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Committee Secretary  
Joint Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Submission uploaded online

## INQUIRY INTO ESTABLISHING A MODERN SLAVERY ACT

On behalf of the Australian Council of Superannuation Investors (ACSI), I am pleased to make this submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry on the question of whether Australia should adopt a Modern Slavery Act comparable to the UK.

As investors, we believe labour and human rights issues can present significant reputational and operational risks to our portfolio companies. ACSI therefore strongly supports the Australian government adopting legislation to improve transparency on how companies operating in Australia are managing modern slavery risks in their operations and supply chains.

Labour and human rights contraventions can materially impact companies' reputations, disrupt operations, divert management and board resources, and potentially lead to long running costly legal consequences. Ultimately, these risks threaten long term shareholder value.

Voluntary efforts of Australian companies to address human rights issues in their supply chains are limited and only some are covered by foreign modern slavery due diligence and transparency legislation.

Consequently, on the whole, investors have limited information available to them about how Australian companies are managing modern slavery risks. A reliance on self-reporting is not leading to the level of transparency required by long-term investors.

Legislation requiring disclosure would improve the amount of information available, helping investors to make more informed investment decisions and to engage with companies to mitigate modern slavery risks. Public reporting also holds companies accountable for risk assessment and other due diligence steps to encourage effective management of modern slavery risk.

ACSI encourages the government to build upon the UK's Modern Slavery Act by adopting legislation which goes beyond some of the limitations of the UK Act. ACSI's priorities for Australia's legislation is outlined below in our 'key recommendations'.

### About ACSI

ACSI is a collaboration between 30 Australian profit-for-members superannuation funds and six major international pension funds. Our Australian member funds manage over \$450 billion in assets on behalf of over eight million superannuants and retirees. If we include the funds under management by our international member funds, the total funds ACSI's members manage is over \$1.5 trillion.

As fiduciaries, it is incumbent upon our members to consider all long term investment drivers, including how a company is performing on environmental, social and governance (ESG) issues.<sup>1</sup> Our members are vitally interested in companies adopting high standards of governance, transparency and compliance in all areas of material risks to reputation and long-term shareholder value. Supply chain management and the reputational, financial and regulatory risks associated with modern slavery issues are of critical importance to ACSI's members. ACSI has undertaken detailed research on related labour human rights issues, and regularly discusses these issues with the boards of Australia's largest companies.

## ACSI's key recommendations

ACSI's six priorities for Australia's legislation addressing modern slavery risks in the operations and supply chains of Australian companies are:

1. **Guiding principles** – the legislation should reflect the principles contained in relevant international human rights frameworks such as the United Nations Guiding Principles on Business and Human Rights, Sustainable Development Goal 8.7, and the Protocol of 2014 to the International Labour Organizations (ILO) Forced Labour Convention (1930).
2. **Mandatory annual reporting addressing specific criteria** – the UK experience shows that the mandatory reporting against optional criteria has not delivered the quality or depth of transparency needed for investors to assess how companies are managing modern slavery risks. Australia should improve upon the UK's experience by requiring mandatory annual reporting against specific criteria in a model more akin to California's legislation (i.e. companies are required to report on the extent to which they comply with specific criteria).
3. **Board accountability and governance** – as in the UK, Australia's legislation should require companies' modern slavery statements be signed by a director (preferably the Chair) and approved by the board.
4. **Appropriate civil penalties for non-compliance** – unlike the UK, Australia's legislation should include appropriate civil penalties for companies that do not comply with the reporting requirements.
5. **Central repository** – the government should maintain a central, publicly searchable repository, to which companies upload their annual modern slavery reports/statements. The government should also publish the list of companies required to report. Both measures will assist investors to monitor companies' performance and to manage modern slavery risks.
6. **Independent oversight** – an independent body be empowered to monitor, investigate and enforce compliance with Australia's modern slavery legislation and to review and report annually on the performance of the legislation in achieving its aims.

