

**ICGN**International Corporate Governance Network
Inspiring good governance & stewardship

Modern Slavery Act Review Secretariat
Attorney-General's Department
3-5 National Circuit, Barton ACT 2600
ModernSlaveryActReview@ag.gov.au

22 November 2022

Dear Modern Slavery Secretariat,

Re: Modern Slavery Act Review

The International Corporate Governance Network (ICGN) welcomes the Australian Government's consultation and request for comment as it reviews its 2018 Modern Slavery Act.¹

Led by investors responsible for assets under management of around \$70 trillion, ICGN is a leading authority on global standards of corporate governance and investor stewardship to support long-term value creation, contributing to sustainable economies, societies and the environment. Headquartered in London, our membership is based in over 40 countries and includes companies, advisors and other stakeholders. ICGN offers an important international investor perspective on corporate governance and investor stewardship to help inform public policy development and the encouragement of best practices by capital market participants.²

ICGN's Global Governance Principles³ (GGP) and Global Stewardship Principles⁴ (GSP) set out best practices in relation to corporate governance and investor stewardship obligations. These documents represent the foundation of ICGN's policy framework. Many ICGN members refer to the GGP and GSS as bellwethers for their corporate governance assessments, proxy voting policies and company engagements. The GGP also inform governments and regulatory agencies on internationally accepted standards to help inspire the evolution of national corporate governance codes.

Under the GPP, ICGN has called for board directors to consider the wider risks pertaining to current and emerging sustainability-related challenges. We advance the view that directors have a legal duty to act on an informed basis, with good faith, care and loyalty to preserve and enhance sustainable value creation. Implicit in this concept is the need to generate economic risk-adjusted returns on capital for shareholders, while having regard to relevant stakeholders, and wider economic, societal and environmental interests.⁵

ICGN recognises the profoundly destructive and unethical dimensions of modern slavery. We believe that companies seeking to build long term sustainable value cannot advance business models that tolerate modern slavery. We also believe that, if it becomes known that a company has failed to address modern slavery practices in their direct operations or supply chain, their financial prospects are likely to be impaired. In addition to the moral duty we all owe to each other,

¹ Australian Government, *Review of Australia's Modern Slavery Act, 2018: Issues Paper*, August 2022.

² For more information on the ICGN, please visit www.icgn.org.

³ [ICGN Global Governance Principles 2021.pdf](#) (2021).

⁴ [ICGN Global Stewardship Principles | ICGN](#) (2020).

⁵ [ICGN Global Governance Principles 2021.pdf](#), Principle 4.7, p. 19..

company officers and directors must examine and respond to the set of challenges associated with modern slavery in order to fulfil their fiduciary duty to the corporation.

Following on these beliefs, human rights and modern slavery are among many sustainability-related issues that feature prominently in the GGP. Principle 4.7, Human Rights, states:

The Board should ensure that it is sufficiently informed of how human rights and modern slavery issues may present material business and reputational risks or might compromise a company's own values and standards of behaviour. The Board should establish appropriate due diligence processes, strategy, disclosure, engagement, accountability, and other measures to deal with human rights issues which may materialise in connection with the company's workforce.⁶

Human rights and modern slavery challenges have become more prominent for investors in recent years as the concept of "double materiality" has become recognised. Double materiality establishes the importance of acknowledging and reporting on the company's external impacts on society and the environment, as well as how issues related to society and the environment may impact the company's own financial performance. ICGN first breached this notion in 2015 when we acknowledged: "...ethical and risk dimensions are in many ways intertwined, insofar as ethical lapses or inattention to human rights practices by companies may not only breach the human rights of those affected by corporate behaviour, but may also have material commercial consequences for the company itself."⁷

ICGN believes Australia's legislation, along with legislation in other countries, should be advanced to better address modern slavery and worker exploitation across operations and supply chains. Indeed, ICGN supports the actions that are underway or contemplated in multiple jurisdictions beyond Australia including, the United Kingdom, Canada, New Zealand, the European Union, Switzerland, Belgium, France, Germany, Netherlands, Norway, and the State of California.

