



Australian  
Human Rights  
Commission

# Financial services and modern slavery

**Practical responses for  
managing risk to people**

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Australian  
Human Rights  
Commission

## The essential guide for managing modern slavery risks in the financial services sector.

KPMG Australia (KPMG) has collaborated with the Australian Human Rights Commission to release a series of sector specific resources to help companies understand and effectively identify and manage their modern slavery risks.

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**Accessibility:** We are committed to making our resources accessible and widely available. As such, and to comply with the Commonwealth Government's accessibility requirements for publishing on the internet, two versions of this Report are available: a KPMG and AHRC branded PDF version and a Microsoft Word version. The KPMG and AHRC branded PDF version remains the definitive version of this Report.

The financial sector's connection with every industry means it has a pivotal role to play in combating modern slavery in Australia and globally. Taking a rights-based approach to addressing modern slavery means placing 'risks to people' at the heart of your response. We hope this guidance will provide inspiration to the sector to work together to find innovative solutions to addressing this pressing human rights issue.

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Emeritus Professor Rosalind Croucher AM,  
President of the Australian Human Rights Commission

The financial services sector is at the intersection of the risk of harm to people. Investments, assets, insurance and even the supply chains of the sector, carry with them significant leverage – particularly when organisations work together to demand better standards.

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Richard Boele, Partner in Charge of KPMG Banarra Human Rights and Social Impact,  
Global Leader of Business and Human Rights Network, KPMG Australia

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# MODERN SLAVERY IN THE FINANCIAL SERVICES SECTOR

Corporate human rights reporting in Australia has changed. Modern slavery legislation makes boards responsible for public statements about their entities' efforts to manage the risk of modern slavery in their operations and supply chains.

Australia's *Modern Slavery Act 2018* (Cth) requires certain organisations to report on their efforts to identify and address risks of modern slavery in their global operations and supply chains.

The Commonwealth Department of Home Affairs' *Guidance for Reporting Entities* provides general guidance to businesses, including financial institutions, about how to prepare for modern slavery reporting.

We understand that the financial services sector needs practical advice on how to respond to modern slavery risks.

This guide:

- 1 Highlights particular modern slavery risks prevalent in the financial services sector
- 2 Provides tips for the financial services sector on leading practice and a rights-based approach to managing modern slavery risk
- 3 Fosters transparent modern slavery reporting for the benefit of business, government and the people at risk of harm.

01

# AN INTRODUCTION TO MODERN SLAVERY AND THE REPORTING REQUIREMENT

## 1.1. What does the *Modern Slavery Act 2018 (Cth)* require?

### Making an annual statement

The *Modern Slavery Act 2018 (Cth)* requires entities with a consolidated revenue of AU\$100 million or more to submit an annual modern slavery statement on what they are doing to identify and manage modern slavery risk in their operations and supply chains. In the financial services context, this includes identifying and addressing risks of modern slavery across a wide range of business relationships.

Statements are published on a central Australian Government registry.

Modern slavery statements require approval of the Board (or equivalent)<sup>1</sup> and the signature of a Director or a responsible member of the entity.

Entities that fall outside the threshold can demonstrate good practice by reporting through a voluntary 'opt in' mechanism.

### The mandatory reporting criteria

There are seven mandatory criteria that your entity must respond to under the *Modern Slavery Act 2018 (Cth)*. The criteria ask for descriptions of:

- 1 The reporting entity
- 2 Your structure, operations and supply chains
- 3 The risks of modern slavery practices in your operations and supply chain and any entities owned or controlled by you

- 4 Actions taken to assess and address those risks, including modern slavery due diligence and remediation processes
- 5 How you assess the effectiveness of actions taken
- 6 The process of consultation with entities owned and/or controlled by you
- 7 Any other information that you consider relevant

This guide focuses on **risks** and **actions** to support your practical response to modern slavery.

## 1.2. What is 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 includes trafficking in persons, slavery, servitude, forced marriage, forced labour, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services.<sup>2</sup>

While the *Modern Slavery Act 2018 (Cth)* requires businesses — including financial institutions — to look specifically at modern slavery, taking a broader approach and considering the full spectrum of human rights risks and impacts will enhance the credibility and strength of your modern slavery response and statement.

Human trafficking and modern slavery are, sadly, notoriously lucrative practices. In 2014, the International Labour Organization (ILO) estimated that proceeds from forced labour globally amounted to USD \$150 billion per year.<sup>3</sup> As such, the Finance Against Slavery and Trafficking (FAST) Initiative labelled modern slavery 'a tragic market failure' whereby the full social and economic costs of this practice are borne by society as a whole, and its profits used by a few criminal actors.<sup>4</sup> As modern slavery implies the exploitation of victims for financial gain, monitoring financial information for indicators of exploitation is one of the key roles the financial sector can play in identifying and preventing it.

The economic and labour market shocks accompanying the COVID-19 pandemic have exacerbated the risks of modern slavery globally, especially for women, children and migrant workers.<sup>5</sup> The ILO estimates that the equivalent of 555 million full-time jobs were lost globally during the first two quarters of 2020.<sup>6</sup> Between 88 to 115 million people are expected to be pushed into extreme poverty by the COVID-19 pandemic in 2020 alone,<sup>7</sup> increasing the supply of vulnerable workers.<sup>8</sup> Modern slavery risks are especially heightened in locations where labour regulation and social safety nets are weak, where schooling is suspended<sup>9</sup> and where the movement of already vulnerable populations, such as migrant workers, is restricted by lockdowns and border closures.<sup>10</sup>

