

Moving from paper to practice: ASX200 reporting under Australia's Modern Slavery Act

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This research was commissioned by
the Australian Council of Superannuation Investors
and conducted by Pillar Two

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Our members include 36 Australian and international asset owners and institutional investors. Collectively, ACSI members own on average 10% of every ASX200 company. Through research, engagement, advocacy and voting advice, ACSI supports members in exercising active ownership – strengthening investment outcomes.

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FOREWORD

Modern slavery occurs all around the world and can impact many businesses. Due to Australia's reliance on imported goods, our businesses are particularly at risk of exposure to modern slavery practices.

Modern slavery has a devastating human impact. It is also an investment issue because of its potential to undermine shareholder value. Safeguarding human rights is important to long-term business sustainability as supply chains expose companies across many sectors to significant reputational and financial risk.

Until recently, there was no legal requirement for businesses to assess and address modern slavery risks in their operations and supply chain. The Modern Slavery Act (2018) now requires companies with revenue of over AUD\$100M to publicly disclose their exposure to modern slavery risks.

While many companies have strong governance practices in place to protect the human rights of their people, it can be more challenging to understand and address practices across their supply chains.

This report is a valuable snapshot of key reporting trends among 151 ASX 200 companies. It identifies areas where reporting can be improved and covers the practical steps businesses have taken to mitigate modern

slavery risks in their operations and supply chains. The quality of reporting under the Modern Slavery Act differs across companies and sectors. The majority of statements satisfy minimum reporting requirements, and we recognise that this is a developing area.

Nonetheless, our research identifies a number of opportunities for improvement to:

- deepen disclosure on operational risks;
- provide more detail about how policies, risk assessments and training are being implemented;
- collaborate with suppliers and other stakeholders to address their modern slavery risks;
- strengthen grievance mechanisms to manage modern slavery complaints; and
- outline how the effectiveness of actions to address modern slavery risks is measured and assessed.

The next 12 months will be critical to strengthen risk management and reporting processes. We look forward to working with companies to continue to improve modern slavery risk management and collaborate to drive meaningful change.



Louise Davidson
Chief Executive Officer

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EXECUTIVE SUMMARY

This report sets out the results of a research project to evaluate the quality and compliance of reporting by ASX200 companies for the first reporting cycle under Australia's Commonwealth *Modern Slavery Act 2018 (MSA)*. By assessing 151 ASX200 companies' statements¹ against 41 quality indicators and eight legal compliance indicators, this research project provides a valuable snapshot of the current 'state of play', including by identifying key reporting trends and where and how businesses can improve their reporting going forward. As well as showing how companies are reporting, the results outlined in this report also provide a window into the practical actions being taken by companies to assess and address their modern slavery risks, and in some cases broader human rights and environmental, social and governance (ESG) risks.

Importantly, ASX200 companies are not a homogenous cohort and different sectors and specific companies have varying levels of maturity and existing capacity in modern slavery risk management and human rights based disclosures more broadly. This is reflected in the overall quality of reporting under the MSA, which varies by sector and revenue level. These variations are likely to continue across future reporting cycles. As a result, investors and other stakeholders in future years will need to consider not only the comparative quality of statements across sectors, but the extent to which these statements show improvement in companies' individual year-on-year performance.

Key findings include:

- There are clear groups of leaders and laggards within the ASX200, with the majority of statements appearing to follow a 'race to the middle' approach (seeking to satisfy the legal requirements of the MSA without disclosing more than key peers). The average quality score for statements was 15.4 out of a maximum of 41 points, with only 31 statements scoring 20 points or more.
- While almost all statements addressed the key mandatory criteria for content under the MSA in some way (though to varying degrees of quality), a substantial number of ASX200 companies have struggled to comply with the more procedural criteria around identifying reporting entities and describing consultation with both reporting entities and other owned or controlled entities. In total, 33% of ASX200 companies' statements appeared to be potentially non-compliant with one or more of the MSA's requirements. In some cases, this potential non-compliance may reflect differing interpretations of the MSA's requirements among legal services providers, including how these requirements interact with corporations law principles and apply to complex corporate structures.
- Almost all statements provided a basic level of information about modern slavery risks, such as modern slavery risk categories and higher risk countries. However, few ASX200 companies (5%) were able to clearly articulate how they may be involved in modern slavery risks using the 'cause', 'contribute', 'directly linked' continuum set out in the UN Guiding Principles on Business and Human Rights (**UNGPs**) or similar language. Most statements also focused on supply chain risks rather than modern slavery risks within the companies' operations. Almost 65% of statements did not identify any general modern slavery risk areas/factors relating to companies' operations.

¹ This research project assessed the 151 statements from ASX200 companies that were publicly available as at 1 June 2021.

The variable quality of statements' disclosures in this area (and more broadly) may be partly attributable to a low level of understanding of existing business and human rights frameworks such as the UNGPs within some companies (particularly smaller entities), as well as companies engaging external legal and professional services advisors with limited experience advising on business and human rights issues.

- The quality of reporting often focused on 'paper over practice' and was frequently undermined by insufficient detail around the implementation of key actions, such as policies, risk assessments or training. For example, less than half of statements identified how key policies are communicated or enforced, only 13% of statements that discussed training provided information about the training content and number of people trained, and only 33% explained the methodology used for supply chain risk assessments.
- Whilst statements show ASX200 companies are engaging with their Tier 1 suppliers through processes such as supplier questionnaires, few companies appeared to have considered how they can use and expand their existing leverage with suppliers and other business partners to address modern slavery risks, either alone or in partnership with others in their sector.
- Many ASX200 companies appear poorly prepared to respond to modern slavery incidents that may be identified in their operations or supply chains and are taking few steps to ensure that grievance mechanisms for vulnerable workers are trusted and accessible. Only 17% of statements identified actions taken by companies to ensure grievance mechanisms or other processes are trusted and accessible to stakeholders and that they are capable of receiving and responding to modern slavery complaints.
- Efforts by ASX200 companies to assess the effectiveness of their actions to assess and address modern slavery risks are largely at a basic level and often focus on measuring quantitative outputs (such as number of workers trained) rather than practical outcomes (such as measurable increases in workers' awareness of modern slavery after training). Only 32% of statements clearly explained how the companies assess effectiveness. Less than 5% of statements defined "effectiveness" or identified key components for an effective response.
- Few ASX200 companies are engaging with stakeholders to help inform their modern slavery risk management approach, such as civil society or vulnerable workers. For example, only 21% of statements referred to using feedback from external sources to assist with assessing effectiveness. Although 36% of statements identified broader instances of collaboration, this collaboration appeared to primarily be with other businesses rather than other stakeholders, such as unions or NGOs.

The next twelve months will determine whether the MSA is driving concrete action and continuous improvement from businesses, or becomes an ineffective 'box-ticking' compliance exercise. Investors and other stakeholders have a key role to play in engaging with ASX200 companies to ensure statements give them the information they need to meaningfully assess Australian companies' modern slavery risk management, and that the MSA delivers important change.

Reporting on modern slavery incidents: Is it a problem that statements under the MSA do not disclose incidents of modern slavery?

To date, statements from the ASX200 (and more broadly) have provided little information about whether reporting entities are identifying cases of modern slavery in Australia or overseas. For example, only a small number (approximately 6%) of ASX200 statements provided clear examples of how companies have identified and responded to allegations or incidents of labour rights violations in their operations or supply chains. Although the examples provided referenced a range of potential modern slavery red flags, none of the statements indicated that actual incidents of modern slavery had been detected upon further investigation. Key issues identified in these examples included passport retention, underpayment of wages, excessive or forced overtime, restrictions on freedom of association, and charging of recruitment fees to workers.

The absence of information in statements about identified modern slavery incidents likely reflects a number of factors and does not necessarily mean that ASX200 companies are not meaningfully looking for or finding incidents of modern slavery. Importantly, the MSA does not require statements to disclose modern slavery incidents or allegations and the Government's official guidance about compliance with the MSA (the **Guidance**) suggests entities take a cautious approach to doing so, including to ensure victims are not identified or placed at risk of further harm through such disclosure.

Key factors underlying the absence of reporting on modern slavery incidents in the first reporting period are likely to include:

Concern about legal and reputational implications associated with disclosing modern slavery incidents or allegations: Modern slavery involves serious criminal conduct and, as with other crimes, boards are likely to be reluctant to publicly disclose any occurrences in companies' operations and supply chains. In the absence of expert advice, companies may also find it difficult to determine whether labour rights violations they identify may meet the threshold for modern slavery, including in situations such as excessive unpaid overtime or withholding of workers' identity documents.

Challenges understanding supply chains beyond Tier 1 level: Statements suggest that ASX200 companies have largely been unable to look beyond their Tier 1 suppliers to identify modern slavery risks deeper in their supply chains. While this focus on Tier 1 suppliers is understandable for first year reporting, it is likely that many modern slavery risks for companies lie beyond Tier 1. As a result, many ASX200 companies may not yet have the necessary supply chain visibility to identify modern slavery incidents deeper in their supply chains.

Inadequate modern slavery risk assessment processes: The overall quality of ASX200 statements suggests that while some companies are committing time and resources to assessing and addressing modern slavery risks, others are not. Companies that fail to implement meaningful actions to assess and address modern slavery risks, including trusted and accessible grievance mechanisms, are unlikely to identify modern slavery

incidents in their operations and supply chains. Importantly, COVID-19 has also undermined companies' ability to undertake 'on the ground' activities that would help to identify modern slavery risks and incidents, such as site visits.

Ultimately, the long-term success or failure of the MSA will be determined by the extent to which the legislation can be shown to have impacted the prevalence of modern slavery. Paradoxically, however, statements in their current form are unlikely to provide the level of detail necessary to make these judgments.

Investors can help to address this dynamic by encouraging companies to:

- recognise that they may be involved in modern slavery through their operations and supply chains (including within Australia);
- take meaningful steps to identify modern slavery incidents, including working to ensure that grievance mechanisms are trusted and accessible to stakeholders, such as vulnerable workers;
- develop practical plans to help guide their responses to modern slavery allegations or incidents when they occur; and
- work to better understand modern slavery risks beyond Tier 1 suppliers.

Investors should also publicly and privately support companies to disclose identified modern slavery incidents in a way that does not put survivors or other relevant people at risk.

SUMMARY OF KEY FINDINGS

KEY OVERALL FINDINGS



ROOM FOR IMPROVEMENT:

There is significant room for improvement in the quality of reporting by ASX200 companies. The average score for all ASX200 statements was 15.4 out of 41 points (38%). 31 statements scored 20 points or more and 26 statements scored 10 points or less.



LENGTH VS QUALITY: The length of statements (in words) appears to correlate with overall quality. The average length of all ASX200 statements was approximately 4,100 words. The average length of the 10 highest scoring statements was over 9,000 words. In contrast, the average length of the 10 lowest scoring statements was approximately 1,400 words. While longer statements can allow for more comprehensive reporting, statement length may not always equate to higher quality disclosures, especially in future reporting cycles. Going forward, investors and other stakeholders should focus on the substance rather than the length of disclosures made in statements.



UNDERSTANDING NON-COMPLIANCE:

The integrity of ASX200 reporting is undermined by a high level of non-compliance with various requirements of the MSA. 33% of ASX200 companies' statements appeared to be potentially non-compliant with one or more of the MSA's requirements. The most common area for non-compliance was describing consultation with owned or controlled entities (21%).

ASSESSMENT AREA ONE: IDENTIFYING REPORTING ENTITIES

Proportion of statements assessed as likely to be non-compliant: 5%



WHERE DID STATEMENTS FALL SHORT: 5% of statements were assessed as potentially non-compliant with the MSA's requirement to identify reporting entities covered by the statement. Many of these statements indicated that they were joint statements covering multiple reporting entities but failed to name the other reporting entities.



HIDDEN NON-COMPLIANCE: While difficult to verify, it is likely that a number of other statements (in addition to the 5% assessed as potentially non-compliant) failed to fully identify all reporting entities covered by the statement. This includes statements that identified only the parent entity of the group as the reporting entity or identified a small number of reporting entities that was disproportionate to the size of the group.

ASSESSMENT AREA TWO: DESCRIBING STRUCTURE, OPERATIONS AND SUPPLY CHAINS

Proportion of statements assessed as likely to be non-compliant: 0%



KEY STRENGTHS: Statements frequently provided detail about the key products and services provided by the reporting entity/ies (almost 100% of statements); the number of Tier 1 suppliers (61%) and their locations (65%); and the types of products and services procured from suppliers (81%).



MISSING DETAIL: However, statements were often hampered by a lack of detail. For example, only 42% of statements identified key brands and trading names in their description of operations, less than 30% explained the composition of the reporting entity/ies' workforce (such as categories and numbers of contracted workers) and only 31% of statements identified the locations for over 80% of their Tier 1 suppliers.

