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HARMONIZATION OF REGULATIONS ON BENEFICIAL OWNERSHIP IN THE EUROPEAN UNION AND JAPAN: A COMPARATIVE LEGAL ANALYSIS AND IMPLICATIONS FOR GLOBAL AML EFFECTIVENESS

Abstract

This article presents a comparative legal analysis of regulations on beneficial owners (BO) in the European Union and Japan. The European Union is characterized by centralized registers resulting from AMLD IV, V, and VI, as well as the forthcoming Regulation (EU) 2024/1624. Although the 2022 Court of Justice of the European Union (CJEU) judgment restricted public access to these registers, centralization is still generally regarded as significantly facilitating the identification of hidden ownership structures. Meanwhile, despite participating in FATF initiatives, Japan maintains a decentralized system based on the Act on Prevention of Transfer of Criminal Proceeds and detailed guidelines of the Financial Services Agency. On the one hand, this provides a high level of privacy protection, but on the other, it leads to difficulties in the rapid verification of BO data and in cross-border cooperation. The analysis indicates that the lack of harmonization – stemming partly from cultural differences – encourages regulatory arbitrage, thereby undermining the global effectiveness of anti-money laundering and counter-terrorist financing measures. As a result, legal loopholes emerge that may be exploited by entities engaged in illicit transactions, demonstrating the necessity for further harmonization of regulations.

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Keywords

Beneficial Ownership; Anti-Money Laundering; FATF Recommendations; EU law; Japanese law

INTRODUCTION

For decades, combating money laundering (AML) and countering the financing of terrorism (CFT) have been among the primary challenges facing the international community. At the core of these efforts lies the concept of the beneficial owner (BO) – a natural person who ultimately controls a business entity, even if shielded by multi-tiered corporate structures or trusts. Ensuring transparency in this area is essential for deterring the concealment of funds derived from illegal sources, as well as for preventing the financing of terrorism.

A key role in setting global standards in this field is played by the Financial Action Task Force (FATF), an organization that formulates AML/CFT guidelines. In particular, Recommendations 24 and 25 of the FATF require states to establish mechanisms that allow for the swift and definitive determination of data pertaining to BO.¹ One of the most significant factors influencing the effectiveness of these solutions is the centralization of beneficial ownership information and streamlined access to it for authorized entities.^{2,3}

Equally important are the recommendations made by other international organizations such as the G20, the OECD, and the Egmont Group, which consistently underscore the need for regulatory harmonization and the standardization of reporting mechanisms for BO. These initiatives aim to reduce opportunities to exploit legal loopholes and to ensure the effective exchange of information between supervisory authorities and financial institutions on a global scale.

¹ FATF, *The FATF Recommendations: International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, Paris 2012, available at: <https://www.fatf-gafi.org/recommendations> [last accessed: 23.01.2025].

² FATF, *Guidance on Transparency and Beneficial Ownership of Legal Persons*, Paris 2014, p. 6, available at: <https://www.fatf-gafi.org/publications> [last accessed: 23.01.2025].

³ Y. Daudrikh, *Beneficial Owner Central Registry as a Tool to Fight Money Laundering and Terrorist Financing*, “Financial Law Review”, Issue 24(4), 2021, p. 137.

The European Union (EU) stands out as a global leader in the regulation of beneficial ownership, as evidenced by successive AML directives (AMLD IV,⁴ V,⁵ VI⁶) and the forthcoming Regulation (EU) 2024/1624, which is set to take effect in July 2027.⁷ One of the most notable achievements was the requirement for Member States to establish centralized BO registers and to legislate on the scope of their public availability. As early as AMLD IV, the process of creating such registers was initiated, while AMLD V further reinforced the obligation to grant access to information for authorized entities.⁸ A major challenge arose, however, following the Court of Justice of the European Union (CJEU) ruling of 22 November 2022, which restricted the public character of these registers by emphasizing the need to balance the public interest with the right to privacy.⁹

In contrast, despite its FATF membership, Japan has adopted a distinctly different approach to BO. The country does not maintain a single, centralized register of beneficial owners; instead, the information is collected in a dispersed manner, primarily to ensure compliance with the Act on Prevention of Transfer of Criminal Proceeds (APTCP).¹⁰ The guidelines issued by Japan's Financial Services Agency (FSA) under-

⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, OJ L 141, 5.6.2015.

⁵ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, OJ L 156, 19.6.2018.

⁶ Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (6th AML Directive), OJ L 284, 12.11.2018.

⁷ Regulation (EU) 2024/1624 of the European Parliament and of the Council of 25 June 2024 on strengthening anti-money laundering and counter-terrorism financing measures, Official Journal of the European Union, OJ L 187, 3.7.2024.

