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# **2023 Asia Pacific Employers' Forum**

The Future World of Work: Mitigating Risks and Responding to Change



# 4 ESG for HR

# Speakers



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# Agenda

**A** What is ESG and why does it matter?

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**B** Diversity, Equity & Inclusion

- Trends in the AP Region
- Pay Transparency

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**C** ESG considerations across supply chains

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**A** What is ESG and why does it matter?

# What does ESG encompass?

Environmental, social and governance aspects



## Environmental

e.g., climate change, pollution, energy use, waste management, natural resource conservation, recycling



## Social

e.g., relationships with employees, suppliers, and customers, diversity and inclusion, health and safety, respect for human rights, community engagement



## Governance

e.g., how the company governs itself, including ethical business practices, regulatory management and compliance, avoidance of conflicts of interest, anti-bribery/corruption

# Why is it important to get ESG right?



A way to build resilience and mitigate risk



Increase in responsible investors



Rapidly changing risk landscape



Connection to stakeholders: understand changes and respond



Brand and reputational risk



An element in company valuation and condition for capital or funding



Growing litigation and regulatory risk



# **B** Diversity, Equity & Inclusion



# D E & I trends

- Increase in litigation brought by employees relating to concerns about organizational culture and discrimination and health and safety issues
- Increasing pressure on employers to take proactive measures to handle discrimination/harassment and inappropriate behaviour at workplaces.
- Parental leave changes – sharing of responsibility between parents
- Pay equity and transparency – increasing area of focus
- Linking executive pay to ESG goals



# Non-discrimination / anti-harassment



## Australia

- Anti-Discrimination and Human Rights Legislation (Respect at Work Act 2022)
  - positive duty: reasonable and proportionate measures to eliminate sex discrimination, hostile work environment, sexual harassment
  - AHRC: new powers to enforce compliance with the positive duty
  - Prohibited: conduct that results in a hostile work environment on the basis of sex



## Malaysia

- Employment Act ("EA") introduced provisions relating to discrimination
- Anti-Sexual Harassment Act: gazetted on 18 October 2022 (partially in force)
- Separate from the employer's obligation under the EA's obligations on sexual harassment.



## Vietnam

- New Labor Code (2021)
- Sexual harassment now a legal ground for dismissal of employee.
- Policies and procedures on the prevention of sexual harassment are to be included in internal labor rules

# Non-discrimination / anti-harassment



## Thailand

- Increased reported cases of sexual harassment → People are more likely to speak up and report.
- ESG trend and movement → head offices and customers are demanding for this issue
- More innovative benefits and welfare
  - Special leave to its employees → allowing its transgender employees to undergo transgender surgery; providing 30 days' paid paternity leave to male employees
  - Gender-neutral toilets



## Taiwan

- Stalking and Harassment Prevention Act: Effective on 1 June 2022, prohibiting eight types of harassing behaviors
- The number of official sexual harassment complaints recorded by the labor authority reached its historic high in 2022
- New provisions in the Criminal Code banning deep-fake video/pictures, dissemination of sexual video/pictures without consent, etc.



## Philippines

- Safe Spaces Act - 2019
  - Employers appear to be receiving more complaints
  - Employers have to act as expeditiously as possible to avoid liabilities
  - Many employers do not appear to be aware of their obligations, such as having a Committee on Decorum and Investigation

# Non-discrimination / anti-harassment



## Singapore

- Tripartite Committee on Workplace Fairness interim report (13 Feb 2023)
  - 20 recommendations for proposed Workplace Fairness Legislation including prohibition of workplace discrimination on the grounds of specified protected characteristics.
- Bill expected to be proposed in Parliament in 2024



## Hong Kong

- Harassment on the ground of breastfeeding prohibited (June 2021).



## P.R.C

- Law on the Protection of the Rights and Interests of Women – 1 Jan 2023

# Increase in family friendly measures



## Japan

- Child and Family Care Leave Act
  - Framework for flexible childcare leave to encourage male employees to take such leave



## Australia

- Extended parental pay scheme
  - Increase to 26 weeks by 2026
  - More flexibility to share between parents



## Taiwan

- Taiwan's birth date is among the lowest in the world - national crisis.
- Various new women/family friendly amendments laws rolled out:
  - Amendments to the Act of Gender Equality in Employment – 2022 Employees working at companies with fewer than 30 employees able to request more flexible working hours if they have children under the age of 3 years.
  - Amendment to the Regulations for Implementing unpaid parental leave for raising children - 2022

# Pay transparency



## Japan

- Effective 8 July 2022, employers with more than 300 regular employees are required to disclose the wage gap between male and female employees annually.
- In light of end of fiscal year - in practice this means now (Spring 2023)
- Before 1 April 2022: employers with more than 300 regular employees were required to:
  1. Formulate and file action plans for the promotion of female employees
  2. Publish information on the activities of female employees at the company.