ASSESSMENT AREA THREE: DESCRIBING MODERN SLAVERY RISKS

Proportion of statements assessed as likely to be non-compliant: 3%



WHERE ARE THE RISKS: Almost all statements provided a basic level of information about modern slavery risks, such as modern slavery risk categories and higher risk countries that may be relevant to their operations and/or supply chains. However, only 5% of statements clearly articulated how companies could potentially be involved in modern slavery risks through their operations and supply chains (such as by using the UNGPs 'cause', 'contribute', 'directly linked' framework or similar language).



FOCUS ON SUPPLY CHAINS OVER OPERATIONS: Statements overwhelmingly focused on supply chain risks, rather than potential risk areas in companies' operations. Over 60% of statements did not identify any modern slavery risk areas or factors relating to companies' operations.

ASSESSMENT AREA FOUR: DESCRIBING ACTIONS TO ASSESS AND ADDRESS MODERN SLAVERY RISKS

Proportion of statements assessed as likely to be non-compliant: 0%



STYLE OVER SUBSTANCE: Many statements provided little information about how key actions are being implemented. Less than half of statements identified how key policies are communicated or enforced, only 13% of statements that discussed training provided information about the training content and number of people trained, and only 33% explained the methodology used for supply chain risk assessments. Only a quarter of statements provided one or more case study/ies to give practical examples of actions taken.



RISK ASSESSMENTS: 92% of statements indicated that a modern slavery risk assessment process was undertaken in relation to supply chains and 52% of statements indicated that some form of modern slavery risk assessment was undertaken of companies' operations. However, only 22% of statements indicated risk assessments were informed by the use of internal or external expertise (such as human rights teams or external consultations). 36% of statements explained that risk assessments drew on credible written resources or tools, such as risk indices.



ASSIGNING RESPONSIBILITY: 68% of statements explained how companies have assigned responsibility for assessing and addressing modern slavery within the business through their governance structures.



RESPONDING TO CASES: Over 80% of statements identified processes (such as grievance mechanisms) to help companies identify and respond to modern slavery incidents in their operations and 65% did so for their supply chains. However, only 6% of statements explained how the reporting entities had identified and responded to allegations or incidents of labour rights violations and only 17% of statements identified actions taken to ensure grievance mechanisms or other processes are trusted and accessible to stakeholders, such as vulnerable workers.



COLLABORATION: 36% of statements identified at least one instance of collaboration to assess and address modern slavery risks, such as membership of a business and human rights multistakeholder group. Only half were able to articulate how this collaboration practically supported activities to address modern slavery.



CONTINUOUS IMPROVEMENT: Most statements had a strong focus on continuous improvement. 50% of statements identified at least four concrete future actions to be taken to improve their response to modern slavery.

ASSESSMENT AREA FIVE: ASSESSING EFFECTIVENESS

Proportion of statements assessed as likely to be non-compliant: 8%



THE CHALLENGE OF EFFECTIVENESS: Only 32% of statements clearly explained how companies assess effectiveness. Less than 5% defined effectiveness or identified key components for an effective response.



SEEKING STAKEHOLDER INPUT: Only 21% of statements referred to using feedback from external sources to assist with assessing effectiveness.

ASSESSMENT AREA SIX: CONSULTATION, APPROVAL AND SIGNATURE

Proportion of statements assessed as likely to be non-compliant with requirements for consultation: 21%



FAILURE TO CONSULT: 21% of statements were potentially non-compliant with the requirement to describe consultation with owned or controlled entities. In addition, 9% of statements were potentially non-compliant with the requirement to describe how multiple reporting entities covered by the statement were consulted in the statement's preparation (although non-compliance with this requirement may be higher than identified due to statements not properly identifying all reporting entities).



SETTING THE TONE: 36% of statements included a foreword or message from the statement signatory, such as the CEO or Chair. The inclusion of a foreword or message may indicate higher levels of engagement from senior leadership within the business in the company's response to modern slavery, however did not appear to correlate with the overall quality of the statement.

CHART 1. DISTRIBUTION OF ASX200 COMPANIES' STATEMENTS BY TOTAL QUALITY SCORE

This chart shows the number of ASX200 companies' statements that fall within each of the six scoring bands below (151 statements were assessed). Statements' quality was scored out of a maximum of 41 points.

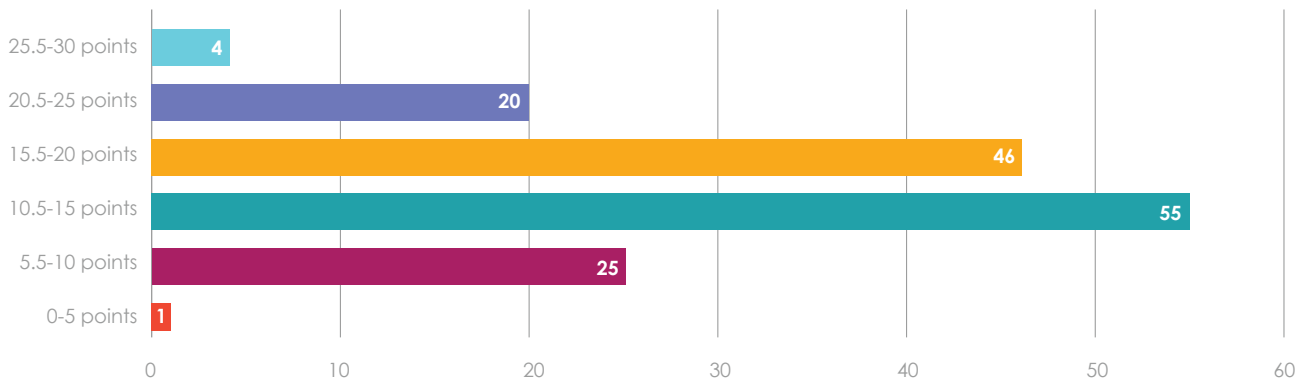


CHART 2. LONGER STATEMENTS GENERALLY SCORE MORE HIGHLY

This chart shows the average length of ASX200 companies' statements in words, including for the 10 highest and 10 lowest scoring statements (151 statements were assessed).

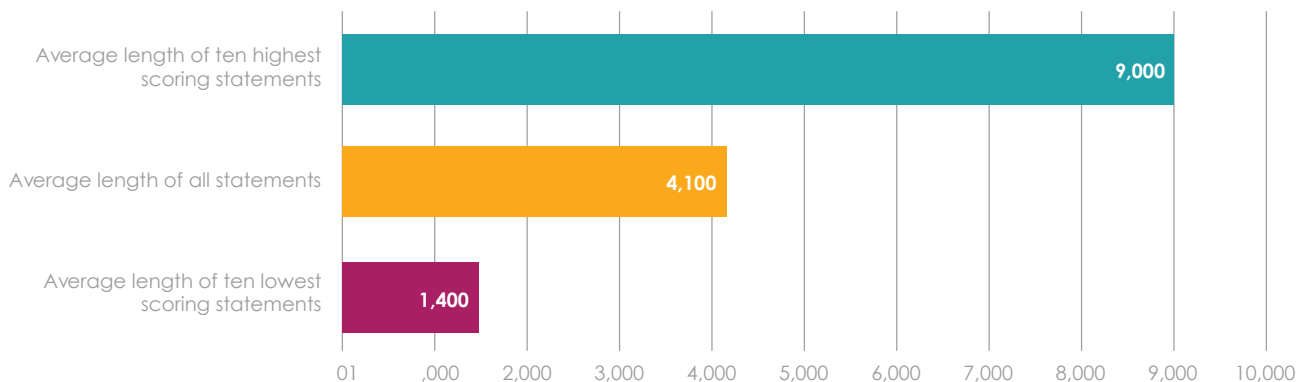


CHART 3. AVERAGE SCORE BY ASX COHORT AND SECTOR

This chart shows the average scores for the ASX20, ASX21-50 and key sectors. For the purpose of this chart, statements were assigned to the most relevant sector (151 statements were assessed). Statements' quality was scored out of a maximum of 41 points.

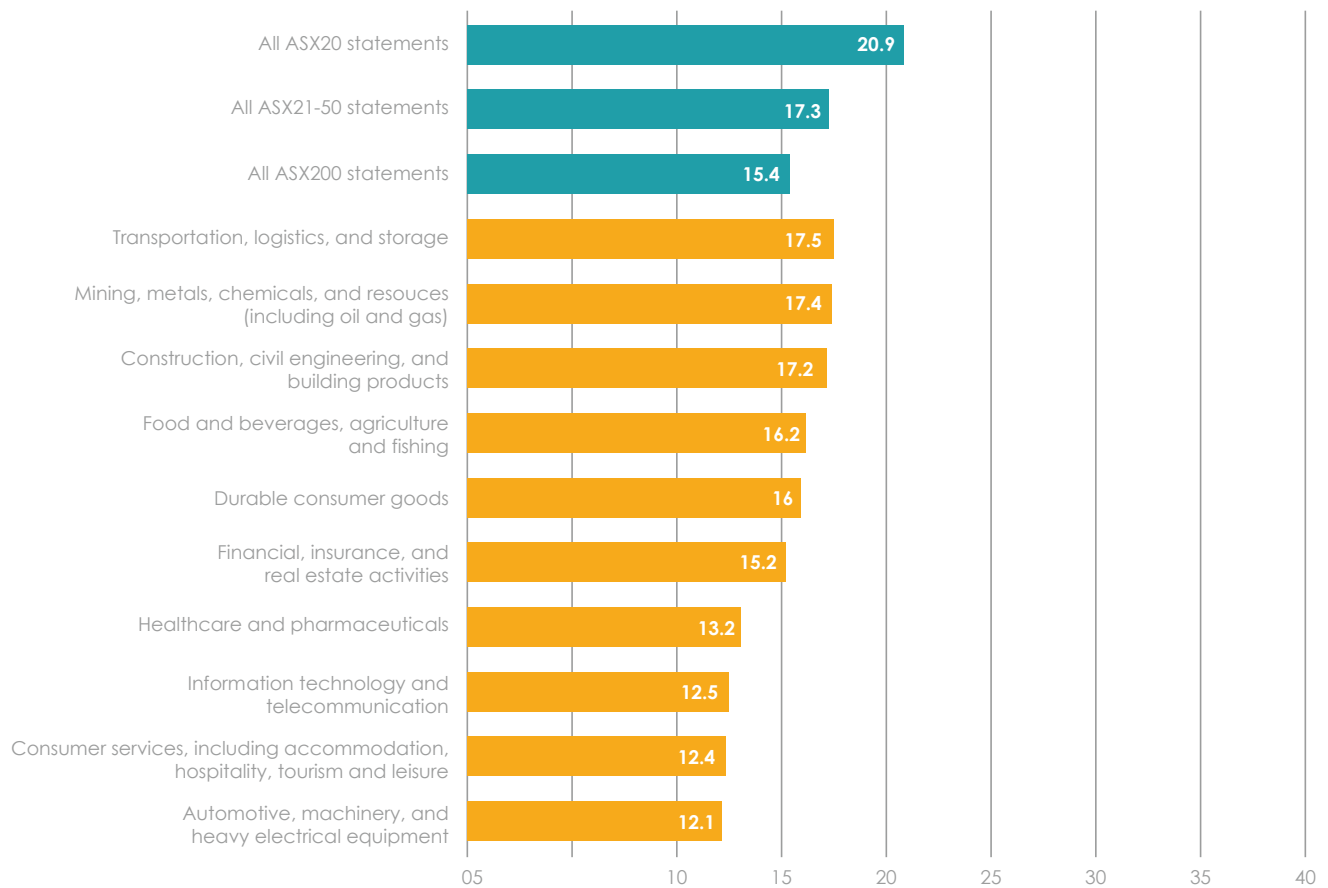


CHART 4. NUMBER OF STATEMENTS (%) POTENTIALLY NON-COMPLIANT WITH THE REQUIREMENTS OF THE MODERN SLAVERY ACT

This chart shows the percentage of statements assessed as potentially non-compliant with each of the requirements set out in the Modern Slavery Act (151 statements were assessed).