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<sup>1</sup> Rory Sullivan, Will Martindale, Elodie Feller and Anna Bordon, *Fiduciary Duty in the 21<sup>st</sup> Century* (2015), Principles for Responsible Investment, [http://www.unepfi.org/fileadmin/documents/fiduciary\\_duty\\_21st\\_century.pdf](http://www.unepfi.org/fileadmin/documents/fiduciary_duty_21st_century.pdf).

## The investor case to enact legislation for supply chain transparency of modern slavery risks

### What is modern slavery?

'Modern slavery' describes a range of situations where a person's freedom to make choices for themselves is undermined or taken away so that their labour can be exploited. Freedom is taken away by threats of penalty, violence, coercion, abuse of power and deception. It includes forced labour, deceptive recruiting, forced marriage, trafficking in persons and debt bondage.

Modern slavery is understood within a human rights context because it is often a symptom of underlying human rights violations (for example, discrimination based on gender or nationality, denial of freedom of association or trade union suppression) and corruption (the abuse of entrusted power for private gain).

### Why are investors concerned about modern slavery risks in supply chains?

ACSI believes that poor management of stakeholders, both directly and via supply chains, impacts the commercial success, stability and longevity of a company. Labour and human rights contraventions can materially impact upon companies' reputations, disrupt operations, divert management and board resources, and potentially lead to long running costly legal consequences. Ultimately these impacts threaten shareholder value.

Additionally, our member funds firmly believe that superannuants and retirees do not want to have their retirements savings invested in companies whose supply chains involve slave labour and/or worker exploitation either in Australia or overseas. Profit-for-member funds have grown out of a proud history of collectively raising labour standards in Australia, and as stewards of retirement savings, our members consider that it is part of their fiduciary duties to engage with companies to ensure that modern slavery risks are mitigated.

Management of labour and human rights risks in supply chains is becoming increasingly complex for companies, as the pursuit of cost savings shifts business inputs offshore to lower wage economies. The growth of global supply chains and Australia's reliance on imports from countries highly vulnerable to modern slavery means that the investments of our member funds are becoming increasingly exposed to modern slavery risks.<sup>2</sup>

In 2012, the ILO estimated that 20.9 million people were victims of modern slavery worldwide, 18.7 million (90%) of whom were exploited in the private economy to generate US\$150 billion in illegal profits each year for individuals or enterprises.<sup>3</sup> The Asia-Pacific region accounts for by far the largest number of forced labourers at 11.7 million people (56% of the global total) generating US \$51.8 billion in illicit annual profits.

The Walk Free Foundation's 2016 Global Slavery Index estimates that 45.8 million people are victims of modern slavery across 167 countries.<sup>4</sup> Two thirds, or 30.4 million of those people, are considered modern slaves in the Asia-Pacific region (defined as the area spanning Afghanistan in the west, to New Zealand in the south-east, to Mongolia in the north). Four of the five countries in the world that have the highest absolute numbers of people in slavery are located in the Asia-Pacific: India, China, Pakistan and Bangladesh.

Australian businesses are significantly exposed to global modern slavery risks, especially through our major trading relationships countries in Asia. The latest data from the Department of Foreign Affairs and Trade

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<sup>2</sup> The OECD estimates global value chains account for more than 42% of value added in the exports of G20 economies: OECD, WTO and World Bank Group, 'Global Value Chains: Challenges, Opportunities and Implications for Policy', Report prepared for submission to the G20 Trade Ministers Meeting, Sydney, Australia, 19 July 2014, available: [https://www.oecd.org/tad/gvc\\_report\\_g20\\_july\\_2014.pdf](https://www.oecd.org/tad/gvc_report_g20_july_2014.pdf)

<sup>3</sup> International Labour Organization, 'ILO 2012 Global estimate of forced labour – Executive Summary', [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_181953.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_181953.pdf) (accessed 13 April 2017).