# 02

# THE REALITY OF MODERN SLAVERY IN FINANCIAL SERVICES



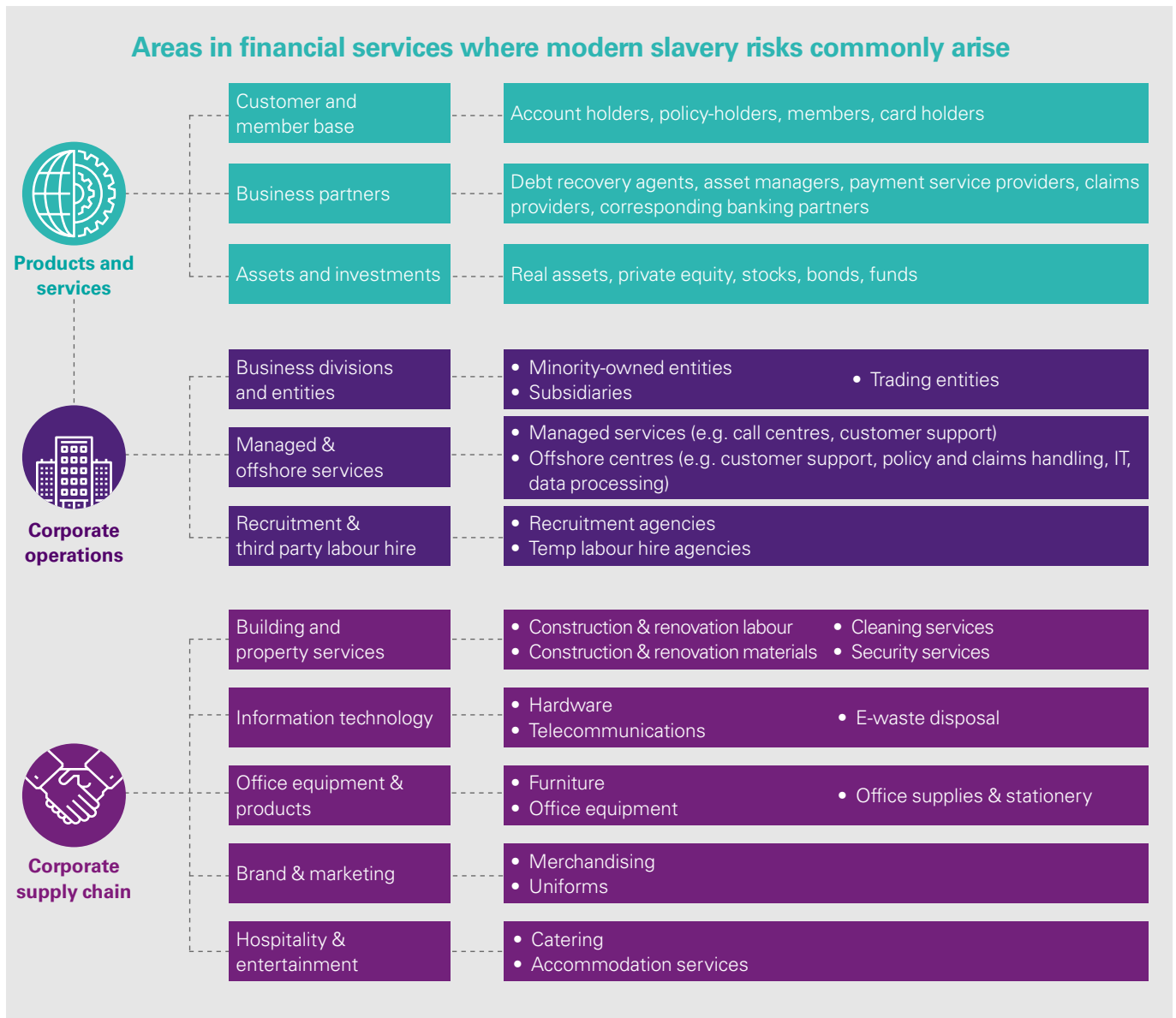


Financial institutions sometimes view their activities as remote from modern slavery risks. However, the industry is connected to a wide range of modern slavery risks here in Australia and overseas, as shown in the diagram below.

The recent spotlight on banks, superannuation funds, insurers and other actors, as a result of the Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission), elevated public trust concerns around non-financial risks. It is clear that no institution can afford to ignore the risk of modern slavery in their operations and supply chain.

As expectations rise for the sector to address its impacts on people, global initiatives such as the FAST initiative have brought into focus the pivotal role the sector can play in addressing modern slavery.<sup>11</sup>

There are modern slavery risks in all sectors and industries. The financial services sector's exposure to modern slavery risk arises in part due to its links, via credit and other relationships, to industries across the globe. The sector tends to engage in a wide variety of complex activities and relationships, meaning each financial institution should take a systematic and rigorous approach to assessing its connections to modern slavery risk. This is particularly the case for financial products and services, as well as corporate operations and supply chains.



## 2.1. Financial products and services

Modern slavery risks can arise in the context of a wide range of financial sector activities. The Government's non-exhaustive list of activities that are considered 'operations' within the scope of the *Modern Slavery Act 2018* (Cth) explicitly includes investment and lending.<sup>12</sup> Investments, directly or through asset managers, can present modern slavery risks, depending on the investee business sector, geographical location, business model or workforce profile. Investors may wish to consider internally managed funds as part of their 'operations' and externally managed as part of their 'supply chain' to inform the nature of their connection with modern slavery risks in these investments.<sup>13</sup>

Financial institutions can also be connected to modern slavery by lending to, or insuring, businesses that perpetrate, rely on, or benefit from, modern slavery in their supply chains. For example, a bank may provide project finance for a construction project that uses forced labour. Business relationships, such as corresponding banking partners or payday lenders for a bank, can also be a source of risk. Examples of other risks specific to the sector include banks and other financial institutions facilitating modern slavery through 'laundering' the proceeds of modern slavery crimes, including use of offshore business structures, conversion to cryptocurrencies and securities and foreign exchange trading.<sup>14</sup> Banking facilities can be used by perpetrators to facilitate modern slavery, particularly debt bondage. Where an entity's financial services and products are offered in numerous locations, this introduces additional layers of complexity, particularly in high-risk geographies with unstable regulatory environments.

The COVID-19 pandemic has also accelerated digitalisation, often at the expense of the most vulnerable. Transactions are now increasingly happening online, challenging financial institutions' processes to verify the identity of customers and detect potential victims. Vulnerable populations, which may already be excluded from access to reliable financial services, could also become prey to unregulated, predatory lenders, increasing the possibility of debt bondage and other modern slavery crimes.

## 2.2. Corporate operations and supply chains

The financial services sector's historical focus on its direct professional workforce has diverted attention away from the significant amount of base-skill work (sometimes referred to as low-skill labour) in the sector's corporate operations and supply chains for goods and services.

Financial institutions often outsource the delivery of business processes, such as data processing or IT support, to service providers based in geographical locations where labour standards and costs are lower. This may pose challenges in monitoring the way the workforce is managed and potential higher risk practices, such as further outsourcing or labour hire.

In addition, financial institutions with a global footprint have major assets across geographies that require building services, thus their supply chains reach the property sector, which carries its own significant modern slavery risks.<sup>15</sup> For example, asset and tenant management can involve relationships with tenants who operate in hospitality, catering, cleaning and other such services, which have higher risks of association with forced labour and trafficking practices.

Finally, like most organisations, financial institutions buy corporate goods and services, such as travel, promotional items, construction or IT hardware, which are all known for elevated modern slavery risk. They should not be overlooked.

