

Submission – Attorney General’s Department – Strengthening the Modern Slavery Act

1 September 2025

Overview

RIAA thanks the Attorney General’s Department (AGD) for the opportunity to respond to its consultation on [Strengthening the Modern Slavery Act](#) (consultation).

RIAA has been prominent in the financial sector’s approach to, and appreciation of, human rights and modern slavery risk. Institutional investors are both directly affected by the weakening of due diligence and supply chains through instances of modern slavery as well as having strong tools to influence and drive changes to risk mitigation practices.

RIAA welcomes the proposed changes to the *Modern Slavery Act 2018* (Cth) (MSA) and the continued consultation engagement proposed by the AGD. The investor voice in combatting modern slavery in Australia is vital. For investors, modern slavery and other types of labour exploitation are issues which go beyond ethics. Investors prefer stable earnings and a business model that relies on underpaid workers, weak regulation or illegal activities, such as modern slavery, will unlikely produce sustainable earnings. In addition, due to global nature and estimated global prevalence of modern slavery, this is a systemic risk to investors, making it difficult for investors to diversify away modern slavery risk in an investment portfolio.

This risk is ultimately borne by retail investors and consumers, who are increasingly wary of their investments supporting human rights violations and modern slavery risk: see RIAA’s consumer research [From Values to Riches 2024](#). Institutional investors also play an important role through their investment activities, such as engagements with investee companies through stewardship as well as through collaboration. In recent years, a number of investor initiatives have emerged to seek to identify and combat slavery. As such, the investor voice is paramount in the work to eradicate modern slavery.

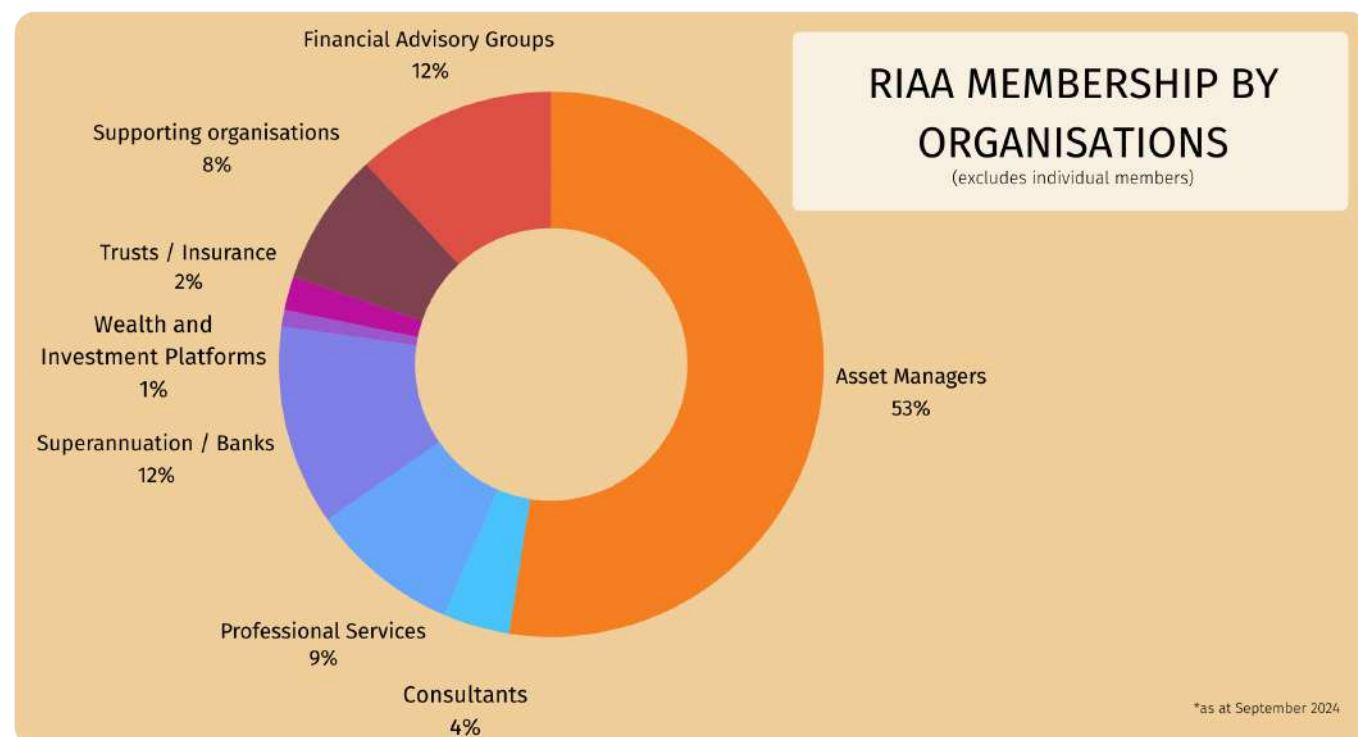
RIAA’s response has been informed by the input of the members of RIAA’s Human Rights Working Group of investors. RIAA thanks those RIAA members who contributed to the development of this response.