<sup>4</sup> The estimate is based on data from random sample, nationally representative surveys conducted by Gallup: Walk Free Foundation, '2016 Global Slavery Index', <http://www.globalslaveryindex.org/findings/> (accessed 13 April 2017).

reveal that in 2014, 63.3% of Australia's two-way trades of goods and services, valuing \$420 billion, were with countries in Asia.<sup>5</sup> China was by far Australia's most significant two-way trading partner, with trade valued at \$152,468 million, representing 23% market share.<sup>6</sup>

Offshore suppliers do not pose the only modern slavery risks to businesses operating in Australia. Over the last four years, there have been increasing reports of human rights issues in the domestic operations and supply chains of ASX200 companies. Prominent examples include allegations of systemic exploitation of minority groups, particularly young and vulnerable migrant workers, on farms supplying food to Australia's major supermarkets and worker exploitation in major franchises.

The revelations have led to a series of government responses, including:

- A Senate inquiry and report into the situation of temporary work visa workers.<sup>7</sup>
- A commitment to increase funding to the Fair Work Ombudsman (FWO) by \$20 million to enhance its investigative powers; to increase penalties for employers who under pay workers; and to introduce new laws that target head office and parent companies which fail to deal with exploitation by their franchisees.<sup>8</sup>
- A multi-agency Migrant Worker Task Force has been established and the FWO is prioritising the exploitation of young and migrant workers in its compliance work, focusing specifically on those industries that have evidenced high-levels of non-compliance with work place laws: hospitality, retail, cleaning, and security.<sup>9</sup>

These responses are important but do not go far enough to address the gap in the regulatory framework that is failing to encourage companies to appropriately map and know their supply chains and disclose how they are managing modern slavery risks. This leaves investors to operate in an information poor environment.

## Evidence that self-reporting is not leading to adequate transparency

ACSI has long called for increased disclosure and transparency in supply chains. We have produced three reports since 2011 showing Australian companies are lagging behind global peers on supply chain labour and human rights policy disclosure and implementation.<sup>10</sup> Our most recent publication from 2013, benchmarked public disclosures of 34 ASX200 companies in the consumer staples and consumer discretionary sectors. The depth of disclosure was poor. Key among the report's findings were:

- Only 38% of the companies had publicly disclosed a supply-chain labour and human rights policy

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<sup>5</sup> Where "Asia" includes Central Asia, Middle East, North Asia, South Asia and Southern Asia: Australian Government, Department of Foreign Affairs and Trade, *Trade at a Glance 2015*, 'Total two-way trade by region 2014', <http://dfat.gov.au/about-us/publications/trade-investment/trade-at-a-glance/trade-at-a-glance-2015/Pages/australias-trade-and-economic-statistics-in-2014.aspx>

<sup>6</sup> Australian Government, Department of Foreign Affairs and Trade, *Australia's Trade at A Glance*, 'Australia's Top 10 Two-way Trading partners', <http://dfat.gov.au/trade/resources/trade-at-a-glance/pages/html/two-way-trading-partners.aspx> (accessed 14 April 2017).

<sup>7</sup> Parliament of Australia, Senate Standing Committee on Education and Employment, 'A National Disgrace: The Exploitation of Temporary Work Visa Holders' (Report), 17 March 2016,

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/temporary\\_work\\_visa/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/temporary_work_visa/Report)

<sup>8</sup> Senator the Hon Michaelia Cash, 'Coalition delivers on election commitment to protect migrant workers', Media Release, 4 October 2016, <https://ministers.employment.gov.au/cash/coalition-delivers-election-commitment-protect-migrant-workers>.

<sup>9</sup> Australian Government, Fair Work Ombudsman, *FWO Annual Report 2015-16*, <https://www.fairwork.gov.au/annual-report/year-in-review> (accessed 17 April 2017).

