



22 November 2022

Professor John McMillan AO
Review of Australia's Modern Slavery Act 2018
Attorney General's Department

By email: ModernSlaveryActReview@ag.gov.au

Submission in response to:

Issues Paper - Review of Australia's Modern Slavery Act 2018

Thank you for the opportunity to provide a response to the Issues Paper accompanying the review of the Modern Slavery Act 2018 ('the Act'). Rest welcomed the introduction of the Act and is pleased to contribute to the current review.

Rest is a major profit-to-member industry superannuation fund with around 1.9 million members – or around one-in-seven working Australians – that manages assets of around \$66 billion¹ and is passionate about improving the retirement outcomes of our members.

Rest strongly supports the continued focus on raising business awareness and taking action to reduce the risk of exposure to modern slavery in Australia and has observed improved disclosures within Statements over the last three years.

Rest believes that these continued efforts work to meet the best financial interests of our members, through the effective management of risk in the economy and through supply chains, while supporting improvements in work practices globally.

While modern slavery legislation is still fairly new in Australia, we note that steps are already being taken to improve awareness and engage companies with a view to increasing positive action and intervention. The Investors Against Slavery and Trafficking Asia Pacific Annual Report 2021-22 reports some encouraging positive engagement with focus companies in the region, but also notes that complexities of supply chains and a lack of formal industry guidelines or standards are limiting maturity.²

Rest is keen to see the Modern Slavery Act be effective in managing the risks of exposure to modern slavery and supports any amendments that result in a positive impact on modern slavery risk identification and management.

We support the submissions to the Review made by the Australian Council of Superannuation Investors (ACSI) and the Principles for Responsible Investment (PRI); this submission seeks to add to their comments with the perspective of a superannuation investor and reporting entity.

Observations regarding implementation to date

Rest's experience is that the first three years of the Modern Slavery Act in Australia has been focused on developing processes, learning about impact of the obligations on the fund and educating partners and companies in which Rest holds interests. Rest has developed an internal joint ownership process between our investments and procurement teams and has clear accountabilities for the information gathering and reporting functions.

¹ As at 30 June 2022

² <https://www.iastapac.org/about/>

In working with supplier partners and companies in which Rest invests, we note considerable inconsistency in the internal governance of modern slavery responsibilities. It can be difficult to identify ownership, and who holds the key roles and responsibilities. In addition, while companies may be producing modern slavery statements, there is often a lack of resourcing available to do deep investigation or support actions that may be taken from review and reporting processes.

We also note a lack of consistency in identification and reporting of modern slavery instances. Two reports related to the same supplier may result in different conclusions about the existence of modern slavery.

For these reasons, we would support more explicit due diligence requirements that provide guidance on the minimum steps that should be taken to ensure ownership and accountability, as well as those taken to identify and assess modern slavery incidence, including human rights due diligence requirements aligned to the UN Guiding Principles. This would provide greater certainty of the steps that organisations are reasonably required to undertake to ensure effective operation of the Act.

Responses to key issues

1. Reporting

Rest's experience of the cycles of reporting is that the processes and investigations required to produce an effective Modern Slavery Statement can be lengthy and resource-intensive, especially if there is complexity of supply chain structures, or a large number of entities to be assessed. With the current reporting timelines of every year, this does not permit adequate time to address any identified issues prior to commencement of the next yearly reporting process. Rest recommends the consideration of a longer reporting period, for example every two years, to ensure that reporting and actions undertaken are effective in managing modern slavery risk, rather than 'mere' compliance activity, as well as resulting in more comprehensive progress reporting when statements are published.

The mandatory reporting criteria provides a consistent framework for entities to present their statements. As noted above, the creation of due diligence steps required to develop the statement would assist with consistency and completeness. In addition, we recommend that the mandatory reporting criteria 'remediation activities' should only be triggered where an instance of modern slavery is discovered during the reporting period, or significant progress has been made on historic identified issues. We do however, support mechanisms for access to remedy for victims of modern slavery.

Rest would also support greater efforts by Government to harmonise reporting across jurisdictions, without diluting the Australian requirements. There are challenges in managing complete and effective reporting in circumstances where offshore suppliers do not have reporting requirements domestically. The nature of modern slavery being a global issue means that greater consistency across jurisdictions, and without compromising the level of standards currently, is likely to ensure more effective addressing of modern slavery risk.

2. Anti-Slavery Commissioner

Rest supports the recommendation of the appointment of an Anti-Slavery Commissioner. This would provide a central role to provide guidance to reporting entities, consult on the effectiveness of developing modern slavery management action plans, as well as provide recommendations to government on future reviews of the Act and associated regulations. Supporting functions like research, stakeholder engagement and awareness raising would also add value to addressing modern slavery in the Australian context.

3. Compliance

The Australian Council of Superannuation Investors (ACSI) in its review of reporting under the Modern Slavery Act published in July 2021³ identified several areas for improvement to ensure that reporting consistently meets an acceptable standard.

To support improvements in reporting overall, Rest would support the publication of updated regulatory standards that establish expectations when preparing modern slavery statements, and incorporate learnings from the last three years of Statements

Rest also considers that penalties for non-compliance with current reporting requirements, for insufficient detail reported and for failing to address identified modern slavery, alongside other possible incentive measures, would be appropriate. Such penalties, however, should include provision for rectification prior to the imposition of a fine or penalty.

4. Future reviews

Rest supports periodic review of the Act and its application every three to five years as this framework matures

To discuss any aspect of this submission, I invite you to contact me directly on 0400 399 330 or via email on sarah.o'brien@rest.com.au.

Yours sincerely,



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³ <https://acsi.org.au/research-reports/moving-from-paper-to-practice-asx200-reporting-under-australias-modern-slavery-act/>