## Common modern slavery practices connected to financial services



Human Trafficking



Worst forms of child labour



Forced or unpaid work



Bonded labour

## Why are financial services high risk?



Exposure to a wide array of risk through connection to a diverse range of industries and assets globally



Traditional focus on professional nature of direct services leading to the view that financial services are low risk



Low visibility over multi-tiered supply chains which cross into other high-risk sectors, across high-risk geographies



Increased outsourcing and offshoring of assets and associated services



Large and complex value chains

## Key trends in the sector that intersect with modern slavery risk:



Greater risks of exploitation of workers or trafficking of vulnerable persons as the result of the economic uncertainty generated by the COVID-19 pandemic.<sup>16</sup>

\$4.2 Trillion

Increase in support for human rights disclosure. In 2020, a coalition of 101 investors representing over US\$4.2 trillion in assets under management called on governments to introduce mandatory human rights due diligence measures to help better identify risks of harm to people and associated financial risks.<sup>17</sup>

37%

Increase in responsible investment. The recently released Responsible Investment Benchmark Report 2020 found that 37% of all managed funds in Australia are managed under a responsible investment strategy.<sup>18</sup>

33%

Increase in investor scrutiny of Environmental Social and Governance (ESG) reporting. According to the Australian Council of Superannuation Investors, the ASX 200 companies reporting on sustainability at a 'leading' level has increased from 64 in 2017, to 67 in 2018, constituting 33% of ASX 200 companies.<sup>19</sup>

## 03

# RISK TO PEOPLE AND RISK TO BUSINESS

When financial sector entities fail to take their human rights responsibilities seriously, they expose people to harm and themselves to business risk. The modern slavery reporting requirement will help direct corporate responses, including the development of systems and processes that identify and address modern slavery risk, and ultimately mitigate and account for harm to people. In this section, we consider how to put risk to people first and then consider how this can help entities across the financial services sector to assess the risks to their entities if they fail to respond to modern slavery.



### 3.1. Focusing on risk to people

The Australian Government has made it clear that it expects business to identify and manage risk to people. The *Guidance for Reporting Entities* explains that effective company responses to the modern slavery reporting requirement should be grounded in the human rights due diligence framework outlined in the 2011 *United Nations Guiding Principles on Business and Human Rights* (UNGPs).<sup>20</sup>

A key difference between human rights due diligence and traditional business due diligence and risk management is that human rights due diligence focuses on risks *to people* rather than risks *to the business*.

A risk-based approach, from a human rights due diligence perspective, means that businesses should prioritise addressing the most severe risks to people first. The most severe risks to people in relation to modern slavery will usually, though not always, also align with risks to your business (such as reputational or financial risks). However,

taking a 'risk to people' approach, you will need to ask the question in a different way: how might people be harmed as a result of this business activity, decision, relationship or purchase? For instance, typical metrics used to narrow vendor risk assessment may focus on highest-value suppliers, highest spend or your largest shareholdings. However, the areas of biggest risk to people may sit outside your high-value and strategic suppliers.

Considerations of the business' level of influence, alongside the severity and remediability of potential impacts, can help guide your mitigation approach and response.

As you develop a human rights risk-based response, which prioritises severe risks to people, your due diligence process should include a mechanism that will enable you to demonstrate the effectiveness of the steps you are taking over time. Ideally, human rights due diligence processes for managing modern slavery and other human rights risks will be integrated with existing risk management processes in your business.

## 3.2. Business exposure to risk

Business is exposed to human rights risks in four domains: regulatory reporting requirements and standards, reputational damage and eroded public trust, investor scrutiny of social impact credentials, and values alignment for employees.



### i. Regulations and standards

International frameworks and domestic legislation with cross-jurisdiction reporting requirements are all advancing. Relevant developments include:

- *Modern Slavery Act 2018* (Cth)
- *Modern Slavery Act 2018* (NSW)
- Similar legislation in other jurisdictions, including the *French Corporate Duty of Vigilance Law*, *Modern Slavery Act 2015* (UK), *Child Labour Due Diligence Act 2019* (Netherlands), *California Transparency in Supply Chains Act*, and *EU Directive on Non-Financial Disclosures*.

These legislative developments have been driven and informed by the 2011 UNGPs, which confirmed the corporate responsibility to respect human rights and a framework for addressing human rights risks. This framework requires businesses, including financial institutions, to address their adverse human rights impacts by taking measures to prevent, mitigate and, where appropriate, remediate, human rights harm. The UNGPs also expressly inform risk management expectations set out in soft law standards relevant to the financial services sector, such as the *OECD Guidelines for Multinational Enterprises* (OECD Guidelines) and the *Equator Principles*, which apply to project finance. The rise of anti-bribery, corruption and anti-money laundering legislative frameworks is also of particular relevance to the financial services sector, given the intersectionality between these criminal practices and modern slavery.

Along with increased regulatory requirements, due to the reach of the financial services sector and its significant capacity to influence business conduct, growing attention has been placed on its role in addressing social issues, including modern slavery. The development of detailed recommendations under the auspices of the FAST Initiative, including specific guidance and tools for the financial services sector to identify and address human rights impacts, is a testimony to the rising profile of business and human rights standards in the sector, and the important role financial institutions can play in addressing modern slavery.<sup>21</sup>



## ii. Reputation and relationships

Modern slavery reporting requirements are, at their core, transparency requirements aimed at increasing corporate responsiveness to modern slavery.

The reputational risk imposed by stakeholders, including the media, civil society and labour unions, calling out unaddressed modern slavery risk, can be high. Investors place increasing emphasis on the benchmarking of corporate performance on human rights, as exemplified by the Corporate Human Rights Benchmark (CHRB)<sup>22</sup> produced annually by an investor and civil society-run organisation. Transparency expectations are rapidly expanding to cover financial institutions themselves. For example, the development of a financial system benchmark under the aegis of the World Benchmarking Alliance will measure and rank financial institutions' contributions to the Sustainable Development Goals (SDGs).<sup>23</sup> Similarly, BankTrack's annual human rights benchmark evaluates 50 of the world's biggest private sector commercial banks against criteria based on the UNGPs, including their human rights due diligence process and reporting on human rights.<sup>24</sup> Civil society groups also play a key role in scrutinising transparency efforts on modern slavery: in some jurisdictions, reports have benchmarked published modern slavery statements and highlighted companies demonstrating leading and poor human rights practice.<sup>25</sup> A major initiative to assess modern slavery statements published by financial institutions pursuant to the *Modern Slavery Act 2015* (UK) is underway by Walk Free, WikiRate and the Business and Human Rights Resource Centre, and is expected to eventually extend to Australian financial institutions reporting under the *Modern Slavery Act 2018* (Cth).

These are key accountability mechanisms on which the transparency legislation relies to encourage good practice management of the risks of harm to people. Increased scrutiny from the media and civil society organisations means that a failure to respond meaningfully to modern slavery can lead to a corrosion of trust amongst key stakeholders.