CONSULTATION QUESTIONS

ICGN will not comment on every question posed in the consultation. We will instead focus on the requirements set out for large companies operating with international supply chains as these entities are the most likely to appear in the investment portfolios of our members.

Impact of the Modern Slavery Act

Question 1: Has the Modern Slavery Act had a positive impact in the first three years?

Yes. More is now known about the modern slavery risks that impact Australian entities. Research undertaken at Monash University shows that for ASX100 companies at least, Australia's Modern Slavery Act (MSA) has achieved positive impact as it asks reporting entities to look into their operations and supply chains to understand their exposure to the risk.⁸ The positive impact can be seen in the following areas:

- (a) The reporting quality of ASX companies has improved, demonstrating enhanced understanding of supply chains and reporting risks, due diligence and remediation processes.
- (b) There has been an increase in the level of commitment of resources to combat modern slavery (for example, dedicated teams, governance mechanisms and investments in supply chains and risks solutions).

⁶ ICGN, *Global Governance Principles, 2021*.

⁷ ICGN *Viewpoint: Human Rights Through a Corporate Governance Lens, April 2015*.

⁸ Nga Pham, Bei Cui, Ummul Ruthbah, "Modern Slavery Disclosure Quality Ratings: ASX100, Companies Update 2022", *Monash University Business School and Monash University Centre for Financial Studies, (October 2022)*.

(c) New best practices in mapping out the extended supply chains and managing risks have emerged.

(d) While not many companies identify and report specific modern slavery incidents, the processes they have put in place indeed help identify bad labour practices or exploitations and assist in providing remedies to these situations.

(e) Many asset managers and asset owners are also reporting entities, and the investor community in Australia has been very proactive in developing and promoting best practices in due diligence/risk management in investing and reporting. The legislation has helped spark these developments.

(f) The Act has raised the awareness of the general public on modern slavery, especially consumers, and pushed for actions among various stakeholders in society including investors, consumer associations, industry associations, academia and non-governmental organisations (NGOs).

Question 2. Is the ‘transparency framework’ approach of the Modern Slavery Act an effective strategy for confronting and addressing modern slavery threats, including the drivers for modern slavery?

A transparency framework may be viewed as a necessary but not sufficient measure for addressing modern slavery threats effectively.

Before effectively confronting and addressing modern slavery threats it is important to understand the nature and extent of the problem. While reporting under the transparency framework has helped shed light on the current situation, the disclosures have tended to lack detail around actual risks, findings and actions taken. And, while reporting quality has improved and ASX100 companies, for example, did not identify any incidents, the estimated number of modern slavery victims in the world has increased by almost 10 million in the last few years to almost 50 million people, according to most recent estimates.⁹ The ultimate measure of success for efforts to address modern slavery will be in a significant and lasting reduction in the number of people living as modern slaves.

Question 4: Should the Modern Slavery Act spell out more explicitly the due diligence steps required of entities to identify and address modern slavery risks?

Due diligence procedures should be specified in the Act, not just in guidance.

The general trend today appears to be away from the general disclosure approach first adopted by the United Kingdom in 2015 and towards mandatory due diligence. This is because experience to date demonstrates that the general disclosure approach has generally been not as effective as desired. In April 2022, the UK Finance Reporting Council and the Independent Anti-Slavery Commissioner released an assessment of the impact of UK Modern Slavery Act of 2015. Section 54 of the Act requires companies with a turnover greater than £36 million to write an annual statement setting out steps they are taking to address the risk of slavery in their operations and supply chains. Statutory guidance recommends but does not require that companies report policies, structures, due diligence, risk assessment, training and effectiveness. The study randomly sampled the disclosures of 100 companies comprising the FTSE 100, FTSE 250 and Small Caps. It confirms that around one in ten companies did not provide a modern slavery statement at all. Where companies did comply, only one-third of the statements were considered clear and easy to read. “The majority of statements...” the report found “...were fragmented, lacking a clear focus and narrative, or were unduly complicated.” The longer disclosures “often contained boilerplate

⁹ <https://www.walkfree.org/projects/global-estimates-of-modern-slavery/#:~:text=It%20focuses%20on%20two%20main,million%20people%20in%20forced%20marriage.>

reporting or were a sign of a poorly structured statement.” Performance measurement was an especially poor area of disclosure.¹⁰