RECOMMENDATIONS

RECOMMENDATIONS FOR ASX200 COMPANIES

- 1) **Ensure statements clearly address each of the requirements set out in the MSA, including to:**
 - o meaningfully address criteria relating to substantive content – such as descriptions of actions to assess and address risks; and
 - o comply with requirements relating to identifying reporting entities and consultation with these reporting entities and other owned or controlled entities (see also Recommendation 5).
- 2) **Strengthen disclosures on potential modern slavery risk areas, including to:**
 - o identify how modern slavery risk areas may be present in companies' operations and supply chains (including any investments), including explaining how companies may potentially be involved in modern slavery using the 'cause', 'contribute', 'directly linked' continuum for involvement set out in the UNGPs or similar language;
 - o avoid disclosures that set out generic high level risk factors, such as country and sector risks but do not explain how these factors may give rise to modern slavery risks in companies' operations and supply chains;
 - o explain modern slavery risk areas that may be present in companies' operations rather than focusing only on supply chain risks;
 - o indicate where owned or controlled entities may have specific modern slavery risks that differ from the group, including where these entities operate offshore or in higher risk sectors; and
 - o consult workers, their representatives, civil society and other stakeholders to inform understanding and explanation of potential modern slavery risks.
- 3) **Focus on how key actions such as policies or training are implemented or undertaken in practice and how they are specifically relevant to addressing modern slavery risks.** This could include explaining how relevant policies are communicated to employees, contractors and suppliers' workers as appropriate, or providing information about the number of workers trained and the content of the training.
- 4) **Improve reporting on assessing effectiveness by considering outcomes** (such as increases in modern slavery incidents identified and remedied) **and not just quantitative outputs** (such as numbers of workers trained or supplier questionnaires distributed).
- 5) **Ensure statements provide meaningful information about consultation** with owned or controlled entities and other reporting entities (where relevant). This should include describing how owned or controlled entities were consulted and explaining where they were not (such as where entities are holding companies). Statements that describe more general consultation through working groups or with relevant functions rather than directly with specific owned

or controlled entities should also explain why this approach was taken and how it relates to owned or controlled entities (for example, because functions have specific responsibilities across all owned or controlled entities). Where appropriate, statements could also outline any outcomes or challenges that arose from the consultation, such as identification of any gaps or opportunities for further action.

RECOMMENDATIONS FOR INVESTORS

- 1) **Encourage investee companies to explain in their statements how they may be at risk of being involved in modern slavery through their operations and supply chains using the UNGPs continuum** – rather than simply listing broad modern slavery risk categories and higher risk countries.
- 2) **Support companies (publicly and privately) that demonstrate how they have identified and remedied incidents of modern slavery in their statements.** While companies are not expected to disclose details of specific modern slavery incidents, such as factory names or locations, it is important statements show where incidents may occur and how any identified incidents have been remediated.
- 3) **Provide concrete examples in their own statements of how they have engaged with companies** to help improve investees' modern slavery risk management approaches.
- 4) **Continue and expand collaborative engagement with investee companies on modern slavery,** including through organisations such as ACSI and relevant investor coalitions. This could include providing clear guidance to businesses about investor expectations.
- 5) **Engage with companies not only about the content and quality of statements but also their underlying actions** to manage modern slavery risks.
- 6) **Encourage companies to integrate modern slavery risk management with wider company action to assess and address other human rights risks,** including comparatively less serious forms of worker exploitation and other ESG issues.
- 7) **Focus on regular engagement that includes opportunities for two-way dialogue** and avoid 'once-off' engagement with investee companies.

RECOMMENDATIONS FOR GOVERNMENT

- 1) **Continue to publish regular updates on reporting trends and areas for improvement**, in consultation with the Modern Slavery Expert Advisory Group.
- 2) **Issue further guidance to clarify areas of ambiguity** relating to the interpretation of key aspects of the MSA. This should include:
 - o confirmation that statements must name all reporting entities within corporate groups (or at a minimum those that are material subsidiaries for financial reporting purposes);
 - o guidance about how best to report on country and category-specific modern slavery risks, while taking into account potential sensitivities that companies may have around reporting this information (including where companies operate in or have suppliers in countries where there is state-sponsored forced labour); and
 - o suggested principles or frameworks to support reporting entities to better assess the effectiveness of their actions.
- 3) **Foster continued collaboration between businesses and with civil society**, including:
 - o providing principles-based advice about the application of competition law and other relevant laws to collaboration to progress industry-specific responses, including examples of activities that are likely to be permissible or impermissible under current legal frameworks; and
 - o convening regular national multistakeholder modern slavery conferences to bring together businesses, investors, civil society and other stakeholders to discuss challenges and opportunities.

INTRODUCTION

The UN and Walk Free Foundation [estimate](#) that over 40 million people around the world are victims of modern slavery. Australia is not immune from modern slavery, and the Australian Government has [estimated](#) that there are up to 1,900 modern slavery victims in Australia. Modern slavery victims can be exploited in a range of sectors across the international and Australian economy. This exploitation involves serious human rights abuses and constitutes serious crimes under Australian and international law.

All businesses have an internationally recognised responsibility to respect human rights through their business activities and relationships² – including freedom from modern slavery. The nature and extent of modern slavery and the complexity of global supply chains means that every ASX200 company is likely to be exposed to modern slavery risks through its business activities or relationships. This exposure to modern slavery risks poses legal, reputational, financial and operational risks for companies and presents a material risk to investors.

Australia's MSA aims to catalyse business action on modern slavery by ensuring businesses are publicly accountable for how they manage modern slavery risks in their operations and supply chains. As some of Australia's largest companies with over \$2.37 trillion in combined market capitalisation, the ASX200 have a key role to play in combating modern slavery and the quality and compliance of their reporting under the MSA will help to set the standard for other reporting entities.

By evaluating the quality and compliance of ASX200 companies' first statements under the MSA, the research outlined in this report provides a unique snapshot of how Australia's major companies are reporting on their actions to assess and address their modern slavery risks. Importantly, the quality and level of compliance of ASX200 companies' first statements is a significant improvement on the first years of reporting under similar legislation in the United Kingdom. However, there is also substantial room for improvement, including providing a meaningful picture of current modern slavery risks and focusing on how risk management actions are implemented and how their effectiveness is measured.

To date, investors have played a key role in driving Australian businesses to act on their modern slavery risks. Ahead of a three year legislative review of the MSA in 2022, this report provides an important foundation for investors and other stakeholders to continue to engage with ASX200 companies about the quality and compliance of their reporting under the MSA. It also provides a valuable tool for companies to understand where and how they can strengthen their responses to preventing and addressing any involvement they may have in modern slavery.

The MSA's effectiveness has global implications. Internationally, momentum to strengthen legislative requirements aimed at ensuring businesses meet their internationally recognised responsibility to respect human rights, continues to grow. COVID-19 has also dramatically increased the vulnerability of workers in global supply chains to modern slavery and other exploitation. The extent to which the MSA leads to meaningful, long-term changes to businesses' activities and concrete reductions in the prevalence of modern slavery in Australian companies' operations and global supply chains can help shape the future of modern slavery law and policy around the world.

2 This responsibility is set out in the UN Guiding Principles on Business and Human Rights.

METHODOLOGY

This report sets out the results of a research project which evaluated the potential legal compliance and overall quality of MSA reporting by ASX200 companies through a comprehensive benchmarking process.³

As part of the benchmarking process, statements from each ASX200 company⁴ were assessed against eight legal compliance indicators and 41 quality indicators over six assessment areas. This research project did not assess information about ASX200 companies' responses to modern slavery provided in sources other than statements, such as information in sustainability reports or on websites.

Each legal compliance indicator aimed to assess whether the statement was likely to be compliant or potentially non-compliant with the minimum requirements set out in the MSA. These legal compliance indicators were assessed on a pass / fail basis. Assessment of these legal indicators is intended to provide an indicative overview of compliance trends and the results cannot be interpreted as legal advice or opinion.

The quality indicators for each assessment area aimed to assess the quality of the disclosures made in the statement and were scored on a three-tiered scale ranging from 0.0 to 0.5 to 1, with 1 indicating a high quality response. The scale for each assessment area included clear criteria to determine the appropriate score. These quality indicators were developed with reference to the Guidance, as well as key international standards, such as the UNGPs.

Scores for each quality indicator were added together to determine total scores for each assessment area. These scores were then combined to determine a total overall score out of a maximum of 41 points. Legal compliance indicators were assessed separately to quality indicators and did not affect the overall quality score.

Statements' quality is, in many respects, inseparable from the quality of the underlying actions taken by companies to assess and address modern slavery risks that they disclose. As noted above, this research project did not review information about companies' responses outside of information contained in their statements. However, the process of reviewing statements included analysing the actions taken by companies and reported on in their statements. As such, the information in this report is relevant not just to the act of reporting, but also to companies' broader modern slavery risk management approaches.

In addition to these legal and quality indicators, the benchmarking process also collected information on seven additional elements of statements, including: the length of the statement; primary sector for the reporting entity/ies; the types of modern slavery risks identified; and whether the statement included information about suppliers below Tier 1. These elements were not scored but have been used to inform the research analysis.

3 To mitigate potential conflicts of interest, statements from entities that had previously engaged the research provider to deliver modern slavery-related services were assessed by a reviewer who had not had any previous relationships with any of these companies.

4 This results in this report relate to the 151 ASX200 statements available as at 1 June 2021.

The distribution of quality indicators across the six assessment areas is shown in the figure below. These indicators are concentrated in those assessment areas that relate to substantive, qualitative reporting by ASX200 companies.

DISTRIBUTION OF QUALITY AND LEGAL COMPLIANCE INDICATORS ACROSS ASSESSMENT AREAS

This table shows how quality and legal compliance indicators were distributed across the six assessment areas. The number of indicators reflects the level of detail and complexity of content disclosed in statements for each assessment area. Quality indicators were scored on a sliding scale of 0, 0.5, and 1, with 1 indicating a high quality response. Legal indicators were assessed on a pass / fail basis, with fail indicating the statement may potentially be non-compliant with the requirements of the MSA.

ASSESSMENT AREA ONE: IDENTIFICATION OF REPORTING ENTITIES

Quality indicators: 1
Legal compliance indicators: 1

ASSESSMENT AREA TWO: DESCRIPTION OF OPERATIONS AND SUPPLY CHAINS

Quality indicators: 8
Legal compliance indicators: 1

ASSESSMENT AREA THREE: DESCRIPTION OF MODERN SLAVERY RISKS

Quality indicators: 3
Legal compliance indicators: 1

ASSESSMENT AREA FOUR: DESCRIPTION OF ACTIONS TO ASSESS AND ADDRESS MODERN SLAVERY RISKS

Quality indicators: 24
Legal compliance indicators: 1

ASSESSMENT AREA FIVE: DESCRIPTION OF HOW EFFECTIVENESS IS ASSESSED

Quality indicators: 3
Legal compliance indicators: 1

ASSESSMENT AREA SIX: CONSULTATION AND APPROVAL REQUIREMENTS

Quality indicators: 2
Legal compliance indicators: 3

41



Quality
Indicators

8



Legal
Compliance
Indicators

151



Statements

7,300+



Data
Points

RESEARCH AND FINDINGS

This chapter of the report outlines and analyses the research findings. For ease of reference, this chapter is divided into six sections,⁵ which align with the assessment areas used in the benchmarking process and the mandatory requirements for content and approval set out in the MSA.

Each section of this report explains the relevant requirements set out in the MSA, outlines why these requirements are important and evaluates how ASX200 companies have complied with these requirements. To assist ASX200 companies and other reporting entities to improve the quality of their statements in future reporting cycles, each section also identifies a range of areas for improvement and good practice trends identified from current reporting. These areas for improvement and trends apply not just to the process of reporting under the MSA but also to broader actions to assess and address modern slavery risks that can be taken by reporting entities and reported on in statements.

⁵ The results for assessment areas relating to consultation with reporting entities and owned or controlled entities, and approval and signature of statements are discussed collectively in Section Six.

SECTION ONE: IDENTIFYING REPORTING ENTITIES

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

The MSA requires statements to identify every reporting entity⁶ covered by the statement. This ensures that each statement can be clearly attributed to one or more specific entities. The MSA and Guidance do not prescribe a specific way to identify reporting entities. However, the Guidance suggests statements set out the name of the reporting entity/ies in the title or introductory text of the statement.

WHY IS THIS REQUIREMENT IMPORTANT?

Clearly identifying reporting entities is a key element of compliance with the MSA and supports the integrity of reporting. This requirement is particularly important in relation to reporting by corporate groups, including ASX200 companies, which may include large numbers of reporting entities.

In cases where statements cover multiple reporting entities, this requirement aims to ensure statements provide a comprehensive overview of modern slavery risks and risk management processes that are relevant for all reporting entities covered by a statement, and identify where risks or processes may differ between entities. This helps to discourage selective or partial reporting and supports investors and other stakeholders to assess the adequacy of information included in the statement and better understand how identified risks and actions relate to the entire group (and individual reporting entities within a group where they differ), rather than only the parent entity. Accurate identification of reporting entities also impacts the level and extent of consultation undertaken to prepare statements and the approval and signature process (see Section 6).

