and allowable deductions, and payments of the consumption tax (sales tax) for foreign investors are otherwise the same as those for domestic companies. Corporate tax rules classify corporations as either foreign or domestic depending on the location of their "registered office," which may be the same as – or a proxy for – the place of incorporation.

In January 2013, the United States and Japan signed a revision to the bilateral income tax treaty to bring it into closer conformity with the current tax treaty policies of the United States and Japan. The revision is awaiting ratification by the U.S. Congress.

15. OPIC and Other Investment Insurance Programs

U.S. OPIC insurance and finance programs are not available in Japan. Japan is a member of the Multilateral Investment Guarantee Agency (MIGA). Japan's capital subscription to MIGA is the second largest, after the United States.

16. Labor

Since World War II, employment practices in Japan’s large companies centered on the principles of lifetime employment, seniority-based wages, and enterprise unions. However, the demographic reality of an aging populations and shrinking workforce is forcing many firms to sharply reduce lifetime employment guarantees and seniority-based wages in favor of merit-based pay scales and limited-term contracts. Generally there is adequate availability of skilled labor, although some shortages are beginning to emerge, particularly in the construction industry. Nevertheless, labor mobility between firms remains low.

Traditionally, Japanese workers have been classified as either "regular" or " non-regular" employees. Companies recruit "regular" employees directly from schools or universities and provide an employment contract with no fixed duration. In contrast, "non-regular" employees (such as temporary or contract workers) are hired for a fixed period. Companies have increasingly used part-time workers, temporary contract workers, and so-called “dispatch workers” (contracted through temp agencies) to fill short-term labor requirements and to save on labor costs. In recent years, re-hiring of employees on non-regular status after retirement is also on the rise. Japanese government policy makers are deeply concerned that the number of younger workers in "non-regular" status remains stubbornly high and that the ability of such workers to find permanent employment will decline as they get older.

Although labor unions play a role in the annual determination of wage scales throughout the economy, that role has been declining. The FY2013 Ministry of Health, Labor and Welfare (MHLW) "White Paper on Labor Economy" estimated that union membership as of June 30, 2012 had fallen by 68,000 from the previous year to 9.89 million people representing approximately 18% of the labor force, well down from the peak of 12.70 million in 1994.

To address the impending labor shortage resulting from population decline and a rapidly aging society, Japan’s government has pursued measures to increase participation and retention of older workers in the labor force. A new law that went into force in April 2013 requires companies to introduce employment systems allowing employees reaching retirement age (generally set at 60) to continue working until 65, if they desire.

In June 2013, Prime Minister Abe named women's increased economic participation as a priority element of his government's economic growth strategy. Policy goals include reducing the number of women who quit their jobs due to pregnancy, childbirth or child-rearing; reducing childcare center waitlists through increased capacity; increasing the number of women in management positions; and increasing the number of female national civil servants. The government has appealed to major business organizations to extend the statutory one-year childcare leave to three years and to include at least one woman on each company's board.

In December 2013, the Diet passed a law extending the maximum contract period for fixed-term workers such as researchers, technical workers, and teachers in universities and research institutions from a maximum term of five years to ten years. The extended contract term will provide for greater continuity on long-term research projects. Similarly, a pending bill will provide an exemption to the five-year limit for "highly skilled specialist" contract workers to extend their contracts up to 10 years. The Government is examining additional changes to labor and immigration law that could facilitate the entry of larger numbers of skilled foreign workers in selected sectors for fixed periods.

17. Foreign Trade Zones / Free Ports

Japan no longer has free-trade zones or free ports. Customs authorities allow the bonding of warehousing and processing facilities adjacent to ports on a case-by-case basis.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Japan Statistical source*		USG or international statistical source		USG or international Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Japanese Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	6,013,926	2012	5,959,718	http://www.worldbank.org/en/country
Foreign Direct Investment	Japanese Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in Japan (*Millions U.S. Dollars, stock positions)*	2012	61,756	2012	133,967	(BEA) click selections to reach. • Bureau of Economic Analysis

					• Balance of Payments and Direct Investment Position Data • U.S. Direct Investment Position Abroad on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Japan's FDI in the United States (*Millions U.S. Dollars, stock positions)*	2012	286,529	2012	308,253	(BEA) click selections to reach • Balance of Payments and Direct Investment Position Data • Foreign Direct Investment Position in the United States on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Total inbound stock of FDI as % Japanese GDP (***calculate)***	2012	3.4	2012	3.4	

Source:

Japan's GDP: Economic and Social Research Institute (ESRI), Cabinet Office -- http://www.esri.cao.go.jp/en/sna/data/kakuhou/files/2012/tables/24fcm1n_en.xls

USD/JPY exchange rate: Bank of Japan -- http://www.boj.or.jp/statistics/market/forex/fxdaily/index.htm/

Japan's FDI stock: Japan External Trade Organization (JETRO) -- http://www.jetro.go.jp/en/reports/statistics/

Japan's FDI stock: UNCTAD -- http://unctad.org/en/pages/DIAE/World%20Investment%20Report/Country-Fact-Sheets.aspx

Table 3: Sources and Destination of FDI

Japan, 2012

Direct Investment from/in Counterpart Economy Data	
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*	
Inward Direct Investment	**Outward Direct Investment**

Total Inward	205,752	100%	Total Outward	1,037.698	100%
United States	61,592	30%	United States	285,767	28%
Netherlands	31,524	15%	Netherlands	94,193	9%
France	17,985	9%	China, P.R.: Mainland	92,967	9%
United Kingdom	15,430	7%	Australia	61,181	6%
Singapore	15,352	7%	Cayman Islands	58,627	6%

Source: http://cdis.imf.org

Table 4: Sources of Portfolio Investment

Japan, 2012

Portfolio Investment Assets								
Top Five Partners (Millions, U.S. Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	3,525,267	100%	All Countries	687,170	100%	All Countries	2,838,097	100%
United States	1,183,093	34%	United States	297,136	43%	United States	885,957	31%
Cayman Islands	575,629	16%	Cayman Islands	95,565	6%	Cayman Islands	479,973	17%
France	215,947	6%	United Kingdom	47,916	7%	France	195,005	7%
United Kingdom	215,929	6%	Australia	23,669	3%	United Kingdom	168,013	6%
Germany	181,490	5%	Canada	21,617	3%	Germany	161,471	6%

Source: http://cdis.imf.org/

Section 5 - Government

Chiefs of State and Cabinet Members:

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

Legal system:

civil law system based on German model; system also reflects Anglo-American influence and Japanese traditions; judicial review of legislative acts in the Supreme Court

International organization participation:

ADB, AfDB (nonregional member), APEC, ARF, ASEAN (dialogue partner), Australia Group, BIS, CD, CE (observer), CERN (observer), CICA (observer), CP, EAS, EBRD, EITI (implementing country), FAO, FATF, G-20, G-5, G-7, G-8, G-10, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IEA, IFAD, IFC, IFRCS, IGAD (partners), IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAIA (observer), MIGA, NEA, NSG, OAS (observer), OECD, OPCW, OSCE (partner), Paris Club, PCA, PIF (partner), SAARC (observer), SELEC (observer), SICA (observer), UN, UNCTAD, UNDOF, UNESCO, UNHCR, UNIDO, UNMISS, UNRWA, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO, ZC

Treaty and non-treaty withholding tax rates

Japan has signed **71 agreements** (**63 DTC** and **8 TIEA** agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Armenia	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Australia	DTC	31 Jan 2008	3 Dec 2008	Yes	Yes
Austria	DTC	20 Dec 1961	4 Apr 1963	No	No
Azerbaijan	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Bahamas, The	TIEA	27 Jan 2011	25 Aug 2011	Yes	Yes
Bangladesh	DTC	28 Feb 1991	15 Jun 1991	Unreviewed	No
Belarus	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Belgium	DTC	28 Mar 1968	16 Apr 1970	Yes	No
Belgium	DTC Protocol	26 Jan 2010	not yet in force	Yes	Yes
Bermuda	TIEA	1 Feb 2010	1 Aug 2010	Yes	Yes
Brazil	DTC	24 Jan 1967	31 Dec 1967	No	No
Brunei Darussalam	DTC	20 Jan 2009	19 Dec 2009	No	Yes
Bulgaria	DTC	7 Mar 1991	9 Aug 1991	Unreviewed	No
Canada	DTC	7 May 1986	14 Nov 1987	Yes	No
Cayman Islands	TIEA	7 Feb 2011	13 Nov 2011	Yes	Yes
China	DTC	6 Sep 1983	26 Jun 1984	Yes	No
Czech Republic	DTC	11 Oct 1977	25 Nov 1978	Yes	No
Denmark	DTC	3 Feb 1968	26 Jul 1968	Yes	No
Egypt	DTC	3 Sep 1968	6 Aug 1969	Unreviewed	No
Fiji	DTC	4 Sep 1962	23 Apr 1963	Unreviewed	No
Finland	DTC	4 Mar 1991	28 Dec 1991	Yes	No
France	DTC	11 Jan 2007	1 Dec 2007	Yes	Yes
Georgia	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Germany	DTC	22 Apr 1966	9 Jun 1967	No	No
Guernsey	TIEA	6 Dec 2011	23 Aug 2013	Yes	Yes
Hong Kong, China	DTC	9 Nov 2010	14 Aug 2011	Yes	Yes
Hungary	DTC	13 Feb 1980	25 Oct 1980	Yes	No
India	DTC	7 Mar 1989	29 Dec 1989	Yes	No
Indonesia	DTC	3 Mar 1982	31 Dec 1982	Yes	No
Ireland	DTC	18 Jan 1974	4 Dec 1974	Yes	No
Isle of Man	TIEA	21 Jun 2011	1 Sep 2011	Yes	Yes
Israel	DTC	8 Mar 1993	24 Dec 1993	Yes	No
Italy	DTC	20 Mar 1969	17 Mar 1973	Yes	No
Jersey	TIEA	2 Dec 2011	not yet in force	Yes	Yes