Under many, if not most conditions relating to corporate governance, ICGN supports disclosure on a comply or explain basis, as opposed to prescriptive requirements or hard law legislation. This disclosure-based approach provides companies the flexibility of adhering to particular provisions without legal or regulatory sanction. It also allows companies to develop procedures that fit their business models and culture, enabling innovative approaches to managing key risks. But this approach carries the obligation for companies to clearly explain why their disclosures may deviate from best practices. It also relies on investment institutions, stakeholders, or other interested parties to monitor compliance, engage with companies and advance remedies when either the disclosure or the due diligence procedures described are inadequate. Comply or explain is often applied to soft law situations, most notably, when it comes to adherence to corporate governance codes where there is recognition that aspects of a code may not be relevant for all companies in all markets.

ICGN believes that these conditions do not apply to the situation of modern slavery at this time. Given evidence of non-compliance, ICGN supports the inclusion of enhanced due diligence requirements in legislation. Ideally, these measures should be broadly consistent with the due diligence procedures provided in the United Nations Global Principles for Business and Human Rights (UNGPs) which, since 2011, have been included in the OECD Guidelines for Multinational Corporations. While much work remains to be done to advance the UNGPs, a global consensus has been established and companies around the world are now familiar with at least the main contours of a human rights due diligence program.¹¹ Given the global convergence on the UNGPs, this form of due diligence compliance should not bring undue costs and administrative burdens and should be regarded as part of a robust enterprise risk management system.

We caution, however, that the onus must be on companies embracing their duty to develop and implement due diligence procedures and remedies. Companies should not be incentivised to declare their supply chains are ‘slavery-free’ as such a claim would be nearly impossible to maintain at all times and in all places. Supply chains are complex and dynamic, and companies can be tempted to ‘greenwash’ the results of their reviews in an effort to be known as good corporate citizens.¹² The claim of ‘slavery-free’ is more likely to make investors sceptical and raise questions about the robustness of the audit program. That is to say, if companies have not found instances of modern slavery in their supply chain it is possibly because they do not know what they are looking for or simply have not looked hard enough. Perfection will be challenging in the extreme and may not be attainable; learning, disclosure and improvement will be perpetual and expected. Companies will have to be prepared to adapt their due diligence and remediation processes to meet the changing risks and realities within their operations and value chains.

We also advance the view that disclosures should describe human rights/modern slavery employee training and that staff must be empowered to make use of whistleblowing programs. The board, in particular, should ensure that the company has in place an independent, confidential mechanism whereby a worker, supplier, shareholder or relevant stakeholder can (without fear of retribution) raise issues of particular concern with regard to potential or suspected breaches of a company’s code of ethics, responsible supplier policy (or similar policy) or local law.

If infractions do occur, potential remediation measures are key and would include, but not be limited to: working with suppliers to eradicate the practices that are leading to modern slavery practices, establishing arrangements to ensure harmful activities cannot re-occur and, potentially, where direct liability can be established, compensation to victims. ICGN supports this approach

¹⁰ Financial Reporting Council and the Independent Anti-Slavery Commissioner, *Modern Slavery Reporting in the UK: Evidence from Modern Slavery Statements and Annual Reports*, April 2022.

¹¹ UN Working Group on Business and Human Rights, *UNGPs 10+: A Roadmap for the Next Decade of Business and Human Rights*, November 2021.

¹² Yilin Shi, Jing Wu, Yu Zhang, *Green Image in Supply Chains: Selective Disclosure of Corporate Suppliers*, February 28, 2022.

and acknowledges the extensive guidance on due diligence, risk identification and remediation practices now available.¹³

Question 5: Has the Modern Slavery Act been adequately supported and promoted by government, business and civil society?

While support and promotion of the Modern Slavery Act has gained momentum, there is more that can be done. It appears that despite the government's aim to increase business awareness, transparency and support for anti-slavery measures, a significant knowledge gap remains. With many companies, consumers and investors still struggling to identify potential risks and areas of concern, it appears that a more sustained and accessible education program is needed.

