



22 November 2022

Professor John McMillan

By email: ModernSlaveryActReview@ag.gov.au

Dear Professor McMillan,

Review of Australia's Modern Slavery Act 2018 (Cth)

The Insurance Council of Australia (**Insurance Council**) thanks the Australian Government for the opportunity to provide a submission in response to the Statutory Review of the Modern Slavery Act 2018 (Cth) (**the Act**). We appreciate the collaborative approach the government has taken to welcome submissions from the business community, civil society, government bodies and other interested stakeholders.

The Insurance Council is the representative body of the general insurance industry in Australia and represents approximately 95% of private sector general insurers. As a foundational component of the Australian economy, the general insurance industry employs approximately 60,000 people, generates gross written premiums of \$59.2 billion per annum and on average pays out \$148.7 million in claims each working day, totalling \$38.8 billion per year.

The Insurance Council acknowledges the important role the insurance industry must play in combatting modern slavery by putting in place controls to identify and mitigate modern slavery risk. Increasingly, the insurance industry is responding to a greater frequency of extreme weather events. This has resulted in difficulties including increased pressure to assess and fulfil large volumes of claims in a reasonable timeframe, and increased engagement with small businesses in regional and remote areas where visibility over labour practices is limited.

To support the industry to understand key risk areas and build appropriate mitigating controls, the Insurance Council has developed a dedicated modern slavery strategy and established a working group. The vision of the modern slavery strategy is for the insurance industry to play its part in reducing modern slavery risk by effectively mitigating the risk of modern slavery in its global and domestic operations and supply chains.

The current priority areas are:

1. Taking an industry-wide approach to engaging suppliers,
2. Engaging in advocacy relevant to gaps in the Act, and
3. Prioritising best practice and beyond-compliance approach.

We recognise that as an industry, we are at the beginning of our journey in embedding good practice modern slavery risk management into our systems and processes. More work is needed to address this issue and to combat the increasing number of people experiencing

modern slavery around the world. The Insurance Council is committed to helping our members adopt a continuous improvement approach to their modern slavery risk management efforts.

In this submission we outline our view on key areas for enhancement to the Act that, in our members' experience, would support businesses to mature their modern slavery responses.

We trust that our initial observations are of assistance. If you have any questions or comments in relation to our submission please contact Alix Pearce, Senior Manager Climate Action apearce@insurancecouncil.com.au

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Andrew Hall', with a stylized flourish at the end.

Andrew Hall
CEO & Executive Director

Appropriateness of Mandatory Criteria

The Insurance Council's members have observed an overall positive impact since the introduction of the Act as it has required businesses in the insurance industry to address the risk of harm to people within their operations and supply chains. Mandatory reporting has encouraged senior leadership to prioritise modern slavery, and the mandatory reporting criteria has provided structure to considering modern slavery in business.

Over the last three reporting years, the Insurance Council's members have seen a shift among businesses in the detail provided in statements. Businesses have increased the level and quality of disclosures as it relates to modern slavery risks and their management. The Act has also encouraged dialogue at an industry level on how the risk of modern slavery is heightened by other issues such as extreme weather events, the pandemic, cost of living pressures and immigration.

There is more to be done, however, to encourage and support businesses to be transparent about the elements of their modern slavery response, including the actions taken to address modern slavery. This would allow key stakeholders including consumers to be better informed on the industry's progress and gaps and encourage material action. The Insurance Council's members recognises that efforts need to mature to better understand sector-based risks and support prevention efforts through a victim-survivor centric approach.

It is also important that a business transparently reports on the steps it takes to ensure that its grievance mechanisms are accessible. Actions on grievance mechanisms are generally poorly managed and businesses need increased and ongoing focus on their effectiveness, accessibility and ensuring the grievance mechanisms are fit-for-purpose to respond

to suspected or actual incidents of modern slavery. Low use of a mechanism often points to inaccessibility, rather than indicating a low prevalence of issues.

Transparency in disclosing the outcomes of providing remedy for actual incidents of modern slavery will encourage other businesses to include this level of transparency in their disclosures and provide insight into remediation pathways.