⁸ AMLD V, art. 30(3).

⁹ Judgment in Joined Cases C-37/20 and C-601/20, WM and Sovim SA v Luxembourg Business Registers, ECLI:EU:C:2022:912, paras. 77-78.

¹⁰ Ministry of Finance Japan (n.d.) AML/CFT/CPF in Japan, available at: https://www.mof.go.jp/english/policy/international_policy/amlcftcpf/3.efforts.html? [last accessed: 23.01.2025].

score a strong emphasis on privacy protection,¹¹ which in turn limits the potential for full disclosure of beneficial ownership data.

The decision to analyse the European Union and Japan stems precisely from these stark contrasts: on the one hand, a region focused on a unified anti-corruption policy and integrating Member States' efforts through various directives; on the other, a country distinguished by a strong culture of privacy protection and a relatively large influence of traditional social norms on its legislative landscape. This contrast provides a solid basis for an in-depth comparative study that examines the advantages and drawbacks of both models.

The rise in public awareness regarding financial misconduct – particularly following revelations such as the *Panama Papers* and *Paradise Papers* – has brought into sharp relief the risks posed by insufficient transparency of ownership structures.¹² For policymakers and regulators, it has become evident that effectively combating money laundering and terrorist financing requires the disclosure of the identities of individuals who truly control corporate entities.

Meanwhile, in the face of an increasingly globalized financial market, the issue of *regulatory arbitrage*¹³ has become more pressing. Entities searching for more favourable, less restrictive legal and financial systems can relocate their structures to jurisdictions that offer lower levels of transparency. As a result, even the most advanced BO regulations may prove ineffective if they are not backed by regulatory harmonization and, in particular, operational collaboration between countries.

For these reasons, establishing and refining beneficial ownership registers has become more prominent in AML/CFT policy. International reports indicate that coherent regulations in this area, not only protect the financial system from criminal activities, but also build market confidence and enhance risk management within financial institu-

¹¹ Financial Services Agency, *Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism*, 2021, available at: https://www.fsa.go.jp/common/law/amlcft/211122_en_amlcft_guidelines.pdf [last accessed: 23.01.2025].

¹² Y. Daudrikh, *Beneficial Owner Central Registry...*, p. 136.

¹³ „Regulatory arbitrage” refers to the practice of exploiting differences in regulatory frameworks across jurisdictions to optimize operations, minimize costs, or avoid more stringent rules. In the context of AML and CFT, this practice may result in the relocation of business or financial activities to countries offering less stringent standards on transparency and the identification of beneficial owners.

tions.¹⁴ Accordingly, this study will attempt to compare the solutions adopted in the European Union and Japan, paying special attention to the benefits and barriers that may emerge when implementing varying models of BO registers.

I. PURPOSE OF THE STUDY, HYPOTHESIS, AND METHODOLOGY

This section explains how the primary research aim – analysing beneficial ownership (BO) regulations in the European Union and Japan – will be carried out. First, it presents the main goal of the research and the hypothesis to be tested in the subsequent chapters. Next, it discusses the methods and tools used to evaluate the effectiveness of particular regulatory models and their alignment with FATF standards. Finally, it identifies the key limitations that may affect the scope and depth of the conclusions drawn.

The core objective of this study is to examine how the centralization and accessibility of BO registers influence the effectiveness of AML measures, while also investigating the degree to which cultural and organizational factors (especially in Japan) shape the practical implementation of FATF guidelines compared to EU regulations.

Centralized, readily accessible registers enable faster and more precise verification of beneficial owners, which in turn aids in detecting attempts to conceal proceeds of crime and the financing of terrorism.¹⁵ By contrast, decentralized structures – typical of Japan – may hinder prompt data access, thereby reducing the effectiveness of AML efforts.¹⁶

¹⁴ FATF, *The FATF Recommendations: International...*

¹⁵ FATF, *The FATF Recommendations: International...*, Recommendations 24 and 25.

¹⁶ “The multi-pronged approach is less efficient when the different approaches work in isolation than when they are applied together. A mere application of measures and approaches in isolation, without synergies, can lead to confusion caused by conflicting provisions. It can affect the overall availability of accurate, adequate and up-to-date beneficial ownership information, and thus, in the determinations and ratings received.” OECD, *Beneficial Ownership and Tax Transparency – Implementation and Remaining Challenges: OECD and Global Forum Report to G20 Finance Ministers and Central Bank Governors*, Paris 2024, available at: <https://doi.org/10.1787/f95790b1-en> [last accessed: 23.01.2025].

On this basis, the main research hypothesis posits: “A high degree of centralization in BO registers and mechanisms for international cooperation significantly increase the effectiveness of AML activities, whereas the differences between the European Union and Japan regarding transparency and information accessibility create significant gaps that can be exploited by financial criminals.”.