<sup>10</sup> The evolution of ACSI's reports in this area are: 'Supply-Chain Labour and Human Rights – S&P/ASX 200 and Global Company Policies' (December 2011) available at [https://www.acsi.org.au/images/stories/ACSIDocuments/detailed\\_research\\_papers/11\\_supply-chain\\_labour\\_and\\_human\\_rights\\_research\\_paper\\_-\\_final.pdf](https://www.acsi.org.au/images/stories/ACSIDocuments/detailed_research_papers/11_supply-chain_labour_and_human_rights_research_paper_-_final.pdf); 'Labour and Human Rights in Corporate Australia – Policy and disclosure among the S&P/ASX200' (May 2012) available at

<https://www.acsi.org.au/images/stories/ACSIDocuments/generalresearchpublic/12%20Labour%20Standards%20and%20Human%20Rights%20in%20Corporate%20Australia.pdf>; and 'Labour and Human Rights Risks in Supply-Chain Sourcing: Investment risks in S&P/ASX200 Consumer Discretionary and Consumer Staples companies' (June 2013) available at [https://www.acsi.org.au/images/stories/ACSIDocuments/generalresearchpublic/13%20LHR%20Risks%20in%20Supply%20Chain%20Sourcin\\_g\\_Jun13.pdf](https://www.acsi.org.au/images/stories/ACSIDocuments/generalresearchpublic/13%20LHR%20Risks%20in%20Supply%20Chain%20Sourcin_g_Jun13.pdf).

- None of the companies disclosed the nature of board-level oversight of these risks contrary to global best practice
- Only 30% of companies disclosed supplier audits or risk assessments and commitments to ongoing monitoring. Corrective action plans were even less frequently referenced.

ACSI also refers the Committee to a very instructive report by Citi from August 2014.<sup>11</sup> It examines six broad industries where modern slavery is known to exist and discusses positive examples of company programs and collaborative initiatives to tackle them.

Citi assessed 44 Australian listed companies' policies on child labour and/or slavery and categorised them on the depth of their disclosures: 1) no information; 2) had policies and risk assessment frameworks that applied in their own operations or in supply chains; or 3) had policies and frameworks and gave information on implementation (see Appendix A for the table of results). Only 12 of the 44 companies were in the leading, third category. Nearly the same amount of companies provided no information at all.

Finally, in December 2015, the Australian Human Rights Commission (AHRC), the Australian Centre for Corporate Social Responsibility (ACCSR) and the Global Compact Network Australia (GCNA) published a report surveying the practices of 90 Australian businesses in addressing human rights in supply chains.<sup>12</sup> The report found less than half of the respondents to the survey (47%) agreed that their business had a written policy on human rights and even fewer (36%) agreed that their business reported publicly on its human rights policy and commitments. It concluded that the biggest barriers for Australian businesses to addressing human rights impacts are: a) limited visibility into suppliers' practices and b) limited staff capacity and authority to address human rights impacts.

Taken together, these reports make it clear that while companies' efforts to self-monitor and self-disclose are improving, overall the progress has been slow. Legislation is needed to level the playing field and create a market where companies are required to report on modern slavery risks and mitigation measures. It would also give staff in companies greater authority to raise human rights violations in supply chains as legitimate business concerns.

## Relevant international human rights frameworks

Given that modern slavery is often a symptom of broader underlying human rights violations, the government should develop Australia's legislation to reflect principles in relevant international human rights frameworks. Most specifically, the United Nations Guiding Principles on Business and Human Rights, Sustainable Development Goal 8.7, and the Protocol of 2014 to the ILO Forced Labour Convention (1930) (the Protocol).

ACSI notes that the Australian government is yet to ratify the Protocol, which has been ratified by 13 countries and is currently in force in four countries including the UK and Norway.<sup>13</sup>

The Protocol recognises that the context and forms of forced labour have changed since the underlying Convention was adopted (which Australia has ratified) – that there is an increased number of workers who are in forced labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have higher risk of becoming victims of forced or compulsory labour, especially migrants. Accordingly, the Protocol “updates” the measures that countries should take to ensure that the implementation gaps in the Convention are addressed to achieve effective suppression of forced labour.

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<sup>11</sup> Elaine Prior, 'Modern Slavery & Child Labour: Assessing risks in global industries and ASX-Listed Companies', 21 August 2014, Citi, available at: <https://ir.citi.com/EOZnV0luNqaSHIK9nN1+PTZ34QANDDpmFwgQDTp877LtSlgtCBRn0Q==> (accessed 17 April 2017).