## iii. Company purpose

For many businesses, addressing modern slavery is the 'right thing' to do. It aligns with their purpose, culture and values. Employees are also increasingly demanding that their employer considers the human rights impacts of their business. The efforts of Australian businesses to address their modern slavery risks also contribute to the achievement of United Nations Sustainable Development Goal 8, Target 8.7, which asks for effective measures to eradicate modern slavery by 2025.

In Australia, the recent spotlight on the financial sector as a result of the Royal Commission has increased scrutiny on business practices: making a public commitment to addressing modern slavery practices in operations and supply chains can be an opportunity for financial institutions to rebuild public trust in their business.



#### iv. Investor and lender scrutiny

Increased public attention has been placed on the role the financial services sector can play in contributing to prevent, identify and address human rights abuses. This awareness has meant that investors and lenders increasingly require companies to demonstrate they have appropriate systems to identify and address these risks. Investor expectations have been reflected in the growth in responsible investment, which sees ESG considerations included in investment decisions. The Responsible Investment Association Australia (RIAA), in conjunction with KPMG, recently released its *Responsible Investment Benchmark Report 2020*. The report found that responsible investment assets under management represent 37% of all managed funds in Australia and that responsible investment funds tend to outperform mainstream funds over most timeframes and asset classes.<sup>26</sup>

This uptick in activity is also reflected at the global level. The Interfaith Center for Corporate Responsibility (ICCR), a member-based group of active investors, reported that human rights and worker rights-related filings were the largest category in 2020, with 52 resolutions filed globally by ICCR members that year, including 15 requesting companies to report on their systems to identify and address forced labour.<sup>27</sup> This applies especially in contexts where third parties raise allegations of modern slavery practices in relation to a company or its supply chains.

Financial performance is increasingly becoming central in considering how human rights may intersect with investment decisions. The evidence that investing responsibly drives value and puts funds ahead of their competitors is a significant consideration in looking to incorporate human rights risk across the financial services value chain, and in demonstrating the values-alignment that is so vital in building and maintaining public trust.<sup>28</sup>

Investee business models that rely (knowingly or otherwise) on labour exploitation, including modern slavery in their operations or supply chains, are unlikely to be sustainable in the long term. Identification of instances of modern slavery may be accompanied not only by reputational damage, but also supply chain disruption, legal challenges and remediation obligations. These risks may be more pronounced for businesses that do not have existing frameworks in place to manage their modern slavery risks and respond effectively to instances of modern slavery.

Investors and lenders themselves increasingly also need to demonstrate they apply the same rigorous approach they require from investees and borrowers. The Government's *Guidance for Reporting Entities* includes investment and lending in the scope of activities that entities are expected to report on annually as part of their Modern Slavery Statement. While scrutiny over human rights risks was once exercised by a few leading 'ethically-leaning' financial institutions, the reporting requirement is now likely to make this common practice.<sup>29</sup>

“Beyond the devastating human effects, poor management of human rights undermines commercial success and the stability of investments. Investors are seeking to drive improved management and understanding of human rights impacts, including modern slavery, as we recognise how these issues can impact both communities and long-term company performance.”

**Louise Davidson,**  
CEO, Australian Council of  
Superannuation Investors



04

# MODERN SLAVERY AND HUMAN RIGHTS RISKS

While the *Modern Slavery Act 2018* (Cth) requires businesses, including financial institutions, to look specifically at modern slavery, considering the full spectrum of the company’s human rights risks and impacts in their activities and relationships will enhance the credibility and strength of the modern slavery response and statement. It will also enable a whole of business approach to managing human rights risks and impacts.

Modern slavery does not occur in a vacuum, and situations where modern slavery takes place are likely already to involve a range of other violations of the human rights of workers. Ideally, your assessment of modern slavery risks will also involve assessment of the presence of other human rights risks in your entity’s activities and relationships. The benefit of this more holistic approach, supported by the UNGPs, is that it allows for early identification and response in contexts where human rights violations may be taking place, thus decreasing the opportunities for severe human rights violations like modern slavery to flourish.

While all human rights may be impacted in the course of activities and operations within the financial services sector, labour rights are particularly vulnerable to adverse impacts. The right to work is a fundamental human right.

It can significantly affect the enjoyment of other human rights, including the right to health, adequate food, clothing and housing, and culture. The employment relationship can be a site of unequal power dynamics that increase the risk of human rights violations. Extreme erosion of rights may result in forced or involuntary labour, including for vulnerable populations such as children and migrant workers.

The corporate responsibility to respect human rights also means that the financial services sector should consider the human rights of customers and the broader communities in which they operate. For example, institutions should provide financial services and products without discrimination and by enhancing accessibility. Financing decisions for infrastructure projects should consider and mitigate any negative impacts on the right to clean air and water, social, economic and cultural development, and self-determination.

There is no limit to the opportunity that the financial services sector has to create positive impacts and prevent harm to people by taking a broad human rights-based approach.

## Commonly infringed human rights of workers in the financial services sector



Right to enjoy just & favourable conditions of work



Freedom from discrimination & harassment in employment



Freedom of assembly & association and right to strike



Freedom from discrimination on the basis of protected attributes



Right to health (physical & mental)



Right to safety



Right to decent work



Freedom from slavery & slavery-like conditions

# 05

## PRACTICAL RESPONSES

A practical response to the mandatory reporting requirements will focus on:

- 1 identifying modern slavery **risks**
- 2 **actions** taken to assess and address modern slavery risks and impacts
- 3 measuring the **effectiveness** of your response.

You will need to determine some important threshold questions, such as your consolidated annual revenue, relevant reporting entities, and your approach to joint statements for corporate groups. However, the most efficient and effective responses will focus on doing the work of addressing and ending modern slavery practices.

In this section, we help you to understand the key risk factors for identifying modern slavery risks in the financial services sector. Second, we provide practical guidance on actions your institution can take to manage identified risks, using the rights-based approach outlined in the UNGPs.

## 5.1. Identifying modern slavery risks

### i. Key modern slavery risk factors

The behaviours and practices which constitute modern slavery are serious human rights violations. The level of risk of modern slavery depends on a range of intersecting contextual factors. High-risk categories and sectors are also regarded as having more significant inherent modern slavery-related risks.

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. Where multiple high-risk factors co-exist, there is a higher likelihood that actual harm is being experienced, and additional controls are required to ensure that risk does not become harm.



## ii. The role of mapping

Mapping critical areas of modern slavery risk in financial services can help organisations to identify risks. The sector is inherently complex and includes a plethora of activities where modern slavery risks may exist.

