

# TYPOLOGIES AND INDICATORS OF MODERN SLAVERY

**Working Paper**

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Australian Banking  
Association



Australian Banking  
Association

The Australian Banking Association (ABA) has collaborated with KPMG Australia (KPMG) to release a first edition working paper on the role of the Australian banking industry in combatting modern slavery, with a specific focus on the common typologies and indicators of modern slavery in high-risk sectors in Australia.

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KPMG would like to acknowledge the contribution of Richard Boele, KPMG Australia Chief Purpose Officer and Partner-in-Charge KPMG Banarra, Sarah Minahan, Manager Human Rights and Social Impact, Dr Meg Brodie, Jessica Wyndham, Nana Frishling, Amelia Bruce, Naz Jacobs, and Fang Yuan of the KPMG Banarra Human Rights and Social Impact team.

Many business leaders and experts in human rights, supply chain and financial crimes and investigations also contributed valuable insights and expertise.

**“Financial institutions may be connected to modern slavery and human trafficking through their own operations, or through their business relationships. Because the financial sector is so intertwined with the rest of the economy, financial sector action can help change the way the whole global economy works. The financial sector has a unique opportunity, at this critical juncture, to lead the transformation of our global economy to address modern slavery and human trafficking.”**

**FINANCE AGAINST SLAVERY AND TRAFFICKING INITIATIVE<sup>1</sup>**





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# ABOUT

**“At the core of modern slavery is a desire by one or more people to exploit the freedom of others for personal financial gain. There is no room for such abhorrent practices in our modern world. The banking sector will do its part in helping to identify potential cases of such gross violations of human rights. Banks have come together to share knowledge and to develop a common understanding of the face of modern slavery in Australia. This document is the outcome of that shared knowledge and a starting point for future collaborations.”**

**ANNA BLIGH AC, CEO OF THE  
AUSTRALIAN BANKING ASSOCIATION**

This first edition working paper was developed through an Australian Banking Association (ABA) Modern Slavery Working Group industry collaboration with KPMG Australia (KPMG). It seeks to provide a point of reference for ABA member banks to operationalise modern slavery risk identification and management.

Modern slavery is a pervasive issue across many sectors, industries, and geographies, and requires a collective response from governments, regulators and authorities, communities, and the corporate sector, including banks. This working paper was developed to support that effort by creating a shared understanding of the banking industry’s intersections with, and role in addressing, modern slavery. It collates various resources, expertise, and the experiences of ABA members to provide an overview of the current modern slavery risk landscape and the banking industry’s response.

This working paper does not provide an agreed, implementable protocol for the Australian banking industry nor does it prescribe any obligations on individual banks. The ABA does, however, encourage members to embed the shared learnings and approaches into their internal policies and processes.

To demonstrate and support operationalisation, this paper provides practical applications of modern slavery typologies and indicators in extractable high-risk sector guides for the agriculture and construction sectors.

## Note

Modern slavery can take various forms, including human trafficking and smuggling, slavery and slavery-like conditions (including forced labour, labour exploitation, debt bondage, domestic servitude, forced marriage, sexual exploitation and child exploitation).

This edition focuses on the typologies and indicators of forced labour, labour exploitation and debt bondage – it does not delve into the typologies of human trafficking and smuggling, servitude, forced marriage, sexual exploitation, or child exploitation (acknowledging the already established body of work on human trafficking and smuggling and the ongoing work of Australian banks in understanding sexual exploitation and child exploitation).

Future editions of this working paper can expand on the typologies and indicators associated with these forms of modern slavery as they emerge and develop over time – and can further include additional high-risk sector guides.

1.

# WHAT IS MODERN SLAVERY AND HOW IS IT RELATED TO THE BANKING INDUSTRY?

# The reality is that modern slavery is conducted primarily for financial gain through the theft of labour to reduce costs or increase revenue.

As this is often done illegally and must be hidden, it can co-exist with other crimes (particularly financial crimes such as money laundering, fraud, and terrorism financing) and is closely associated with broader issues of corruption, bribery, and financial abuse – all of which the Australian banking industry have a key role in detecting.

While there is no globally agreed definition of ‘modern slavery’, it is widely used as an umbrella term that refers to a range of serious human rights violations, which are also crimes in international and Australian law. These can take various forms, including human trafficking and smuggling, slavery and slavery-like conditions (such as forced labour, debt bondage, labour exploitation, domestic servitude, forced marriage, sexual exploitation or child exploitation) – any situation where coercion, threats or deception are used to exploit people and deprive them of their freedom. Modern slavery describes the worst forms of labour exploitation, and does not include all practices of substandard working conditions or worker underpayment. These practices may be present in some incidences of modern slavery and may escalate to modern slavery if left unaddressed.

The industry has a critical role to play in examining its connections to modern slavery, detecting and reporting potential cases of modern slavery to the relevant authorities for investigation, and taking steps to embed appropriate human rights due diligence and address harm.

Monitoring and managing the industry’s connections to modern slavery is key to fulfilling these roles and requires bank-wide awareness of modern slavery and how it presents, as well as internal and external information sharing and industry-wide collaboration. The following sections, *Understanding How Modern Slavery Works* and *Your Role in Addressing Modern Slavery*, alongside the high-risk sector guides for agriculture and construction, aim to support these activities.



The UN Guiding Principles of Business and Human Rights (UNGPs)<sup>2</sup> and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises<sup>3</sup> set out that business' involvement in human rights sits along a continuum whereby they can '*cause*', '*contribute to*', or be '*directly linked to*' risks or impacts. This can also be applied in the context of modern slavery.

Businesses that have 'caused' or 'contributed to' adverse human rights impacts should take **immediate and necessary steps to cease or prevent the impact** and use its leverage to mitigate any remaining impact to the greatest extent possible and **participate in their remediation** through legitimate processes.

Businesses that are 'directly linked' to human rights risks or impacts should **use their leverage to prevent or mitigate harm** or increase leverage where it is lacking and consider playing a role in providing remediation.

### Causation

When a business' acts or omissions result in human rights impact(s), such as charging employees for training that they are indebted to repay through labour or facilitating the forced sexual exploitation of children.