Effective 1 April 2022 this was extended to employers with **more than 100** regular employees.



## Australia

- Workplace Gender Equality Agency (established 2012)
  - private sector employers with 100 or more employees need to report to the Agency, with questions that cover (non-exhaustively) gender pay gaps, action on pay equity, flexible working and paid parental leave
- Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023
  - employers with 100 or more employees to **publicly disclose** gender pay gap data
- Pay secrecy clauses: prohibition



**C** ESG considerations across supply chains

# Supply chain compliance



ESG considerations in supply chains require companies to look beyond their own operations to the impacts of their suppliers.



A more informed consumer base is demanding that companies address ESG in their sourcing.



Evolving legal frameworks worldwide require companies to assess risks of their suppliers



The scope of issues in this area are multifaceted, comprising compliance risks such as human rights as well as health, safety and poor working conditions.



It is increasingly clear that getting the "S" wrong can result in significant business risk with potentially long-term damage.

**There are also  
important  
reputational  
aspects.....**





# Global efforts to combat human rights abuses in supply chains

Germany – Supply Chain Due Diligence Act 2021



UK Modern Slavery Act 2015



Netherlands – Child Labor Due Diligence Law 2019



EU – Corporate Sustainability Due Diligence Directive



Australia – Modern Slavery Act 2018



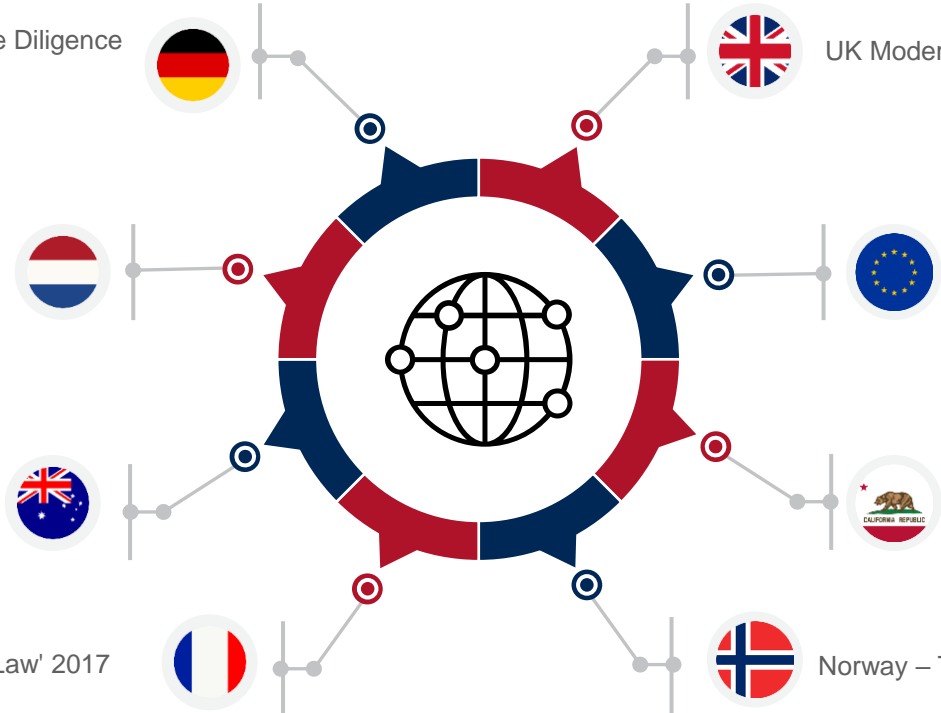
California – Transparency in Supply Chains Act 2012



France – 'Vigilance Law' 2017



Norway – Transparency Act 2021



# What to watch? – Human rights impact assessment requirement



## 2<sup>nd</sup> National Action Plan on Business and Human Rights (2023 – 2027)

- Thailand's 1<sup>st</sup> National Action Plan (NAP) on Business and Human Rights runs until 2022.
- The Ministry of Justice held Public consultations on the draft of the 2<sup>nd</sup> NAP (2023-2027) in August 2022. The draft is being adjusted and will be sent to the Cabinet for approval soon– **so we can expect that the 2<sup>nd</sup> NAP will be published soon in 2023.**