To test this hypothesis, a comparative legal methodology was employed, grounded in the analysis of fundamental legislative acts, implementing regulations, and policy documents relevant to both the European Union and Japan. The study takes into account AMLD IV, AMLD V, AMLD VI, as well as the APTCP and FSA guidelines, in addition to reviewing the relevant literature.

This research is subject to several limitations. First, although the content of Regulation (EU) 2024/1624 is already known, the national legislation that will adapt Member States’ laws to implement the Regulation remains undetermined, making it difficult to comprehensively assess forthcoming legal solutions in the EU. Second, the confidential nature of many AML processes complicates detailed empirical analysis. Access to statistics on the actual use of BO registers (or their equivalents, as in Japan) in practice remains limited.

As a result, the present analysis primarily focuses on examining legislative provisions and official guidelines, without delving into detailed case studies. Despite these limitations, the study offers significant insights into systemic differences and their implications for the international fight against money laundering and the financing of terrorism.

II. DISCUSSION AND RESEARCH FINDINGS

1. REGULATIONS AND PRACTICE IN THE EUROPEAN UNION

1.1. ANALYSIS OF AMLD IV, V, VI, AND REGULATION (EU) 2024/1624

The principal legal act governing the identification of beneficial owners (BO) in the European Union is AMLD IV, which introduced the requirement for Member States to create central BO registers. The primary objectives of AMLD IV centered on ensuring transparency of ownership

structures and enabling competent authorities to swiftly access key information on the actual owners of businesses.¹⁷

The subsequent measure was the adoption of AMLD V, which further expanded the scope of entities required to collect and report BO information – covering, among others, cryptocurrency exchanges and digital wallet providers.¹⁸ AMLD V also underscored the significance of public access to BO registers, although this was later curtailed by the 2022 ruling of the Court of Justice of the European Union (CJEU).¹⁹

In 2018, AMLD VI²⁰ was adopted and took effect in 2024. Aimed at harmonizing criminal law provisions on money laundering across the EU, it introduced uniform definitions of money laundering offences and a set of 22 predicate offences (including corruption, terrorism, and tax crimes).²¹ Although this directive primarily addresses criminal law aspects, its provisions also enhance cooperation between law enforcement agencies and financial institutions, thus indirectly supporting the effectiveness of central BO registers.

In the context of identifying beneficial owners and operating central registers, key changes were introduced by Regulation (EU) 2024/1624, which will come into force in July 2027. Most notably, this regulation harmonizes the EU-wide definition of a beneficial owner, setting out uniform thresholds and criteria for determining who is considered a BO.²²

The new rules standardize the structure of BO registers in individual Member States by imposing common data formats and minimum information technology requirements. As a result, these registers will

¹⁷ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, Article 30(1).

¹⁸ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, Article 31.

¹⁹ Judgment in Joined Cases C-37/20 and C-601/20, *WM and Sovim SA v Luxembourg Business Registers*.

²⁰ Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (6th AML Directive).

²¹ *Ibid.*, Article 3.

²² Regulation (EU) 2024/1624 of the European Parliament and of the Council of 25 June 2024 on strengthening anti-money laundering and counter-terrorism financing measures, Official Journal of the European Union, Article 62.

become more interoperable, significantly facilitating information exchange among supervisory authorities, obliged entities, and other authorized institutions.²³ Standardization extends to the scope of data required – such as full name, date and place of birth, nationality, identification document number, residential address, and a description of shareholdings in the ownership structure.²⁴

The updated regulations strengthen the reporting obligations of legal entities, including corporations, foundations, and trusts. They are required to obtain, regularly update, and report BO information to central registers within 28 days of either establishing the entity or making any changes to recorded data.²⁵ They must also verify the accuracy of the information on an annual basis.

To bolster data reliability, automatic verification systems have been introduced to prevent the submission of false information. At the same time, stricter requirements regarding transparency and accountability have been instituted – any ownership structure comprising multiple entities must be documented in a way that clearly traces all relevant connections.

The new regulations also place considerable emphasis on protecting the personal data of beneficial owners. They account for the 2022 CJEU ruling limiting public access to BO registers exclusively to entities with a legitimate interest, such as law enforcement agencies, notary offices, or financial institutions. These provisions aim to balance transparency with the right to privacy, which is particularly important in the context of safeguarding personal information related to beneficial owners.

A key element of these regulations is the integration of central BO registers with the information systems of the European Anti-Money Laundering Authority (AMLA). This authority, set to begin operations in 2025, will serve as a coordinator and supervisor, facilitating the more efficient exchange of information at the EU level and promoting the detection of cross-border financial crimes. Within this framework, central BO registers will remain decentralized and managed individually by each Member State.

