Submission in response to the consultation on a legislative response to Modern Slavery and Worker Exploitation, Forced Labour, People Trafficking and Slavery

June 2022

Submission by the Responsible Investment Association Australasia

The Responsible Investment Association Australasia (RIAA) welcomes the opportunity to make a submission for the Ministry of Business, Innovation and Employment’s consultation on a legislative response to Modern Slavery and Worker Exploitation, Forced Labour, People Trafficking and Slavery. The submission is made by the Responsible Investment Association of Australasia (RIAA). RIAA has a Human Rights Working Group where members regularly discusses human rights issues and the group has been a leading voice in the investor community for many years’.

We make this submission to:

• Highlight and explain why and how leading global and Aotearoa New Zealand investors support a legislative response to modern slavery and worker exploitation, forced labour, people trafficking and slavery;
• How and why a legislative response is relevant to investors;
• Draw attention to investor-led initiatives focused on assessing and respecting human rights and mitigating human rights risks in investment, arising from modern slavery and worker exploitation, forced labour, people trafficking and slavery.

We support the introduction of a legislative response to modern slavery and worker exploitation, forced labour, people trafficking and slavery in Aotearoa New Zealand. We welcome and encourage further engagement to provide the investor perspective and share our experience and knowledge.

About RIAA and its members

The Responsible Investment Association Australasia (RIAA) champions responsible investing and a sustainable financial system in Australia and Aotearoa New Zealand. RIAA is dedicated to ensuring capital is aligned with achieving a healthy society, environment and economy.

With almost 500 members managing more than $40 trillion in assets globally, the Responsible Investment Association Australasia (RIAA) is the largest and most active network of people and organisations engaged in responsible, ethical and impact investing across Australia and Aotearoa New Zealand. Our membership includes super funds, fund managers, banks, consultants, researchers, brokers, impact investors, property managers, trusts, foundations, faith-based groups, financial advisers and individuals.

We have a highly active Human Rights Working Group, which is driven by investors for investors. It includes organisations from across our membership base, including many of the region’s leading and largest finance organisations. Its objectives are:
1. Build members’ understanding and capabilities for assessing and respecting human rights and mitigating human rights risks in investment;

2. Facilitate the sharing of leading practice knowledge and resources pertaining to human rights and investment decision-making and engagement; and

3. Design and deliver significant human rights research, implementation and advocacy opportunities as relevant, through collaborating with other RIAA working groups and industry forums.

Modern slavery and worker exploitation, forced labour, people trafficking and slavery have been and continue to be among the top priority areas for our members and RIAA’s HRWG has published a number of papers (see below). Our Chair is on the Australian government’s Modern Slavery Expert Advisory Group and also assisted the government in writing the guidance for the Australian Modern Slavery Act.

Why a legislative response to modern slavery and worker exploitation, forced labour, people trafficking and slavery is important to RIAA and our members

The eradication of modern slavery and worker exploitation, forced labour, people trafficking and slavery requires a set of responses that require commitment from the private sector and government support. Our leading members support a legislative response to these.

As responsible investors, our members are committed to assessing and respecting human rights and mitigating human rights risks in investment, in line with international agreements and community expectations. As outlined in the United Nations Guiding Principles on Business and Human Rights (UN GPs), companies have a responsibility to respect human rights in their operations and supply chains.

Besides the fundamentally moral case, respecting human rights and mitigating human rights risks in investments is also financial. These include, for instance:

- Earnings volatility and earnings sustainability: investors prefer stable earnings. A business model that relies on underpaid workers, weak regulation and/or weak enforcement of labour laws will unlikely be sustainable over time and might be subject to sudden cost increases.

- Brand impact (external and internal): brands are key assets and adverse human rights findings in a company’s supply chain can lead to brand damage, which can be costly and time-consuming to rectify. Unmanaged human rights risk can also be a major distraction for management, as well as negatively impacting staff morale and productivity. These risks apply to both consumer-facing businesses as well as business-to-business models. Increased and ongoing media and NGO interest in the topic continues to drive this forward.

- Business disruption from social unrest/industrial action: unsafe working conditions and underpaid workers can result in social unrest and/or industrial action at supplier level which can result in operational disruption ultimately affecting the whole value chain. It can also lead to high staff turnover which can impact productivity and product quality.

- Productivity: companies with a strong focus on good labour practices, including respecting labour rights, can have a positive correlation with talent retention and enhanced productivity benefits.

- Increased regulatory focus on labour rights: globally, there is increased regulatory focus on labour rights, including disclosure initiatives. Failure to comply can result in sanctions and impact a company’s social licence to operate.