- Participation from communities and public
- Environmental/Health Impact Assessment (EIA/EHIA)
- Grievance Mechanism and Remediation

- Foster collaboration
- Cooperate with the government



- Labour rights and welfare
- Elimination of discrimination in the workplace
- Complaint and remedy mechanisms
- **Mandatory Human Rights Due Diligence (HRDD)**
- Increasing incentives for respecting human rights in business
- Complaint and Remedy Mechanism

# What to watch? Appropriate internal control measures



## Official Guidelines on Internal Control Measures for Anti-Corruption Compliance

- The Organic Act on Counter Corruption, B.E. 2542 (1999) requires companies operating in Thailand are to have in place "appropriate internal control measures" to ensure compliance with the law and to limit its potential liability from acts of bribery.
- To provide guidance on this matter, the Office of the National Anti-Corruption Commission has announced "Guidelines on Appropriate Internal Control Measures for Juristic Persons to Prevent Bribery to State Officials, Foreign Public Officials, and Agents of Public International Organizations"



"What are the appropriate internal control measures and how can companies ensure that they have sufficient internal controls in place which would satisfy the requirement?"

# Vietnam



## ESG considerations have taken on increasing importance in Vietnam

- Key driver of ESG compliance in Vietnam stems from the country's **growing role as an important hub** in global supply chains.
  - Many international brands and MNCs: increasingly require that vendors and suppliers in their supply chains comply with their corporate policies, standards and expectations on ESG matters – including social issues such as diversity, inclusion and equity.
  - As a result, Vietnamese companies active in global supply chains have been required to implement various changes and initiatives to comply with partner company ESG requirements.
  - Crucial role of export focused industries (particularly technology and manufacturing) in Vietnam's economy: means these ESG compliance requirements have had a significant impact on corporate practices across the country.

# Vietnam



## ESG considerations have taken on increasing importance in Vietnam

- Vietnam's **regulatory reforms and market trends** have contributed to a rising awareness and focus on ESG issues.
  - Key legislative instruments further strengthening ESG standards and practices e.g., heightened focus on sustainability, in turn leading to stricter environmental regulations as well as incentives for environmentally friendly practices.
  - Recent updates to labor regulations have also added to worker protections while strengthening workplace discrimination prohibitions.
  - Widespread anti-corruption campaign: has made significant headways in reducing corruption and bribery across public and private sectors
- Vietnam's position as an **export driven economy** that prioritizes international trade and treaties has further led to the promotion of various international ESG initiatives and practices.
  - In line with global trends, Vietnam's participation in various international forums and trade agreements/initiatives has increasingly been tied to implementation of certain ESG standards – including in respect to working conditions as well as environmental protection and renewable transitions.



**Way forward: what can you do to address  
ESG risks in your business?**

# Compliance best practices

## Hallmarks of an effective supply chain sustainability program



### Tone at the Top

- Code of Conduct
- Human Rights Statement



### Risk Assessments

- Assess key ESG risks in supply chain
- Ensure there is a process to identify which ESG issues are important and who is responsible for them



### Policies, Program and Procedure

- Ensure your key compliance policies and procedures account for ESG issues



### Risk-Based Due Diligence Program

- Conduct thorough background checks on prospective partners
- Develop a plan for monitoring ongoing operations to hold actors accountable
- Require suppliers to acknowledge company's ESG compliance policies before business engagement, and periodically thereafter



### Training

- Evaluate and develop appropriate training program for employees and suppliers



### Auditing, Monitoring and Remediation

- Audit and monitor suppliers
- Consider adopting a tiered approach that reflects the importance of the supplier and risk factors

# ESG and sustainability

## Key takeaways – are you ready for it?



The development of a mandatory disclosures reporting regulations present the new form of risks to the business to address. **Make sure that sustainability flows through the business** to build capacity to address those emerging risks.



**Look around** – ESG risks should be addressed not only in own operation but throughout the supply chain. Business-wide, integrated risk assessments on own operations, goods and services; materials; and suppliers should be implemented.



**Capacity building** - engage in skills development and training; take discussions on strategic matters to the C-Suite / board to drive changes from the top.



**Effective communications** among multiple departments is key towards building effective ESG risk management within companies. Effective protocols and procedures for information gathering and reporting are important.





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