<sup>12</sup> AHRC, ACCSR, GCNA, *Human Rights in the supply chains: Promoting positive practice*, December 2015, Melbourne, <https://www.humanrights.gov.au/our-work/rights-and-freedoms/publications/human-rights-supply-chains-promoting-positive-practice>

<sup>13</sup> The remaining countries that have ratified the Protocol but are waiting for it to enter into force on various dates in 2017 and 2018 are: Argentina, Cyprus, Czech Republic, Estonia, Finland, France, Mali, Panama and Poland: International Labour Organization, 'Ratifications of P029 – Protocol of 2014 to the Forced Labour Convention, 1930', [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:3174672](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:3174672) (as at 10 April 2017).

The Protocol is foundational to addressing worker exploitation and should underpin the Australian government's regulatory approach on modern slavery. Article 2 of the Protocol sets out the measures governments' should take to prevent forced or compulsory labour, relevantly including:

- ... (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour.

#### Recommendation:

ACSI recommends that Australia's legislation be developed to reflect principles in relevant international human rights frameworks, such as: the United Nations Guiding Principles on Business and Human Rights, Sustainable Development Goal 8.7, and the Protocol of 2014 to the International Labour Organizations (ILO) Forced Labour Convention (1930).

### The UK's Modern Slavery Act

Since 2015, companies that are conducting business in the UK (or part of a business), with a total global annual turnover of £36 million, have been required to produce an annual statement disclosing the steps the company has taken to ensure its operations and its supply chains are free from modern slavery.<sup>14</sup> If the company has taken no steps, the company must say so. There is no requirement to explain why no steps have been taken. The UK Act captures about 12,000 companies.

The modern slavery statement must comply with three procedural steps: be approved by the board, signed by a company director (or its equivalent) and be published on the company's website.

The UK Act does not require companies to take any particular steps to address modern slavery risk, but section 54(5) makes the following suggests against which companies' may choose to report:

1. the organisation's structure, its business and its supply chains;
2. its policies in relation to slavery and human trafficking;
3. its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
4. the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
5. its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
6. the training about slavery and human trafficking available to its staff.

There are no civil penalties for not complying with the requirement to report. The only enforcement mechanism is the ability for the government to compel compliance by applying to the courts for an injunction.<sup>15</sup>

The requirement for board level approval of modern slavery statements is essential to ensuring board level discussion of modern slavery risks. As in the UK, Australia's legislation should include a requirement that a company's modern slavery statement is signed by a director (preferably the Chair) and approved by the board.

<sup>14</sup> *Modern Slavery Act 2015 (UK)* s 53.

<sup>15</sup> *Modern Slavery Act 2015 (UK)* s 54(11).

### Recommendation:

ACSI recommends that Australia's legislation require that companies' modern slavery statements be signed by a director (preferably the Chair) and approved by the board.

### Improvements to the UK Act

Given the prevalence of modern slavery, the financial risks it poses to business and the harm it causes, it would be unacceptable to investors for companies above a certain threshold size to take no steps to manage modern slavery risks. At a minimum, companies of a certain size should be required to report on the policies it has in place to identify and assess modern slavery risks, and if it concludes that it faces no modern slavery risks, to disclose the reasons why.

A criticism of the UK Act is that it has led to a wide variety in the quality and depth of reports with limited value in terms of comparability because it does not require companies to report against any specific criteria.<sup>16</sup> Early analysis of the first 75 modern slavery statements produced under the UK Act, found that only nine out of the 75 statements addressed all six suggested topics for managing modern slavery risks.<sup>17</sup>

Comparability of approach and consistent disclosures, as relevant to the risk profile of each company, is useful for investors in monitoring compliance and assessing which companies' to invest in. It also helps to avoid a market where some companies are leading on transparency by a long way with others lagging well behind.