RIAA relied on the following submissions for this feedback:

- [RIAA feedback OHCHR Role of the financial sector in eradicating contemporary forms of slavery.pdf](#)
- [RIAA response - Anti-slavery Commissioner Strategic Plan.pdf](#)

About RIAA

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



General submissions

Due diligence requirements remain a missing piece in effective regulation

The proposals in the consultation paper, while broadly supported by RIAA and its members, remain within the confines of a disclosure framework; the success of this within the existing framework has been mixed. As such, it is uncertain whether the proposed changes will be sufficient to address the limitations of a disclosure-based regime and combat the problems highlighted by the MacMillan Review, which effectively concluded that, while the MSA has raised awareness, it has not made a big difference to people in modern slavery conditions. While the proposed changes contained in the consultation paper could lead to positive outcomes, they are unlikely to materially impact how investors assess companies' modern slavery statements and improvements in terms of how reporting entities manage modern slavery risk are likely to be limited. More tangible action and avoiding a 'compliance mindset' is required.

For investors, human rights due diligence can help to proactively identify issues before any incidents occur, and to prioritise issues based on saliency, as recommended by the UN Guiding Principles on Business and Human Rights (UNGPs). The guidance material for the MSA specifically makes reference to the UNGPs, which calls for human rights due diligence. Therefore, it could be argued that the MSA has laid the foundation for, yet not implemented, human rights due diligence.

As highlighted in the MacMillan Review, the complexity of modern slavery presents inherent limitations on the use of disclosure-based frameworks for mitigation:

Geopolitical considerations can also be a limitation both on supply chain mapping and on public disclosure of questionable practices. An example is state-sponsored forced labour. Similarly, public reporting can have unintended consequences, for example, for foreign workers who may be victimised. It was also questioned whether an Australian business that fully revealed the risks it had identified would be publicly shamed rather than applauded for its honest reporting. A point drawn from those examples is that the adequacy of modern slavery reporting should be evaluated with those considerations in mind. There may be an unstated explanation for why a statement is crafted in a particular way or does not address issues as fully as possible.

The Review also highlighted that, unlike other similar regulated areas, modern slavery did not follow ordinary regulatory convention, noting a recommendation that the MSA be strengthened by aligning with a widely respected and endorsed approach to business regulation in Australia:

*[Australian Law Reform Commission] applied the concept of a 'smart regulatory mix' to describe the regulatory framework necessary to deal with transnational crime and corporate human rights impacts (giving modern slavery as an example). The smart regulatory mix would include both criminal and non-criminal regulatory mechanisms designed to work in a complementary way to respond to conduct of varying seriousness and culpability. The smart regulatory mix options listed by the Commission range progressively through: voluntary guidelines and commitments; complaints mechanisms; statutory disclosure requirements; **mandatory due diligence** and civil regulatory mechanisms; civil or criminal liability for failure to prevent specified misconduct; and direct criminal liability for commission of a fault offence. **Again, the range of options is designed to incentivise meaningful corporate behaviour.** Submissions to this review noted that **many other Commonwealth statutes reflect those theories** of responsive regulation and smart regulatory mix. ... (emphasis added)*

As a result, RIAA recommends the Government continues its consultation and engagement to work towards an effective form of mandatory human rights due diligence for Australia. Leading practice for such a framework involves mapping out and implementing due diligence process and policy, including assessing risk, preventing and mitigating impacts and prioritising human rights issues based on saliency, monitoring the effectiveness of these activities, developing complaint procedures and remediation, and providing public reporting. Good practice also involves collaboration across departments to define goals and build a roadmap as well as collaboration with business partners.