A number of case studies highlight the impact human rights and labour rights issues in supply chains can have on share prices as well as potential legal issues.
• The share price of UK-listed Boohoo halved between 30 June and 8 July 2020 and a number of retailers suspended sales of the brand following reports by the NGO Labour Behind the Label and the Sunday Times of labour rights abuses in the company’s supply chains. It has been suggested that the share price impact was particularly harsh for Boohoo due to long-standing criticism by NGOs over Boohoo’s human rights due diligence processes.

• The Malaysian medical glove manufacturer Top Glove’s share price suffered in March 2021 as the US Customs and Border Protection (CPB) ordered seizure of their goods stating it had sufficient information to believe that Top Glove used forced labour in production. Previously, the US had already banned products from two subsidiaries after accusations of debt bondage, excessive overtime and abusive working and living conditions.

• In 2021, French prosecutors started an inquiry over suspected links to forced labour in China. Four companies were targeted in that inquiry: Inditex, Uniqlo, Skechers and SMCP5. The inquiry follows an April lawsuit filed against the same four companies by human rights groups and a Uyghur woman who said she had been imprisoned in Xinjiang.

These examples demonstrate that labour rights issues in the supply chain can have significant earnings and share price impacts, particularly in a world with increased regulatory focus, and should not be considered solely a matter of ethics and ‘doing the right thing’. Supply chains are becoming increasingly global, dynamic, and complex and, as a result, companies are increasingly exposed to business risks stemming from human rights issues embedded in or associated with their supply chains.

Key Points

• Across the finance sector, investors have expressed support for the eradication of modern slavery and worker exploitation, forced labour, people trafficking and slavery. Investors increasingly understand that legislative frameworks and international agreements can provide an important baseline to support human rights in supply chains, as well as reduce risks and uncertainty for investors.

• Investors are increasingly concerned that companies they are invested in are not involved in modern slavery and worker exploitation, forced labour, people trafficking and slavery. The case for doing so is overwhelmingly moral and fundamentally financial. The following are examples of practical efforts that investors are making to ensure the appropriate assessment and mitigation of these human rights risks in supply chains.

  o RIAA’s Investor Toolkit: Human Rights with a focus on supply chains (2nd edition): This widely used industry resource was first launched in 2018. It is downloaded an average 500 times a month by investors. The purpose of this toolkit is to help investors engage constructively with companies in order to encourage better practice, thereby reducing human rights risks in supply chains.

  o ACSI-RIAA Modern Slavery Reporting Guide for Investors (Nov 2019): An award-winning collaboration with the Australian Council of Superannuation Investors, this guide continues to be downloaded hundreds of times a month, and endorsed by the Australian Border Force. This guide was prepared by ACSI and RIAA to provide a framework for investor reporting. It provides broad context on matters investors may wish to consider in preparing their modern slavery statements.

  o Request for Information (Modern Slavery Due Diligence Questionnaire) designed by asset owners for asset managers (equities and bonds) (2019). Widely used by investors to support their due diligence process, in coordination and alignment with other investors.

  o RIAA Modern Slavery and Policy Advocacy subgroup: This is a highly active group of some of the region’s leading investors. Its focus is to contribute to the review of Australia’s Modern Slavery Act and the Aotearoa New Zealand consultation on a legislative response to modern slavery and worker exploitation, forced labour, people trafficking and slavery.

  o Special topic presentations on of modern slavery and worker exploitation, forced labour, people trafficking and slavery: Regularly held and highly attended by RIAA members and the broader responsible investment industry. Recent events include:
• Kim Randle, Executive Director and Principal Lawyer at Fair Supply – *Modern slavery risks in the global solar energy supply chain* (2021)
• Carsten Primdal, Australian Catholic Anti-Slavery Network - *Providing remedy to victims of modern slavery* (2021)
• Freya Dinshaw, Senior Lawyer at Human Rights Law Centre – *Paper Promises? Evaluating the early impact of Australia’s Modern Slavery Act* (2022)
• RIA Australia 2022 Conference: *Australia’s Modern Slavery legislation: Is it making a difference? And what’s next?* Jeff Bond (Elevate), Måns Carlsson (Ausbil), Sebastian Conley (Transurban), Lauren Zanetti (Pillar Two)

  o **Submission to the Australian government to support the introduction of the Modern Slavery Act:** A number of members provided their own submissions to the Australian government during the consultation period for the Australian Modern Slavery Act and many members were heavily engaged in consultation with the government. The Chair of the Human Rights Working Group assisted the government with writing the guidance for the act. That Act is set to be reviewed in 2022 and RIAA’s Human Rights Working Group has a sub working group which meets regularly in preparation to generate an investor response to that.

RIA provides these examples of engagement by investors to reinforce the importance of a legislative response to modern slavery and worker exploitation, forced labour, people trafficking and slavery in Aotearoa New Zealand. We welcome and encourage further engagement to provide the investor perspective and share our experience and knowledge.

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