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Kazakhstan	DTC	19 Dec 2008	30 Dec 2009	Unreviewed	Yes
Korea, Republic of	DTC	8 Oct 1998	22 Nov 1999	Yes	No
Kuwait	DTC	17 Feb 2010	14 Jun 2013	Unreviewed	Yes
Kyrgyzstan	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Liechtenstein	TIEA	5 Jul 2012	29 Dec 2012	Yes	Yes
Luxembourg	DTC	5 Mar 1992	27 Dec 1992	Yes	Yes
Malaysia	DTC	19 Mar 1999	31 Dec 1999	Yes	Yes
Mexico	DTC	9 Apr 1996	6 Nov 1996	Yes	No
Moldova, Republic of	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Netherlands	DTC	25 Aug 2010	29 Dec 2011	Yes	Yes
New Zealand	DTC	30 Jan 1963	19 Apr 1963	Yes	No
New Zealand	DTC	10 Dec 2012	25 Oct 2013	Yes	Yes
Norway	DTC	4 Mar 1992	16 Dec 1992	Yes	No
Pakistan	DTC	23 Jan 2008	9 Nov 2008	Unreviewed	No
Philippines	DTC	13 Feb 1980	20 Jul 1980	Yes	No
Poland	DTC	20 Feb 1980	23 Dec 1982	Yes	No
Portugal	DTC	19 Dec 2011	28 Jul 2013	Yes	Yes
Romania	DTC	12 Feb 1976	9 Apr 1978	Unreviewed	No
Russian Federation	DTC	18 Jan 1986	1 Jan 1987	No	No
Samoa	TIEA	4 Jun 2013	6 Jul 2013	Unreviewed	Yes
Saudi Arabia	DTC	15 Nov 2010	not yet in force	Yes	Yes
Singapore	DTC	9 Apr 1994	28 Apr 1995	Yes	Yes
Slovakia	DTC	11 Oct 1977	25 Nov 1978	Yes	No
South Africa	DTC	7 Mar 1997	5 Nov 1997	Yes	No
Spain	DTC	13 Feb 1974	20 Nov 1974	Yes	No
Sri Lanka	DTC	12 Dec 1967	22 Sep 1968	Unreviewed	No
Sweden	DTC	19 Feb 1999	25 Dec 1999	Yes	No
Switzerland	DTC	19 Jan 1971	26 Dec 1971	No	Yes
Tajikistan	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Thailand	DTC	7 Apr 1990	31 Aug 1990	Unreviewed	No
Turkey	DTC	8 Mar 1993	28 Dec 1994	Yes	No
Turkmenistan	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Ukraine	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
United Kingdom	DTC	2 Feb 2006	12 Oct 2006	Yes	Yes
United States	DTC	6 Nov 2003	30 Mar 2004	Yes	No
United States	DTC Protocol	24 Jan 2013	not yet in force	Yes	Yes
Uzbekistan	DTC	18 Jan 1986	27 Nov 1986	Unreviewed	No
Viet nam	DTC	24 Oct 1995	31 Dec 1995	Unreviewed	No
Zambia	DTC	19 Feb 1970	23 Jan 1971	Unreviewed	No

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

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

Section 3 - Economy

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

(Source: CIA World Factbook)

Section 4 - Foreign Investment

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

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

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

Section 6 - Tax

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

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

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Any questions or queries should be addressed to: -

Gary Youinou

Via our Contact Page at KnowYourCountry.com