ANALYSIS OF ASX200 REPORTING

Legal compliance: A majority of statements from ASX200 companies (95%) appeared to comply with this criterion by identifying at least one reporting entity. However, a small number (5%) of statements clearly failed to address this basic requirement. Many of these non-compliant statements named only one reporting entity, despite being explicitly presented as joint statements covering multiple reporting entities.

Importantly, non-compliance with this criterion is likely to be higher than indicated by these figures. This is because it is difficult in practice to verify whether statements correctly identify all reporting entities. For example, a number of ASX200 companies' statements published for large corporate groups appeared to identify a smaller number of reporting entities than might be expected. In other cases, statements identified only the parent entity of the relevant corporate group as the reporting entity and failed to clarify whether the group also includes other reporting entities.

⁶ The Act sets out clear criteria to determine whether an entity is a reporting entity. Under the Act, entities will be reporting entities where they have annual consolidated revenue of at least \$AU100 million and are either Australian entities or foreign entities carrying on business in Australia.

The variability of ASX200 reporting against this criterion may reflect a poor understanding of the consolidated revenue test for reporting entities set out in the MSA. This could be addressed through further Government guidance to clarify how to apply this test to entities in complex corporate structures. In some cases, failure to address this criterion may also stem from a reluctance to provide information about corporate structures that is not readily available in other public disclosures or required in other reporting.

While some companies may be reluctant to do so, there are no clear legal or practical impediments to ASX200 companies naming all reporting entities in their corporate structures in their statements. Conversely, failure to include this level of detail can undermine the integrity of statements and may limit stakeholders' ability to determine the adequacy of the information provided by the reporting entity/ies. Investors and other stakeholders should expect that all ASX200 companies clearly meet this requirement in their second statements.

KEY FINDINGS: 1. IDENTIFYING REPORTING ENTITIES

Average score: 0.9 / 1



A majority of statements from ASX200 companies (95%) appeared to identify at least one reporting entity. However, the non-compliance rate is likely to be higher than indicated by this figure.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against this requirement by ensuring that their statements:

- Indicate in the introductory text of the statement whether the statement is a single statement (for a single reporting entity) or a joint statement (for multiple reporting entities).
- Clearly name every reporting entity covered by the statement, including multiple reporting entities within a corporate group (this could be done in the text of the statement or an appendix).
- Indicate the nature of the operations undertaken by each reporting entity, including where these operations are undertaken outside Australia. This enables stakeholders to assess whether the information about risks and actions disclosed in statements adequately addresses each reporting entity (this could be done through a table or appendix identifying specific reporting entities and describing their operations).
- Identify where specific reporting entities undertake operations or have supply chains that may be exposed to distinct modern slavery risks from other entities covered by the statement.
- Clearly indicate whether the information provided in each section of the statement applies to all reporting entities and, where appropriate, provide specific information about reporting entities' individual circumstances and contexts.

- Ensure information about the approval of the statement explains which of the designated methods set out for approval of joint statements under the MSA was used (see also Section 6).

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement from the first year of reporting include:

- Including short text at the beginning of the statement in an 'About this Statement' section or similar, which identifies reporting entities, explains where more information about reporting entities is located in the statement (such as an appendix), and confirms the approach taken to approval and signature of the statement.
- Providing a table or an appendix that identifies every reporting entity, includes their ABN or ACN, and provides a short overview of their operations (noting this may assist in ensuring a statement meets the MSA's requirement to describe the operations and supply chains of each reporting entity, as outlined in Section Two of this report).
- Providing an organisational chart which highlights where reporting entities are located within corporate structures.
- Including specific, standalone sections that address reporting entities that do not follow the same policies and practices of the rest of the corporate group.

SECTION TWO: DESCRIBING STRUCTURE, OPERATIONS AND SUPPLY CHAINS

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

The MSA requires statements to describe the structure, operations and supply chains of each reporting entity covered by the statement. The MSA does not mandate the level of detail required for this description or the type of information that should be included but the Guidance provides a list of suggested content. This includes information about any owned or controlled entities; relevant trading names and brand names; the reporting entity's workforce; the types of activities undertaken by the reporting entity; as well as the goods and services procured by the reporting entities and their source countries.

WHY IS THIS REQUIREMENT IMPORTANT?

Reporting entities' structure, operations and supply chains directly affect their modern slavery risk profile. For example, some entities may operate in high risk countries for modern slavery or procure large volumes of goods or services from high risk sectors. Describing a reporting entity's structure, operations and supply chains provides important context for investors and other stakeholders to understand how modern slavery risks may be present in the entity's operations and supply chains. This description also enables stakeholders to assess the extent to which entities' actions to address modern slavery risks align with identified risk areas.

ANALYSIS OF ASX200 REPORTING

Legal compliance: All statements from ASX200 companies appeared to have complied with this requirement by providing at least a basic degree of information about the structure, operations and supply chains of reporting entities. This is likely due to the factual nature of this requirement, which covers information often disclosed by companies through other public reporting.

Quality of disclosures: The overall level of detail about structure, operations and supply chains provided in many ASX200 companies' statements was largely basic. While a small number of statements provided comprehensive overviews of their structure, operations and supply chains, most statements included only high-level descriptions. In most cases, these descriptions treated the relevant corporate group as a collective entity and did not distinguish between different owned or controlled entities. This lack of detail is reflected by the average score for this assessment area of 4.4 out of a maximum of 8 points.

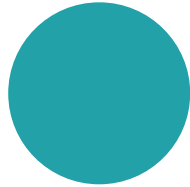
Reporting against this criterion generally focused on describing the products and services provided by the reporting entity (almost 100% of statements); the number of Tier 1 suppliers (61%) and their locations (65%); and the types of products and services procured from suppliers (81%). However, these descriptions were often hampered by a lack of detail. For example, only 42% of statements identified key brands and trading names in their description of operations, less than 30% explained the composition of the reporting entity/ies' workforce (such as categories and numbers of contracted workers) and only 31% of statements identified the locations for over 80% of their Tier 1 suppliers. Statements also suggested most ASX200 companies have a poor understanding of their supply chains below Tier 1. While a small number of statements provided some limited detail about suppliers below Tier 1, in general, statements did not include information about entities' extended supply chains.

The high level nature of this reporting is likely due to a range of factors, including ASX200 companies wanting to avoid extra detail that may be perceived as unnecessary and is available from other sources (such as annual reports or websites). In some cases, it is also likely that ASX200 companies did not have a clear picture of their supply chains over the first reporting period, including the number and locations of vendors. Other companies may simply have been unsure of the level of detail expected, despite the suggestions provided in the Guidance.

Moving forward, investors and other stakeholders should communicate to businesses reporting under the MSA that their responses to this criterion provide important context for their statements and that general or incomplete information detracts from the overall statement. For example, poor reporting on companies' workforce composition (which is consistent with the generally low levels of information about contracted workers provided by publicly listed companies in other reporting) hampers stakeholders' ability to assess modern slavery risk associated with the use of labour hire agencies. Rather than recycling standard text from websites and annual reports, reporting entities should focus on providing tailored information in this section that helps to explain their modern slavery risk profile in both their operations and supply chains. For example, statements could give greater detail about the number and nature of contingent workers (temporary/contract workers) engaged by the reporting entity/ies and provide more detail around procurement categories that may be higher risk for modern slavery. Responses to this criterion could also be enhanced by providing information about specific owned or controlled entities that may have higher modern slavery risk profiles due to their operations and supply chains.

KEY FINDINGS: 2. DESCRIBING STRUCTURE OPERATIONS AND SUPPLY CHAINS

Average score: 4.4 / 8



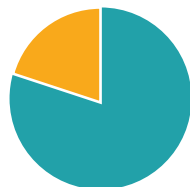
Almost 100% of statements provided basic information about the key products and or services provided by the reporting entities (shown in chart), and over 80% of these statements included sufficient detail to enable stakeholders to understand the general nature of their operations.



42% of statements identified the key brands or trading names associated with the reporting entities.



Although statements generally identified the number of employees engaged by the reporting entity/ies, only 28% explained the composition of the workforce (shown in chart). Of these statements, 63% gave an indication of the status of these workers (such as full time or contracted workers) but only 37% provided an indication of both workers' status and the number of workers in each category.



81% of statements identified at least some of the key products and services procured by the reporting entity/ies (shown in chart), with 41% of these providing a breakdown of major procurement categories.



61% of statements identified the approximate number of Tier 1 suppliers.



65% of statements outlined the country or region where some or all Tier 1 suppliers are located (shown in chart). However, only 31% of all statements were able to identify the countries or regions where at least 80% of Tier 1 suppliers were located.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against this requirement by ensuring that their statements:

- Address each of the suggested areas for disclosure set out in the Guidance.
- Include more detailed information about owned or controlled entities that are not reporting entities, including the general nature of these entities' activities and their countries of operation. Owned or controlled entities that may have a distinct modern slavery risk profile from other entities should also be specifically identified.
- Outline any joint venture activities or other investments undertaken by the reporting entity/ies. This should include both managed and non-managed joint ventures and other investment activities. While companies are not generally required to report on behalf of non-managed joint ventures, joint ventures and investments are part of a reporting entity's operations and should be described as part of this disclosure area.
- Include information (to the extent practicable) about supply chains beyond Tier 1, particularly for parts of the supply chain that involve high risk sectors, products or geographies. This could include information about the general composition of supply chains beyond Tier 1, as well as likely countries of operation for suppliers below Tier 1 and the types of components and/ services likely to be involved in the extended supply chain.
- Include information (where relevant) about the transport and logistics services involved in the reporting entity/ies' operations and supply chains, including the use of vessels, trucking or other services. These industries can involve high modern slavery risks.
- Include information about supply chains for both 'trade suppliers' (who provide products the entity on-sells to customers) and 'not for retail suppliers' (who provide products such as staff uniforms, promotional items, or services such as cleaning and/or security).
- Include information about the likely countries of operation for key suppliers that may have a presence in Australia but undertake extensive operations overseas.
- Provide general information about the customers or end users for products and services provided by the reporting entity/ies and any owned or controlled entities (noting that this will currently be a leading approach). The MSA does not explicitly address customer-related modern slavery risks and the Guidance indicates that while statements need to address modern slavery risks associated with business partners, lenders and borrowers, reporting is not required to cover 'customers who purchase...products or services'.⁷ However, there is growing recognition that companies can be exposed to modern slavery and other human rights risks through their customers. The UNGPs also make it clear that companies can cause, contribute or be directly linked to adverse human rights impacts through the entire range of their business relationships, not just within their operations or supply chains. As the market matures, better practice reporting should include companies starting to demonstrate that they understand the risk landscape relating to their customers, in addition to their operations and supply chains.

⁷ Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities, pp. 34, 40, 61.

This may include providing general information about key sectors and countries they may be selling into, and to the extent possible, their understanding of the risk profile relating to their customers at a high level. As part of the three year review of the MSA, the Government may consider updating the legislation and/or guidance to support increased reporting on customer-related risks.

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement from the first year of reporting include:

- Using organisational charts to explain reporting entities' structure, including identifying owned and controlled entities.
- Describing workforce composition using more than one criteria (for example, using gender breakdowns and number or proportion of employees that are: full time/part time/contractors; unionised/non-unionised; under awards/enterprise agreements; skilled/low-skilled).
- Displaying relevant brands as images.
- Providing a breakdown of procurement spend by country and product category.
- Using infographics to clearly present complex information, such as maps of supplier locations and graphics of key categories of goods and services.
- Including information about the use of transport and logistics services in operations and supply chains, particularly in relation to seafarers.
- Explaining the lifecycle of companies' operations to provide a clear picture of the entire value chain.

SECTION THREE: DESCRIBING MODERN SLAVERY RISKS

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

The MSA requires statements to describe the risks of modern slavery practices in the operations and supply chains of each reporting entity covered by the statement, as well as any owned or controlled entities.

While the MSA does not prescribe the level of detail required to address this requirement, the Guidance encourages entities to describe the 'general types' of risks that may be present in operations and supply chains. It also encourages entities to understand and explain these risks using the 'cause', 'contribute', 'directly linked' framework for business involvement in human rights impacts set out in the UNGPs.

The MSA also does not explicitly define the extent to which entities are expected to report on risks in their supply chains beyond Tier 1 level. However, the Guidance clearly states Government expects statements to describe potential modern risk areas through the full extent of entities' operations and supply chains, including potential supply chain risk areas beyond Tier 1 level.

Importantly, the Guidance also indicates that although entities are not required to report on modern slavery risks associated with their customers, entities engaged in investment activities and financial lending should consider overarching, thematic risks associated with these activities.

WHY IS THIS REQUIREMENT IMPORTANT?

