

Australian Anti-Slavery Commissioner
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

Copy to: Attorney-General's Department
Modern Slavery and Human Trafficking
Branch
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2/03/2026

Dear Commissioner,

Recommendations to strengthen Australia's modern slavery laws: Initial Position Paper

Thank you for the opportunity to provide a submission on the recommendations to strengthen Australia's modern slavery laws set out in the initial position paper dated 30 January 2026 ([Position Paper](#)).

The Australian Institute of Company Directors Limited (**AICD**)'s mission is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. The AICD's membership of more than 53,000 includes directors and governance leaders of not-for-profits, large and small businesses and the public sector.

The AICD supports the objectives of the modern slavery reporting regime in Australia; that is, to support the Australian business community to identify and address their modern slavery risks and maintain responsible and transparent supply chains. We have participated in earlier consultations, including the independent review of the *Modern Slavery Act 2018* Cth (**the Act**) by Professor McMillan AO¹ and the 2025 consultation on options to strengthen the Act². The AICD has also supported engagement by the Commonwealth Anti-Slavery Commissioner (the **Commissioner**) with the director community.

Enclosed at **Attachment A** are our detailed responses to both proposals raised in the Position Paper: the introduction of a mandatory due diligence obligation; and the ability for the Commissioner to make declarations of high-risk matters.

The AICD welcomes the opportunity to contribute to policy deliberations on both issues. Whilst we see merit in a new high-risk declaration mechanism, we are unconvinced that introducing a new and complex due diligence obligation is desirable at this time.

Given the mixed success of the modern slavery reporting regime to date, and challenges of implementation, the government's focus should be on supporting reporting entities with their existing obligations through further education and guidance.

¹ McMillan review [published](#) in May 2023 and [responded](#) to by Government in December 2024.

² [AICD Submission on Modern Slavery Laws dated 1 September 2025](#).

We do not support a policy approach that continually seeks to layer new and complex obligations on organisations, when it is well known that combatting modern slavery requires tackling global human rights issues, and global governmental cooperation. At the same time, we are still waiting for the ACCC to take further steps to support cross-industry collaboration on modern slavery, specifically through a new class exemption.

More broadly, the AICD has called for a more fundamental rethink of the reporting regime – away from broad-based reporting and towards a targeted, high-risk sector approach. Currently, the low reporting threshold of \$100m of revenue, captures around 3000 entities, many of whom will have limited understanding of modern slavery risks. Government focus should be on helping organisations to combat slavery where the risks are greatest.

1. Executive Summary

Opposition to mandatory due diligence obligation

The AICD opposes a new and complex mandatory due diligence obligation, especially given the proposed reporting threshold (\$100m revenue). Significant time and resources are already spent on complying with the regime, with many reporting entities struggling to meet their existing obligations.³

Other considerations in opposing the obligation include:

- existing barriers to undertaking the requisite due diligence on organisations' operations and supply chains;
- the growing volume of federal regulation which has contributed to the approximately \$160bn compliance burden faced by Australian organisations (both commercial and NFP);⁴ and
- a new due diligence obligation would go beyond the approach currently taken in many comparable jurisdictions. In the few jurisdictions where such an obligation exists, there have been much higher applicable thresholds than is contemplated in Australia.

Application and phase-in of any new obligation

Organisations, even those significantly resourced, are still grappling with the challenge of ensuring they have sufficient internal capabilities and expertise to meet the existing reporting requirements.

If the Government does proceed with the introduction of a mandatory due diligence obligation, a significant and flexible phase-in period beyond that currently considered in the [Position Paper](#) would be required.

Any new obligations, if introduced, should only apply to the highest risk industries. Imposing new complex requirements on SMEs is likely to have little practical impact on combatting modern slavery while imposing significant compliance costs.

Proposed content of due diligence obligation

The due diligence process outlined in the Position Paper is a complex, multi-step process, that may be beyond the existing capabilities of most reporting entities.

³ December 2025 'Modern Slavery Disclosure Quality Ratings ASX100 Companies Update' published by Monash University and available [here \(Update\)](#).

⁴ [AICD submission on ASIC's discussion paper on Australia's evolving capital markets, dated 5 May 2025](#).

The AICD recommends that, instead of introducing a mandatory due diligence obligation, the Government and the Commissioner focus on developing detailed guidance on suggested due diligence processes to assist entities.