²³ Ibid., Article 58.

²⁴ Ibid., Article 62 (1).

²⁵ Ibid., Articles 62 (1), 72, 76-77.

The mechanism for connecting these registers relies on the Beneficial Ownership Registers Interconnection System (BORIS), which ensures interoperability through a central European platform. BORIS in accordance with the requirements of Commission Implementing Regulation (EU) 2021/369,²⁶ enables the standardized exchange of data between national registers and the European “European e-Justice Portal”. As a result, Member State authorities and obliged entities, such as financial institutions or notary offices, can quickly and effectively access the necessary information.

AMLA will not maintain a separate, centralized BO register for the entire EU, but will focus on overseeing BORIS operations, harmonizing procedures, issuing guidelines, and assisting Member States in their implementation efforts. This model preserves national sovereignty while facilitating effective cross-border cooperation.

Maintaining a decentralized model was deemed both more efficient and technologically feasible than centralizing these registers at the EU level. By integrating registers through BORIS, the system ensures reliable information exchange and high standards of data security, both of which are essential for preventing money laundering and terrorist financing.

1.2. CENTRAL BO REGISTERS: OBJECTIVES, DATA SCOPE, PRIVACY PROTECTION

The primary objective of the central BO registers, introduced under AMLD IV and V, is to ensure that the competent authorities of Member States (such as financial intelligence units, the police, and public prosecutors) can quickly and reliably access information on individuals who actually control business entities. In practice, these registers typically include identifying details of beneficial owners, such as name, residential address, date of birth, nationality, and information regarding shareholdings.

²⁶ Commission Implementing Regulation (EU) 2021/369 of 1 March 2021 laying down technical specifications and procedures for the system of interconnection of central registers as referred to in Directive (EU) 2015/849, OJ L 71, 2.3.2021.

At the same time, under EU regulations, Member States are required to uphold the right to privacy and personal data protection in accordance with the General Data Protection Regulation (GDPR).²⁷ This necessitates balancing the public interest – namely increased transparency and the overall effectiveness of the AML framework – with the constitutionally protected right of individuals to privacy.²⁸ In many countries, therefore, BO data access is restricted to obliged institutions or entities demonstrating what is known as a “legitimate interest.”

1.3. THE 2022 CJEU JUDGMENT AND ITS IMPACT ON BO DATA DISCLOSURE

A landmark ruling by the Court of Justice of the European Union (CJEU) on 22 November 2022 (Case C-37/20) had a significant bearing on EU-wide rules governing BO registers. In its decision, the Court noted that making BO registers universally accessible could, in some instances, infringe upon the right to privacy and data protection, resulting in a disproportionate constraint on individual freedoms.²⁹ According to the Court, the aims of preventing money laundering (AML) and terrorist financing (CFT) do not justify providing unlimited access to BO data for all citizens. While heightened transparency may serve the public interest, universal disclosure of these registers entails risks such as identity

²⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). OJ L 119, 4.5.2016.

²⁸ *Ibid.*, Article 5 (1).

²⁹ In its judgment (C-37/20, paragraphs 40–44, 76–77, 84–85), the CJEU confirmed that a publicly accessible register of beneficial ownership (BO) may, in certain cases, violate the right to privacy and data protection, resulting in a disproportionate restriction of individual freedoms. The Court emphasized in paragraphs 40–44 that public access to BO data constitutes a serious interference with the rights guaranteed under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union. Moreover, in paragraphs 76–77, the Court found that this interference is not limited to what is strictly necessary for achieving the intended objectives. Finally, in paragraphs 84–85, the Court underlined that the primary responsibility for preventing money laundering and terrorist financing lies with public authorities and obliged entities, rather than requiring public access that excessively intrudes on individual rights.

theft, stalking, or other forms of privacy violations. As a result of the ruling, EU Member States have been compelled to reassess existing regulations and introduce modifications that limit BO data access.

In practice, certain EU Member States – such as Luxembourg and Austria – have moved to bring their regulations in line with the November 2022 CJEU judgment, restricting public access to beneficial ownership registers solely to obliged entities, or to individuals and institutions that can demonstrate a legitimate interest. These changes conform to the Court's ruling, which established that unfettered public disclosure of BO registers could constitute a disproportionate encroachment on fundamental rights related to privacy and personal data protection, as outlined in Articles 7 and 8 of the EU Charter of Fundamental Rights.