### Contribution

When acts and/or omissions increase the likelihood of human rights impact(s) experienced, such as downward pressure on suppliers to reduce costs which may affect their ability to satisfy contracts without impacts on their workforce or providing a loan to a construction business that has modern slavery in its workforce.

### Directly linked

When human rights impacts are not attributable to the business but there is a **connection through operations, products, or services by a business relationship**.

Through its cross-sector and industry relationships, the banking industry's connections to modern slavery are greatest through contributions and direct links across its:

### Financial products and services

Products e.g. Financing a construction project that benefits from modern slavery. Services e.g. Facilitating 'laundering' of modern slavery proceeds, including use of off-shore business structures, conversion to cryptocurrencies and foreign exchange trading.

### Corporate operations

e.g. Off-shore and managed services, such as call centres in countries with increased human rights risks, and use of third-party labour hire agencies for temporary or peak work periods.

### Corporate supply chains

e.g. Tier 1 and beyond spend in high-risk sectors, product and services, such as the construction sector for building new offices and facilities, cleaning and other facilities management services, and farmed products such as flowers, fruit and vegetables for offices and catered events.



2.

# UNDERSTANDING HOW MODERN SLAVERY WORKS

**Modern slavery risk exists across many sectors and industries. The banking industry's exposure to modern slavery risk arises from various sources, such as supplier relationships, lending, investments, joint ventures and other business relationships, but also the customers' misuse of products and services to facilitate the proceeds of crime.**

Remember, modern slavery exists as an illegal method of creating financial gain; it is part of a business model that requires financial transactions to operate, creating a potential link to banks through their products and services.

There are four key factors which elevate the risk of modern slavery: vulnerable populations; high-risk business models; high-risk categories; and high-risk geographies.<sup>5</sup> This risk increases under circumstances where multiple high-risk factors co-exist.

Australian banks can use these risk factors as a first step, to identify and map critical areas of modern slavery risk, including those areas where a bank's:

- Customers, suppliers or business partners are susceptible to experiencing modern slavery (or are likely to be perpetrating or facilitating modern slavery).
- Financial products or services are being used to facilitate proceeds of modern slavery.

### **Vulnerable populations**

Personal characteristics or circumstances that may lead people to be more susceptible to harm.

### **High-risk business models**

Practices that reduce visibility between product or service beneficiaries and the provider's labour conditions.

### **High-risk geographies**

Locations where human rights protections are weaker or obscured from oversight.

### **High-risk categories**

Known high-risk products and services, based on the confluence of the above risk factors, which are often sector specific.<sup>4</sup>

## Key actors<sup>6</sup>

Understanding who may be involved in modern slavery allows Australian banks to explore the different characteristics of its customers, suppliers, and business relationships. Behavioural or demographic indicators of a bank's customers, suppliers, or business partners (including those described in **Section 4**) may reflect the characteristics of one or more of these key actors.

### Victims

May be initially willing participants, recruited with job offers that misrepresent the working conditions, wages, and the ability to safely leave the job. In some cases, victims may be charged illegal and exorbitant recruitment fees, which may be a method of control to keep workers in abusive situations. Victims are forced to work directly for perpetrators on sites that they own or control, or on premises of other businesses procuring the perpetrator's services.

### Perpetrators

Range from a single person exploiting their victim to coordinated networks of facilitators affiliated with organised crime. Many are wealthy individuals, sometimes from migrant victims' home country. Human traffickers typically work with friends, trusted associates, family members, partners/intimate partners, or, in modern slavery situations involving sexual exploitation, other females involved in prostitution.

### Intermediaries

Are organisations or individuals such as agencies, recruitment agents and gangmasters that source, train, deploy and fire workers on behalf of another business, who may be legitimate and unaware of the intermediary's illegal practices. Intermediaries can also act as facilitators or agents between perpetrators and those experiencing modern slavery, involved principally in human trafficking and trade, but can also retain a relationship with forced labourers, and may indeed be the actor exercising control over them.

### Ultimate buyers

Are organisations that purchase products or services from another business that is engaged in modern slavery practices. They are typically legitimate businesses, such as banks, that are unaware of their suppliers' illegal behaviour, though may be a contributing factor given the downward pressure they apply on price and time-to-delivery. Although lenders and investors are not the same as ultimate buyers, it is worth acknowledging here the role of banks in providing loans or investments to businesses engaged in modern slavery practices.

# Modern slavery business models<sup>7</sup>

Understanding the different business models behind the crime allows Australian banks to explore the ways perpetrators, intermediaries and buyers exploit legitimate business practices and financial institutions – and the ways in which they profit from modern slavery. Behavioural and transactional indicators (including those described in **Section 4**) may reflect financial transactions associated with actions that facilitate one or more of these business models.

## 01

### A risk reduction business model

Is employed to reduce the risk of detecting that illegal practices are being used to either reduce cost or increase revenue. This model is common in contexts where perpetrators in legal industries, often who are subject to external oversight due to geographic location or supply chain position (e.g. farms that submit to social compliance audits for supermarket buyers), are using illegal labour (e.g. workers without valid working rights or not of legal working age). It is also common of perpetrators engaged in illegal markets.

An example of this model in practice, particular to the construction sector, is the restriction of freedom of workers by co-locating workers in (often overcrowded) accommodation and transporting them to and from this accommodation and worksites. These workers may not have working rights or may be forced to work beyond visa conditions, and do not receive a legal wage, which allows the perpetrator to both reduce costs and preserve business viability. Perpetrators may not initially intend to engage in modern slavery, but a risk reduction model can eventuate through gradual degradation of worker conditions to preserve profit margins – usually due to downward buyer pressure on price.

## 02

### An asset leveraging business model

Is where a perpetrator uses their own and/or workers' (victims') assets to create additional revenue streams, such as operating a farm (primary business) as a bed and breakfast or using workers' personal identification documents to access loans or government benefits. This can also serve as a cost minimisation strategy where workers are charged for accessing the perpetrator's assets as 'ancillary services', significantly reducing their earnings.