Modern Slavery Act Reporting Requirements

Question 6: Is AU\$100m consolidated annual revenue an appropriate threshold to determine which entities are required to submit an annual statement under the Modern Slavery Act? Does the Act impose an appropriate revenue test for ascertaining the AU\$100m threshold?

ICGN does not recommend changing the reporting threshold at this time.

Supply chains are lengthy and complex and thus, the cost of reporting is not trivial. The cost-benefit analysis conducted in advance of the legislation likely under-estimated the costs of reporting. Researchers at Monash have determined that in order to report, companies establish working groups and allocate resources to databases that assess commercial risks associated with each supplier. The teams, once assembled, require three to four months to prepare their modern slavery statements.

In addition, the Issues Paper published by the Government of Australia shows that even if the reporting threshold is lowered, the incremental number of reporting entities would be small and would not change the typical profile of the reporting entities. ICGN recommends the Government of Australia revisit the reporting threshold in three years' time and in consultation with other governments, investors, corporates, academics and human rights organisations. Ideally, a common global reporting threshold would be identified and agreed.

Question 7: Should the Modern Slavery Act require annual submission of a modern slavery statement? Does the Act contain appropriate rules for ascertaining the annual reporting timeline for entities?

ICGN believes consideration should be given to a two-year reporting cycle supplemented by annual updates on progress, staff training, critical incidents and new actions or measures of effectiveness. This would give teams more time to implement measures and take action and less time on an annual reporting cycle that absorbs resources and potentially diverts attention away from meaningful action. The goal is not reporting for reporting's sake. The goal is effective action to stop exploitation.

Question 8: Does the Modern Slavery Act appropriately define 'modern slavery' for the purpose of the annual reporting obligation?

¹³ See for example, [European Union, Business and Human Rights, United Nations Development Programme, *Training Facilities Guide: Human Rights Due Diligence, 2021*](#).

ICGN believes that Australia should work with other countries to establish a common definition and typology. Australia's Modern Slavery Act identifies fourteen types of exploitations falling under the definition of modern slavery practices.¹⁴ The UK has identified seventeen forms.¹⁵ In most reports, however, researchers at Monash note that companies use the umbrella term "modern slavery" and do not identify the types of unique risks and remedies that should be associated with specific forms of slavery. ICGN strongly recommends that the MSA's guidance to reporters should emphasise the specific risks attached to different forms of modern slavery as the way a reporting entity should manage child labour risk, for example, is different from forced labour risk.

Question 10: Are the mandatory reporting criteria in the Modern Slavery Act appropriate – both substantively and in how they are framed?

The mandatory reporting criteria should be enhanced by due diligence requirements as specified above. In addition, the reporting criteria should make it clear that more detail concerning remediation processes should be disclosed. Monash's research found that almost three quarters of ASX100 companies' statements said that they have remediation processes, but few provided details about the accessibility of these channels, confidentiality provisions or protection of victims.

Question 11. Should more be done to harmonise reporting requirements under the Australian Modern Slavery Act with reporting requirements in other jurisdictions, such as the United Kingdom? How should harmonisation be progressed?

Yes. The Government of Australia should work towards global harmonisation of reporting requirements.

ICGN was established to foster the development of global governance and investment stewardship practices. Our members are global investors, placing investments in markets outside their home country for reasons of portfolio diversification and fulfilment of their duties as fiduciaries. The need to invest globally is especially pronounced for countries with relatively small domestic markets such as Australia. For these reasons, ICGN strongly recommends that Australia work with other governments now pursuing strategies to combat modern slavery, perhaps starting with other members of the Commonwealth. We propose that modern slavery be placed on the agenda of the next meeting of Commonwealth Heads of Government taking place in 2024. Greater consistency in reporting requirements, would lead to greater compliance and aid report comparability. Australia should also avail itself of other opportunities to collaborate bilaterally with like-minded governments and at other government fora such as G-20 meetings.

Question 12: Does the Modern Slavery Act contain appropriate requirements for approval of a statement by the principal governing body of an entity?

ICGN believes that the board of directors should be required to approve the statement.