In Poland, the Central Register of Beneficial Owners (CRBR) remains fully public and freely accessible. The register allows cost-free access to data, including the national ID numbers (PESEL) of beneficial owners – a policy that Poland's Ministry of Finance has justified as fulfilling EU requirements and safeguarding the public interest, particularly concerning AML and CFT.³⁰ Nevertheless, in response to the CJEU ruling, Polish authorities intend to enact legislative changes. The Directive of the European Parliament and of the Council (EU) 2024/1640, passed on 31 May 2024,³¹ introduces a new standard limiting access to BO registers exclusively to obliged entities and parties with a legitimate interest. Member States, including Poland, have until 10 July 2026 to transpose these provisions into national law.³²

The directive also introduces specific rules for trusts and other legal arrangements, stipulating that BO data may be disclosed only to competent authorities, financial intelligence units, and obliged entities, as part of their customer due diligence procedures. As a result, subsequent re-

³⁰ Public Information Bulletin of the Commissioner for Human Rights, *Universal access to personal data in the Central Register of Beneficial Owners. Response of the Ministry of Finance*, 2024, available at: <https://bip.brpo.gov.pl/pl/content/rpo-mf-dane-osobowe-crbr>. [last accessed: 24.01.2025].

³¹ Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by member states for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending directive (EU) 2019/1937, and amending and repealing directive (EU) 2015/849, OJ L 2024/1640, 19.6.2024.

³² Ibid., para. 135.

visions to Polish regulations will need to align CRBR's public accessibility with the new EU requirements, thereby reconciling the public interest with the need to protect beneficial owners' personal data.

1.4. THE DEGREE OF HARMONIZATION IN EU MEMBER STATES AND ENFORCEMENT CHALLENGES

Although EU directives and regulations establish the general legal framework, their implementation varies among individual Member States. For instance, in Poland, the CRBR furnishes supervisory bodies with a broad spectrum of data and effective tools for data processing – although research points to issues with data quality.³³ In other EU countries, the introduction of beneficial ownership registers has encountered difficulties due to, among other factors, a lack of comprehensive legal and technological harmonization, as well as challenges related to data updating and quality.³⁴ In Germany, for example, prior to January 2020, there were serious gaps, since foreign entities had no obligation to reveal their beneficial owners.³⁵ In the United Kingdom, the beneficial ownership register (Companies House) operates independently from tax registers managed by HMRC,³⁶ sometimes leading to discrepancies in data.³⁷

One significant issue arising from incomplete harmonization is the limited efficacy of sanctions imposed on entities that fail to meet BO disclosure obligations. Research indicates that, for instance, Latvia's Enterprise Register – responsible for maintaining ownership data – cannot conduct the necessary oversight or ensure the public reliability of

³³ T. Matras, *Functioning of the register of beneficial owners: findings from Poland*, "Journal of Money Laundering Control", Vol. 27(5), 2024, p. 936.

³⁴ Tax Justice Network, *State-of-play of Beneficial Ownership Registers*, 2022, available at: <https://taxjustice.net> [last accessed: 23.01.2025].

³⁵ *Ibid.*, p. 13.

³⁶ HMRC (His Majesty's Revenue and Customs) is the British governmental authority responsible for tax collection, including income tax, VAT, and corporate tax, as well as customs duties and import tariffs.

³⁷ Tax Justice Network, *State-of-play of Beneficial Ownership Registers...*, p. 18.

information in the public register.³⁸ Similar problems exist in other EU nations, where central registers are not always equipped to effectively monitor the veracity and timeliness of the data.³⁹ In many cases, appropriate penalties for non-compliance are lacking, allowing entities to avoid disclosures or to register nominal beneficial owners who do not align with actual control structures. Some industry reports go so far as to note that although transparency frameworks for beneficial owners have been introduced in around 100 jurisdictions, these systems still fall short of their intended purpose.⁴⁰ A primary cause of this deficiency is the lack of efficient data verification and limited public access to information on beneficial owners. Without proper control mechanisms and easy access to reliable data, these systems cannot deliver adequate transparency or prevent potential abuses.

Despite these discrepancies, central BO registers remain a critical tool for preventing money laundering and terrorism financing.⁴¹ As criminal law provisions become increasingly unified across the EU (through the VI AML Directive) and a specialized EU AML authority (AMLA) is established, further standardization of beneficial ownership transparency procedures is expected. In the longer term, these developments may help reduce the appeal of jurisdictions with weaker oversight and foster stronger collaboration among Member States in tackling financial crime.

³⁸ D. Kamiševa, *The practical applicability of the concept of the beneficial owner in non-profit legal entities*, "Socrates", Vol. 27(1), 2023, pp. 37-44.

³⁹ Y. Daudrikh, *Beneficial Owner Central Registry...*, p. 136.

⁴⁰ A. Knobel, *Why beneficial ownership frameworks aren't working – and what to do about it*, 2023, available at: <https://ssrn.com/abstract=4783012> [last accessed: 23.01.2025].