Role of the Australian Anti-Slavery Commissioner/clarity of the regulator

RIAA submits that further clarity is required in relation to which body will be the regulator of the MSA. The consultation paper states that 'references to the 'regulator' will refer to the entity that undertakes any regulatory functions under the Modern Slavery Act, including compliance and enforcement activity' (footnote 2 on page 7). The regulator, when identified should have the appropriate powers and resources to take action and seek proportionate penalties when there is a clear failure to comply with the MSA. However, it is difficult to comment on enforcement and regulation of the Act without properly understanding the entity that is tasked with doing so.

Further clarification regarding the role of the Anti-Slavery Commissioner once the regulator is identified will be useful. In any event, RIAA encourages the Commissioner to undertake capacity building activities from reporting, such as sharing common risk areas, outcomes achieved, examples of good practice. In addition, there may be a role for the Commissioner in determining and improving transparency in relation to high-risk sectors.

Consultation under Stream B must be broad for effective participation

RIAA recommends a broad interpretation of stakeholders and specialists is taken for the proposed Stream B consultation. This should include those reporters between the reporting threshold and the largest companies, to properly understand the breadth of reporters. In doing so, the AGD will be better informed as to how to support good disclosure from the reporters, improving information available and assisting with risk mitigation. Stakeholders should also include NGOs and broader sectors impacted by modern slavery risk (e.g. migration, labour, industrial relations).

To that end, RIAA would welcome the opportunity to participate in the Stream B consultation to provide an investor perspective on topics in scope, especially as investors are considered to be a primary user of the statements. We would be happy to convene our members who will be able to provide experiential data and practical, efficient and effective solutions.

Specific responses

Part A – Mandatory reporting criteria

1) Do you support the potential changes to the reporting criteria? Are any further changes needed to the reporting criteria?

RIAA is broadly supportive of the changes to the reporting criteria in the consultation paper. However, as outlined [above](#), the disclosure frameworks have limited impact on complex transnational risks.

In relation to the options outlined in the consultation paper, RIAA supports:

- a separate criterion that covers remediation;
- a separate criterion that covers grievance mechanisms; and
- a sub-criterion for describing actions to identify and assess modern slavery risk in relation to process and methodology (rather than conducting a robust risk assessment) to avoid companies rehashing information publicly available about geographical modern slavery risk.

In relation to the proposal to consolidate the criteria in (d) and (e) into an overarching requirement for an entity to report on its actions to address modern slavery risks (including due diligence), what is relevant is the connection between the risk assessment and the actions taken. A key issue with the current framework has been that the risk assessment and actions taken can often appear to be disconnected.

For investors, when assessing portfolio companies, it is important that reporting entities can demonstrate that the risk assessment results in tangible actions based on the risk assessment. Thus, RIAA recommends that the amendments, within the MSA or delegated legislation and/or guidance, prescribes that disclosure of actions taken be clearly linked to the initial risk assessment, with an explanation on any departures taken. This has the potential to drive better outcomes and reduce the ‘compliance’ mindset apparent in many reporting entities and identified by the Review and the Government Response.

RIAA also recommends that, in addition to reporting on ‘organisational policies’, information regarding how these policies are operationalised in practice be included under the framework, either in the delegated legislation or guidance. Without such a requirement, it is possible for reporters to simply list a number of policies without context or any further insight into how they operate in practice.

2) Do you support the matters the department proposes to include in delegated legislation (such as rules)? If not, what changes are needed?

3) Are there any challenges associated with including details about reporting criteria in delegated legislation? If so, what are they?

RIAA supports the use of delegated legislation which formalises the requirements and provides sufficient authority while maintaining flexibility to adapt to developments in this area. RIAA recommends updated guidance be provided, including more precise guidance on best practice (see response to [question 4](#)).

Additionally, we recommend the inclusion of an option for reporting entities, particularly for entities that already include modern slavery related information within other reporting (e.g., annual report), to cross reference to these within their modern slavery statement. This option would enable reporting entities to reduce duplication and streamline reporting, however, cross referencing would need to be clear and satisfy the disclosure requirements. For example, the additional requirement to identify entities owned or controlled by the reporting entity could be cross referenced to a reporting entity’s consolidated annual report and this report could also be submitted to the Commissioner.

4) Should additional guidance be developed to assist reporting entities to comply with the proposed changes to the mandatory reporting criteria? If so, what topics should be addressed by new guidance?

RIAA submits that to drive more effective action and tangible outcomes, providing updated guidance will be crucial. Since the guidance was implemented, reporting has evolved and the benchmark for good-practice reporting has increased.