The disclosure of entities' modern slavery risks is a key component of reporting under the MSA. By clearly identifying and explaining modern slavery risk areas in their statements, entities can demonstrate that they understand how modern slavery practices may be present in their operations and supply chains. This assists investors and other stakeholders to understand, in concrete terms, how entities may be at risk of being involved in modern slavery. The modern slavery risk areas identified in the statement also provide important context for entities' actions to assess and address modern slavery risks and whether these actions are appropriate to the identified risks.

ANALYSIS OF ASX200 REPORTING

Legal compliance: Almost all statements from ASX200 companies (97%) appeared to have complied with this requirement by providing at least a basic level of information about modern slavery risks.⁸ However, a number of these statements claimed that the overall modern slavery risk profile of the entities covered by the statement was 'low' and therefore did not provide any information about potential modern slavery risk areas. While arguably compliant with the MSA, this approach should be closely scrutinised by investors and other stakeholders.

⁸ For the purposes of this research project, statements were assessed as compliant if they provided information about at least one modern slavery risk area; modern slavery risk factor; or modern slavery risk category.

Quality of disclosures: The overall quality of disclosures in this area was largely superficial. This conflicts with the clear expectations from Government in respect of the content of statements and undermines the overall integrity of the MSA reporting framework. The average score for this criterion was 0.9 out of a maximum of 3 points and only 28% of statements received a score of 1.5 or higher. Statements that described risks meaningfully tended to also score well overall. The average overall quality score for statements that received a score of 2 points or greater for this criterion was 22 (compared to a total average score for all statements of 15.4).

Many ASX200 companies' statements addressed this requirement by listing abstract and high-level information about potential modern slavery risk categories and higher risk countries. This information often provided little indication about how modern slavery might occur in practice within companies' operations or supply chains, or the types of modern slavery practices (such as debt bondage or the worst forms of child labour) that may pose the highest risks. Statements' disclosures also largely described modern risks at a group level and did not indicate whether these risks varied between reporting entities and any owned or controlled entities.

Notably, few statements indicated that ASX200 companies are drawing on the UNGPs to help them understand and communicate how they may potentially be involved in modern slavery through their operations and supply chain. While 44% of statements referred to the UNGPs, only 5% of statements explicitly drew on the UNGPs 'cause', 'contribute', 'directly linked' continuum to clearly articulate how companies could be at risk of potential 'involvement' in modern slavery through their operations and supply chains. A further 17% of all statements indicated companies used the UNGP's 'cause', 'contribute', 'directly linked' continuum (or any other related language) internally to understand how they may be at risk of potential involvement in modern slavery, but did not use this continuum in their statements to explain their modern slavery risks.

The UNGPs 'cause', 'contribute', 'directly linked' continuum is key to meaningful and nuanced reporting on modern slavery risks because it provides a way for businesses to understand and explain the spectrum of conduct (both acts and omissions) that may result in their involvement in modern slavery. The Guidance explicitly defines 'modern slavery risks' with reference to the UNGPs continuum and makes it clear that Government encourages businesses to utilise this framework in their statements. Companies' ability to understand and articulate their potential involvement in modern slavery risks in this way is a key barometer for the quality and maturity of their overall modern slavery risk management approach. It is also important that companies understand and apply this continuum because the level of involvement a company may have in any modern slavery incident determines how they are expected to respond, including in relation to remediation.

It is likely that reporting against this criterion has been hampered by ASX200 companies' reluctance to publicly suggest how modern slavery may be present in their operations and supply chains in case there is a perception that the company is confirming its involvement. Making disclosures of this nature is a significant step for many businesses, including due to concerns around perceived legal and reputational consequences. These challenges may be compounded in situations where ASX200 companies have a limited understanding of standards such as the UNGPs and the meaning of terms such as 'involvement', 'cause', 'contribute' and 'directly linked' within a human rights context.

ASX200 companies reporting for the first time may also have found themselves ill-equipped to identify potential modern slavery risk areas and so unable to describe these risks in any detail. Investors and Government can help to address these concerns by communicating their expectations for more detailed reporting using the UNGPs continuum through engagement with ASX200 companies and, where appropriate, providing public messaging that supports increased disclosures in this area. At a minimum, ASX200 companies should be encouraged to demonstrate in statements that they are aware of the UNGPs continuum and the various ways that they may be involved in modern slavery.

Understanding the UN Guiding Principles on Business and Human Rights and the 'cause', 'contribute', 'directly linked' continuum.

The UNGPs are the authoritative global standard for preventing and addressing risks of human rights impacts associated with businesses' activities, such as modern slavery. The UNGPs outline businesses' responsibility to respect human rights (such as freedom from modern slavery) in their business activities and relationships (including their supply chains). The UN Human Rights Council unanimously endorsed the UNGPs in 2011 (including with support from Australia). Key stakeholders, including governments, civil society, investors, business peers, customers and other business partners expect companies to meet the expectations set out in the UNGPs.

The UNGPs set out a three-part continuum to explain how businesses can be involved in human rights impacts, such as modern slavery:

CAUSE: Businesses can be involved in modern slavery where their actions directly result in modern slavery practices occurring. For example, a company may run a manufacturing facility using exploited labour.

CONTRIBUTE: Businesses can contribute to modern slavery where their actions or omissions are so significant that the abuse would have been unlikely without them, including where their actions or omissions facilitate or incentivise modern slavery. For example, a food and beverage company may engage a low cost labour hire provider to supply migrant labourers for harvest season despite knowing that the contract amount would not enable the labour hire provider to fairly pay the workers.

DIRECTLY LINKED: Businesses can be directly linked to modern slavery where they are connected to modern slavery through their products, services or operations (including through the actions or omissions of suppliers beyond the first tier). For example, a professional services company may purchase IT equipment which was manufactured using components from a supplier that were made using forced labour.

The 'cause', 'contribute', and 'directly linked' framework is intended to serve as a continuum of conduct rather than clearly delineated categories. In the modern slavery context, this continuum provides an important tool for businesses to understand and meaningfully explain the different ways that they may be at risk of potentially being involved in modern slavery.

Importantly, this continuum can also determine the way businesses are expected to respond to modern slavery risks or incidents that they may identify in their operations and supply chains.

For example, where a business identifies that it may be at risk of causing or contributing to modern slavery, the UNGPs provide that it should take action to stop causing or contributing to the risk, provide for or cooperate in remediating any impacts, and in situations of contribution, use its leverage to mitigate any remaining risk to the extent possible. Where a company has not identified it has caused or contributed to harm but is directly linked to it through its products, services or operations, the UNGPs acknowledge that the situation may be more challenging given the nature of complex business value chains. They state that in that situation the company is not expected to provide for or cooperate in remediation but may take a role in doing so and should still try to use its leverage to encourage the business partner(s) causing or contributing to the harm to prevent and address the impacts. The company should also give serious consideration to leaving the business relationship(s) if it does not have leverage to influence the business partner(s) to improve their conduct. More information about how this continuum should govern business responses to modern slavery risks is set out in the Guidance.

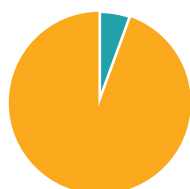
Another concerning trend in disclosures against this criterion is statements' focus on modern slavery risks in supply chains rather than operations. While almost 90% of statements provided some information about modern slavery risks in supply chains (albeit at a superficial level), over 60% of statements did not identify any potential modern slavery risk areas or risk factors relating to companies' operations.

In some cases, ASX200 companies may be justified in focusing on supply chain risks in their statements. This includes ASX200 companies that have limited modern slavery risks in their immediate operations, such as professional services firms. Nonetheless, companies in this situation should still acknowledge in their statements that there is a risk they may be involved in modern slavery through their operations but that the likelihood of this risk eventuating is low and mitigated by existing controls. However, many other companies are exposed to a wide range of modern slavery risks in Australia and overseas through their operational facilities, properties and/or sites, manufacturing facilities, investments, logistics, and other business activities.

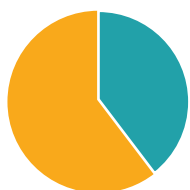
Statements' lack of focus on operational risks should concern investors and other stakeholders, who should carefully consider whether assertions that there are minimal or no modern slavery risks associated with ASX200 companies' operations can be supported by evidence (including where statements suggest that risks are low solely because companies operate in Australia). To improve consistency of reporting, the Government could also consider whether further guidance can be provided around the activities that should be considered part of companies' operations, such as use of direct contractors and labour hire recruiters.

KEY FINDINGS: 3. DESCRIBING MODERN SLAVERY RISKS

Average score: 0.9 / 3



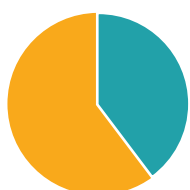
Although most statements outline basic modern slavery risk factors or general categories of risk, such as cleaning or procurement of textiles, only 5% clearly explain how companies could potentially be involved in modern slavery risks through their operations and supply chains by using the UNGPs 'cause', 'contribute', 'directly linked' continuum or similar language.



Less than 40% of statements identify potential modern slavery risk areas or risk factors relating to companies' operations.



87% of statements identify potential modern slavery risk areas or risk factors relating to companies' supply chains.



Although a significant number of statements (44%) refer to the UNGPs (shown in chart), only 17% of all statements indicate companies use the UNGPs internally to understand how they could be involved in modern slavery, as suggested by the Guidance.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against this requirement by ensuring that their statements:

- Utilise the 'cause', 'contribute', 'directly linked' continuum set out by the UNGPs or equivalent language to clearly explain how they (and any owned or controlled entities) may be at risk of being involved in modern slavery through their operations and supply chains.
- Address modern slavery risk areas in both their operations and their supply chains, including operation level risks, such as risks associated with the engagement of contract labour. Where statements indicate that there are minimal or no modern slavery risks associated with companies' operations, these claims should be clearly supported by analysis.
- Explain the particular forms of modern slavery that may occur for each risk area. For example, risks relating to the worst forms of child labour may be different from risks relating to debt bondage or forced marriage.

- Avoid assumptions that all operations and supply chains with an Australian nexus involve low modern slavery risks.
- Enhance overarching, consolidated group-wide descriptions of risks by also identifying specific risks that may be associated with particular aspects of companies' operations and supply chains, including any owned or controlled entities.
- Recognise where modern slavery risks may be present beyond Tier 1 of the supply chain, even if companies are unable to fully assess these risks. For example, companies procuring IT equipment should acknowledge the likelihood that components in this equipment could include materials produced using modern slavery.
- Consider risk areas associated with the transportation and delivery of goods (such as working conditions for seafarers) and not just risks relating to the production of the goods.
- Provide general information about the customers or end users for products and services provided by the reporting entity/ies and any owned or controlled entities (noting that this will currently be a leading approach). See the discussion of customer-related modern slavery risks on page 33.

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement include:

- Clearly delineating between modern slavery risks in the entity's operations and supply chains and addressing risks in both areas.
- If the risk of modern slavery in the entity's operations is deemed low, providing clear justification (for example, due to the specific composition and location of the workforce).
- Using geographic, sector and product risk factors to understand modern slavery risks.
- Using infographics or otherwise explaining how the entity may 'cause', 'contribute' or be 'directly linked' to different modern slavery risks.
- If detailed mapping beyond Tier 1 suppliers has not yet occurred, providing at least some examples of identified potential modern slavery risks beyond Tier 1.

EXAMPLES OF MODERN SLAVERY RISKS IDENTIFIED IN ASX200 STATEMENTS

The table below sets out examples of modern risks identified in ASX200 statements. Most statements describe modern slavery risks in operations and supply chains by referring to general risk factors, and few statements identify risks with an Australian nexus. This high-level approach to reporting is reflected in the nature of the examples set out in this table. These examples are also influenced by the risk-profile of the ASX200, which includes large concentrations of companies in certain sectors, such as finance and extractives.