An example of this model in practice, particular to the agriculture sector, is the use of visa workers and/or on-site hosting/accommodation of workers, typically in rural or isolated parts of the country. Workers have little to no means of accessing community support or meeting their own basic living necessities, which forces a reliance upon their employer. This can result in denial of access to basic living necessities and labour exploitation, such as under-payments of the hourly wage, non-payment for time worked or breaches of visa working conditions.



## 03

### **An evasion of legal minimums business model**

is driven by an intermediary's need to reduce labour costs. For example, an agency outsourcing or subcontracting labour to other intermediaries. This outsourcing reduces profit margins further, which leads to exploitative practices that are more difficult to detect due to the complex relationship between victim and ultimate buyer. 'Illegal phoenix activity', whereby intermediaries enter planned administration to avoid making minimum legal payments, including wages and taxes, is a common feature of this modern slavery business model.

Common examples of this model in practice, across both the construction and agriculture sectors, include the misclassification of workers as independent contractors (which limits their access to worker protections and benefits) and the use of straw directors, third party labour hire or payroll services and illegal phoenix activity (leading to non-payments and the loss of worker wages and entitlements).

## 04

### **A workers as consumers business model**

is where an intermediary creates revenue by charging workers excessive fees for ancillary products and services, such as accommodation, transportation, and equipment. This is similar to the asset leveraging business model, however, charging victims is central to the operation of this model as it both minimises costs (reduces payable wages) and creates a situation of debt bondage. The intermediary may even, seemingly paradoxically, intentionally underutilise their workers to create and perpetuate debt.

A common example of this model in practice, across both the construction and agriculture sectors, is the non-compensation of worker expenses for basic equipment and materials (such as personal protective equipment (PPE)) and charges for transport to and from the work site and accommodation.

**The first two models focus on the concept of the producers of goods or services as perpetrators of modern slavery. The second two models introduce the concept of a labour market intermediary as a facilitator or perpetrator of modern slavery.**

## HYPOTHETICAL CASE STUDIES

### A RISK REDUCTION BUSINESS MODEL

A farmer (perpetrator) in a regional location (risk factors: high-risk categories and geographies) also runs an unregistered firing range business on his property for extra income.

Farm workers (victims) have their freedom of movement off the farm restricted and their personal identification documents confiscated, minimising the risk they will reveal illegal practices to authorities or other third parties.

When social compliance audits of the farm are undertaken, workers are coerced to conceal the illegal business and do so out of fear of violence or that their personal documents will be destroyed.

### AN ASSET LEVERAGING BUSINESS MODEL

Dozens of young foreign students (victims) (risk factor: vulnerable populations) have their personal identification documents, originally provided as evidence of working rights, used to apply for bank loans.

Bank accounts are set up to receive the loans, which their employer (perpetrator) accesses using debit cards. The victims' passports are withheld, and they are coerced into working greater hours than their visas will allow, creating fear of deportation for violation of visa conditions if they alert authorities to the perpetrator's behaviour.

### AN EVASION OF LEGAL MINIMUMS BUSINESS MODEL

A network controller (perpetrator) establishes a network of labour hire companies and one payroll company (intermediary) for the network (risk factor: high-risk business models).

The labour hire companies are contracted to provide services to legitimate businesses (ultimate buyers). These businesses make payments to the labour hire companies for services provided, inclusive of wages, taxes and superannuation. The labour hire companies transfer these funds to the payroll company which makes wage payments, often in cash, and makes no (or negligible) compulsory taxation or superannuation payments.

The payroll company is placed into administration within 24 months of registration, absolving obligations to make legally owed payments. The controller sets up a new payroll company and the cycle commences again.

### A WORKERS AS CONSUMERS BUSINESS MODEL

Dozens of migrant workers (victims) (risk factor: vulnerable populations) are working on a construction site (risk factor: high-risk categories). The site is managed by a major firm who subcontracts to a major subcontractor. This subcontractor, a bank customer, subsequently subcontracts to a small company (perpetrator) who employs the migrants (risk factor: high-risk business models).

The company is excessively charging the workers for use of various assets including accommodation, with no alternatives available, which reduces their earnings to far below minimum wage and creates dependency on the perpetrator, allowing the exploitation to continue.

3.



# THE ROLE OF BANKS IN ADDRESSING MODERN SLAVERY



**The banking industry has the potential to, and must, play a significant role in addressing modern slavery. The practice of legislative and regulatory compliance related to modern slavery and financial crime, whilst important, is insufficient.**

There is increased expectation and pressure on the banking industry to leverage its position and resources to address modern slavery, such as the detailed recommendations that emerged from the Finance Against Slavery and Trafficking (FAST) Initiative,<sup>8</sup> which include specific guidance and tools for banks to identify and address human rights impacts.

Given the banking industry's potential for connections to modern slavery through its products and services, corporate operations, and supply chain, addressing modern slavery requires a multi-functional approach. No one team or business unit can address modern slavery alone, and human rights due diligence should be embedded across banks' value chains and decision-making.



# Combating modern slavery through embedded human rights due diligence



## Relevant business units

Relationship managers (institutional, small and medium enterprise (SME), corporate, and retail), procurement, communications, human resources, sustainability, risk and compliance, legal, investor relations, and corporate affairs.

Foundationally, the efforts of the Australian banking industry to combat modern slavery should be grounded in embedding the human rights due diligence framework outlined by the UNGPs.<sup>9</sup> This includes the development of systems and processes that identify and address modern slavery risk, and ultimately mitigate and account for harm to people.

A comprehensive body of guidance exists to support businesses as they embed human rights due diligence across operations and supply chain activities.

Whilst this is not the focus of this working paper, it is important for Australian banks to orient their approach to identifying and responding to modern slavery typologies and indicators.

There are three key aspects to the role the banking industry must play to address modern slavery, as part of an embedded human rights due diligence approach:

## 01

Identifying and monitoring modern slavery risk, and harm, across customers, suppliers, and other business relationships.

## 02

Leveraging influence to encourage respect for human rights.

## 03

Responding where risk may, or has, become harm.

## 01

# Identifying and monitoring modern slavery risk, and harm, across customers, suppliers and business relationships



## Relevant business units

Frontline/branch staff, relationship managers (institutional, small and medium enterprise (SME), corporate, and retail), security, procurement, financial crime, and sustainability.