Investors want companies to disclose information that answers the following questions, to the extent relevant to the company:

- How the company identifies and assesses modern slavery risks in its supply chain, i.e. its policies and procedures. To what extent does the company map its supply chain? Does it disclose the identity of suppliers, and if that is too commercially sensitive, the geographic location? How are its due diligence policies implemented and tested for effectiveness over time? Does the company incorporate the outcomes of its risk assessment in procurement decisions? Are independent third party audits conducted and how far down the supply chain?
- If modern slavery risk is identified, how does the company respond in terms of addressing the problem and remediating the victims? What accountability standards does the company have for employees or contractors that fail to meet company standards on modern slavery risk management?

In this respect, California's legislation provides a more useful model because a company must, at a minimum, disclose the extent to which it complies with specified criteria (see Appendix B for a summary of the California legislation).

### Recommendation:

ACSI recommends that Australia's legislation require companies to report annually against specified criteria, to the extent relevant to the company's circumstances.

Analysis of the first 75 UK modern slavery statements also showed that only 22 statements met the three minimum requirements of being approved by the board, signed by a company director and published on the

<sup>16</sup> This criticism, along with others, has been made by a number of bodies to the Joint Select Committee of the UK Parliament in a process to receive feedback on the shortcomings of the UK Act, see: Joint Select Committee on Human Rights, 'Human Rights and Business 2017: Promoting responsibility and ensuring accountability', Chapter 5: preventing human rights abuses by business, accessible at <https://www.publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/44308.htm>.

<sup>17</sup> Business and Human Rights Resource Centre and CORE, UK Modern Slavery Act: Analysis of early company statements, new guidance available', available at <https://business-humanrights.org/en/uk-modern-slavery-act-analysis-of-early-company-statements-new-guidance-available> (accessed 19 April 2017).

company's website.<sup>18</sup> An indication of the limitations of a reporting regime without appropriate penalties for non-compliance.

ACSI supports Australia's legislation including appropriate civil penalties for non-compliance with reporting requirements, reflecting the importance of human rights impacts in supply chains as a legitimate business concern. What constitutes an appropriate civil penalty could be developed in consultation with stakeholders.

**Recommendation:**

ACSI recommends that Australia's legislation include appropriate civil penalties for non-compliance with reporting requirements.

A further improvement to the UK Act would be for the Australian government to maintaining a central, publicly searchable repository, to which companies upload their annual modern slavery reports/statements. The government should also publish a list of companies required to report. Both measures will assist investors to monitor companies' performance and to manage risks. It also pools knowledge which makes it easier to benchmark progress and for companies to learn from their peers.

The Business and Human Rights Resource Centre in the UK, an NGO, is currently maintaining a publicly searchable record of all statements produced by companies under the UK Act which has proven to be an excellent source for monitoring and analysis.<sup>19</sup>

**Recommendation:**

ACSI recommends that the Australian established a central repository to which companies can upload their modern slavery statements. Further, the government should publish a list of all companies required to report under the legislation.

Independent review and oversight of the operation and implementation of the legislation is essential.

An independent body is needed with powers to monitor, investigate and enforce compliance with the reporting requirements. The independent body should publish annual reports detailing its findings, particularly on the whether the legislation is achieving its aims. The body should be given responsibility for maintaining the central repository recommended above.

The body could facilitate and be informed by multiparty working groups with business, unions, investors, NGOs and other stakeholders. In this way, the body could develop helpful guidance for companies on complying with the reporting requirements and to encourage companies to develop robust due diligence processes.

For example, the Walk Free Foundation has developed an instructive toolkit freely available to business wanting to adopt best practice including useful templates such as sample codes of conduct provisions, scorecards to assess suppliers, and corrective action plans.<sup>20</sup> Likewise, the Business and Human Rights

<sup>18</sup> Business and Human Rights Resource Centre and CORE, 'UK Modern Slavery Act: Analysis of early company statements, new guidance available', available at <https://business-humanrights.org/en/uk-modern-slavery-act-analysis-of-early-company-statements-new-guidance-available> (accessed 19 April 2017).

<sup>19</sup> Anyone can download the excel spreadsheet which includes hyperlinks to each company's statement, go to: <https://business-humanrights.org/en/uk-modern-slavery-act-registry>.