EXAMPLES OF INTERNATIONAL MODERN SLAVERY RISKS IDENTIFIED IN ASX200 STATEMENTS	EXAMPLES OF MODERN SLAVERY RISKS WITH AN AUSTRALIAN NEXUS IDENTIFIED IN ASX200 STATEMENTS
Risks relating to provision of services by or to ASX200 companies	
Provision or use of offshore cleaning, security and other facilities/site management services, including landscaping and waste management	Provision or use of cleaning, security and other facilities/site management services in Australia, including landscaping and waste management
Provision or use of domestic workers overseas	Provision or use of domestic workers in Australia
Provision or use of overseas services provided by low-skilled workers, migrant workers, temporary labour or outsourced contract labour, including construction and manual labour, such as installation	Provision or use of services provided in Australia by low-skilled workers, migrant workers, temporary labour or outsourced contract labour, including construction and other manual labour, such as trolley collecting or installation
Provision or use of overseas third party recruitment services, including to recruit migrant workers	Provision or use of third party recruitment services to recruit workers within Australia, including migrant workers bought in from overseas
Provision or use of hospitality services overseas, including catering	Provision or use of hospitality services within Australia, including catering
Provision or use of overseas logistics and freight transport services, including shipping, distribution and storage (at risk groups include seafarers, drivers, port workers and other workers)	Provision or use of logistics and freight transport services in Australia, including shipping, distribution and storage (at risk groups include seafarers, drivers, port workers and other workers)
Provision or use of overseas investment services	Provision or use of investment services
Provision or use of construction services overseas	Use of franchisee partners to provide services
Provision of travel-related services, such as accommodation, voluntourism, local drivers, and cruise ships	
Provision or use of overseas electronics recycling services	
Provision or use of overseas outsourced professional services, including software design services and administration services	
Provision of telecommunications or IT services using offshore outsourced staff	

Risks relating to production or sourcing of products by ASX200 companies

Production or sourcing of personal protective equipment (PPE) overseas	Production or sourcing of Australian agricultural products (including viticulture)
Production or sourcing overseas of food and beverages, including seafood, alcohol and fresh, frozen and tinned products	Production or sourcing of Australian meat products
Production or sourcing of construction materials overseas, such as concrete and steel	
Production or sourcing of apparel overseas, including workwear and uniforms, and other textile products such as carpets	
Production or sourcing of IT hardware and services and other electronic goods overseas (including batteries and solar devices)	
Production or sourcing of manufactured goods overseas	
Production or sourcing of beauty products overseas	
Production or sourcing of products overseas containing conflict minerals	
Production or sourcing of marketing materials and promotional items overseas	
Production or sourcing of forestry and timber related products overseas, including paper and furniture	
Production or sourcing of rubber products overseas	
Production or sourcing of homewares overseas	
Production or sourcing of petroleum products, biofuels, and/or lubricant overseas	
Production or sourcing of glass overseas	
Production or sourcing of chemicals and explosives overseas	
Production or sourcing of medical equipment overseas	
Production or sourcing of stone, salt and other mineral products overseas	
Sourcing of office-related products overseas, including paper, furniture, stationary and purchase of consumables	

SECTION FOUR: DESCRIBING ACTIONS TO ASSESS AND ADDRESS MODERN SLAVERY RISKS

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

The MSA requires statements to describe the actions taken during the reporting period by the reporting entity/ies and any owned or controlled entities to assess and address modern slavery risks in their operations and supply chains. The MSA specifies that this description should include due diligence and remediation processes and defines these terms with reference to the UNGPs.

The Guidance provides a detailed list of suggested example actions entities can take to assess and address modern slavery risks. These include: supply chain mapping; developing action plans; revising and communicating key policies and processes; delivering training; developing remediation plans; and engaging with suppliers.

WHY IS THIS REQUIREMENT IMPORTANT?

The disclosure of entities' actions to assess and address modern slavery risks is the cornerstone of reporting under the MSA. This requirement ensures that investors and other stakeholders are able to understand what concrete steps entities are taking to manage their modern slavery risks. By requiring reporting on actions during each reporting period, this criterion also drives continuous improvement and learning across the market and allows for the identification of entities that take a 'set and forget' approach to modern slavery risk management.

ANALYSIS OF ASX200 REPORTING

Legal compliance: All statements for ASX200 companies (100%) appeared to comply with this requirement by identifying at least one action taken to assess or address modern slavery risks. However, the potential bar for compliance with this criterion is low and the high compliance rate for this criterion does not equate to high quality disclosures.

Quality of disclosures: This analysis assessed the quality of reporting in respect to this criterion against the core components of business action to respect human rights as set out in the UNGPs, including: policies; risk assessment; integrating and communicating findings; and remediation. While variable and often basic, the overall quality of disclosures suggested that most ASX200 companies are taking a range of actions to assess and address modern slavery risks, including updates to policies and processes and the development of cross-functional working groups. However, statements' descriptions of these actions were often high level and lacked detail about implementation, suggesting most ASX200 companies are taking action 'on paper' but not yet 'in practice'. Statements were also often unclear about whether actions applied to all reporting

entities and owned or controlled entities covered by the statement and whether and how actions taken differed between entities. The average score for this criterion was 7.5 out of a maximum of 24 points, which reflects the overall lack of detail in disclosures. Higher scores for this criterion did not necessarily appear to correlate to above average scores for reporting against other criterion.

The focus of many ASX200 companies' statements on 'paper over practice' is evident from reporting on relevant policies. While over 87% of statements provided information about key policies, only 21% of these statements clearly identified how these key policies are specifically relevant to preventing modern slavery. Similarly, less than half of statements identified how policies are communicated or enforced. This suggests that, while many ASX200 companies have revised or implemented new policies to support their modern slavery risk management, these policies are not necessarily being proactively implemented. ASX200 companies will need to include a greater focus on implementation in their second statements in order to demonstrate that relevant policies are being actively applied in practice.

Encouragingly, 92% of statements indicated that a modern slavery risk assessment had been undertaken for the reporting entity/ies' supply chains (52% noted that a risk assessment had been undertaken for the reporting entity/ies' operations). In many cases, the quality and efficacy of these risk assessments is unclear, as statements generally provided little information about the methodologies and processes used. For example, only 33% explained the methodology used for supply chain risk assessments and only 38% outlined how engagement with suppliers or partners was undertaken as part of a risk assessment. Similarly, only 22% of statements showed that risk assessments had drawn on internal or external expertise, such as human rights teams or external experts, although a further 36% drew on credible written resources or tools. Less than 5% of statements explained how at least one potentially affected group or stakeholder (such as workers or their representatives) was consulted as part of the risk assessment process. While it is understandable that some ASX200 companies were still working to establish meaningful risk assessment processes over the first reporting period, investors and other stakeholders should expect second year statements to demonstrate significant improvements in this area.

Statements also suggested that many ASX200 companies have worked to integrate and act on findings from their risk assessments across their businesses. 68% of statements showed that the reporting entity/ies have integrated modern slavery into their governance structures. Other actions taken by ASX200 companies and outlined in statements include: the use of modern slavery contract clauses for suppliers (59%); training for staff (72%); supplier engagement through questionnaires, collaborative supply chain deep dives in high risk sectors or other mechanisms (84%); and collaboration with other entities, groups, or civil society (36%). As with other areas of reporting, statements frequently failed to provide substantive detail about these actions. For example, only 13% of statements that discussed training provided information about the training content and number of people trained and only half of statements that discussed collaboration showed how this engagement supported their modern slavery risk management. In many cases, the actions taken during the first reporting period and described in statements are the 'low hanging fruit' in responding to modern slavery. However, 50% of statements identified at least four concrete future actions to be taken, which will help to ensure improvement over the next reporting cycle. Investors and other stakeholders should specifically encourage reporting entities to report on progress against these commitments in their next statement.

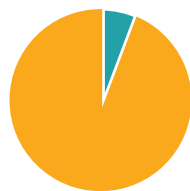
The final area assessed as part of this reporting criterion was remediation. The expectation underlying the MSA is that the reporting process will be a catalyst for entities to uncover and remediate modern slavery cases. To date, there is little evidence from statements that ASX200 companies are well positioned to remediate cases of modern slavery in their operations and supply chains. Only 8% of statements explicitly confirmed the reporting entity/ies are committed to providing for or cooperating in remediation where they identify they have caused or contributed to modern slavery-related impacts (in line with the expectation stated in the UNGPs), while only 6% of statements explained in detail how the reporting entities had or would respond to an incident of modern slavery or less serious exploitation.

Most ASX200 companies have a process such as a whistleblower hotline that could allow them to identify and then remediate modern slavery incidents in their operations (83% of statements) and supply chain (65% of statements). However, it is unclear whether these processes are effective mechanisms to receive and respond to instances of modern slavery or broader human rights issues and only 17% of statements identified one or more steps taken to ensure grievance mechanisms or other relevant processes are trusted and accessible. The nature and extent of modern slavery means that ASX200 companies will need to ensure they are better prepared to identify and remediate potential incidents as they delve deeper into key risk areas.

KEY FINDINGS: 4. ACTIONS TO ASSESS AND ADDRESS MODERN SLAVERY RISKS

Average score: 7.5 / 24

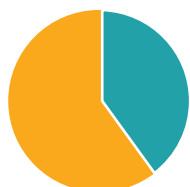
POLICIES



Less than 5% of statements explicitly indicated companies integrate their work on modern slavery into broader human rights risk management (shown in chart). However, almost 60% of the remaining statements indicated companies have taken broader steps to address other potential human rights impacts, such as publishing a human rights policy.



Over 87% of statements identified and provided basic information about one or more key policies used by companies to manage modern slavery risks (shown in chart). However, only 21% of these statements clearly identified how these key policies are relevant to preventing modern slavery.

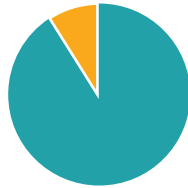


45% of statements identified how one or more specific policies are communicated, including to external stakeholders such as suppliers' workers (shown in chart). 40% also outlined how one or more key policies are enforced.

RISK ASSESSMENT



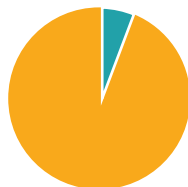
52% of statements indicated that some form of modern slavery risk assessment was undertaken of companies' operations (shown in chart) but only 15% of these explained the methodology used.



92% of statements indicated that a modern slavery risk assessment process was undertaken in relation to supply chains (shown in chart) and 33% of these statements explained the methodology used.

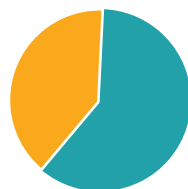


22% of statements indicated risk assessments of operations and/or supply chains were informed by the use of internal or external expertise (such as human rights teams or external consultations) (shown in chart). A further 36% of statements explained risk assessments drew on credible written resources or tools, such as risk indices. 38% of all statements also indicated that risk assessments were informed by engagement with suppliers or business partners, such as supplier assessment questionnaires or deep dives.



Less than 5% of statements explained how at least one potentially affected group or stakeholder (such as workers or their representatives) was consulted as part of the risk assessment process.

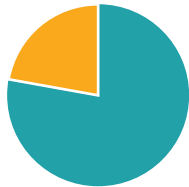
INTEGRATING FINDINGS, TAKING APPROPRIATE ACTION, AND COMMUNICATING PROGRESS



68% of statements explained how companies have assigned responsibility for assessing and addressing modern slavery within the business through their governance structures (shown in chart). However, only 44% of statements indicated that companies have established a process to integrate findings from risk assessments and resulting actions across the business, such as a cross functional working group or business-wide action plan.



59% of statements noted that companies use modern slavery clauses in some or all contracts (shown in chart), and 37% of these statements explained the obligations set out in these clauses.



72% of statements explained that some form of training had been provided (shown in chart) but only 13% of these statements explained this training in detail, such as providing information about the training content and number of people trained.



84% of statements identified at least one form of supplier engagement, such as the use of supplier assessment questionnaires or 'deep dives' with suppliers.



36% of statements identified at least one instance of collaboration to assess and address modern slavery risks, such as membership of a business and human rights multistakeholder group (shown in chart). Of these statements, 51% were able to articulate how this collaboration practically supported companies' activities to address modern slavery.



50% of statements identified at least four concrete future actions to be taken by companies to enhance their response to modern slavery (shown in chart). A further 38% of statements set out at least one concrete future commitment.

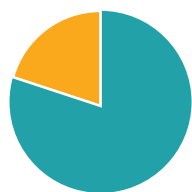


25% of statements provided one or more case studies to show how companies have worked to assess and address modern slavery risks in practice.

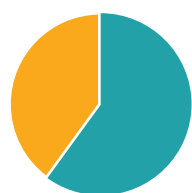
REMEDATION



8% of statements explicitly confirmed companies are committed to providing for or cooperating in remediation where they identify they have caused or contributed to modern slavery-related impacts.



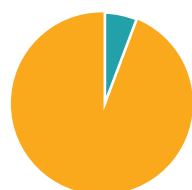
83% of statements identified a process such as a grievance mechanism that could be used to identify and enable remediation of modern slavery in companies' operations (shown in chart). Only 11% of these statements provided detailed information about the operation of these mechanisms, such as how complaints are assessed and the number of modern slavery complaints received.



65% of statements identified a process such as a grievance mechanism that could be used to identify and enable remediation of modern slavery in companies' supply chains (shown in chart). Of these statements, 15% provided detailed information about the operation of these mechanisms, such as how complaints are assessed and the number of modern slavery complaints received.



17% of statements were able to identify at least one step taken to ensure grievance mechanisms are trusted or accessible, such as promotion to workers or consultation with stakeholders in the design of the mechanism.



