

Step-By-Step Guide For Complying with Australia's Modern Slavery Act

October 2020



Introduction to Australia's Modern Slavery Act (MSA)

► Overview of Modern Slavery Risks

This Step-By-Step Guide for Complying with Australia's Modern Slavery Act (Guide) provides information for companies and other entities (collectively, companies) required to prepare and submit an annual Modern Slavery Act Statement (Statement) to the online register maintained by the Australian government. This Guide includes information to help your company's procurement, supply chain management, corporate compliance, legal, internal audit, human resources, and other teams navigate the key issues in complying with this new reporting requirement. You may also wish to encourage your business partners, including your local, national, and global suppliers, to review this Guide.

Most companies with national or global supply chains have implemented some form of vendor/supplier risk management program to minimize the risk of disruptions in their supply chains due to, among other things, natural disasters impacting transportation systems or the sudden closure of an essential supplier. These programs recognize the critical nature that third-party suppliers play in a company's overall business operations. They also allow companies to proactively manage those risks through new vendor due diligence and on-boarding requirements, on-going monitoring activities, and other measures. Another risk may be present in your company's supply chains.

The International Labour Organization has noted that approximately 40.3 million people around the globe were enslaved in 2016, including 24.9 million people in some form of forced labor. Australia is not immune from modern slavery. 496 modern slavery cases were referred to the Australian Federal Police between 2013 and 2017. Since most victims go undetected, estimates suggest that 2,000 people may have been enslaved in Australia during that same time period.

Modern slavery and human trafficking produce approximately \$210 billion AUD in illegal profits each year, which makes this business one of the most lucrative forms of global organized crime behind drug trafficking and the trade in counterfeit goods. The global COVID-19 pandemic may also be increasing the risk of modern slavery. In a May 11, 2020 statement, the Global Business Coalition against Human Trafficking urged companies to protect workforces against modern slavery risks, as follows:

... the most vulnerable of humanity are at greater risk now than ever. When businesses and supply chains are strained, so too are the people that keep businesses and supply chains running. In particular, the current conditions expose vulnerable populations to a greater risk of being exploited and caught in the web of modern slavery

► Overview of New Annual Reporting Requirements

Modern slavery compliance is becoming an increasingly important issue to companies not simply because eradicating slavery around the globe is an important social cause, but also because of increasing legal reporting requirements. The Modern Slavery Act 2018 (AU MSA or MSA), which entered into force on January 1, 2019, established Australia's national modern slavery reporting requirement (Reporting Requirement).

Domestic and international companies and not-for-profit entities operating in the Australian market with annual consolidated revenue of at least \$100 million AUD must submit an annual statement describing their actions to assess and address modern slavery risks in their business operations and supply chains. These Statements will be made available to the public through an online central register maintained by the Modern Slavery Business Engagement Unit in the Australian Border Force (ABF).

► Operationalizing Key Requirements

If your company is subject to the Reporting Requirement under the AU MSA, your company will need to identify and address the modern slavery risks it faces in its domestic and global operations and supply chains and in the operations and supply chains of any entities owned or controlled by your company. This is a first step, but a required step, to complete your company's Statement for submission to the online central register.

The AU MSA does not require your company to certify that its business operations and supply chains are slavery free. Your company should, however, aim to highlight the following in its first Statement:

- 1 **How your company is taking meaningful action to assess and address its modern slavery risks;**
- 2 **Why your company is prioritizing certain risks and actions; and**
- 3 **How your company plans to improve your AU MSA compliance program over time.**

The annual reporting requirement means that compliance is not a "one and done" exercise. The Australian government expects reporting companies to take a "continuous improvement" approach to compliance and drive a "race to the top" to improve workplace practices. Annual reports should improve in quality and demonstrate progress over time as companies increase their understanding of their unique and evolving modern slavery risks.

The compliance challenges presented by the MSA are substantial. Depending on your company's footprint, it could require surveying hundreds or even thousands of your suppliers around the globe to determine the risk that their business practices may present to your company and identify any appropriate remediation measures, as needed. Companies that have had to comply with the United Kingdom's Modern Slavery Act or California's Transparency in Supply Chains Act may be able to leverage this experience to assist in compliance with the AU MSA. However, even companies with this experience will need to pivot their supply chain compliance programs because of the unique mandatory reporting requirements under the Australian law.

The ABF's website notes that ***"The Australian Government is taking a global leadership role in combating modern slavery"*** and that ***"[t]here is no place for modern slavery in the Australian community or in the global supply chains of Australian goods and services."*** Momentum is growing for other G20 countries to adopt similar laws requiring companies to identify and address modern slavery risks in their operations and supply chains.

Companies subject to the Reporting Requirement will need to merge their practical experience in addressing vendor risk in their supply chains with their current environmental, social, and corporate governance (ESG) programs to develop a formal modern slavery governance compliance program to ensure they are maintaining responsible and transparent business operations and supply chains. This Guide should help companies make that move from good cause to great modern slavery governance and compliance program.