Areas that should be covered in guidance include:

- good practice examples;
- aspects relating to grievance mechanisms (such as availability and promotion of such mechanisms, which languages they're available in and how grievance mechanisms are followed up internally)
- case studies on recognised leadership
- practical tools and templates, especially for SMEs, to support implementation.

RIAA also recommends the Government avail itself of existing industry guidance which has played an important role in the ongoing mitigation and management of modern slavery risk. This includes publications created by RIAA Working Groups.

RIAA Working Groups

RIAA hosts several member-only working groups as important communities of practice for members to collaborate and share leading practices and knowledge and as a means of building the capacity of members to be more effective in their work.

One of the objectives of the working groups is to involve members in addressing some of the challenges in the responsible investment industry and working to achieve a constructive pathway forward.

To date, this has resulted in the publication of toolkits to assist investors in navigating complex areas in responsible investment and effectively engaging with investees and/or project proponents.

[Investor toolkit: Human rights in global value chains](#)

This toolkit is designed to help investors engage constructively with companies to encourage good practice, thereby supporting investors to better manage and influence a reduction in investment-related human rights risks in value chains. With a focus on points of practical engagement with companies, the toolkit explore ideas for better practices that can lead to better outcomes both from an investor and human rights perspective. The sections of the toolkit include:

- Identifying the issues
- Preventative actions
- Remediation
- Interconnectedness

5) Should a new criterion be added that requires entities to report on key actions or changes since their previous statement?

RIAA supports this proposal. For investors, it is useful to have a summary provided with key changes year-on-year as this would assist in identifying key changes to consider in company assessments. This will be particularly useful for investors with large portfolios comprising a high number of investee companies. Further, investors often use modern slavery statements as a base for further discussion/engagement and an annual summary can assist such dialogue in a time efficient manner. This will be particularly important for those investors that practice stewardship, including superannuation funds.

6) Should reporting entities be required to report information about grievance mechanisms? If so, what specific information about grievance mechanisms should entities be required to report on?

RIAA supports this proposal and refers to existing industry frameworks such as the Ethical Trade Initiative. The Ethical Trade Initiative has established guidelines for grievance mechanisms which could be incorporated within updated guidance document, along with relevant information from the RIAA Investor Toolkit which also provides examples of good practice, see [above](#).

Key considerations for robust grievance mechanisms, and therefore the related reporting, should cover areas such as:

- demonstrating that the grievance mechanisms are known, accessible, understandable and trusted by workers and there is built-in transparency for reported issues (e.g. the nature and number of reported potential cases);
- whether the grievance mechanisms are operated internally or by a third party; and
- how a company monitors and manages reported cases.

However, due to the variability of resources available and differences in risk exposure by different entities, it might not be feasible to expect all reporting entities to adopt best practice (see response to question 7 below).

7) Are there any sensitivities with requiring an entity to report on grievance mechanisms? Please consider any sensitivities relating to quantitative or qualitative information about grievance mechanisms that might be captured.

RIAA suggests that it is open for the Government to take a proportional approach to the MSA requirements where all of the reporting areas are applicable to all reporting entities, but the degree to which they need to report can differ. Large companies, or those which are a material exposure to a high-risk sector for modern slavery issues, it would be expected (and necessary) to have robust grievance mechanisms in place. The changes to the MSA will play a crucial role in building the capacity and capability of those who are lagging behind. RIAA would also expect best practice in relation to privacy to be applied with such sensitive matters.

8) Should reporting on remediation be a separate mandatory reporting criterion? If so, what specific information about remediation actions and processes should entities report on? Notably, the Review explored requiring entities to report on the number of matters referred to law enforcement or other bodies, as well as to report on details of modern slavery incidents or actual risks.

9) Are there any sensitivities with requiring an entity to report on remediation, noting information about remediation may include quantitative or qualitative information?

10) Are there any specific safeguards we should consider to protect workers in relation to reporting on grievance mechanisms and remediation?

RIAA agrees with this proposal as, after a number of years in operation, the MSA has raised awareness of the issues and that reporting entities must (if they haven't already) move to a stage where they are prepared to deal with identified cases of modern slavery. It is possible that there is under-reporting due to companies being unprepared for associated remediation activities, which might relate to inexperience and lack of in-house capabilities to remediate human rights issues. For investors, this presents clear risk to company performance as well as compliance / legal risk.