To encourage good practice reporting and address the areas where maturity remains low in risk management, we support the establishment of an Independent Anti-Slavery Commissioner to provide practical and targeted guidance to encourage continuous improvement.

Establishment of an Independent Body

The Insurance Council's members support the establishment of an appropriately resourced Independent Anti-Slavery Commissioner, whose functions should include providing support and guidance to reporting entities based on a victim-survivor centric approach.

It is important that a specialised team is formed to support the Anti-Slavery Commissioner to monitor compliance and support good practice. The Insurance Council's members envisages that the Anti-Slavery Commissioner would be responsible for providing regularly updated good practice guidance on modern slavery risk identification and management.

A key strategic priority for the Independent Anti-Slavery Commissioner should be to facilitate collaboration between business, government, and civil society organisations. As an industry association, we know that collaboration will be key to fostering continuous learning and enhancing modern slavery maturity among businesses.

Another function of the Anti-Slavery Commissioner should be to develop risk

assessment tools and templates that can be adapted by reporting entities.

Increasing the use of standard questionnaire templates, for example, would lessen the administrative and compliance burden on smaller suppliers that regularly receive questionnaires seeking modern slavery related information in different formats.

We also believe it is critical for the Anti-Slavery Commissioner to conduct assessments of modern slavery statements for both compliance and quality. Importantly, assessing statements for both compliance and quality will focus business responses on maturing their due diligence year on year.

Providing further guidance on what is considered poor, good, and leading practice along with practical steps and case study examples would assist businesses to benchmark their current approach and learn how their modern slavery management approach can be enhanced. It is important this is done with sector-specific needs and contexts in mind.

The nature of modern slavery practices mean that risk levels are constantly changing and evolving across operations and supply chains. This was witnessed by the Insurance Council's members during the COVID-19 pandemic. Businesses need to develop a risk assessment framework that is repeatable and ongoing, to account for changes in geographical and operational context. When risk is heightened, the framework should be able to detect and respond with additional mitigation actions and controls.

In our view, targeted guidance should focus on how to develop modern slavery risk management frameworks that address modern slavery risk in a dynamic way, in line with the United Nations Guiding Principles on Business and Human Rights (UNGPs).

Statutory guidance and associated material should focus on providing:

- An annually updated list of countries, regions, industries, and products with a high risk of modern slavery, including forced labour, and
- Practical examples of how to set up a risk assessment framework where due diligence and risk mitigation is tailored to risk level.

This will promote a consistent good practice approach to risk identification and management.

Operations and Supply Chains

The definitions used to describe operations and supply chains are generally well understood amongst the Insurance Council's members.

At the same time, many members find it challenging to know what tiers of the supply chain need to be reached and reported due to a low-level of good practice due diligence requirements for the second and third tiers. The Insurance Council's members encourage the government to provide more guidance on supply chain tiers and how a risk-based approach should be undertaken.

Currently, our members are typically focusing their efforts on the suppliers with whom their relationship has the highest level of influence. For example, one member organisation is focusing its modern slavery efforts on the suppliers it directly engages with (its tier one suppliers) to prioritise resources where the organisation has the greatest leverage. Leading practice suggests that this kind of phased approach is meaningful when there is a capability building element to supplier engagement, rather than a compliance-only approach that does not offer education and outreach.

The Insurance Council's members acknowledge that suppliers upstream are often those with greater modern slavery

risk. Guidance that demonstrates how to reach those areas of risk would be of great practical benefit. An Independent Anti-Slavery Commissioner, with its oversight of good and leading practice, could provide valuable insight into which businesses are managing upstream modern slavery risk well, and how.

In addition, there is a notable gap in knowledge and resources in the market regarding how to respond to a modern slavery incident and provide remedy to the affected victim-survivors. We recommend that this guidance is co-developed by the Independent Anti-Slavery Commissioner with victim-survivors and shared with reporting entities as part of education and outreach.

Consolidated Annual Revenue

The Insurance Council's members believe that the AU\$100m consolidated annual revenue reporting threshold is adequate and recognises that the largest businesses should be using their leverage to influence and support businesses below the threshold to manage modern slavery risk. This includes educating and engaging with Small to Medium Enterprises (SMEs) to build capability over time.