⁴¹ "There is now widespread recognition that information on beneficial ownership is a public good (Adam Smith International 2019), that transparency of company ownership is essential in curbing corporate malfeasance (IDB and OECD 2019) and that registers are a crucial policy instrument in achieving this (European Commission 2018). Centralized registers improve the ability of authorities to track cross-border financial flows and reduce the risk of regulatory arbitrage." – T. Van der Merwe, M. Martini, M. Jenkins, *The effectiveness of beneficial ownership registers: Progress to date. U4 Anti-Corruption Helpdesk Answer*, 2020, available at: <https://www.u4.no> [last accessed: 23.01.2025].

2. REGULATIONS AND PRACTICE IN JAPAN

2.1. LEGAL ANALYSIS: ACT ON PREVENTION OF TRANSFER OF CRIMINAL PROCEEDS (APTCP) AND FSA GUIDELINES

Japan's primary AML-related legal act is the APTCP. This legislation obliges financial institutions and other entities regarded as particularly vulnerable to money laundering – referred to as “reporting entities”⁴² – to verify their customers' identities and monitor transactions. Its purpose is both to limit opportunities to use the financial system for the transfer of illicit funds and to uphold international AML standards.⁴³

To ensure a uniform interpretation and effective implementation of the APTCP, Japan's Financial Services Agency (FSA) issues detailed guidelines addressed to financial institutions.⁴⁴ These guidelines specify the obligations tied to Customer Due Diligence (CDD) procedures, including requirements for verifying identification documents and analysing companies' ownership structures.

2.2. ABSENCE OF A CENTRAL REGISTER: LEGAL AND ORGANIZATIONAL IMPLICATIONS

Unlike the European Union, Japan does not maintain a central register of beneficial owners (BO), which significantly affects the efficiency of its domestic AML regime and limits its ability to collaborate effectively on the international stage. Information about beneficial owners in Japan is dispersed among various reporting entities – such as banks, insurance companies, and other institutions required to apply due diligence measures – as well as among public administrative bodies. This fragmentation of data leads to delays in identifying the true owners of businesses

⁴² Act on Prevention of Transfer of Criminal Proceeds (APTCP), Act No. 22 of 2007, art. 4, art. 8.

⁴³ Ibid., art. 1.

⁴⁴ Financial Services Agency (FSA), *Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism*, Japan 2021, available at: https://www.fsa.go.jp/common/law/amlcft/211122_en_amlcft_guidelines.pdf [last accessed: 24.01.2025].

and impedes information exchange with foreign supervisory authorities and financial intelligence units.

It is worth noting that, despite relying on dispersed data, Japan's anti-money laundering system takes measures to effectively utilize Suspicious Transaction Reports (STR). Collected information is analysed and processed by the Japan Financial Intelligence Center (JAFIC), which then shares it with relevant bodies, including prefectural police and foreign FIUs when necessary.⁴⁵ This process enables the tracking of illicit financial flows and supports robust investigative efforts, although the lack of a centralized register of beneficial owners remains a key challenge.

The absence of a central BO register adversely impacts the AML system in several important ways. First, the dispersed nature of data complicates efforts to monitor cross-border financial flows and causes delays in information sharing between Japanese authorities and their international counterparts. Second, a decentralized system raises the risk of errors and outdated data, particularly when there is no consistent, coordinated method of verification across multiple entities. These outcomes are noted in international evaluation reports, which point to Japan's struggles in meeting FATF standards and effectively participating in initiatives such as the Egmont Group.

The Japanese authorities are working to improve the transparency and availability of BO data. Under the National AML/CFT/CPF Action Plan (FY2024–26),⁴⁶ measures include requiring financial institutions to verify beneficial owners, and promoting the use of beneficial ownership lists as a means of enhancing BO identification among joint-stock companies. Plans also call for strengthening oversight of corporate service providers and creating a mechanism that guarantees competent authorities efficient access to BO data. Better integration and standardization of BO data access could significantly boost the effectiveness of anti-money laundering measures both domestically and internationally. Moreover, a system enabling authorized agencies to obtain BO infor-

⁴⁵ N. Yasaka, *Data mining in anti-money laundering field*, "Journal of Money Laundering Control", Vol. 20(3), 2017.

⁴⁶ Ministry of Finance Japan, *National AML/CFT/CPF Action Plan FY2024–26*, 2021, available at: https://www.mof.go.jp/english/policy/international_policy/amlcftcpf/National_AML_CFT_CPF_Action_Plan_FY2024-26.pdf [last accessed: 24.01.2025].

mation is expected to be established.⁴⁷ Nonetheless, Japan faces the task of reconciling strong privacy protections with the demands of international AML standards.