6% of statements explained in detail how companies have, or would respond to one or more allegations or instances of modern slavery or less serious exploitation in their operations or supply chains.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against this requirement by ensuring that their statements:

- Include an overarching focus on transitioning from 'paper to practice', by explaining in more detail how key actions are being implemented.
- Explain how key policies and procedures: relate to modern slavery; are communicated to employees, suppliers (including their workers) or other relevant groups; and how these policies and processes are implemented and enforced.

- Provide more information about risk assessment processes, including: outlining where and how risk assessment processes drew on internal and external expertise; indicating whether and how these processes assessed risks relating to owned or controlled entities, explaining any engagement with suppliers and business partners to understand modern slavery risks; and outlining how potentially affected groups and their representatives (such as trade unions) were consulted as part of the risk assessment process.
- Clearly explain how modern slavery is integrated into companies' governance processes, including how responsibility for modern slavery is assigned within the business, as well as how companies integrate findings from risk assessments and resulting actions across the business (such as through a cross-functional working group or action plan).
- Outline processes for enhanced supplier engagement beyond supplier assessment questionnaires and contract clauses to include a greater focus on two-way dialogue with suppliers, such as through collaborative supply chain deep dives in high risk sectors, partnership activities addressing identified risks and training. This should include a risk-based approach to supplier engagement that distinguishes between lower and higher risk sectors and products.
- Recognise ways that companies may be contributing to modern slavery risks in supply chains, including by requiring suppliers to reduce costs or shorten delivery times.
- Explain how companies assess and address modern slavery risks associated with their investment activities, including joint ventures. Where companies are involved in non managed joint ventures, statements should clearly articulate how the entity has engaged with these joint ventures to encourage a robust response to modern slavery risks.
- Share more detail about how collaboration with external stakeholders practically informs companies' responses to modern slavery.
- Identify key lessons learned and reflections from implementing various actions, including through use of case studies.
- Provide more detailed information about remediation, especially in relation to how companies are working to ensure grievance mechanisms are trusted and accessible and are practically equipped to deal with modern slavery complaints. Statements should also explain how companies would respond to a case of modern slavery in their operations or supply chains, including by outlining any modern slavery response plan that has been developed, (noting that a response plan is not the same as a remediation process).

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement include:

- Categorising and presenting key actions using sections that align with the core elements of human rights due diligence and remediation, such as: policies; risk assessment, integration of findings; and remediation.
- Including information about how modern slavery is incorporated into companies' governance structures, including through diagrams or infographics that clearly demonstrate reporting lines and responsibilities and explaining how modern slavery is incorporated into companies' broader responses to human rights.

- Explaining whether, and on what basis, modern slavery risks have been prioritised for action.
- Explaining the methodologies used for modern slavery risk assessments.
- Providing extracts or summaries of modern slavery clauses incorporated into supplier contracts.
- Explaining how the entity attempts to ensure compliance with contractual clauses, codes of conduct and other relevant policies (for example, through independent auditing, supplier questionnaires, corrective action plans, supplier training and capacity building).
- Undertaking 'deeper dive' due diligence activities in collaboration with selected suppliers to better understand modern slavery risks
- Using case studies to share practical learnings and reflections.
- Providing information about the number and type of complaints received by grievance mechanisms and including the proportion of complaints relevant to modern slavery or related issues, such as substandard working conditions.
- Expressly confirming that the entity is committed to providing for or co-operating in remediation where they identify they have caused or contributed to modern slavery impacts and providing examples of what remediation may entail.
- Providing a high-level flow chart indicating the process the entity would undertake in the event it identified an instance of modern slavery in its operations or supply chains.
- Explaining steps taken to help ensure grievance mechanisms are trusted and accessible, for example, by providing site posters designed in local languages.
- Outlining partnerships with industry peers to share learnings and consider joint approaches, including how these partnerships support the entity's modern slavery efforts.
- Acknowledging the impact of the entity's purchasing practices on modern slavery risks, including by taking purchasing practices into account when engaging with suppliers.
- Providing specific commitments for future improvement over the short and medium term.

CASE STUDY: UNDERSTANDING DRIVERS AND CHALLENGES FOR GOOD PRACTICE REPORTING BY ASX200 COMPANIES

This case study provides an overview of key drivers and challenges to good practice reporting under the MSA, based on a series of anonymous interviews with representatives from five ASX200 companies. These companies operate across a variety of sectors, including food and beverages, finance, mining, construction and technology. All interviewees were involved in developing their companies' statements under the MSA and were from a range of business functions, including human rights, procurement and legal areas. Interviewees' comments included reflections about their own specific experiences, as well as broader comments on sector and ASX200-wide trends. The information in this case study reflects the consolidated feedback provided by these interviewees and should not be interpreted as applying to any specific company.

Key drivers and enablers for good practice reporting

Interviewees highlighted that key drivers and enablers for good practice reporting under the MSA can include prior experience making non-financial disclosures, external stakeholder scrutiny, and a 'beyond compliance' mindset. A number of interviewees emphasised that ASX200 companies include businesses with diverse maturity levels and capacity, and that reporting to date shows how different sectors and companies are at varying stages in managing modern slavery risks.

The overall quality of statements from ASX200 companies indicates that higher quality statements often come from companies with prior experience in making non-financial disclosures (such as sustainability reporting) and operating in sectors where these disclosures are

seen as core business practice. Interviewees' comments reinforced that experience with non-financial disclosures provides companies with a strong foundation for MSA reporting. A number of interviewees observed that the frameworks and organisational understanding developed through these broader disclosure processes supported the development of their first MSA statements. For example, some interviewees noted that prior experience with sustainability reporting and other disclosures meant their company had a higher degree of comfort reporting on challenges and lessons learned in their statements.

Interviewees also explained that other drivers and enablers for good practice reporting included stakeholder scrutiny (such as investor, civil society and media interest) and, in some cases, competition with business peers in the same sector. Most interviewees reported engagement with investors and, in some cases, civil society on the content of their statement, but suggested the quality of investors' engagement varied. This included instances where investors engaged in a preliminary way but did not pursue any follow-up interactions or provide feedback. Notably, many of the highest scoring statements assessed through this research project were from sectors where there are comparatively high levels of stakeholder scrutiny, such as extractives and food and beverages, as well as sectors such as finance where there are high levels of regulatory oversight.

Importantly, all interviewees highlighted that good practice reporting ultimately requires companies to take a 'beyond compliance' approach to reporting that focuses on delivering concrete change to protect vulnerable people and groups. Multiple

interviewees indicated they saw MSA reporting as an activity that complemented and supported their companies' broader work to respect human rights and aligned with their companies' values. Conversely, interviewees also emphasised the risk that some companies may see statements primarily as compliance documents, leading to a focus on process and presentation rather than substantive outcomes.

Key challenges for companies in developing strong modern slavery risk management processes

Good practice reporting under the MSA requires companies to have taken meaningful action to assess and address modern slavery risks – which can then be disclosed through statements. Interviewees identified a number of challenges for companies in developing strong modern slavery risk management processes, including lack of capacity, difficulties engaging suppliers and poor data to support risk analysis and assessment.

A number of interviewees indicated that the varying quality of statements from ASX200 companies reflected the differing capacity of various companies. Some interviewees suggested that companies may not understand the level of work required to inform the development of a robust statement and that smaller companies may not have access to the necessary internal expertise on human rights, supply chain management and other relevant issues. In some cases, interviewees suggested that the process of reporting might also uncover knowledge and process gaps within companies that require further action and delay implementation of key initiatives, such as limitations with supplier management systems.

Almost all interviewees emphasised the challenges of engaging with suppliers to assess and address modern slavery risks, particularly

beyond Tier 1 level. This is reflected in the lack of detail in statements on supply chains, particularly the numbers and locations of suppliers below Tier 1. For example, some interviewees explained that low supplier awareness of modern slavery can hamper engagement, including where domestic suppliers do not understand that modern slavery can occur in Australia or where overseas suppliers may be reluctant to acknowledge modern slavery as an issue in their operations or supply chains. Interviewees also pointed to varying degrees of leverage with suppliers as a constraint on driving change, including where suppliers are unwilling to provide information. In some cases, interviewees also noted that because the MSA focuses on modern slavery risks in operations and supply chains, companies may not consider potential customer-related modern slavery risks.

A number of interviewees also discussed the difficulties of managing and analysing data used for modern slavery risk assessments, especially in relation to suppliers. Some interviewees explained that it could be challenging to identify data platforms and tools that could facilitate robust supplier assessments and provide actionable data, particularly in industries seen as lower risk or in relation to certain products with specific or unique supply chains. Interviewees also noted complexities assessing supplier risks across complex business structures, including where ASX200 companies may operate in multiple countries. To date, statements suggest that many ASX200 companies currently rely on supplier questionnaires to assess supply chain risk and technology may play a role in supporting the development of more sophisticated risk assessment processes over coming reporting periods.

Key challenges for companies in preparing modern slavery statements

The first year of reporting under the MSA shows that the quality and level of compliance of ASX200 statements varies significantly. Interviewees identified a number of challenges for companies preparing their first statements under the MSA, including reporting on remediation and assessing effectiveness. Interviewees also suggested that the absence of prior examples of reporting under the MSA may have been challenging for some companies and contributed to a 'race to the middle' as companies take a conservative approach to first year reporting.

Interviewees underlined that the requirement to report on how effectiveness is assessed can be challenging for companies. In some cases, interviewees posited that companies may not yet have sufficient data to determine the impact of actions taken during the first reporting period. In other cases, interviewees suggested that companies may find the subjective nature of assessing effectiveness challenging, particularly in the absence of commonly accepted frameworks to measure effectiveness.

Interviewees also noted challenges for companies in reporting on remediation and disclosing allegations or cases of modern slavery. In some cases, interviewees felt that stakeholders may not understand that identification and disclosure of cases could be an indicator of an effective modern slavery response and indicated companies were likely to be concerned about reputational and legal ramifications around disclosing this information. This included concern about potential negative reactions from media and investors. Conversely, interviewees also highlighted challenges for companies that may take action to assess and address risks but not uncover any modern slavery cases through this process. In these situations, companies may find it challenging to determine whether these results reflect inadequate risk management processes or simply a low modern slavery risk profile.

SECTION FIVE: ASSESSING EFFECTIVENESS

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

In addition to requiring statements to disclose actions to assess and address modern slavery risks, the MSA also requires statements to describe how the reporting entity/ies assess the effectiveness of these actions (including actions taken by owned or controlled entities). Importantly, entities are not required to state whether or not their actions are effective – only to indicate how effectiveness is assessed.

The Guidance recognises that assessing effectiveness can be challenging and recommends entities take a multifaceted approach to assessing effectiveness, including using qualitative and quantitative indicators.

WHY IS THIS REQUIREMENT IMPORTANT?

By requiring statements to describe how entities assess the effectiveness of their actions, the MSA seeks to ensure entities do not adopt 'set and forget' approaches to modern slavery risk management. This requirement also aligns with the expectation set out in the UNGPs that entities track their human rights performance. Disclosures against this criteria can also assist investor and other stakeholders to determine whether entities' actions to assess and address modern slavery risks are being appropriately monitored and reviewed.

ANALYSIS OF ASX200 REPORTING

Legal compliance: 92% of statements appeared to comply with the requirement to describe how the reporting entity/ies assess the effectiveness of their actions to assess and address modern slavery risks. Most instances of non-compliance appeared to be associated with ASX200 companies that have submitted statements likely to be non-compliant with several requirements under the MSA, rather than otherwise high-quality statements that have failed to address only this specific criterion. The overall quality score for statements assessed as potentially non compliant with this criterion was 9 out of a maximum of 41 points and the majority (over 80%) of these non-compliant statements were under 2,000 words in length. Over half of all non compliant statements for this criterion were also assessed as potentially non-compliant with the requirements for consultation set out in the MSA (see Section 6).

Quality of disclosures: The quality of reporting against this criterion, which was largely vague and high-level, indicates that many ASX200 companies do not yet have meaningful frameworks in place to assess the effectiveness of their actions to assess and address their modern slavery risks. The majority of statements (59%) attempted to address this criterion but provided limited or no practical detail about assessing effectiveness. A further 32% of statements provided a clear indication of how effectiveness is assessed, usually through a mix of qualitative and quantitative

measures. Concerningly, less than a quarter of statements identified that the reporting entity/ies are considering external feedback (such as from unions, NGOs or suppliers) as part of their effectiveness assessments. This suggests that most ASX200 companies may have a limited understanding of how their actions are impacting their risks 'on the ground'. The average score for this assessment area was 0.7 out of a maximum of 3 points.