We recognise that the current reporting threshold was intended as a starting point. If it is lowered over time in a phased way, the impact on small business and resource-constrained public sector entities and non-government organisations would need to be considered, and adequate support provided.

Harmonising Reporting

Transnational businesses are currently required to report on modern slavery efforts under multiple different reporting requirements. The duplicative effort taken to meet these requirements takes away resources which could be used to prevent, identify and manage modern slavery risk.

It is the view of the Insurance Council's members that the harmonisation of reporting requirements should be ensured

to the greatest extent possible, to meet the highest standard of reporting globally.

Statutory Review

The Insurance Council's members believe that as the Act is in its early stages it is important that it is regularly reviewed. Additionally, there will be ongoing opportunities for Australia to learn from international experience and shape its own Modern Slavery Act as legislation in this space proliferates around the world. To respond to emerging best practice and enable harmonisation, the Commonwealth Government should commission a further review of the Modern Slavery Act no more than three years after the current review is tabled.

It is important that the government takes a victim-survivor-led approach to ensure that it acknowledges and responds to lived experience.

Role of the Commonwealth Modern Slavery Statement

The Insurance Council's members feel that awareness of the Commonwealth Modern Slavery Statement and its content is low. To increase the awareness and visibility of the Commonwealth Modern Slavery Statement, the Insurance Council's members suggest enhanced communication and outreach by the Modern Slavery Engagement unit or the Independent Anti-Slavery Commissioner. This would demonstrate 'leading by example' and provide a useful benchmarking tool, to showcase the efforts the Commonwealth has undertaken to report under the Act.

Value of the Register

The Insurance Council's members believe that a public-facing register promotes transparent reporting and encourages compliance and collaboration by giving businesses the ability to view modern slavery statements submitted by peers and enabling year on year comparative

assessment by government and civil society organisations. This supports peer benchmarking and allows businesses to assess draft statements against leading practice peers.

Use of the register among members of the Insurance Council is low, however, and we note that it is easier to simply 'Google search' a business's modern slavery statement rather than use the register search functionality. Currently, when using the register to search peers, all statements containing the peers' (business) name appear. This makes it difficult to navigate and conduct a targeted search to find only the statement of the peer (business). To improve the functionality of the register, the Insurance Council suggests that the search function be amended to only populate the statement of the business written in the search bar, and to allow for a search by industry

Conclusion

We know that modern slavery practices occur in a dynamic landscape which requires vigilance and dedicated resourcing. To respond to this, it is important that businesses are provided with practical good practice examples of how to operationalise modern slavery risk management and ensure that it is effective. To empower business to meaningfully combat modern slavery, it is imperative that the voices of modern slavery victim-survivors are brought into the decision-making process. Support on building collaboration is a key area for the government to offer support.

The Insurance Council recommends that:

- *Guidance on the Act should set out a clear expectation that businesses take a victim-survivor centric approach, focusing on minimising harm to people*
- *The Modern Slavery Act should be amended to establish an Independent Anti-Slavery Commissioner*
- *The functions of the Independent Anti-Slavery Commissioner should include:*
 - *Assessing modern slavery statements for compliance and quality and providing targeted support to reporting entities*
 - *Promoting compliance with the Modern Slavery Act*
 - *Developing up to date, good practice guidelines and guidance material, with a focus on supporting risk management frameworks that respond to the dynamic nature of modern slavery practices; providing case study examples across sectors and industries that bring risk management to life; and bringing to life example of how to respond to modern slavery incidents and provide remedy to affected victim-survivors.*
 - *Facilitating collaboration between government, business, civil society, and academia to combat modern slavery*
- *The Modern Slavery Statement Register's functionality should be enhanced to enable advanced search and support its role as a key accountability mechanism*
- *The Commonwealth Government should commission a further review of the Modern Slavery Act no more than three years after the current review is tabled. A key consideration in the review should be learning from emerging international best practice and ensuring harmonisation of reporting requirements to the greatest extent possible, to meet the highest standard of reporting globally and reduce complexities in reporting.*