The modern slavery legislation will require you to report on the risks of modern slavery across both your supply chains and operations. Your entity's operations may include direct employees in the business, while supply chains may include procured services — such as cleaning, ICT, furniture and building management. Mapping areas of risks in operations and supply chains may be a useful way to consider your entity's connection and influence on risks. Further detail on financial sector operations and supply chains is included in section 2 above.

The distinction between operations and supply chains in the financial services sector context may not always be clear-cut. While it is important to have an understanding of these distinctions for reporting purposes, you should invest efforts in:

- systematically mapping your entity's risks;
- prioritising your entity's responses according to the most severe risks to people, and
- ascertaining the response required to avoid, mitigate or manage those risks.

“‘Operations’ is intended to cover any activity undertaken by the entity to pursue its business objectives and strategy. These activities may include research and development, construction, production, distribution, purchasing, sales, and financial lending and investments”

**Explanatory Memorandum,**  
*Modern Slavery Bill 2018* (Cth)

“Although not required to monitor or report on individual investees or loan recipients, the Government expects that reporting entities assess at an overarching, thematic level whether they may be exposed to modern slavery risks through their investment arrangements and/or financial lending practices... [and] consider how they may be able to address any significant areas of risk through their investment and/or financial lending arrangements.”

**Department of Home Affairs,**  
'Commonwealth Modern Slavery Act 2018:  
Guidance for Reporting Entities' (2019), 34

## CASE STUDY: DEVELOPING COMMON MODERN SLAVERY TYPOLOGIES AND INDICATORS IN THE AUSTRALIAN BANKING SECTOR

One key initiative that is designed to support the sector to better understand and map risk is the development of typologies and indicators by the Australian Banking Association.

Identification of slavery and trafficking-related financial information requires a detailed understanding of the dynamics of these practices, their impacts on victims' livelihoods and their connection with an increasingly complex banking sector. Some banks have been actively tracking indicators related to human trafficking as part of their anti-money laundering and financial intelligence processes. A recent collaboration led by the Australian Banking Association's Modern Slavery Working Group builds on this knowledge by bringing together Australian banks to develop common typologies and indicators for the detection of modern slavery.

The initiative, which includes 16 members of the Australian Banking Association, aims to develop a common understanding of banks' potential connections with modern slavery practices. This could include exposure to risk through retail banking from front-of-house operations through to financial activity monitoring; business banking customer operations and

supply chains, and procurement activities. By focusing on a number of industry sectors at high risk of exposure to modern slavery practices, the Australian Banking Association's collaboration will see the development of common 'red flags' that members may use to inform analysis of transaction patterns, customer behaviours or account information. These flags will be based on detailed evidence of the dynamics of exploitation within that sector. By building in the monitoring of these indicators across their operations, banks will aim to identify risk patterns in their customer base and their suppliers — for instance, large and regular cash withdrawals, combined with several accounts held at the same address, could indicate a higher risk that these are customer accounts controlled by a single person. Specific de-identified case studies will illustrate the application of indicators to different scenarios through concrete examples of investigations experienced by members.

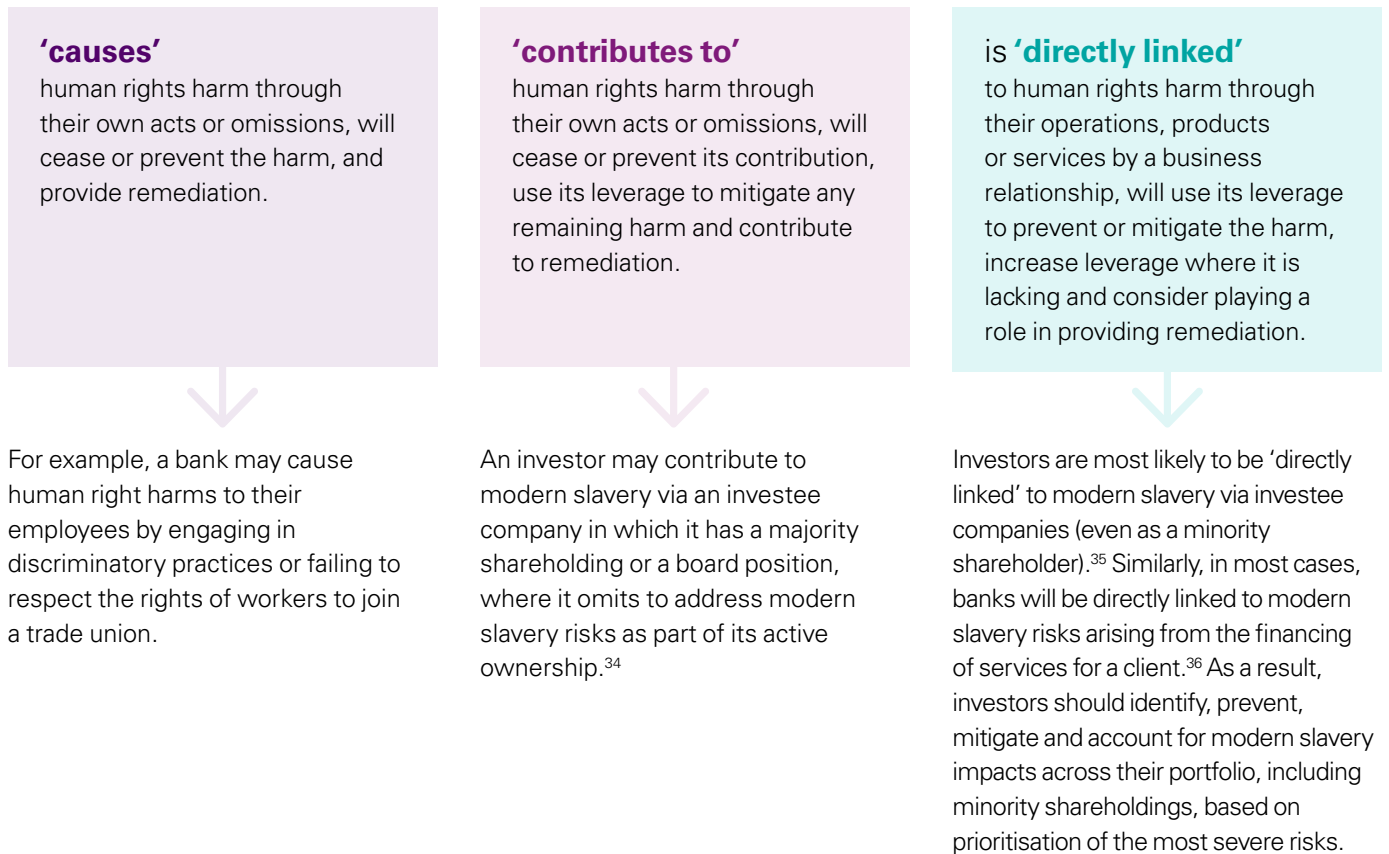
The Australian Banking Association's Modern Slavery Working Group initiative will establish an evidence base for banking institutions to embed tracking of the indicators throughout their systems.