The requirement to report on actions taken to assess effectiveness is generally regarded by businesses and other stakeholders as one of the more challenging aspects of reporting under the MSA. The weak standard of reporting against this criterion is likely, in part, to reflect uncertainty among the business community about how to measure the effectiveness of their actions in a human rights context. This uncertainty is likely to have been exacerbated by the nature of the first reporting period, which meant that there were few good practice examples of effectiveness assessments available for businesses to draw on. In some cases, businesses may also have been unsure of how to assess the effectiveness of actions taken for the first time during the reporting period, where the outcomes of these actions were not yet clear.

The quality of reporting against this criterion is likely to improve over the second reporting period, as businesses' modern slavery risk management approaches mature and become more sophisticated. However, it is important that businesses focus on measuring the effectiveness of outcomes (such as modern slavery incidents remediated) rather than just quantitative outputs (such as the number of workers trained). A key challenge for businesses, Government, investors, civil society and other stakeholders in this regard will be determining whether and how the actions of businesses reporting under the MSA are impacting modern slavery on the ground in Australia and overseas. This is an area where further systematic research and evaluation is needed, including to inform the 2022 review of the MSA.

KEY FINDINGS: 5. ASSESSING EFFECTIVENESS

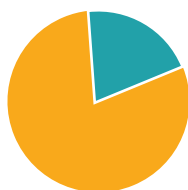
Average score: 0.7 / 3



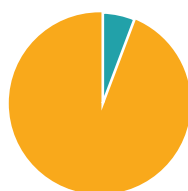
32% of statements clearly explained how the reporting entity/ies assess effectiveness, including by setting out multiple KPIs and/or a range of qualitative approaches to assessing effectiveness.



A further 59% of statements indicated the reporting entity/ies are taking steps to assess the effectiveness of their actions but provided limited or no detail about how these assessments are undertaken.



21% of statements use feedback from external sources as a tool to help assess the effectiveness of their actions, but there is little information about how this feedback is used and whether any changes have resulted.



Less than 5% of statements explained what the reporting entity/ies consider to be an effective response to modern slavery.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against this requirement by ensuring that their statements:

- Indicate what the reporting entity/ies consider to be an effective response to modern slavery, such as the capacity to accurately identify modern slavery cases.
- Include a range of qualitative and quantitative indicators to measure effectiveness, which address outcomes as well as outputs. For example, in addition to measuring the number of workers trained on modern slavery (output), companies should also evaluate whether the training has increased workers' awareness of modern slavery (outcome).
- Set out a cross-functional approach to measuring effectiveness that involves input from multiple business areas, such as through a working group.
- Include robust approaches to assessing effectiveness, such as committing to internal audits of the implementation of modern slavery action plans or key policies and processes.

- Avoid general statements that indicate effectiveness is assessed by a board subcommittee or working group but do not indicate the practical processes involved in these assessments.
- Describe how feedback from external stakeholders (such as NGOs, suppliers, trade unions etc) was considered as part of the effectiveness assessment, including to consider whether actions are impacting the root causes of modern slavery.

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement include:

- Taking a cross-functional approach to assessing effectiveness, such as through a modern slavery working group.
- Setting out the results for key indicators used to assess effectiveness, such as the number of training sessions delivered.
- Supplementing descriptions of current actions to assess effectiveness by explaining how these approaches will be enhanced in the future.
- Indicating that supplier feedback and information received through grievance mechanisms will be incorporated into the assessment of effectiveness in the future.
- Reviewing existing KPIs for broader business functions (such as procurement KPIs focused on cost or delivery times), to consider whether these requirements could undermine or otherwise be inconsistent with the company's actions to address modern slavery risks.

SECTION SIX: CONSULTATION, APPROVAL AND SIGNATURE

WHAT DOES THE MODERN SLAVERY ACT REQUIRE?

The MSA sets out two distinct requirements for consultation. It also prescribes clear requirements for the approval and signature of statements. These consultation, approval and signature requirements vary depending on whether the statement is a single statement or a joint statement.

Consultation

The first requirement for consultation is that statements describe consultation with any entities owned or controlled by the reporting entity. The MSA does not require consultation to be undertaken or prescribe a form for any consultation. It only requires that statements describe the extent of any consultation that occurs. The Guidance clarifies that reporting entities have discretion to determine the extent and process for any consultation.

Importantly, the MSA does not explicitly specify that this requirement to describe consultation with owned or controlled entities applies to consultation undertaken to prepare the statement. However, the Guidance makes it clear that descriptions of consultation with owned or controlled entities should, at a minimum, encompass consultation with these entities in relation to developing the statement. Although not addressed by the Guidance, good-practice reporting could also include more general information about ongoing consultation with owned and controlled entities (as well as any other reporting entities) to facilitate the implementation of key actions to manage modern slavery risks.

The second requirement for consultation relates to joint statements. Under the MSA, joint statements must be prepared in consultation with each reporting entity covered by the statement and this consultation must be described in the statement. Unlike consultation with owned or controlled entities, this requires that a degree of consultation occurs, although the nature of this consultation remains at the discretion of the reporting entities.

Approval and signature

Single statements must be approved by the principal governing body of the reporting entity and signed by a responsible member of the entity. For companies, this means that statements must be approved by the board and signed by a director.

Joint statements must be approved by the principal governing body (the board) of one or more of the reporting entities covered by the statement. If the boards of each reporting entity do not approve the statement, the statement must explain why the statement was not approved by the other relevant boards. Alternatively, the statement can be approved by the principal governing body of a higher entity (such as a global parent) and signed by a member of that body.

The Guidance explains that approval of modern slavery statements cannot be delegated by the board to a subcommittee or other body. It also sets out the Government's expectation that statements indicate the name of the principal governing body approving the statement, the date of approval, and specify the name and position of the signatory.

WHY IS THIS REQUIREMENT IMPORTANT?

Although procedural in nature, the MSA's requirements for consultation, approval and signature help support the integrity and quality of the reporting process. This is important for investors and other stakeholders, who may rely on information disclosed in statements.

The requirements for consultation set out in the MSA aim to encourage reporting entities to develop statements and work to manage modern slavery risks in collaboration with owned and controlled entities and with any other reporting entities covered by the statement. In large corporate groups, where sustainability, human rights and other relevant functions are often centralised at parent level, this can help avoid high level reporting and risk management approaches by parent entities that do not adequately take into account specific risks or actions taken by subsidiary entities.

The requirements for approval and signature of statements set out in the MSA aim to ensure that members of the board (or other principal governing bodies) are aware of and accountable for the actions their entity takes to respond to potential modern slavery risks. In the absence of financial penalties for non-compliance, the scrutiny involved in the board review process may also contribute to the development of higher quality statements.

ANALYSIS OF ASX200 REPORTING

Legal compliance: The requirements to describe consultation were the most common area of non-compliance. 21% of statements were potentially non-compliant with the requirement to describe consultation with owned or controlled entities, while 9% of statements were potentially non-compliant with the requirement to describe consultation between reporting entities. The catalyst for the comparatively high rate of non-compliance with these requirements is unclear and may reflect a misinterpretation of the MSA's provisions.

In contrast, all statements appeared to comply with the MSA's requirements for approval and signature. This is due to Government monitoring whether statements submitted to it for publication on the online register have met these requirements and requiring revisions to any non-compliant statements. This approach is effective in ensuring that clearly non-compliant statements are not published. However, it is difficult to detect circumstances where statements have been incorrectly given as single statements covering one reporting entity, rather than joint statements covering multiple reporting entities which should have been subject to the specific consultation and approval requirements for joint statements. As such, it is likely that a number of ASX200 companies' statements have been erroneously approved and submitted as single statements.

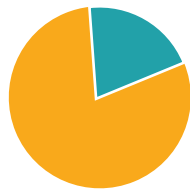
Quality of disclosures: The overall quality of disclosures relating to consultation is poor, with many statements appearing to treat this requirement as an afterthought to the preparation of the statement. Only 17% of statements clearly explain how owned or controlled entities were consulted. Other statements refer generally to consultation between key business functions, but are ambiguous about whether and how this consultation involved owned or controlled entities.

Descriptions of consultation in relation to other reporting entities covered by the statement was also generally poor, with many statements simply indicating consultation occurred and providing no information about the process.

Statements were generally able to clearly show they met the requirement for approval and signature, although where signatures were provided as part of separate forewords from the signatory, it was sometimes difficult to determine whether the signatory was only signing the foreword or instead approving the statement. The inclusion of a foreword or message in 36% of statements did not necessarily correlate with the overall quality of the statement, although the ten highest scoring statements assessed as part of this analysis all included a foreword.

KEY FINDINGS: 6. CONSULTATION, APPROVAL AND SIGNATURE

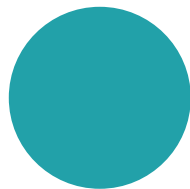
Average score: 0.8 / 2



21% of statements were potentially non-compliant with the requirement to describe how owned or controlled entities were consulted.



9% of statements were potentially non-compliant with the requirement to describe how multiple reporting entities covered by the statement were consulted in the statement's preparation.



100% of statements complied with the requirements for approval and signature. In most cases, statements were signed by either or both the CEO and Chair or Executive Director.



36% of statements included a foreword or message from the statement signatory, such as the CEO or Chair.

AREAS FOR IMPROVEMENT

ASX200 companies can improve the quality of their reporting against these requirements by ensuring that their statements:

Consultation

- Clearly explain the process of consultation undertaken with any owned or controlled entities both as part of the preparation of the statement, and also more broadly in the development and implementation of the group's modern slavery risk management approach.
- Indicate how consultation was undertaken in practical terms. For example, this may include describing the levels at which consultation took place and the nature of the engagement with the entities being consulted.
- Outline how the results of the consultation process informed and shaped the statement and the group's broader modern slavery risk management approach. For example, the consultation process may have highlighted risk areas specific to a consulted entity.
- Explain why the nature and extent of consultation may vary between entities and justify the approach taken to consultation on the statement. For example, reporting entities within a corporate group which are holding companies with no external operations may not need to be consulted in the same way as public facing reporting entities that have significant global operations.
- Avoid potential confusion by clearly indicating where no consultation with owned or controlled entities is required because the reporting entity does not own or control any entities.

Approval and signature

- Clearly explain whether the statement is a joint statement and, if so, identify which approach to approval and signature has been taken for the statement.
- Present the signature of the responsible member approving the statement in a way that makes it clear the responsible member has approved the full statement and not just the CEO message or foreword.

GOOD PRACTICE TRENDS

Good practice trends for reporting against this requirement from the first year of reporting include:

- Presenting information about consultation in a clearly marked section of the statement, usually alongside information about the approval and signature of the statement.
- Providing a foreword or message from the responsible member approving the statement highlighting the commitment of senior leadership within the entity to ongoing action to assess and address modern slavery risks.

GLOSSARY

Australian Government Guidance for Reporting Entities (Guidance): The Australian Government has developed detailed guidance for reporting entities to support them to comply with the MSA. This guidance is available online.

Grievance mechanism: A mechanism accessible directly to individuals, communities and other stakeholders to raise a human rights concern, such as modern slavery, and lodge a complaint with a company or other entity to seek remedy.

Human rights: The internationally recognised basic rights and freedoms enjoyed by all human beings without discrimination. Freedom from slavery and the other forms of exploitation defined as falling within modern slavery in the MSA are human rights.

Human rights due diligence: The ongoing management process through which entities identify, prevent, mitigate and account for how they address their adverse impacts on human rights.

Leverage: The ability of an entity to effect change in the wrongful practices of another entity that are causing or contributing to human rights impacts, such as modern slavery.

Modern slavery: Situations of serious exploitation where coercion, threats or deception are used to exploit victims and undermine or deprive them of their freedom. The *Modern Slavery Act 2018 (Cth)* (MSA) identifies eight modern slavery practices: slavery, servitude, forced labour, debt bondage, deceptive recruiting for labour or services, forced marriage, trafficking in persons, and the worst forms of child labour.

Modern Slavery Act 2018 (Cth) (MSA): National legislation passed by the Australian Parliament in 2018, which requires certain entities to prepare annual modern slavery statements. The Australian Government publishes these statements on a public website called the “Online Register for Modern Slavery Statements”.

Remediation: The process of remedying adverse human rights impacts, such as modern slavery, by seeking, to the extent possible, to restore the affected person/s to the position they were in before the impact occurred.

Reporting entity: An entity required to report under the MSA. Reporting entities can include a variety of entity types, including companies, universities and charities.

UN Guiding Principles on Business and Human Rights (UNGPs): The recognised global standard for preventing and addressing business related, adverse human rights impacts. The above definitions of grievance mechanisms, human rights due diligence and remediation are taken from the UNGPs.

Worst forms of child labour: Situations where children are exploited through slavery or slavery-like practices, engaged in hazardous work which may harm their health, safety or morals, or used to produce or traffic drugs.

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