There are a range of ways in which Australian banks can identify possible modern slavery across their customers, suppliers, and other business relationships. This can be done through a combination of customer and third-party due diligence processes and ongoing monitoring of behaviour, changes in demographic characteristics, and financial transactions to assess for key indicators of modern slavery.

Bank staff interacting with customers and suppliers are well placed to identify and monitor modern slavery risk through behavioural and demographic indicators, as well as determining inherent and residual risk through mechanisms such as Know Your Client/Know Your Supplier checks, criteria included in requests for tender, questions embedded into on-boarding processes, and performance monitoring throughout the life of a relationship with customers or other third parties.

Adverse media scans and open data sources are also available as additional inputs to monitor for indicators or determine risk ratings.

### Open data sources that can support determination of risk ratings include:

- [Global Slavery Index](#)<sup>10</sup> (biennial)
- [US Department of Labor List of Goods Produced by Child or Forced Labor](#)<sup>11</sup> (biennial)
- [Transparency International Corruption Perceptions Index](#)<sup>12</sup> (annual)
- [WJP Rule of Law Index](#)<sup>13</sup> (annual)
- [Trafficking in Persons Report](#)<sup>14</sup> (annual)
- Company websites, chat forums, social media platforms, advertisements, and news publications

Internal Environmental, Social and Governance (ESG) Risk and/or sustainability staff and external specialists can play an important role in supporting banks to assess information gathered and make determinations regarding risks, ratings and support check-ins and engagement.

## With respect to customers and/or the users of a bank's financial products and services, banks may consider incorporating a range of indicators into their monitoring programs that can be used to identify possible victims, perpetrators, and intermediaries of modern slavery.

A bank's ability to apply these indicators will depend on their access to the relevant information sources. Additionally, wider contextual information (such as those related to the four modern slavery risk factors, for instance, jurisdictional risk associated with high-risk geographies) and a certain element of human judgement should be used to supplement the use of indicators in transaction monitoring.

For example, some of these indicators may be directly observable or visible to bank staff during daily interactions or visits to client sites (in which case staff could alert the bank to initiate a review of the customer's transactions). Some of these indicators may only be visible through analysing the demographic and transactional profile of the customer (as part of reviewing a customer's demographic information or transactions at the account level). Some indicators may also only be visible through relationship-level reviews of a customer's transactions (as part of analysing a customer's transactions across multiple accounts to provide a comprehensive view of the customer's behaviour and transactional activity).

Note that, in applying these indicators, no one indicator alone is sufficient to identify modern slavery. Repeated presentation, patterns, and intersection with additional indicators and data sets (including contextual and jurisdictional information) is required to triangulate an understanding and assessment of modern slavery risk.

Additionally, due to the complex and illicit nature of modern slavery, and the various forms in which it can manifest, modern slavery indicators may be associated with a range of different presentations (such as human trafficking or sexual exploitation), other forms of human impact and financial crime (such as money laundering and terrorism financing), and broader social issues (such as financial abuse in relation to domestic and family violence or elder abuse).

Separating out these indicators across different forms of modern slavery allows for more focused investigation and reporting of suspicious behaviours and transactions.

Using a broad combination of primary and secondary indicators allows for banks to 'follow-the-money', by first identifying where suspicious transactions or financial flows may be a result of the proceeds of a range of various crimes, and then linking those proceeds to a specific form of modern slavery exploitation. For example, using a broad range of primary indicators to flag the possibility of money laundering, which then triggers an investigation into a range of secondary indicators that associate the potential money laundering activity to a horticultural business in rural Australia with a significant reliance on student holiday visa workers.

## This edition focuses on the typologies and indicators of forced labour, labour exploitation and debt bondage. Future editions can expand on the typologies and indicators associated with other forms of modern slavery.

Three broad categories of indicators<sup>15</sup> exist:



### Behavioural

These indicators may be witnessed by front-line staff who may interact with key actors in modern slavery business models, such as the bank's customers, suppliers, and other users of the bank's services. This includes employees working in branches, security who monitor behaviour in and around branches and ATMs, or relationship managers who visit client and supplier sites. It is recommended that these indicators be incorporated into training given to all front-line staff, and any individuals in the institution who may find themselves in direct contact with customers or suppliers.



### Demographic

These indicators relate to data captured about a customer or supplier and the nature of their earnings and business operations, as well as relationships between customers and third parties. Gathering and overlaying demographic data regarding identifiable characteristics, such as geographies, addresses and business types, can support assignment of an inherent modern slavery risk rating and be used to triangulate where risk is highest or may have become harm. It is recommended that teams involved in on-boarding customers and suppliers are made aware of the importance of data they are gathering, and that they and other risk and financial crime teams understand how these characteristics relate to modern slavery risk.



### Transactional

These indicators are used to support the identification of suspicious transactions and transaction patterns. Some indicators may be built into detection scenarios to generate alerts, while others may be better identified through human judgement, to consider whether a transaction profile is in line with the expected activity of the customer. Other indicators may be overlayed where alerts have been generated as an additional screen to try and exclude false-positives and secure greater confidence in risk identification.

*These three categories of indicators build upon the established work of the Mekong Club/Asia Pacific Banks Alliance<sup>16</sup> and the in-house work of ABA members.*



## 02

# Leveraging influence to encourage respect for human rights



### Relevant business units

Relationship managers (institutional, small and medium enterprise (SME), corporate, and retail), procurement, communications, human resources, sustainability, risk and compliance, legal, investor relations, and corporate affairs.

Linking these indicators back to a foundational human rights due diligence framework, it is important to remember that the UNGPs<sup>17</sup> expect that:

- Where a business has contributed to (or may contribute to) an adverse human rights impact, that it takes the necessary steps to cease or prevent its contribution and uses its leverage to mitigate any remaining impacts to the greatest extent possible.
- Leverage exists where the business has the ability to effect change in the practices of the entity that caused the harm, which banks are often uniquely positioned to do.