Need for extensive guidance if Government proceeds with a mandatory due diligence obligation

If the Government does proceed with the inclusion of a mandatory due diligence obligation, there will be a need for extensive guidance.

Guidance should set clear expectations on what appropriate due diligence looks like; set out factors and indicators relevant to reasonableness; and include tailored guidance for high-risk sectors and reporting segments (e.g. NFPs).

Given that such guidance is not currently available, the AICD reiterates its position that it is too soon to introduce a mandatory due diligence obligation and that it is unreasonable to expect that reporting entities would have the capacity to comply with any such obligation.

Commissioner declarations – support for high-risk mechanism

The AICD supports a mechanism for the Commissioner to declare that a product, service or industry carries a high risk of modern slavery and considers that the Commissioner is uniquely placed to play a pivotal leadership role in driving improved compliance with the Act.

There should be no new statutory obligations on reporting entities linked to the Commissioner declarations given the extent of existing obligations, and the risk that such powers create a rolling set of new requirements.

Targeted guidance should be developed for each declaration, to ensure that declarations reduce, rather than increase, the regulatory burden for reporting entities, and support the identified risks being effectively managed.

2. Next Steps

We hope our submission will be of assistance. If you would like to discuss any aspects further, please contact Ilana Waldman, Senior Policy Advisor (iwaldman@aicd.com.au) or Christian Gergis, Head of Policy (cgergis@aicd.com.au).

Yours sincerely,



Christian Gergis GAICD
Head of Policy

Annexure A

Recommendation 1: Introduction of a mandatory, risk based modern slavery due diligence obligation for reporting entities

Opposition to mandatory due diligence obligation

The AICD opposes a new and complex mandatory due diligence requirement in the Act. The AICD recognises that the Act already requires reporting entities to report on their 'due diligence and remediation processes', however, a mandated due diligence process with associated liability marks a considerable shift in terms of the expectations placed on regulated entities, as well as the consequences of failing to meet them.

We understand from member consultation that significant time and resources is already spent on modern slavery due diligence and reporting. The Act already requires entities to describe the actions taken to assess and address modern slavery risks, including due diligence. In this regard, our members have cited challenges with gaining access to, and visibility of, their suppliers in certain countries and the complexities involved with attempting to identify risks in extended supply chains.

Many reporting entities are struggling to meet their existing requirements under the Act. A December 2025 'Modern Slavery Disclosure Quality Ratings ASX100 Companies Update' published by Monash University and available [here \(Update\)](#) highlights the challenge. The Update found many ASX 100 entities 'remain stuck in minimal compliance'. When it is considered that the Update only applies to ASX 100 entities, there are real concerns that less resourced unlisted entities, SMEs, NFPs and Aboriginal and Torres Strait Islander organisations are even further tested. This shows a need for a continued focus on education, awareness and support around existing obligations, as well as enhanced clarity of those existing obligations. It also demonstrates that it is premature to introduce new obligations against this backdrop.

We are also aware from members that there are existing barriers to undertaking the requisite due diligence on organisations' operations and supply chains. Gaining access to, and engagement with, suppliers beyond tier 1 and 2 suppliers in certain countries and regions is a common challenge in practice. There are also geopolitical factors that hinder robust supply chain analysis on an ongoing basis. Industry requires greater support from the Government managing such risks before additional obligations are contemplated.

For example, a concrete step that industry is still waiting on is ACCC support for cross-industry collaboration on sustainability matters such as modern slavery via a specific class exemption (see AICD submission [here](#)). Addressing modern slavery risks often requires collective action to be effective, particularly where systemic issues arise deep within complex or fragmented supply chains. Individual entities frequently lack visibility and leverage at lower tiers of the supply chain, and collaborative approaches - when responsibly designed - can enhance transparency, promote consistent minimum standards, and increase leverage to secure remediation.

The Position Paper states that part of the intent of introducing a mandatory due diligence obligation is to harmonise Australia's approach with international standards and align with laws in other jurisdictions. However, based on our analysis below, a mandatory obligation for Australian reporting entities would go beyond comparable jurisdictions given nuanced regulatory approaches overseas.

- **United States:** does not have a national modern slavery reporting or due diligence law.
- **United Kingdom:** the [Modern Slavery Act 2015](#) requires companies with an annual turnover of over £36 million to publish a statement detailing steps taken to address modern slavery risks. It does not mandate due diligence itself, although the Independent Anti-Slavery Commissioner has recently recommended a new legislative obligation.