**iii. Understanding your entity’s relationship to harm**

Meeting the responsibility to respect human rights requires financial institutions to understand their relationship to human rights risks or impacts. Understanding your entity’s relationship to modern slavery risks and impacts assists in determining the appropriate course of action to prevent or remedy them. The UNGPs envisage that businesses can directly ‘cause’, ‘contribute to’, or be ‘directly linked’ to human rights risks or impacts. These are not legal categories and the Government’s *Guidance for Reporting Entities* highlights that an entity’s relationship to modern slavery and modern slavery risks sits on a continuum and may not always fit neatly into these categories.<sup>30</sup> This is especially the case in the financial services sector context.<sup>31</sup>

The OECD’s guidance, *Responsible Business Conduct for Institutional Investors* and *Due Diligence for Responsible Corporate Lending* provides useful insights on the nature of different relationships to human rights harm arising in the sector. It also provides guidance on factors that may affect whether your entity would be considered to have ‘contributed’ to a human rights harm, such as the extent to which an institutional investor has incentivised or mitigated the risk of the adverse impact and the extent to which it was foreseeable.<sup>32</sup>

**The UNGPs (and the OECD Guidelines)<sup>33</sup> expect a business that:**



**What is ‘leverage’?**

Leverage, in this context is the ability for an entity to ‘affect change in the wrongful practices of an entity that causes a harm’<sup>37</sup> and could include use of board positions, proxy voting rights, direct engagement with investees or collaboration with peers or other stakeholders (discussed further below).<sup>38</sup>

#### iv. The important role of civil society and communities

The financial services sector carries inherent modern slavery risks associated with financial activities (lending, investing and insurance) and procurement. Even if you are confident in your modern slavery risk management systems, often the best information comes from consultation and collaboration. Civil society organisations and communities can be valuable partners to financial institutions in providing insights into areas of high risk of modern slavery, particularly where risks are not directly connected to an entity's operations. For instance, non-governmental or civil society research and reports can provide insights into allegations of human rights abuses that a financial institution may be connected to through their investment portfolio or through the practices of a borrower. In the context of growing concerns about civic freedoms and the safety of human rights defenders, financial institutions have an important role to play in, and will benefit from, advocating for the preservation of safe spaces for civil society to defend and uphold human rights.<sup>39</sup>

Failure to consult and transparently report may also have a negative reputational impact. Civil society has called out companies in industries where modern slavery risks are prevalent, but where the company has nonetheless failed to report the identification of modern slavery risks in their operations and supply chains.<sup>40</sup> Reporting that you have 'no modern slavery risks', or that you are not taking steps to manage modern slavery risks prevalent in the financial services industry, may come under similar scrutiny. For example, recent research from RMIT analysed modern slavery statements from eight Australian banks and other

financial institutions, published over three years pursuant to the *Modern Slavery Act 2015* (UK).<sup>41</sup> The research showed an 'overwhelming' focus on reporting on corporate supply chain due diligence.<sup>42</sup> As financial sector institutions in the Australian context grapple with clearer instructions on the extent of their responsibilities, failure to report transparently on the complexity of risk across your full operations and supply chain is likely to be critically received. Transparent reporting is particularly critical in the wake of the Australian Royal Commission and public accounts of other significant human rights risk issues like the online sexual exploitation of children.

Civil society groups are also proactively using existing accountability mechanisms to call out poor corporate practices. For example, the OECD Guidelines provide for a complaint mechanism, the National Contact Point, in each signatory country. This complaint mechanism has been widely used by communities, civil society groups and unions to raise concerns about breaches of the OECD Guidelines, by businesses, including by financial institutions. While the conciliation-based process undertaken by National Contact Points is often confidential, final findings may be made public, enabling public scrutiny over the alleged misconduct. From 2015 to 2017, approximately 20 percent of complaints globally to National Contact Points each year were about the conduct of financial institutions.<sup>43</sup> Adopting effective due diligence processes will not only ensure compliance with modern slavery legislation, but will also help avoid complaints being made to National Contact Points or other accountability mechanisms.



### SUMMARY: KEY RISK IDENTIFICATION STEPS

- 1 Map your operations and supply chain.
- 2 Identify areas of operations and supply chain where high risk factors are present with internal cross-function engagement.
- 3 Test your assumptions through consultation with relevant external stakeholders.
- 4 Continuously perform risk identification and risk assessment across the lifecycle of any business relationship.
- 5 Enhance your risk identification methodology over time by:
  - understanding both inherent and residual risk;
  - building on current ESG frameworks, supplier management frameworks, customer screening systems and other third party risk research to identify human rights and modern slavery risk;
  - drawing on and embedding sector wide typologies and indicators;
  - asking new questions of your existing data and the smart use of data analytics, and
  - reflecting evolving dynamics of human rights risk to reflect changes in the profile of modern slavery practices over time.



## 5.2. Taking action

According to the *Commonwealth Guidance for Reporting Entities*, effective business responses to the mandatory reporting requirement should be grounded in the human rights due diligence framework outlined in the UNGPs.

In practice, this means:

1. Having a **policy commitment** to meet the business responsibility to respect human rights.
2. Conducting a **human rights due diligence process** to identify, prevent, mitigate and account for how the business addresses its human rights risks, such as modern slavery, including:
  - **risk identification and assessment** informed by mapping your operations and supply chain and identifying and prioritising the most severe risks
  - acting on the findings of the risk identification and assessment, by implementing **risk management measures**, including training, and
  - **monitoring** the risk management measures taken and **reporting** on them, such as in your annual modern slavery statement
3. **Remediating** human rights harms (such as modern slavery) that the business causes or to which it contributes. Where the business does not cause or contribute to the harm, but is directly linked to the harm (for example, through a supplier or business relationship such as minority shareholding), then the business should use its leverage and influence to prevent or mitigate the harm from reoccurring, and to ensure the person harmed is remediated.



Adopting a **human rights commitment** is a key initial milestone of a typical modern slavery risk management framework. This should also drive a strategic conversation at board and executive levels about risk appetite, values and level of ambition to respect human rights and address modern slavery.

Embedding a human rights commitment and operationalising it requires that **accountabilities** be established, and clear roles and responsibilities defined to manage human rights, including modern slavery risks. Cross-functional ownership is especially helpful for embedding human rights related commitments across both operations and procurement in the context of the commonly diversified business practices of the financial services sector.