The OECD's guidance, Responsible Business Conduct for Institutional Investors and Due Diligence for Responsible Corporate Lending<sup>18</sup> further encourages businesses to **use their leverage to prevent or mitigate harm or increase leverage where it is lacking.**

**Leverage, in this context, is the ability for an entity to 'effect change in the wrongful practices of an entity that causes a harm' and could include collaboration with peers or other stakeholders, use of board positions and proxy voting rights, or direct engagement with investees.<sup>19</sup>**

## The banking industry has four key spheres of influence (and often significant leverage within these spheres), and these present clear opportunities for banks to drive a cross-sectoral risk mitigation approach and response to modern slavery.

### Within the bank

Communications, ESG Risk, Financial Crime, Sustainability, Human Resources, and other teams from across the bank may be involved in raising organisational awareness of the banks' commitments around human rights and modern slavery, communicating roles and responsibilities, and developing the necessary training and support to successfully fulfil them. This includes equipping front-line staff, business relationship owners, sector-based business teams, financial crime teams, and data analysts with sufficient knowledge on the typologies and indicators of modern slavery, including how it manifests in particular sectors and jurisdictions, so that they can meaningfully support its detection and reporting.

### Within business relationships

**(including institutional customers, joint venture partners, alliances, and investees)**

Relationship Managers, Procurement, Sustainability, Risk and Compliance, Legal, and Investor Relations teams all have a role to play in leveraging and enhancing influence across business relationships, particularly with businesses that operate in high-risk sectors or jurisdictions or which intersect with high-risk business models.

How deeply banks choose to engage on modern slavery in their business relationships should be relative to risk and influence and can sit on a continuum between a compliance and continuous improvement focus. The ability of individual banks to enhance and exert influence is also subject to a unified sector approach, whereby establishing a relationship with an alternative bank will also require a similar response to modern slavery.

Intentionally communicating the bank's own commitments regarding human rights/modern slavery (by directly sharing public policies or statements) provides a clear indication of expectations, which may be reinforced through mechanisms such as due diligence processes (for example, Know Your Customer, Know Your Supplier, and investment or loan assessments), contractual clauses and key performance indicators (for example, compliance with relevant legislation, completion of self-assessment questionnaires on modern slavery risk controls, and actions to improve their risk management), and direct engagement, training or improvement plans where gaps are identified.

## Within wider society

(including business, government, and community)

ESG Risk, Financial Crime, Corporate Affairs, Communications, Sustainability, Legal teams, and the wider workforce can play an important role in influencing greater respect for human rights across society. This may be through transparent communications and awareness-raising activities such as public reporting, participation in modern slavery-related events and public discourse, and advocacy in modern slavery policy and industry standards, which all serve as vehicles for banks to influence collective uplift in society's response to modern slavery.

## With peers, regulators, and law enforcement

Corporate Affairs, Communications, ESG Risk, Sustainability, Legal, and Financial Crime teams should play an active role in enabling day-to-day conversations with peers, participating in collaborative initiatives to share learnings (such as the ABA Modern Slavery Working Group), directing investment into research, and enabling strategic partnerships to mobilise and scale prevention and remediation activities.

The [Liechtenstein Initiative's Financial Sector Commission on Modern Slavery and Human Trafficking \(FAST\): Blueprint for Mobilizing Finance Against Slavery and Trafficking](#),<sup>20</sup> highlights where this engagement and collaboration can drive real impact – for example, by: working together to strengthen compliance with anti-money laundering (AML) and counter-terrorism financing (CTF) laws, through advocating for peers to devote more resources to financial investigations; sharing information and analysis over known typologies and indicators of suspicious transactions related to modern slavery (as appropriate); and fostering public-private initiatives or platforms with regulators and law enforcement to enable improved information sharing and strengthen suspicious matter reporting.

### 03

## Responding where risk may, or has, become harm



### Relevant business units

Frontline/branch staff, relationship managers (institutional, small and medium enterprise (SME), corporate, and retail), security, procurement, financial crime, legal, risk and compliance (including ESG), and sustainability.

Clarifying ownership of modern slavery risk within the business provides the necessary foundation for establishing internal escalation pathways when modern slavery risk is persistently high and may have become harm.

Ownership and accountability for steering and ensuring consistency in the bank's response to modern slavery risk should sit at a senior level of the bank with a direct, or indirect, line of communication to the Board (or equivalent). Accountability can sit with a particular individual or function or can be shared in the form of a multi-functional committee or working group of business leaders (with a broader remit that may extend to human rights or sustainability). In practice, this depends on the bank's risk appetite, resources, and ambition.

Key accountabilities are critical to ensuring robust internal communications, knowledge-sharing, and the triggering of escalation pathways where modern slavery indicators are present (or modern slavery risk ratings in supplier and other business relationships are persistently high, despite engagement).

All business units that have a role to play in identifying and responding to modern slavery should be aware of and have access to an internal communications and knowledge-sharing mechanism.

### These may look like:

- The ability to tag customers or suppliers with 'red flags' when indicators have been identified.
- A hotline or email that can be contacted, or form that can be submitted to raise concerns.



Escalation may result in several activities, such as; an **investigation by specialised teams and/or external specialists** into the customer or organisation in question (before making a determination of suspiciousness); **submission of suspicious matter reports (SMRs) to AUSTRAC** in line with regulatory obligations (in Australia, banks have an obligation to report within a timely manner as soon as a suspicion has been formed, i.e. within 3 days or 24 hours if concerns involve terrorism); and determination of the viability of retaining the existing relationship.

Exiting a relationship curbs the bank's ability to influence an uplift in behaviour, and any decision to do so should be contemplated in line with the bank's risk appetite.

When a bank becomes aware that **risk has become harm**, actions to ensure the **victims' removal from harm** should be a priority through reporting to and cooperating with appropriate authorities and victim support groups as required.

4.

# HIGH-RISK SECTOR GUIDES



**“...Cases of forced labour exploitation in Australia predominantly occur in industries considered at risk, including agriculture, construction, domestic work, meat processing, cleaning, hospitality, and food services...”**

GLOBAL SLAVERY INDEX, 2018<sup>21</sup>

## The following sections of this working paper are extractable high-risk sector guides for agriculture and construction.

Future editions of this working paper can include additional high-risk sector guides.

**A consistent format and structure have been applied to each guide:**



### Modern slavery risk factors in the sector

An overview of the modern slavery risk factors that are inherent to the sector, including the typical actors, vulnerable populations, and high-risk business models and categories that expose the sector to a higher level of risk of modern slavery occurring.