- **New Zealand:** does not currently have modern slavery legislation, although a Members Bill was introduced this year that would require reporting but not mandatory due diligence.
- **Canada:** does not have a mandatory due diligence obligation, nor are we aware of any government commitment to introduce one, but a reporting regime that is similar to Australia's exists under the [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#).
- **European Union:** as part of broader competitiveness and regulatory simplification measures, the EU directive on corporate sustainability due diligence (including modern slavery) will now only apply to EU companies with both more than 5,000 employees and above €1.5 billion net turnover worldwide. Companies will have to comply with the measures by July 2029.
- **France and Germany:** France's 2017 [Corporate Duty of Vigilance Law](#), which requires companies establish, publish, and implement a "vigilance plan", applies to large companies employing at least 5,000 employees in France or 10,000 worldwide (including subsidiaries). Germany's Supply Chain Act requires human rights due diligence, but the threshold for compliance is having at least 1,000 employees in Germany.
- **Italy and Spain:** other major EU economies such as Italy and Spain do not have national modern slavery or human rights due diligence laws.
- **Japan:** does not have a specific modern slavery legislative regime. Japan, which is seen to be the human rights leader in Asia, promotes *voluntary* human rights due diligence through the 2022 [METI Guidelines on Respecting Human Rights in Responsible Supply Chains](#).

The above overview demonstrates that there has been very limited global mandating of modern slavery due diligence obligations. In the few jurisdictions where an obligation has been introduced, the thresholds are far greater than the low threshold under the Act and supported by the Position Paper (\$100m revenue).

Finally, we note that the introduction of a mandatory due diligence obligation will significantly increase the regulatory burden on companies. Recent research from Mandala Partners, commissioned by the AICD, found that the cost of federal regulation on Australian business had risen to around \$160bn a year, more than double the cost a decade ago.

This will be particularly problematic for reporting entities that may already have due diligence reporting obligations across multiple jurisdictions (e.g. under the European Union's [Corporate Sustainability Due Diligence Directive](#) referred to above).

In summary, the impact of a mandatory due diligence obligation should not be underestimated, and it is too soon to introduce this considerable new compliance burden. With current data demonstrating that many entities are struggling to meet their existing obligations, upskilling those entities should be the focus for the medium term. More fundamentally, we would welcome much greater attention on right-sizing Australia's modern slavery regime given its broad coverage when compared with other jurisdictions.

Application and phase-in of any new obligation

If the Government does proceed, despite industry concerns, with the introduction of a mandatory due diligence obligation, a significant and flexible phase-in period would be required.

Current practice suggests that a two-year phase-in period as proposed in the Position Paper will not be sufficient for most reporting entities, although some sophisticated multi-jurisdictional actors and the Australian Government may be able to meet this deadline.

For many other entities under the Act, a considerably longer period would be required. As the Update demonstrates, even some ASX 100 entities are struggling to manage their obligations. When it is considered that NFPs, SMEs and Aboriginal and Torres Strait Islander entities have considerable limitations on their resources, it becomes evident that a two-year deadline is not practicable.

Proposed content of due diligence obligation

In addition to the practical challenge in reporting entities to meet the existing reporting requirements, the AICD notes the considerable difficulty in specifying the content of a due diligence obligation. 'Due diligence' is defined in the Position Paper as 'human rights due diligence and related remediation processes as outlined in key international standards: the UNGPs and OECD Guidelines.' The Position Paper also states that the due diligence obligation should:

- Be proportionate to the entity's size, operating context, ownership and structure;
- Be commensurate with the severity and likelihood of modern slavery risks and impacts; and
- Allow flexibility to entities to tailor their efforts to what is proportionate.

While the AICD supports proportionality and flexibility, this also means that there is a wide range of behaviours that may meet the definition, and the ability to have significantly different perceptions on what fulfils the statutory obligation. This could lead to significant confusion and a large diversity of interpretations of what is required. These factors will combine to ultimately drive higher compliance costs.

The Position Paper also sets out eight steps in the due diligence process: embedding due diligence, identifying and assessing risks, taking action to address risks, tracking the effectiveness of those actions, communicating how risks are addressed, having grievance mechanisms in place, remediation and stakeholder engagement. Given that this is a complex, multi-step process, that involves assessment of what is 'reasonable measures' at each stage in the process, it may be beyond the existing capabilities of many reporting entities.