ICGN believes boards have a fiduciary duty to act on an informed basis, with good faith, care and loyalty to promote the long-term best interests of the company to preserve and enhance sustainable value creation. We also state our belief that the board should ensure that it is sufficiently informed of how human rights and modern slavery issues may present material business and reputational risks or might compromise a company's own values and standards of behaviour. Further, we believe that the board should ensure the establishment of appropriate due

¹⁴ https://consultations.ag.gov.au/crime/modern-slavery-act-review/user_uploads/review-modern-slavery-act-issues-paper.pdf, page 7.

¹⁵ See Home Office, *A Typology of Modern Slavery*, Research Report 93, October 2017.

Thomas Piketty, among others, has noted that historically, slavery has taken on different forms with varying levels of force and constrictions. "...il existe de multiples formes intermédiaires de travail plus ou moins forcé ou libre...". *Capital et Idéologie*, (Paris, Seuil, 2019). p. 271.

diligence processes, strategy, disclosure, engagement, accountability, and other measures to deal with human rights issues which may materialise in connection with the company's workforce.¹⁶

We note, however, that board effectiveness is often impaired by a lack of knowledge on corporate risks associated with environmental and social issues. Numerous surveys show that many boards have little in the way of environmental or social expertise and do not recognise the need to pay attention to material sustainability issues. Evidence suggests that human rights expertise is particularly negligible.¹⁷

For this reason, ICGN recommends the Government develop plans to encourage boards to enhance director education on the risks inherent to the company as these relate to supply chains, human rights, forced labour, and modern slavery. We also support efforts to encourage companies to select new board candidates that represent diversity and inclusion and have a background on sustainability issues. We recommend, as well, that boards seek outside experts and consultants to provide recommendations on how to assess risks that neither management nor the board have sufficient expertise to consider.

ICGN also believes that companies should disclose the processes and frequency by which the board and/or board committees discuss modern slavery and other sustainability-related risks. Some boards have already adopted an annual review of material and non-material sustainability issues, while other boards conduct a more frequent review on an as-needed basis. Yet, research shows that there are too many boards that have not placed these issues on the agenda, thereby failing to provide oversight of the CEO and senior management's plan to address material risks such as human rights, forced labour, and modern slavery. The need for boards to retain flexibility in setting their own agendas and handling the business of the board is well respected. However, if the data show that too many boards are not yet involved in these discussions, it leaves the company and its investors exposed to heightened risk.¹⁸

Disclosure of Reporting Structure and Board Processes

ICGN recommends that companies disclose the means by which boards and/or board committees consider sustainability risks as well as the organisational structures and responsibilities of senior executive officers that suits their needs. ICGN prefers to allow companies to decide which executive officer (or officers) have the primary responsibility to oversee sustainability risks. Some companies may decide to place that responsibility with the Chief Financial Officer or within the realm of General Counsel. Other companies have pursued the creation of new titles, such as Chief Sustainability Officer. ICGN does not have a preference which title is selected. It is the skills and experience behind the title that are essential.¹⁹

Executive Compensation

For several years, ICGN has called for companies to link executive compensation to key performance metrics related to material sustainability targets. We believe performance measures in incentive-based plans should integrate risk considerations so that there are no rewards for taking inappropriate risks at the expense of the company, shareholders, and relevant stakeholders. Metrics should be rigorous and measured over timescales and with methodologies which help ensure that performance pay is directly correlated with sustained value creation and preservation. In addition to financial performance metrics, quantifiable indicators that are material to the company's sustainable value creation and preservation should be considered. Metrics guiding

¹⁶ ICGN. *Global Governance Principles*. 2021.

¹⁷ Tensie Whelan, "Boards Are Obstructing ESG At Their Own Risk", *Harvard Business Review*, 18 January 2021.

¹⁸ PwC Annual Director Survey, *The director's new playbook: Taking on change*.