<sup>20</sup> The Walk Free Foundation, 'Tackling Modern Slavery in Supply Chains: A Guide 1.0', 2014, available: <http://business.walkfreefoundation.org/>.

Resource Centre and the CORE Coalition has developed guidance on designing effective reporting and due diligence approaches consistent with human rights frameworks.<sup>21</sup>

The AHRC is Australia's national independent statutory body responsible for monitoring compliance with human rights standards and reporting to Parliament. As an existing body, it may be well placed to be empowered with monitoring and oversight functions under Australia's modern slavery legislation.

**Recommendation:**

ACSI recommends that an independent body be empowered to monitor, investigate and enforce compliance with Australia's modern slavery legislation and to review and report annually on the performance of the legislation in achieving its aims.

Finally, given broad stakeholder interest in the government enacting legislation to address modern slavery in supply chains, ACSI encourages the government to release an exposure draft of the Bill for public consultation.

**Please contact ACSI if we can assist further**

We will be following the progress of the inquiry with interest, and would be happy to answer any questions the Committee may wish to raise about our submission. Please contact me or Zoey Irvin, ACSI's Manager - Public Policy, should you require any further information regarding our submission.

Yours sincerely

Louise Davidson  
Chief Executive Officer

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<sup>21</sup> CORE, 'Beyond Compliance: Effective reporting under the Modern Slavery Act', February 2016, available [http://corporate-responsibility.org/wp-content/uploads/2016/03/CSO\\_TISC\\_guidance\\_final\\_digitalversion\\_16.03.16.pdf](http://corporate-responsibility.org/wp-content/uploads/2016/03/CSO_TISC_guidance_final_digitalversion_16.03.16.pdf).

Appendix A: Table of results from Citi research

**Figure 7. Analysis of ASX Company Disclosure on Human Rights, Policies and Implementation**

Policies, Frameworks, and Some Information on Implementation	Policies and Frameworks	No Public Information Located
ANZ Bank	Amcor	Crown Resorts
BHP Billiton	BlueScope Steel	Goodman Group
Coca-Cola Amatil	Brambles	Harvey Norman Holdings
Fortescue Metals Group	Commonwealth Bank	Incitec Pivot
Kathmandu Holdings	CSL	JB Hi-Fi
Myer Holdings	Goodman Fielder	Leighton Holdings
National Australia Bank	GPT Group	Macquarie Group
Qantas	Lend Lease Corporation	Metcash
Rio Tinto	Newcrest Mining	Scentre Group
Westpac	Origin Energy	Stockland
Wesfarmers	Orica	Westfield Corp
Woolworths	Oil Search	
	Premier Investments	
	PanAust	
	Sims Metal Management	
	Santos Ltd	
	Super Retail Group	
	Telstra	
	Toll Holdings	
	The Reject Shop	
	Woodside Petroleum	

Source: Citi Research

Source: Citi, 'Modern Slavery & Child Labour: Assessing risks in global industries and ASX-Listed Companies', 21 August 2014, Citi, page 19.

## Appendix B: California's Transparency in Supply Chains Act

Since 2012, large retailers and manufacturers doing business in California with 'annual worldwide gross receipts exceeding US\$100 million' have been required to disclose on their websites the extent to which the company has engaged in verification of the products in their supply chains to address modern slavery risks.<sup>22</sup>

The explicit aim of the legislation is to increase information available to consumers so that purchasing decisions can be made distinguishing between companies on the merits of their efforts to supply goods free from the taint of modern slavery. Under the California Transparency in Supply Chains Act a company must, at a minimum, state to what extent it:

1. Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery.
2. Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains.
3. Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.
4. Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.
5. Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigation risks within the supply chains of products.

The California legislation does not actually require companies to do any of the five things listed above, but companies must at least report against the list. In this way, the reporting obligations are a little stricter than the UK Act.

There are no penalties for not reporting and there is no requirement to undertake due diligence. The only enforcement mechanism is the ability for the government to compel compliance by applying to the courts for an injunction.

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<sup>22</sup> *California Transparency in Supply Chains Act*, Ca. Civ. Code §1714.43