**Risk management** requires a holistic approach to embedding systems and controls across your business which reflect the lifecycle of your business relationships. You should plan to respond, based on the severity and likelihood of the risk and prioritise where you have direct control or leverage. In the first instance, incorporate modern slavery risk considerations into your entity's existing ESG controls or other robust initiatives such as your approach to anti-money laundering and anti-bribery and corruption, however don't assume that these programs of work explicitly cover the risk of harm to people without targeted review. Other key risk management steps may include contractual arrangements and conducting training and capability building with stakeholders.

Risk management in high-risk sectors should include **stakeholder engagement** with clients, suppliers and other business relationships, about their own human rights policies and oversight, due diligence and risk management in relation to modern slavery risks. Engagement with external stakeholders — including those who can help give you direct visibility over harm such as human rights experts, civil society and worker representatives — will enhance your engagement model.

Ongoing **monitoring** is fundamental to ensure that entities in your operations and supply chains align with your approach. It also acts as a mechanism to track the effectiveness of your management systems and controls and facilitates continuous improvement. Reporting internally and externally supports the fundamental principle of transparency underpinning the corporate responsibility to respect human rights. Beyond compliance obligations, an honest public account of your organisation's maturity journey on modern slavery also sends a strong message to industry peers and stakeholders, contributing to building trust.

Financial institutions should also establish, participate in or otherwise ensure that effective **grievance mechanisms** are in place to provide early warnings of situations indicating modern slavery risks in the activities of your business relationships, so that they can be identified, addressed and remediated.<sup>44</sup> Any process must respond to the identification of instances of modern slavery in a manner that does not jeopardise the safety of victims, ideally working with expert advisers, such as local civil society organisations.

The following snapshots illustrate how the financial services sector is meaningfully responding to human rights and modern slavery risks.

## CASE STUDY: **DEVELOP A HUMAN RIGHTS FRAMEWORK**

A financial institution operating globally sought to embed human rights in a practical way into its business practice. It initially conducted a human rights risk assessment of four supplier categories. It then conducted a targeted Modern Slavery Diagnostic Assessment and Action Plan for its corporate procurement function, followed by a pilot of in-country supplier engagement and risk assessment of high-risk suppliers in three high-risk geographies. Finally, the company developed and rolled-out targeted human rights and modern slavery training in domestic offices and four overseas jurisdictions.

## CASE STUDY: **ASSESS AND PRIORITISE MODERN SLAVERY RISKS ACROSS ASSET CLASSES**

Assessing modern slavery risks in a large investment portfolio can be challenging from a time and resource perspective. A large asset owner based its approach on publicly available risk indicators at the country and sector levels to highlight potential modern slavery risk hotspots in major asset classes. A methodology was developed, based on the UNGPs, to prioritise engagement with portfolio companies and assets based on the level of risk and the asset owner's connection to risk. The outputs of this analysis were then integrated into a multi-year roadmap to integrate into the investor's existing active ownership activities.

## CASE STUDY: **BUILDING CAPABILITY THROUGH WORKSHOP TRAINING**

Training and awareness raising support the effective implementation of policies and processes in practice. Following detailed research into its own human rights and modern slavery risk, a financial services firm developed and delivered a tailored training regime to build the capability of the first, second and third lines. The training engaged with hundreds of senior managers and allowed them to make the connection between their roles and responsibilities and the corporate responsibility with respect to human rights. In the COVID-19 context, this training is being delivered virtually.

## CASE STUDY: **MONITOR MODERN SLAVERY RISKS WITHIN PORTFOLIO ASSETS**

Once modern slavery risks have been initially identified in key business areas, effective monitoring and reporting ensures potential impacts can be adequately escalated and managed in time. A global infrastructure investor integrated monitoring and escalation of modern slavery risks into existing processes used to report other environmental and social risks. The framework developed built on information already collected by the institution during pre-investment due diligence at the country, sector and asset levels. Using existing escalation protocols and reporting lines, the institution ensured the monitoring framework could be used immediately by its asset managers.

### 5.3. Sector collaboration

An increasing number of collaborative initiatives have sought to mobilise the sector to play a key role in identifying and addressing modern slavery risks. Collaborative initiatives can be a useful way for financial institutions to increase their leverage over the businesses with which they are engaged. Exerting influence can secure wider market alignment with emerging expectations regarding modern slavery risk management and other ESG considerations. Industry platforms, collaborative sector agreements and multi-stakeholder initiatives are all examples of actions that can help increase or maximise the leverage of financial institutions on a specific issue or context.<sup>45</sup> Similarly, collective dialogue with regulators and policy makers can help prompt policy that creates a level playing field for financial institutions seeking to manage their modern slavery risks.

The benefits of collaboration and peer learning are particularly pronounced in the financial services sector given the vast and complex array of connections the sector has to modern slavery risks and the significant influence that collaborative efforts can have on the conduct of other businesses. There is also an opportunity for collaborative responses to common risks in the sector. For example, there is a known intersection between the black economy and exploitation of vulnerable workers, through practices such as underpayment of wages or sham contracting. Long and opaque supply chains in the provision of insurance claims, for instance, combined with low economic margins and cost pressures, can contribute to a heightened risk of worker exploitation in the lower tiers of the supply chain.<sup>46</sup> Leading businesses in the insurance sector could collaborate on a proactive response to related modern slavery risks, including where these are part of their value chain rather than direct supply chain.

At the global level, the FAST Initiative's Blueprint provides a collective action framework for the whole financial services sector and professional service providers to accelerate action to end modern slavery and human trafficking. The Initiative includes five common goals across the sector as well as practical workflows and diagnostic tools to assist financial institutions to play a role in eradicating these practices.<sup>47</sup>

#### Responsible Investment Association of Australia

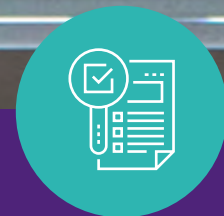
In Australia, the Responsible Investment Association of Australia (RIAA) and the Australian Sustainable Finance Initiative are two forums that bring together financial institutions to collaborate on social, environmental and governance issues. RIAA's Human Rights Working Group, which includes representatives from asset owners, asset managers, academia and civil society, has published the *Investor Toolkit – Human Rights with a focus on supply chains* to assist investors constructively engage with companies on human rights impacts in their supply chains, including modern slavery risks.<sup>48</sup>

#### Principles for Responsible Investment (PRI)

The PRI is an industry-based investor initiative for responsible investment with 3,038 signatory investors, representing USD \$103 trillion in assets under management.<sup>49</sup> The PRI encourages investors to conduct human rights due diligence in relation to their investment activities in accordance with the UNGPs and OECD Guidelines by publishing guidance, facilitating collaboration and promoting policy measures that assist investors manage a wide range of human rights issues.<sup>50</sup> For example, the PRI worked with 38 investor signatories representing USD \$2.4 trillion in combined assets under management to engage with 34 global food and beverage companies on their response to labour risks in their supply chains.<sup>51</sup> The PRI then published guidance on engaging with investees to improve labour practices in agricultural supply chains.<sup>52</sup>

“Collectively, the financial sector has significant reach and potential to contribute to efforts against modern slavery – including by shifting capital allocation to less harmful business models, excluding proceeds from modern slavery from the financial system, and providing safe access to finance to victims”

**Fiona Reynolds**  
CEO, PRI



## SUMMARY: KEY RISK MANAGEMENT STEPS

- 1 Confirm accountabilities.
- 2 Establish governance structures and cross-functional responsibilities.
- 3 Benchmark existing:
  - commitment
  - risk management systems and controls
  - grievance mechanisms and remediation.
- 4 Incorporate explicit modern slavery risk considerations into risk processes.