### Case studies

Examples of current and typical scenarios of modern slavery in the sector to demonstrate how the information presented manifests, with the purpose of supporting staff training and operationalisation of modern slavery risk identification and management.



### Common typologies

A description of the general characteristics of the common victims, perpetrators and intermediaries of modern slavery business models in the sector.



# Agriculture

The agriculture sector (encompassing agricultural, forestry, and fishing activities) is widely known to face high risks of modern slavery, both in Australia and globally,<sup>22</sup> because of its intersections with high-risk geographies, high-risk business models and vulnerable populations, alongside the seasonality of work (which can be further compounded by instability created by weather events) and often downward price pressure on products.

Banking activities and operations intersect with this sector in various ways.

Some examples include lending to agricultural businesses and grocers, holding business accounts for agricultural businesses and grocers, holding retail accounts for workers, and corporate spend such as purchasing goods from supermarkets, grocers and florists, or catering for offices or events.

It is important to understand where banking activities and operations intersect with the agriculture sector, to ensure appropriate processes are in place to monitor, detect and respond to potential and actual instances of modern slavery.

## Table 1

Provides a concise overview of how the four modern slavery risk factors materialise in the agriculture sector. This table may be used to identify and monitor other intersections with the sector.

RISK FACTOR	PRESENTATION IN THE AGRICULTURE SECTOR
<b>Vulnerable populations</b>	<ul style="list-style-type: none"> <li>Low- and semi-skilled workers, typically employed in growing, production and packing activities.</li> <li>Temporary, casual, and seasonal workers (including backpackers, temporary and holiday visa workers); typically employed in picking and packing activities during peak harvest seasons.</li> <li>Visa holders from Asian and Pacific Island countries.</li> </ul>
<b>Business models structured around high-risk work practices</b>	<ul style="list-style-type: none"> <li>Low-cost margin business models (which puts pressure on both small- and large-scale businesses with regards to compliance with Australian awards and labour law, with particular stress on issues such as temporary and casual workers, hours of work, overtime, public holidays and employee/contractor classifications).</li> <li>Labour hire arrangements and contractors<sup>23</sup> (with many growers, producers and packers utilising the services of labour hire contractors to source labour to pick and pack crops during the short, cyclical harvest season).</li> <li>Incentives-based payment systems (using piece rates to attract backpackers and temporary and holiday visa workers).</li> <li>Work-for-accommodation.</li> </ul>
<b>High-risk geographies</b>	<ul style="list-style-type: none"> <li>Rural and regional Australia, typically regions with scarce accommodation, sub-standard living conditions, and/or little to no means of accessing community support.</li> </ul>
<b>High-risk product and service categories</b>	<p><b>Agriculture sector customers or suppliers that procure:</b></p> <p><b>From overseas:<sup>24</sup></b></p> <ul style="list-style-type: none"> <li>High-risk foods procured from emerging economies (such as crustacea, seafood, corn, palm oil, poultry, cattle rice, sesame, wheat, sugarcane, beans, coffee and cocoa beans, nuts and tea).</li> </ul> <p><b>From within Australia:<sup>25</sup></b></p> <ul style="list-style-type: none"> <li>Fruit, vegetable and flower picking (reliant on labour hire contractors and supplier relationships, low-cost margins, and intersecting with vulnerable populations such as backpackers and seasonal workers).</li> <li>Food, meat, and poultry processing (reliant on labour hire and supplier relationships, low-cost margins, and intersecting with vulnerable populations such as backpackers and seasonal workers).</li> <li>Service providers (e.g. cleaners and trolley collectors) (reliant on labour hire and supplier relationships, low cost margins).</li> </ul> <p><b>From both overseas and within Australia:</b></p> <ul style="list-style-type: none"> <li>Shipping and transport (reliant on labour hire and supplier relationships, low cost margins).</li> </ul>

Table 1: Modern slavery risk factor presentation in the Australian agriculture sector

# Modern slavery typologies in Australia's agriculture sector

The following section outlines the particular profiles (or 'typologies') of how modern slavery typically manifests in the agriculture sector.

## Who is at risk?

Migrants on visas with working restrictions are most at risk of modern slavery in the agriculture sector. The 2018 Harvest Trail Inquiry Report by the Fair Work Ombudsman revealed that almost 70 percent of harvest trail businesses employed visa holders, with most of them being on temporary working holiday subclass 417 visas.<sup>26</sup> These visa holders are often from Asian and Pacific Island countries.<sup>27</sup> A report on modern slavery in the Pacific region states that seasonal workers from Pacific Island countries tend to be males and ages 20 to 39 years old.<sup>28</sup>

Additionally, labour mobility schemes such as the Seasonal Worker Programme (SWP)<sup>29</sup> provide seasonal labour migration opportunities for workers from Pacific Island countries to Australia, in fields such as agriculture. These programs provide highly structured governance to ensure compliance with workplace laws but are not immune to exploitation due to the high-risk nature of the business models associated with agriculture. The Harvest Trail Inquiry by the Fair Work Ombudsman conducted 11 investigations that found SWP employers being non-compliant with Australian workplace laws and 96 SWP employees affected.<sup>30</sup>

## Who are the perpetrators and intermediaries?

Unscrupulous labour hire providers are the most common intermediaries of modern slavery in the agriculture sector. Labour hire providers or contractors are used by many growers, producers, and packers to source labour to pick and pack crops during harvest seasons. They may promise people work, accommodation, and transport for a certain sum of money. Growers, producers, and packers may perpetrate modern slavery on agricultural sites by underpaying workers or creating an environment of forced labour. However, labour hire providers may also be perpetrators if they retain a relationship with workers after recruitment and exercise control over them.

## Which locations have risk?

Due to the nature of agricultural work, modern slavery in this sector usually occurs in remote and regional Australia, typically regions where workers have limited access to support.

Frequently, large numbers of workers live together in shared, often crowded accommodation provided by the employers which they may either have to directly pay for, or, have to work to pay off the rent debt. Workers have no choice but to live at such accommodation due to the remote locations of the agricultural sites they work on, and lack of other nearby options.