2.3. CULTURAL CONTEXT: BALANCING PRIVACY AND TRANSPARENCY

Japan's legal framework places a strong emphasis on privacy, an approach reflected in its AML system and its methods for identifying beneficial owners. In Japanese business culture, confidentiality and trust-based relationships hold particular importance – so much so that a centralized, publicly accessible system modeled on the EU's registers might be viewed as conflicting with local values.⁴⁸

The success of any beneficial ownership register hinges not only on legal and technological frameworks, but also on public engagement, cultural attitudes toward corruption (which may be tacitly tolerated in some contexts), and the establishment of complementary institutional mechanisms.⁴⁹ It is crucial to educate the public about the value of transparency, to enforce effective penalties for violations, and to provide practical tools that support law enforcement agencies and financial intelligence units.

Additionally, hierarchical structures and long-term business relationships in Japan foster strong confidentiality practices, which, from an AML perspective, can hinder full transparency of beneficial ownership. Although Japan is taking steps toward better alignment with international standards, entrenched cultural norms still pose a significant obstacle to implementing centralized BO registers and similar measures.

⁴⁷ Government of Japan, *Japan Action Plan to implement G20 High-Level Principles on Beneficial Ownership Transparency*, available at: <https://www.mofa.go.jp/files/000111171.pdf> [last accessed: 24.01.2025].

⁴⁸ K. Yamamoto, R. A. Lloyd, *Ethical considerations of Japanese business culture*, "Journal of Business Diversity", Vol. 19(2), 2019, p. 115.

⁴⁹ D. Zigo, F. Vincent, *Beneficial Owners' Policy: Comparison of Its Efficacy in the West with Prospects for Curbing Corruption in China*, "DANUBE: Law and Economics Review", Vol. 12(4), 2021, p. 287.

2.4. IMPLEMENTING FATF RECOMMENDATIONS: AREAS OF COMPLIANCE AND GAPS

As a FATF member, Japan strives to meet the organization's recommendations, including those outlined in Recommendations 24 and 25, which require states to ensure that competent authorities have access to adequate, accurate, and up-to-date BO information. In practice, these recommendations are largely pursued through the active involvement of financial institutions in CDD procedures, and through the FSA's detailed guidelines.

Nonetheless, the absence of a centralized register of beneficial owners remains one of the principal gaps in Japan's AML framework. FATF reports highlight the lack of requirements for financial institutions to identify beneficial owners and the lack of centralized BO data as factors inhibiting effective access to information by the relevant authorities, as well as the efficient monitoring of cross-border financial flows. Both the 2008 third-round FATF evaluation report⁵⁰ and the 2021 fourth-round report⁵¹ emphasize that decentralization hampers international cooperation and the effective tracing of transnational financial movements.

3. COMPARATIVE ANALYSIS AND MAJOR BARRIERS TO HARMONIZATION

Significant differences between the European Union and Japan in terms of identifying beneficial owners (BO) arise primarily with respect to the centralization of databases and the transparency of information. Within the EU system – based on AMLD IV and V – a model of centralized BO registers was adopted, intended to facilitate quick access to information about actual owners of business entities. Nevertheless, the implementa-

⁵⁰ Financial Action Task Force (FATF), *Third Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism – Japan*, 2008, p. 31, available at: <https://www.fatf-gafi.org> [last accessed: 24.01.2025], p. 31.

⁵¹ Financial Action Task Force (FATF), *Anti-Money Laundering and Counter-Terrorist Financing Measures – Japan, Fourth Round Mutual Evaluation Report*, 2021, p. 246, available at: <https://www.fatf-gafi.org> [last accessed: 24.01.2025].

tion of these directives varies among Member States, resulting in inconsistencies in the availability and quality of the data collected.

In Japan, by contrast, which does not operate a single, centralized BO register, beneficial ownership information is dispersed among financial institutions, public administration agencies, and other obliged entities. Although this reflects local priorities related to privacy protection, it significantly hampers the prompt identification of actual owners and effective efforts to combat money laundering. Moreover, the November 22, 2022, Court of Justice of the European Union ruling restricted public access to BO data in EU Member States, citing privacy considerations. From the outset, Japan has emphasized the confidentiality of business relationships, further reinforcing the gap between the Japanese model and its EU counterpart.

Such differences in data centralization and transparency carry considerable consequences for global AML effectiveness. One of the primary challenges involves regulatory arbitrage: entities can relocate their operations to jurisdictions that offer weaker transparency standards and make it easier to conceal actual owners.

