

3 May 2017

Joint Standing Committee on Foreign Affairs, Defence and Trade  
Attn.: Committee Secretary  
PO Box 6021  
Parliament House  
Canberra ACR 2600  
Email: jscfadt@aph.gov.au

Dear Committee Secretary

**Submission to the Inquiry into establishing a Modern Slavery Act in Australia**

Thank you for the opportunity to submit our views on the establishment of a Modern Slavery Act in Australia. Regnan represents investors with more than \$73 billion invested in S&P/ASX200 companies as at 31 December 2016 (~4.5% of this index). These institutions include Advance Asset Management; Commonwealth Superannuation Corporation; BT Investment Management; Catholic Super; First State Super; HESTA Super Fund; L1 Capital; VicSuper; and the Victorian Funds Management Corporation. Regnan was established to investigate and address environmental, social and corporate governance related sources of risk and value for long term shareholders in Australian companies.

We note investor support for the Act as detailed in submissions by the Responsible Investment Association Australasia (RIAA) and the Principles for Responsible Investment (PRI). Regnan is a member of both bodies.

In addition to comments made in those submissions we seek to draw to the Committee's attention to a number of items relevant to the implementation of a Modern Slavery Act. Specifically:

- The benefits of harmonisation with international frameworks, especially those of most relevance to Australian businesses;
- The need for a central public register of compliance statements;
- The need to maintain a 'level playing field' in determining coverage for any new obligations, and the benefits of a light handed approach; and
- The need for guidance to enable beneficial collaboration in addressing issues of modern slavery, given risks of real and perceived conflict with competition and other obligations.

Our comments are based on observations of other legislative activities, both specific to modern slavery but also environmental, social and governance (ESG) issues more broadly.

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### **Harmonisation with international frameworks**

With legislation now in place in a number of jurisdictions, including in the UK, France, the United States and the Netherlands, and under consideration in Switzerland, we note that a number of Australian companies may be required to report in multiple jurisdictions. In order to minimise the compliance burden we would encourage that any proposed Australian Act align as much as possible with emerging international requirements.

We acknowledge that current legislation is already quite divergent in its approach and in practical terms we see harmonisation with the UK Modern Slavery Act as the most relevant given the reach of the UK Act amongst Australian companies – driven in part by its broad threshold criteria. We also consider the UK’s relatively ‘light handed’ approach – with minimal mandatory requirements, supported by non-binding guidance – as desirable, given the relative novelty of the requirements, the flexibility this offers to accommodate different company circumstances, and the way it enables corporates to differentiate in the way they respond to the obligations.

### **Establishment of a central public register of statements**

A feature of the UK Act is the requirement that statements be publicly disclosed in a prominent location on the reporters’ website. It is strongly recommended that an Australian Act go further to create a central public register of statements to facilitate use of the information disclosed and provide ready information about compliance.

A public register would enable investors to more easily access and use company information when assessing risks to both individual companies and industry sectors. Where there are identified risks investors may elect to engage with the company to better understand how it is managing these risks and call for greater action and/or incorporate the information as part of their overall assessment of the risk return profile, informing investment decision making.

A registry has the potential to reduce the costs to government in managing compliance – providing a complete list of reporting entities. It may also provide a useful input to future reviews of the Act to determine whether further regulatory intervention may be required. This approach would enable a ‘light handed’ approach upon commencement that can be adjusted if required.

Such an approach would enable other actors to easily access information relevant to understanding compliance with the Act and the quality of the management responses in place. This includes supporting reporting organisations in assessing and benchmarking their relative performance – an outcome with the potential to facilitate greater information sharing and improved practice (see also discussion below regarding collaboration).

## Coverage

Internationally a range of approaches are emerging with respect to the entities covered under modern slavery legislation. We recommend that any Act apply to organisations by size (either by revenue or expenditure) as a proxy for impact. Further, that the focus not be limited to listed companies, so as not to unduly disadvantage specific sectors of the economy and noting the likelihood of increased participation in raising awareness and supporting practice.

The complex nature of supply chains means that the more participants seeking action, the more likely the critical mass required to make headway on issues of modern slavery will be achieved. We see government procurement practices as being important to the Act's aims and, therefore, recommend equivalent measures are put in place for the government sector – whether via being covered by the Act or other means.

We acknowledge the potential for resourcing constraints, particularly amongst smaller organisations, which provides further weight to the case for a relatively light handed approach and/or phased implementation.

## **The role of and need for guidance with respect to collaboration**

We see collaboration as important to addressing issues of modern slavery given the complex and often diffuse nature of global supply chains. Even large companies have publicly noted their limited ability to influence supply chains, especially for commodities for which the global market is large.

In order to promote actions to reduce modern slavery, we believe there is a role for guidance supporting the Act to clarify how collaborative actions might be undertaken, especially given potential concerns about anti-competitive behaviour. This could include for instance companies working together to bulk order full chain of custody certified materials (where environmental and labour considerations have been certified by a third party) in order to ensure sufficient quantity for shipment. Without guidance, beneficial initiatives may be impeded by concerns that parties may be, or be seen to be, colluding. Clarifying pathways through these impediments would be useful, not only with respect to modern slavery, but for a range of ESG concerns. Guidance would be helpful both to reporters under an Act and the regulatory bodies overseeing compliance.

Governments, and in particular law enforcement agencies, are themselves an important collaborator, for instance with respect to the investigation and prosecution of labour hire companies suspected to be partaking in activities that constitute modern slavery. The Committee is encouraged to also examine ways that the Act can support the involvement of government in reducing incidents of modern slavery.



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Should you have any questions in relation to this submission, please contact me on (02) 9299 6995 or [alison.ewings@regnan.com](mailto:alison.ewings@regnan.com).

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Ewings", written over a light blue horizontal line.

Alison Ewings  
Engagement Program Manager

**About Regnan**

Regnan – Governance Research & Engagement Pty Ltd was established to investigate and address environmental, social and corporate governance related sources of risk and value for long term shareholders in Australian companies.

Its research is used by institutional investors making investment decisions, and also used in directing the company engagement and advocacy it undertakes on behalf of long term investors with \$73 billion, or ~4.5%, invested in S&P/ASX200 companies (at 31 Dec 2016).

Regnan was launched in 2007 having operated previously as the BT Governance Advisory Service. It is owned by institutional investors: BT Investment Management and Commonwealth Superannuation Corporation (CSC) (formerly ARIA).