The AICD recommends that, instead of introducing a mandatory due diligence obligation, the Government and the Commissioner focus on developing extensive guidance for what is involved in each step and to assist entities to determine what is reasonable. This would allow for an education campaign that will support reporting entities meet their existing obligations and begin to incorporate more robust due diligence into their current practices.

Only once maturity has risen, what good looks like is clearer, and the Government has taken more comprehensive steps to support industry with managing supply chain risks, will it be appropriate to review current settings and consider whether further obligations are necessary.

Again, the recent shift in approach from the European Union to support competitiveness and regulatory simplification is instructive.

Need for guidance if Government proceeds with a mandatory due diligence obligation

If the Government does proceed with the inclusion of a mandatory due diligence obligation, there will be a need for extensive guidance. Detailed guidance will be required to help entities understand what is 'reasonable measures' to carry out and report on due diligence, in recognition that no one size fits all and entities need flexibility to determine what is appropriate within their own resources and capabilities.

The guidance would need to do the following at a minimum:

- Set clear expectations on the level of detail required to be undertaken as part of due diligence, with illustrative, worked examples.
- Set out factors and indicators relevant to reasonableness, including entity size, severity and likelihood of risk, proximity to risk, costs, mitigating measures and any other relevant factors.
- Include tailored guidance for different segments of reporting entities – for example those operating in high-risk sectors as well as NFPs, SMEs and Aboriginal and Torres Strait Islander organisations that are likely to be resource-constrained. For the latter, resource-constrained cohort, it is critical that guidance outline low cost, simple steps that entities can take.

Given that this kind of guidance is not currently available, the AICD reiterates its position that it is too soon to introduce a complex new due diligence obligation and that it is unreasonable to expect that reporting entities would have the capacity to comply with any such obligation.

Recommendation 2: Mechanism for the Commissioner to declare a product, industry or service carries a high risk of modern slavery, and require entities to have regards to declarations

The AICD supports a mechanism for the Commissioner to declare that a product, service or industry carries a high risk of modern slavery. We consider that the Commissioner is well positioned to support compliance with the Act in this way, provided that the Commissioner draws on advice and information from other relevant government agencies. The AICD has consistently advocated for this mechanism, as we believe that publishing such declarations would support entities to manage their obligations.

This mechanism would:

- Support due diligence on existing supply chains in accordance with the Act;
- Help inform decisions for organisations prior to entering new supplier arrangements - particularly where the degree of risk may not be well understood;
- Provide a trusted, localised source of data, in a landscape where current data on modern slavery is variable in quality and is not focused on Australia or Australian entities operating internationally;
- Save entities having to undertake expensive investigations – particularly in circumstances where there may be competition issues that mean several companies have to individually undertake the same investigations; and
- Avoid businesses being exposed to geopolitical risks, as can occur when individual organisations must make their own assessments. For example, we have heard of businesses being penalised by certain state actors for identifying modern slavery risks in those states. A declaration would offer an objective, arms-length assessment to point to.

Process for declarations

The AICD supports the Position Paper's proposals for how declarations are assessed and made, including that the declarations can be initiated by the Commissioner or by an external complaint, and that declarations be published on a public register.

The AICD supports the Position Paper's proposal that declarations should be reviewed at least every two years and will expire after three years unless renewed.

This declaration function should require the Commissioner to work collaboratively with Australian Government departments and agencies to consider, recognising that the Commissioner, acting alone, may not have all relevant information to make an informed assessment.

Entities having regard to declarations – no new statutory obligations

There should be no new statutory obligations on reporting entities linked to the Commissioner's proposed declarations. Given the difficulties outlined above in relation to meeting existing reporting obligations, it is important that there is not a layering of new obligations. If the model proposed in the position paper were adopted, it would invest the Commissioner with significant new statutory powers, and create a rolling set of new obligations for entities to track and implement.

As noted above, the AICD supports a more comprehensive rethink of the modern slavery regime, away from broad-based application and towards a focus on high-risk sectors. For so long as the regime continues to apply to thousands of entities, as it does with its existing \$100m revenue threshold, regulatory burden considerations must be carefully considered.

Need for guidance

To support the practical impact of declarations, the AICD endorses the declarations themselves giving recommendations for how reporting entities can address the declared risk. Such recommendations are likely to significantly enhance their practical impact, without being overly prescriptive and removing the accountability of entities to manage their obligations in their specific operating environment.