¹⁹ There has been a dramatic increase in the hiring of the chief sustainability officer (CSO) role among Fortune 500 companies, with demand for CSOs growing 228% in corporate America over the last decade, according to the [latest report](#) from CSO recruitment firm the [Weinreb Group](#). [Charting the rise of the chief sustainability officer | Business Chief North America](#), By Kate Birch June 04, 2021. See also [CSO 10 Years Later Rise of ESG 2021 - Weinreb Group | Sustainability Recruiters | ESG Recruiters](#).

performance grants should be based on audited financial data, and, where possible, assured sustainability indicators.²⁰

ICGN believes that the inclusion of metrics in the consideration of setting executive pay and any additional compensation should not create perverse incentives. Any achievement reached by an executive with respect to sustainability goals should be evaluated against actions taken that support the long-term success and value creation of the company. ICGN has noted that, “Often a sustainability related omission or controversy hits the reputation of a company before it may impact its bottom line. Compensation clawbacks can be a measure in place that punishes sustainability-related wrongdoing after the fact while malus gives a negative bonus for poor performance – thereby incentivising focus on meeting and surpassing targets.”²¹ For those companies highly exposed to the risks of modern slavery, companies may wish to structure pay to ensure that these risks are managed lawfully and rigorously.

Enforcement of the Modern Slavery Act Reporting Obligations

Question 15: Has government administrative action been effective in fostering a positive compliance ethic? What other administrative steps could be taken to improve compliance?

The Government appears to have limited resources for monitoring and there is a lack of substantive reward or penalty mechanisms. Currently, there is no penalty for non-submission. The Government should consider increased allocation of resources to fostering the cultural changes necessary to establish a positive compliance ethic.

16. Should the Modern Slavery Act contain additional enforcement measures – such as the publication of regulatory standards for modern slavery reporting?

Yes. The regulatory standards for modern slavery reporting should be published. With respect to additional enforcement mechanisms, ICGN believes that in the corporate context enforcement measures should initially focus on raising awareness, cultural change, development of board oversight, management systems, control and programs designed to remediate adverse practices and events. The overall effort should be to incentivise progressive improvements rather than to rely on the addition of further criminal offences many of which would be difficult to enforce outside Australia. Naming and shaming, fines, civil liability, disqualification of directors and criminal liability should be considered only after companies have had an opportunity to phase in new due diligence and disclosure procedures and only following track records of sustained non-compliance (see below).

17. Should the Modern Slavery Act impose civil penalties or sanctions for failure to comply with the reporting requirements? If so, when should a penalty or sanction apply?

The Issues Paper discloses a range of legal tools available to the Government for criminal prosecutions in cases associated with modern slavery. As noted above, ICGN believes that the broad approach should be to advance cultural change to address modern slavery in all its forms. The goal is to detect and solve the problem not, in every instance, to sanction those companies or criminally prosecute directors or officers of the company who, recognising the complexity of today’s globalised business practices, have undergone the necessary due diligence procedures and proactively responded to any discovered instances of modern slavery in their supply chains. We do not wish to create situations where potential directors decline opportunities to serve on boards for fear of personal liability or where companies are incentivised to hide problems, thus leaving slavery

²⁰ [ICGN Global Governance Principles 2021.pdf](#).

²¹ [ICGN Global Governance Principles 2021.pdf](#), p. 7.

conditions unaddressed. We emphasise that greater awareness and cultural change are required around the globe and far from unique to Australia.

Consistent with this approach we emphasise that the proposed regulatory regime should focus on fostering fiduciary responsibilities, such as transparently reporting incidences, requiring deep learning/disclosure by board members and management of global operations and supply chains and urgently applying remediation while enforcing existing laws designed to deter criminal and civil acts. As noted above, naming and shaming, fines, civil liability, disqualification of directors and criminal liability should be considered *only after* companies have had an opportunity to phase in new due diligence and disclosure procedures and only following track records of sustained non-compliance have been clearly established. As part of ICGN's wholistic approach, investors, too, should ensure that their own policies reflect responsible investment practices and robust due diligence reviews to support long-term value creation for their beneficiaries.²²

Modern Slavery Statements Register

Question 21: Does the register provide a useful service?

Yes. The register provides a critical service as the central means by which investment institutions and members of the public can access reports.

We recommend, however, that great care be taken in advancing public reporting practices. The reporting of infractions must be established through credible investigations and careful documentation. In an age of 24-7 social media availability, inflammatory and false claims can be made every minute. To address the challenges of reporting on modern slavery, Australia must help create a credible civic space to raise issues, debate responses and establish solutions with companies.

