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ARTICLES

“A Tiger Without Teeth”? The Forthcoming Review of the Modern Slavery Act 2018 (Cth) and the Place of “Traditional” Penalties – *Margaret Cusenza and Vivienne Brand*

Australia’s *Modern Slavery Act 2018* (Cth) (MSA) imposes modern slavery reporting requirements on lead firms in supply chains; relying on a reputation and market-forces compliance mechanism to encourage companies to comply and address modern slavery in their supply chains. This article assesses the MSA’s compliance mechanism and argues that while it may have been necessary at first, its limitations are significant. New evidence suggests it is unlikely the MSA’s design will be effective in requiring companies to comply with reporting requirements. This article argues this will be so even when incidental enforcement mechanisms of directors’ duties and misleading and deceptive conduct are taken into account – consistent with regulatory theory perspectives that suggest the MSA’s compliance mechanism is insufficient and requires supplementation. In offering suggestions for reform, this article draws on alternative modern slavery regulatory models – contributing to the debate that will surround the forthcoming mandatory review of the MSA’s operation. 152

ASIC’s Regulatory Powers – Search Warrants, Telecommunications Interception Warrants, Financial Services Licensing Decisions and Banning Orders – Suggested Reforms – *Dr Tom Middleton*

This article discusses the reforms introduced by the *Financial Sector Reform (Hayne Royal Commission Response – Stronger Regulators (2019 Measures)) Act 2020* (Cth), including the reforms relating to: the Australian Securities and Investments Commission’s (ASIC’s) search warrant powers; ASIC’s ability to access telecommunications interception warrant material; and the new “fit and proper person” test in relation to ASIC’s decisions under the Corporations Act 2001 (Cth) about whether to grant, suspend or cancel an Australian Financial Services Licence and whether to make banning orders. This article examines whether these reforms have harmonised the regulatory framework, and whether they have assisted ASIC to achieve its public interest regulatory objectives in s 1(2) of the *Australian Securities and Investments Commission Act 2001* (Cth). 179

A Typology of Legal, Regulatory and Voluntary Initiatives to Address Gender Balance on Corporate Boards – *Katie Watson and Tim Connor*

The slow pace of global progress in improving gender balance on corporate boards cannot be attributed to a lack of policy initiatives: a considerable variety of legal, regulatory and voluntary efforts have been implemented across multiple jurisdictions. However, the lack of an agreed means of categorising such initiatives has made it difficult to effectively

compare their relative merits. Inconsistent terminology when reporting and analysing policy interventions is not only confusing, it can hamper identification of which aspect or aspects of a policy intervention are advancing (or failing to advance) the desired goal. This article addresses this gap by proposing a typology based on four factors: Source, Approach, Enforcement and Legal Basis. Based on an extensive review of initiatives in numerous countries we have identified eight common categories that reflect particular combinations of these four factors, namely Quotas, Equality Policies, Targets, Measurements, Governance, Suggestions, Aspirations and Corporate Social Responsibility initiatives. 197