## CASE STUDY: INVESTOR COLLABORATION ON INVESTEE ENGAGEMENT

*Investors Against Slavery and Trafficking Asia-Pacific* (IAST APAC) is a group of institutional investors supported by Minderoo Foundation's Walk Free and the Liechtenstein Initiative for Finance Against Slavery and Trafficking (FAST). Together, they are using their voice to influence how investee companies address modern slavery risks in the Asia-Pacific region. In November 2020, IAST APAC comprised 24 signatories with AUD \$5.8 trillion in assets under management, including asset owners, asset managers and industry representatives.

In late 2020, IAST APAC released an investor statement in which signatories called on Australian investee companies to meet their reporting obligations under the *Modern Slavery Act 2018* (Cth) and to go beyond compliance with the legislation by pursuing 'real action to combat modern slavery'.<sup>53</sup> The statement highlights the group's concerns about modern slavery risks where businesses operate in environments characterised by extensive use of vulnerable workers, complex supply chains, oligopolistic buyers, as well as from unsustainable business models that rely on modern slavery. The statement also points to the significant compliance and brand risks arising from modern slavery, which can be 'costly and time consuming to address'. Through the statement, the signatories ask their investees to mitigate their modern slavery risks in the coming months and years through steps such as:

- undertaking detailed risk-based mapping of their supply chains
- building strong relationships with suppliers through supply chain consolidation
- incentivising suppliers to monitor conditions at the next tier in the supply chain

- pricing goods and services to allow a living wage to be paid through the supply chain
- establishing processes to monitor labour rights in their supply chains
- aligning procurement and ethical sourcing teams' respective KPIs
- establishing an 'employer pays' recruitment policy to help avoid debt bondage
- developing strategies for remedy and making grievance mechanisms accessible
- engaging stakeholders when developing modern slavery policies and due diligence processes and collaborating with peers, and
- ensuring board oversight and clear responsibility for modern slavery within the company.

The statement was sent to all ASX 100 companies and will be a basis for ongoing individual company engagement.

From 2021, IAST APAC members can additionally contribute to targeted, collaborative engagement efforts with investee companies in the Asia-Pacific region in strategically selected sectors. This engagement is informed by ongoing consultation with civil society organisations from the region and expertise from Walk Free and FAST.

IAST APAC's coordinated, multi-stakeholder approach aims to allow these investors to share information, signal consistent expectations to the market and avoid duplication in their engagement efforts. Together IAST APAC members plan to use these activities as leverage to improve supply chain practices, responsibly de-risk their portfolios and to model a robust investor engagement strategy for other regions.

# CONCLUSION

The *Modern Slavery Act 2018* (Cth) presents an opportunity for the financial services sector to embrace a human rights-based approach to risk identification and mitigation. Some of you will be right at the start of the journey with significant internal buy-in required and foundational commitments to human rights still to be made. For others, you may have already developed quite sophisticated approaches to address human rights issues, perhaps as part of an ESG framework or other approaches to social impacts. For most, you will have existing risk systems and controls around which you can build or retrofit human rights considerations.

A robust approach to managing modern slavery risk requires an understanding of the maturity of your existing systems and controls with an articulated pathway to enhancing them over time. Building in learning from international leading practice and fundamental human rights principles can set a foundation for reporting on effectiveness under the mandatory criteria year-on-year, providing a benchmark for your response.

The following checklist provides practical guidance for entities starting to take action to manage their modern slavery risks.

## Raising awareness on modern slavery in the entity

- Have you informed management and board on modern slavery and their responsibilities to address it?

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- Has the entity conducted a strategic conversation on its risk appetite, values and level of ambition to respect human rights and contribute to eradicate modern slavery?

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## Understanding how modern slavery risks present in operations and supply chains

- Do you understand what behaviours and practices constitute modern slavery and likely risk factors for the entity and sector?

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- Has the entity included modern slavery risks on its risk register?

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- Has the entity established accountabilities for identification of modern slavery risk (i.e. allocated lead responsibility at operational and senior management levels, and equipped staff for those roles)?

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- Has the entity collaborated with experts, civil society, victim advocates or other relevant stakeholders to assist with better identification of modern slavery risks?

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### Assessing the existing supply chain of the entity

- Is the entity able to report at a group-level on behalf of all subsidiaries and across all geographies?

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- Does the board receive regular updates on changes to the structure, operations and supply chain of the entity?

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- Has the entity determined its approach to publicly releasing detailed information about its operations and supply chain?

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### Monitoring and evaluating the effectiveness of the entity's actions

- Does the entity monitor and review its human rights policies and their implementation?

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- Has the entity engaged with organisations that have in place more mature practices or have implemented regulatory obligations in other jurisdictions?

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- Have management systems and controls uncovered any instances of modern slavery and, if not, are they robust enough?

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### Designing and implementing a framework to address modern slavery risks

- Has the entity established senior executive KPIs for managing modern slavery risk?

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- Does the entity express its commitment to protect human rights, including modern slavery, through a board approved public statement of policy?

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- Does the board receive periodic reports on modern slavery risk? Is the risk committee (or equivalent) undertaking the more granular work associated with addressing modern slavery risks and addressing risks identified on the risk register?

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- Has the entity introduced assurance measures for reporting on modern slavery due diligence?

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- Has the entity established an effective grievance mechanism?

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- Has the entity established a framework for what they do when they have found evidence that modern slavery may exist in their supply chains?

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- Has appropriate staff training, and education been put in place to ensure the organisation is able to implement their modern slavery obligations effectively?

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An earlier version of these checklists first appeared in Australian Superannuation Council of Investors, *Modern Slavery Risks, Rights and Responsibilities: A Guide for Companies and Investors (2019)*. Reproduced with permission.



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