Question 22. Could improvements be made to the Register to facilitate accessibility, searchability and transparency?

A global register, established in partnership with other countries would further enhance public accountability and the value of this transparency and educational mechanism.

Administration and Compliance Monitoring of the Modern Slavery Act

Question 23: What role should an Anti-Slavery Commissioner play in administering and enforcing the reporting requirements in the Modern Slavery Act? What functions and powers should the Commissioner have for that role?

The Anti-Slavery Commissioner could be modelled on the commission office established in New South Wales. It could be led by a respected individual with expertise and profile in the human rights arena and supported by an expert group of advisors. The commissioner's office should have a broad mandate to encourage best practice in prevention, detection and remediation of slavery practices. It should serve as a knowledge hub for best practice and maintain the central registry of company reports on their compliance with the legislation. The central registry should remain publicly available to enable transparency and monitoring and, if necessary in the future, the disclosure of names as an enforcement mechanism.

The office should not have investigative authority but should refer potentially criminal acts to relevant police authorities. In other instances, under defined circumstances, the commissioner would refer persistent cases to the UN Special Rapporteur on Contemporary Forms of Slavery or encourage complaints to Australia's National Contact Point for promoting the Organisation for

²² [ICGN Global Stewardship Principles | ICGN](https://www.icgn.org/icgn-global-stewardship-principles) (2020), Principle 1, <https://www.icgn.org/icgn-global-stewardship-principles>.

Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises.²³ The office should establish national priorities annually and report to Parliament. It would also work with other government entities to ensure a 'whole-of-government' approach. One example might be to ensure that Australia's anti-money laundering regime recognises the links between modern slavery (particularly human trafficking) and the financial system and is able to respond effectively. Finally, acknowledging that modern slavery is a global problem, the commission could work with similar national anti-slavery commissions and human rights experts around the world to further construct best practices, share national priorities and establish international goals.²⁴

Question 25: Is a further statutory review (or reviews) of the Modern Slavery Act desirable? If so, when? And by whom?

Yes. ICGN believes that a future review should be conducted in three years' time. This would allow for additional learning to occur at the corporate and investor level and provide an opportunity for the Government of Australia to engage other governments currently advancing modern slavery legislation to harmonise legislative requirements.

26. Should a periodic review process (other than a statutory review) be conducted of the Modern Slavery Act and its implementation? What form should that review process take?

Yes, ICGN believes a periodic review process would be beneficial and should include the full range of experts and stakeholders.

Conclusion

ICGN appreciates the opportunity to comment on the review of Australia's Modern Slavery Act. In closing, we note that the financial sector can serve as a powerful ally for government efforts to address modern slavery in Australia and around the world. Monitoring corporate practices, mounting stewardship campaigns, fighting human trafficking by improving anti-money laundering practices, providing financial services to reduce precarious economic conditions suffered by vulnerable groups and fighting climate change to reduce the numbers of vulnerable climate refugees: these are all functions that many of our members are striving to fill. As the Government of Australia continues its efforts to combat modern slavery, we encourage you to continue to look to ICGN and our members for support and effective strategic relationships.

We hope you have found our comments useful. Should you wish to discuss further please contact George Dallas (george.dallas@icgn.org), ICGN's Policy Director, Robert Walker (rwalker@icgn.org), ICGN's Sustainability Policy Manager, or myself (kerrie.waring@icgn.org).

Yours faithfully,



Kerrie Waring
Chief Executive Officer, ICGN

CC: Michela Gregory, Co-Chair ICGN Human Capital Committee: mgregory@neiinvestments.com
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²³ <https://www.ohchr.org/en/special-procedures/sr-slavery>; <https://mneguidelines.oecd.org/ncps/nz.htm>

²⁴ In future, global efforts to fight modern slavery could replicate the Egmont Group established to facilitate information sharing and strategy coordination among financial intelligence units created to counter money laundering, terrorist financing and associated offences. <https://egmontgroup.org>. See also ICGN Viewpoint, *Anti-Money Laundering Due Diligence*, 30 March 2022.