Woolworths' 2020 modern slavery report found that stone fruit and berry farms were more likely to engage labour hire providers, which present a high risk of modern slavery.<sup>31</sup> Of the suppliers in Woolworths' supply chain, berries and citrus farms had the most sites classified as 'at risk' of modern slavery.<sup>32</sup>

## How do the business models of modern slavery present?

The Fair Work Ombudsman's Harvest Trail Inquiry found numerous forms of worker exploitation in the agriculture sector.<sup>33</sup>

- In line with the **asset leveraging** and **workers as consumers** business models, workers in the agriculture sector may be exploited through transport or accommodation costs that they are forced to pay. This usually occurs with new migrants to the country who enter into arrangements with unreliable labour hire providers in exchange for work. People are met at an airport or bus depot by the labour provider who transports them to the farm site, but are asked for money in advance for bond, transport and accommodation costs, which may be at inflated costs.

- In line with the **risk reduction** business model, the Fair Work Ombudsman has found situations in which a person cannot leave a particular employer as they have been told that they will not have their visa extensions signed unless they "see out the season with them." Workers are therefore bonded to employers in this way.
- The **evasion of legal minimums** business model can be seen in the misuse of piece work arrangements in the agriculture sector. Piece work agreements must be documented and set at a rate that allows the worker to pick enough fruit or vegetables to earn 15 percent more than the hourly rate.<sup>34</sup>

Investigations by the Fair Work Ombudsman found this was often not the case. Piece work rates are usually set so low that workers cannot pick enough to even make the minimum hourly rate. In addition, the Fair Work Ombudsman found that some employers and labour hire contractors apply invalid group rates for workers under piece work agreements. This entails a group of workers working together to fill a unit of measurement such as a large container of fruit, and the payment being split between the workers equally. This does not consider the individual labour of each worker, meaning that workers who pick more fruit may actually earn less. Piece work arrangements must pay workers based on their individual contributions.

# Agriculture sector case studies

## CASE STUDY 1

### LABOUR HIRE SYNDICATE APPROPRIATES FUNDS

A potential labour hire syndicate in the agriculture sector was identified through the submission of 170 Suspicious Matter Reports (SMRs). 64 customers were found to have withdrawn \$43 million in cash from various branches over an 18-month period.

The funds appeared to be derived from genuine business earnings but were rapidly withdrawn as cash or via cash cheque by third parties. A review found that one party in particular was receiving commission for cashing cheques once funds were returned to the syndicate's main company.

**Direct reviews of transactions also highlighted additional indicators, including:**

- All SMRs were from branches in a known fruit picking region.
- Sole signatories of accounts were foreign students.
- Recently established profiles with similar residential addresses between business accounts.
- Minimal business activity and lack of online or physical presence of businesses.
- Credits received rapidly withdrawn in a short span of time.



# Construction

The construction sector is widely known to face high risks of modern slavery, both in Australia and globally, because of the sector's characteristics, products, and processes.

Banking activities and operations intersect with this sector in various ways. Some examples include lending to construction businesses, holding business accounts for construction businesses and subcontractors, holding retail accounts for workers,

investment in property, and corporate spend in construction or the purchasing of raw materials, such as timber, cement materials, and natural rubber.

It is important to understand where banking activities and operations intersect with the construction sector, to ensure appropriate processes are in place to monitor, detect and respond to potential and actual instances of modern slavery.

## Table 2

Provides a concise overview of how the four modern slavery risk factors materialise in the construction sector. This table may be used to identify and monitor other intersections with the sector.

RISK FACTOR	PRESENTATION IN THE CONSTRUCTION SECTOR
<b>Vulnerable populations</b>	<ul style="list-style-type: none"> <li>• Low- and semi-skilled workers.</li> <li>• Temporary, casual and holiday visa workers.</li> <li>• Immigrant labourers.</li> </ul>
<b>Business models structured around high-risk work practices</b>	<ul style="list-style-type: none"> <li>• Labour hire arrangements, contractors and subcontractors.</li> <li>• Low cost margin business models (which puts pressure on both small and large scale businesses with regards to compliance with Australian awards and labour law, with particular stress on issues such as temporary or casual workers, hours of work, overtime, public holidays and employee classifications).</li> <li>• Work-for-accommodation.</li> </ul>
<b>High-risk geographies</b>	<ul style="list-style-type: none"> <li>• Metropolitan areas and major cities.</li> </ul>
<b>High-risk product and service categories</b>	<p><b>Construction sector customers or suppliers that procure:</b></p> <ul style="list-style-type: none"> <li>• Raw materials in the supply chain procured from geographies with a high risk of modern slavery (such as bricks, clay, lime, timber, cement materials and natural rubber).</li> <li>• Construction services (reliant on labour hire contractors and supplier relationships, low cost margins, and intersecting with vulnerable populations such as base-skill or migrant workers).</li> </ul>

Table 2: Modern slavery risk factor presentation in the Australian construction sector

# Modern slavery typologies in Australia's construction sector

The following section outlines the particular profiles (or 'typologies') of how modern slavery typically manifests in the construction sector.

## Who is at risk?

Globally, an estimated 18 percent of modern slavery victims are found in the construction sector.<sup>35</sup> Base-skill workers<sup>36</sup> on temporary visas,<sup>37</sup> including foreign workers, international students and people on working holiday visas are at high risk of modern slavery in the construction sector. These workers may be particularly vulnerable to exploitative practices due to language barriers, minimal understanding of their workplace rights in an Australian context, and limited awareness of and access to social support systems.<sup>38</sup>

## Who are the perpetrators and intermediaries?

Labour hire providers and subcontractors are commonly the perpetrators and intermediaries of modern slavery in the construction sector. Labour hire providers and subcontractors are frequently used by construction businesses since workers are often engaged on an as needed or temporary basis, which is simpler for these businesses to manage than through direct employment.

Rapid scaling up and down of the workforce, alongside short delivery timeframes (often compounded by bonuses for speed and penalties for delays), create conditions that lend themselves to outsourcing and poorer oversight of labour conditions. Construction business owners that sub-contract labour on the basis of price create unsustainable competition, forcing providers to cut costs in order to create a profit margin. The costs cut are typically legal wages and benefits, and time spent providing adequate safety training and performing due diligence on worker rights.