In addition, limited information exchange among financial intelligence units (FIUs) and insufficient cross-border cooperation delay investigations. The Egmont Group, among others, has noted that incomplete transparency of data and a lack of unified technological standards impede access to the necessary information on BO.⁵²

Discrepancies between the EU and Japan in BO regulations stem from several factors. First, divergent legal and administrative traditions mean that harmonization in the EU proceeds through AMLD IV-VI and Regulation (EU) 2024/1624, whereas no single statutory framework in Japan fully corresponds to these EU solutions. This results in fragmented competence and responsibility. Second, the absence of a centralized technological system for compiling BO data in Japan complicates comparison with EU registers and the continuous updating of records. Third, the EU places greater emphasis on transparency and the public interest in countering financial crime, while Japan focuses more on privacy protection and the confidentiality of business relationships.

⁵² FATF and Egmont Group, *Concealment of Beneficial Ownership: Executive Summary*, Paris 2018, available at: <https://www.fatf-gafi.org/en/publications/Methodsandtrends/Concealment-beneficial-ownership.html> [last accessed: 23.01.2025].

The lack of common technological standards and differing approaches to data transparency reduce the effectiveness of global efforts to eliminate anonymity from economic transactions. International investigations become more complex and time-consuming, while the potential for abuse grows. Coordinated initiatives, including the development of shared legal frameworks that take local cultural contexts into account, could, however, help improve transparency within the global financial system.

III. CONCLUSIONS, RECOMMENDATIONS, AND PROSPECTS FOR FUTURE RESEARCH

The analysis shows that the European Union largely fulfils FATF standards concerning the identification and registration of beneficial owners, most evidently in the system of central BO registers based on AMLD IV, V, and VI, as well as in the forthcoming Regulation (EU) 2024/1624. Such structures expedite the detection and prevention of money laundering by affording easier access to key information about the actual owners of business entities. Nevertheless, the November 2022 Court of Justice of the European Union ruling, limiting the public character of these registers, has demonstrated the need for further balancing of the public interest with the right to privacy. In practical terms, this means that even within the EU, variations persist in terms of BO information transparency – some Member States are adopting the restrictions suggested by the CJEU, while others continue to offer broad public access to their registers.

In contrast, despite formally adhering to numerous FATF recommendations, Japan has yet to establish a single, centralized BO register. Consequently, beneficial ownership information remains scattered across multiple financial institutions and public administration agencies. This state of affairs renders the country's AML system less effective at both domestic and international levels – it hinders prompt information exchange and creates loopholes that can be exploited by financial criminals. Additionally, strong cultural norms in Japan – such as the emphasis on privacy and confidential business relationships – pose further obstacles to implementing the kind of broadly transparent solutions typical of the EU model.

These observations affirm the hypothesis that centralized BO register models are generally more effective; decentralized structures tend to produce higher risks of outdated data, communication delays with law enforcement, and, above all, difficulties in monitoring cross-border financial flows. Nonetheless, it must also be underscored that implementing centralized measures could be complicated by legal challenges (for example, those stemming from CJEU rulings on privacy protections) and by diverse social and cultural conditions (as seen in Japan).

Given the complexity of these issues, not only must the purely legal measures be refined, but there must also be an effort to harmonize these measures on an international scale. One primary recommendation is for the European Union to continue strengthening uniform standards by establishing a new AML authority (AMLA) and issuing consistent guidance for Member States, thus minimizing overly divergent access rules for BO registers. In Japan's case, a gradual, partial centralization of beneficial ownership information – aligned with existing priorities for privacy protection – appears to be a sensible step. Facilitating access to these data, even if only for key institutions (law enforcement agencies, financial police), could substantially bolster efforts to combat financial crime, without excessively infringing upon local cultural values.

At the same time, closer cross-border cooperation is essential, especially in data exchange among FIUs. Developing common information-sharing platforms and standardizing AML definitions and procedures within international organizations such as the Egmont Group or the OECD could help curb regulatory arbitrage, in which entities engaged in unlawful activities seek jurisdictions with weaker transparency requirements.

Future research might include more detailed analyses of sanctions enforcement for non-compliance with BO requirements, as well as empirical studies on how often and how effectively registers are used in day-to-day operations. Such inquiries would clarify the extent to which registering and disclosing BO information genuinely improves the detection and prevention of money laundering, which are vital for further refining legal frameworks, technological solutions, and organizational practices in both the EU and Japan.

In sum, identifying the advantages and drawbacks of each of the models examined can serve as a starting point for broader dialogue on

global AML standards. It is essential to factor in cultural context, administrative realities, and technological constraints to build an effective BO register system that also respects fundamental rights and freedoms. Improving and harmonizing these solutions remain key challenges for future research and legislative initiatives, bearing potentially far-reaching consequences for global financial security.