Suggested areas to be covered include, based on best practice, how remediation intersects with grievance mechanisms and collaboration (internally and externally) and whether consultation with affected stakeholders has been pursued, how the companies' remediation approaches may differ by nature of the violations and how remediation works in practice. Appropriate guidance and limited exceptions may be provided for managing sensitivities such as confidentiality of ongoing investigations (or criminal proceedings) and the privacy of victims.

Q11 Do the proposed changes to the consultation criterion address the lack of clarity currently experienced by reporting entities?

RIAA submits that while the changes improve upon the existing requirements, there are limitations to the degree to which these requirements can assist with modern slavery risk. This is particularly pertinent for investors for whom modern slavery represents a systemic risk, and as such it is challenging to use usual risk management processes to mitigate, that is, it is difficult to diversify away from this risk when constructing an investment portfolio. Investors are more concerned about actions to manage and mitigate this risk by reporting entities than improved reporting – see [above](#) regarding due diligence requirements.

Part B – Compliance and enforcement framework

12) To date, the regulator has not used its power to request remedial action or publish information regarding non-compliance, focusing instead on education. Would additional or enhanced guidance be sufficient to address current non-compliance?

13) Will the use of these existing compliance powers be sufficient to address current non-compliance?

14) Should the existing compliance powers be amended? If so, how?

RIAA agrees that compliance and enforcement action is important to ensure not just reporting requirements are followed but, indirectly, modern slavery risk is addressed. Investors, to assess risk in investment portfolios, rely heavily on the quality of reporting provided by investee companies. It is clear from the consultation paper itself that the focus on education alone is not sufficient – in figure 2 of the consultation paper, the proportion of punishable non-compliance has increased from reporting cycle 4 to 5 (from 12% to 17%), It is unlikely that additional or enhanced guidance alone would result in improvement.

In addition, the report [*Australia's Modern Slavery Act: Is It Fit For Purpose?*](#) (2023), features the results of a detailed survey of nearly 90 business groups on the impact of the MSA. Supported by in-depth focus groups, the research found that, of the businesses surveyed:

- 70% support the establishment of an Anti-Slavery Commissioner.
- 67% would find it easier to comply with the MSA if it were harmonised with international standards such as the UN Guiding Principles on Business and Human Rights.
- 61% would likely improve modern slavery responses if required to undertake human rights due diligence.
- 54% would likely improve modern slavery responses if financial penalties were introduced.

RIAA refers to the response to question 4 for suggested areas where updated guidance can provide more context and assist reporting entities in progressing their risk management activities, including case studies on best practice. That said, the initial guidance. In due course, it would be appropriate to publish non-compliances and breaches against the MSA following an adequate grace period, for instance three months, to rectify issues identified before publication of non-compliance.

17) If yes, which of the following additional regulatory tools should be introduced to respond proportionately to non-compliance?

- a) Infringement notices**
- b) Enforceable undertakings**
- c) Redacting a statement**
- d) Other [please specify]**

RIAA considers that it would be useful for the regulator to have the power to redact statements. This would allow the publication of a list of non-compliant entities, and lead to reporting quality improving. In addition, the regulator should have general monitoring and investigation powers to ensure the MSA is properly administered.

18) Should civil penalties be introduced into the Modern Slavery Act?

19) If yes, which of the following civil penalties should be introduced into the Modern Slavery Act?

- a) Failure to submit a modern slavery statement**
- b) Providing false or misleading information**
- c) Failure to comply with a request for remedial action**

RIAA supports the introduction of civil penalties for non-compliance with the MSA and agrees with the areas identified. Penalties are a necessary enforcement mechanism to motivate meaningful compliance. Penalties should be proportionate to the level of risk and the severity of the breach, with a graduated approach that allows entities to rectify issues before formal penalties are imposed. It is important that to ensure that penalties do not discourage transparency (or overly cautious reporting) or conflict with other legal obligations (e.g. anti-money laundering).

21) What key considerations should be taken into account when considering the maximum penalty units for any penalty provisions?

RIAA submits that the severity of the actions and the degree of exposure to risk should be reflected in the penalty applied. Penalty units should align with existing similar reporting regimes where appropriate. In addition, it is important to consider the balance between that size of that fine and the cost of taking effective action. That is, some reporting entities may consider it more affordable to pay an annual fine than to take action – this would be a perverse outcome.

In addition, we believe the government should consider precluding companies that are noncompliant with the MSA from providing goods and services to any Australian government entity. In addition to ensuring taxpayer dollars do not support non-compliant entities, this will send a signal to the market about the importance of compliance.