## Which locations have risk?

Construction sector operations are more concentrated in metropolitan areas such as Sydney, Melbourne, and Perth, as well as high-growth outer metro and regional areas where there is significant development, such as off-plan housing and supporting social infrastructure.

## How do the business models of modern slavery present?

Worker exploitation in the construction sector can present in several ways, including:

- In line with the asset leveraging and workers as consumers business models, workers in the construction sector may be exploited through transport or accommodation costs that they are forced to pay. This can occur with new migrants to the country who enter into arrangements with unreliable labour hire providers in exchange for work. Victims may be recruited overseas and met at the airport and transported to shared accommodation, or through social media platforms, and university advertisements in foreign language. They may be asked for money for tools, personal protective equipment, transport, and accommodation, which may be at inflated costs and place victims into a situation of debt bondage.
- In line with the evasion of legal minimums business model, victims of modern slavery in the construction sector often work excessive working hours without compensation for overtime or adequate breaks during or between shifts. Workers' rights to freedom of association are not respected and may be met with retaliation such as threats of violence, deportation or denial of shifts resulting in accumulation of debt where the perpetrator is charging the victim fees for accommodation or other assets.
- In line with the risk reduction business model, it is not uncommon for victims of modern slavery to share accommodation and be transported by a handler to and from worksites and to and from banks or ATMs to deposit and withdraw business earning and wages. This accommodation is often unsuitable for the number of victims living there, with illegal overcrowding and freedom of movement to and from the building restricted.



# Construction sector case studies

## CASE STUDY 1

### FOREIGN NATIONALS EXPLOITED TO FACILITATE MONEY LAUNDERING

#### Background

An Australian bank conducted an investigation into serious organised crime groups utilising ATMs in the south-west Sydney locality to conduct large scale money laundering and exploit foreign nationals.

#### Indicators and analysis

- Over 22 months, \$19.3 million cash was withdrawn from accounts held by customers of the bank and their linked businesses.
- The withdrawals were funded via domestic transfers and cheque deposits from other financial institutions.
- Account names held with the bank and other financial institutions were in relation to construction or trade-like entities.

#### Findings

- Individuals who withdrew cash from ATMs gave the funds to 'handlers'.
- The withdrawals were conducted from bank accounts linked to 'construction' related businesses which poses exploitation risks.
- Majority of the bank's customers linked to the activity were foreign nationals and may not have had control of the general activity.

#### Outcomes

The bank's investigation highlights the risks of money laundering syndicates utilising foreign nationals for their nefarious activities, and the exploitation and other human impact crime risks which foreign nationals may be exposed to.



5.

# TERMINOLOGY AND DEFINITIONS

## Common terminology and definitions used throughout this document are provided below:

### BONDED OR INDEBTED LABOUR

When a person is forced to work to pay off a debt, such as visa fees or recruitment fees. They are tricked into working for little or no pay, with no control over their debt. Most or all of the money they earn goes to pay off their loan, and the value of their work invariably becomes greater than the original sum of money borrowed.<sup>39</sup>

### DOMESTIC SERVITUDE

When a person is engaged in providing seemingly normal live-in domestic services to a household, but is exploited and controlled. It is a form of forced labour and may also involve bonded labour.<sup>40</sup>

### FORCED LABOUR

Any work or service which people are forced to do against their will, under threat of punishment.<sup>41</sup>

### FORCED MARRIAGE

When a person gets married without freely and fully consenting, because they have been coerced, threatened or deceived, or because they are incapable of understanding the nature and effect of a marriage ceremony, for reasons including age or mental capacity.<sup>42</sup>

### HUMAN TRAFFICKING

The unlawful act of transporting or coercing people in order to benefit from their work or service, typically in the form of forced labour or sexual exploitation.<sup>43</sup>

### ILLEGAL PHOENIX ACTIVITY

When a company is liquidated, wound up or abandoned to avoid paying its debts. A new company is then started to continue the same business activities without the debt.<sup>44</sup>

### INDICATOR

Behavioural, demographic or transactional information collected from banking customers that help to identify the occurrence of modern slavery.

### INTERMEDIARY

An individual or organisation such as an agent, recruitment agent or gangmaster that sources workers for a business and facilitates modern slavery occurring.

### MODERN SLAVERY

Modern slavery refers to a range of serious human rights violations which are also crimes in Australia. The term is used to describe situations where coercion, threats or deception are used to exploit people and deprive them of their freedom. Modern slavery can take various forms including human trafficking, slavery, servitude, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services.<sup>45</sup>

The definition of relevant offences varies from jurisdiction to jurisdiction. Some jurisdictions, such as the United Kingdom (*Modern Slavery Act 2015*) and Australia (*Modern Slavery Act 2018* (Cth) and (*NSW*)), specifically define the concept of 'modern slavery' by reference to relevant criminal law and international treaties. Most, however, do not. Instead they criminalise a range of other forms of behaviour.<sup>46</sup>

### PERPETRATOR

An individual, network or organisation that exploits workers and subjects them to conditions of modern slavery.

### RISK FACTOR

A characteristic of a business or its operations that has potential adverse impacts on an individual or community's labour-related rights.

### SUSPICIOUS MATTER REPORT (SMR)

A report submitted by an entity under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) if they have reasonable grounds to suspect that a transaction may be related to money laundering, terrorism financing, tax evasion, proceeds of crime or any other serious crimes under Australian law. An SMR must also be submitted if the reporting entity has reasonable grounds to suspect the customer or an agent of the customer is not who they say they are.<sup>47</sup>

### TYPLOGY

The general characteristics of modern slavery as it occurs in a particular environment, and/or the general profiles of the actors involved (e.g. victim, perpetrator or intermediary).

### VICTIM

An individual who is subjected to working under conditions of modern slavery.

### WORST FORMS OF CHILD LABOUR

When a child is subjected to modern slavery, sexual exploitation, involvement in illicit activities (e.g. the production and trafficking of drugs), or work that is likely to harm their health, safety or morals.

6.

# WHERE TO GO FOR MORE INFORMATION ON MODERN SLAVERY



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