There are a number of key subsidiary matters to consider when exploring the introduction of additional regulatory tools, including civil penalties:

22) If additional regulatory tools are introduced, who should carry out these new functions:

- a) The current regulator who has an existing support and advisory role**
- b) An independent section or body**
- c) Other [please specify]**

See general comments, [above](#).

23) For the regulator to effectively identify, investigate and litigate alleged non-compliance, the regulator will require:

- a) Access to relevant information and data to identify regulated entities**
- b) Sufficient powers and access to relevant information to identify false or misleading information**
- c) Sufficient funding for investigation and litigation costs**
- d) Other [please specify]**

RIAA agrees with these requirements and encourages collaboration between government agencies (e.g., with ASIC, AUSTRAC) to allow the regulator access to information to assist in the identification of regulated entities where that information is already available to other agencies.

Part C – Joint reporting

26) Does corporate group reporting adequately resolve challenges experienced by reporting entities with the current joint reporting model?

RIAA overall supports retaining the criterion to identify entities owned or controlled by the reporting entity as investors tend to assess companies at the group level. However, other stakeholders and readers of modern slavery statements may find it easier to identify companies by brand or trading name. It would be useful to require reporting entities to list in their statements (or cross-refer to another document) all names that a company is trading under, including brand names, and that this is searchable in the register. This may help other important stakeholders and readers of modern slavery statements, such as consumers, to more efficiently locate the company they wish to assess.

27) Are there any new challenges that may result from replacing the current joint reporting process with a corporate group reporting model (with exemptions)?

28) Should a corporate group reporting model be adopted, do the proposed exemptions (via application to the regulator) for subsidiary and nominee reporting entities provide appropriate and sufficient accommodations for different business structures?

29) Should a corporate group reporting model be adopted, should any additional exemptions be considered to alter the default reporting arrangements of corporate group reporting?

30) Are there alternative mechanisms to improve or amend the current joint reporting processes?

RIAA submits that there will be challenges with a wholesale change to joint reporting with a corporate group model as reporting entities will have varying structures. While some entities already report jointly, others may face increased burden or risk losing visibility into subsidiary-level risks. There may be particular difficulty with how superannuation funds and other trust structures would be treated under the proposed model. Clear guidance and flexibility are essential to ensure that the new approach does not create unintended consequences or dilute the quality of reporting. Guidance should clarify regulatory expectations while minimising administrative burden.

RIAA members emphasised the importance of maintaining flexibility in joint reporting to accommodate different corporate structures. While group-level reporting is useful for investors, entity-level reporting may be necessary in some cases to ensure transparency and parent entities must actively engage with subsidiaries to ensure accurate reporting.

Part D – Voluntary reporting

- 31) Are any changes needed to the proposal to amend notification requirements for voluntary entities?**
- 32) Should the requirement for voluntary reporting entities to notify the Minister of their intention to voluntarily report be removed altogether?**
- 33) Are any changes needed to what potential new regulatory powers should apply to voluntary reporting entities?**
- 34) Should the regulator be provided a new power to revoke an entity's status as a voluntary reporter (for example, to manage non-compliant voluntary statements)?**
- 35) Will voluntary reporting entities use guidance designed to support small and medium-sized entities to engage with modern slavery risks in operations and supply chains and support compliance with the Modern Slavery Act? What topics should the guidance address and what form should it take?**

RIAA supports streamlined requirements for voluntary reporters and submits that it is important that the regime encourages voluntary reporting, for example where an entity may be choosing to do in anticipation of changes to their business or operations.

The requirements should be proportional; however, this much be balanced with preserving the integrity and intent of the modern slavery reporting regime by providing guidance that promotes high quality modern slavery disclosures (whether mandatory or voluntary). Guidance should be provided to assist voluntary reporters, which are tailored to different risk profiles with the most challenging disclosure criteria identified by the AGD being prioritised for guidance.

Part E – Notification requirements to cease as a reporting entity

36) Are any changes needed to the proposal to amend the notification requirements to cease as a reporting entity?

37. Are any changes needed to the proposed requirement for an entity to provide notification they will cease as a reporting entity within 6 months following the end of the reporting period?

RIAA submits that any notification requirement should be proportionate and not overly burdensome as to discourage voluntary reporting. Reporters (voluntary or otherwise) should be encouraged to keep the market and other information users up to date on their management of this risk.