Key Steps in Operationalizing Compliance With MSA

▶ 1. Establish Effective MSA Governance Program		
Step	Tasks	Available in CENTRL MSA360
1.1 Set Tone and Cadence at the Top <i>Goal: Promote strong messaging from senior leadership to highlight commitment to MSA compliance and enhance engagement throughout organization & supply chain</i>	<ol style="list-style-type: none"> 1 Adopt MSA Code of Conduct or amend existing Code of Conduct to address modern slavery risks for internal and external use 2 Adopt MSA Policy statement for internal and external use 	A template MSA Policy Statement
1.2 Develop Compliance Program Structure <i>Goal: Establish multi-disciplinary MSA governance and compliance team with key members from business operations and supply chain functions</i>	<ol style="list-style-type: none"> 1 Consider use of dedicated vs. shared resources 2 Designate team leader and team member and assign responsibilities 	
1.3 Outline Compliance Program and Plan <i>Goal: Identify key elements of MSA governance and compliance program, such as policies and procedures, training programs, and supplier mapping and assessments.</i>	<ol style="list-style-type: none"> 1 Consider adopting MSA governance & compliance team charter 2 Formulate strategic plan for MSA governance and compliance program 3 Identify resources to leverage such as list of suppliers from existing vendor management program 4 Outline management of reporting plans 5 Identify outside partners that can assist with program requirements 	
1.4 Develop Compliance Program Structure <i>Goal: Develop and adopt MSA policies and procedures for internal and external use.</i>	<ol style="list-style-type: none"> 1 Develop and adopt internal policies and procedures 2 Develop and adopt external policies and procedures 	MSA Policy Templates
1.5 Develop Assessment, Evaluation, and Remediation Processes <i>Goal: Build "assess and address" component of MSA compliance program with focus on evaluation and remediation of risks.</i>	<ol style="list-style-type: none"> 1 Design and develop assessment questionnaires for internal and external use¹ 2 Identify key metrics for measuring risks 3 Develop plans for responding to identified risks at various risk levels 4 Identify metrics for measuring ongoing effectiveness of actions taken to assess and address identified risks 	Assessment Template available in MSA360

1.6 Training <i>Goal: Set up internal and external training programs, including written and video training options and workplace posters.</i>	<ol style="list-style-type: none"> 1 Internal Training: <ol style="list-style-type: none"> a Develop and roll-out mandatory training for key employees b Develop other training options to raise awareness to larger audiences, such as workplace posters 2 External Training: <ol style="list-style-type: none"> a Develop and roll-out mandatory training for suppliers b Identify options to integrate supplier training into risk remediation programs 	Template workplace poster Supplier training video which may be sent to suppliers with Assessment questionnaire
1.7 Implement Confidential Reporting and Investigation Program, e.g. Whistleblower or Grievance Hotline Program <i>Goal: Add modern slavery issues to existing whistleblower/grievance hotline program accessible to employees and suppliers or adopt new modern slavery whistleblower/grievance hotline program accessible to employees and suppliers</i>	<ol style="list-style-type: none"> 1 Ensure that hotline is accessible to all employees and included in new hire and other training materials 2 Ensure supplier access to hotline and training on program 	
1.8 Integrate with New Supplier Onboarding and Supplier Management Program <i>Goal: Enhance existing new supplier review, selection, and onboarding processes to add modern slavery requirements.</i>	<ol style="list-style-type: none"> 1 Add new supplier assessments 2 Add modern slavery provisions to supplier contracts 	
1.9 Build Program with Goal of Continuous Improvement <i>Goal: Maintain focus on ongoing improvement of all aspects of MSA governance and compliance program.</i>	<ol style="list-style-type: none"> 1 Plan for ongoing changes to improve program 2 Embed program into company's overall strategic plan 3 Benchmark program against competitors and others 	

▶ 2. Navigate Internal MSA Risks

Step	Tasks	Available in CENTRL MSA360
2.1 Establish Criteria for Mapping Areas of High Risk <i>Goal: Understand and identify objective high-risk indicators of modern slavery practices, such as geographic location, business sector or industry, and employment practices.</i>	<ol style="list-style-type: none"> 1 Location: Determine if company has operations located in high-risk countries (see Appendix A: Guide for list of high risk countries) 2 Determine if the company operates in any business sectors or industries that are considered high risk (See Appendix B: Guide for list of high-risk business sectors and industries) 3 Determine if company uses forced labor, migrant labor, or engage in other employment practices in any of its operations that may be indicators of risk for modern slavery practices 	A template MSA Policy Statement
2.2 Establish Key Components of Assessment Process <i>Goal: Build assessment component of program to help identify modern slavery risks</i>	<ol style="list-style-type: none"> 1 Develop and use assessment questionnaire templates 2 Establish scoring framework to evaluate risks 3 Monitor key metrics and key performance indicators 	High risk and medium/low risk questionnaire templates Pre-set scoring framework Out-of-the-box dashboards
2.3 Address Risks in Internal Operations <i>Goal: Develop plans for addressing risks identified in assessment of internal operations</i>	<ol style="list-style-type: none"> 1 Review assessment responses 2 Score assessment responses in high, medium/low risk 3 Respond to and remediate identified risks 	Fully automated tool for conducting assessments, scoring risks and identifying issues

▶ 3. Tackle External MSA Risks

Step	Tasks	Available in CENTRL MSA360
3.1 Map Company's Local, National and Global Supply Chain with View to MS Risks <i>Goal: Understand company's supply chain footprint</i>	<ol style="list-style-type: none"> 1 Identify first tier suppliers 2 Identify second tier and other suppliers deeper in the supply chain as needed 3 Build meaningful strategic partnerships with critical suppliers 	
3.2 Focus on Risk-Based Supplier Engagement <i>Goal: Engage with first and other suppliers based on risk factors</i>	<ol style="list-style-type: none"> 1 Determine criteria for deeper dive into supply chain tiers 2 Identify and engage with suppliers that operate at "control points" in supply chain to assess and address risks 	
3.3 Establish Key Components of Assessment Process <i>Goal: Build assessment component of program to help identify risks</i>	<ol style="list-style-type: none"> 1 Develop and use assessment questionnaire templates 2 Establish risk scoring framework 3 Monitor key metrics and key performance indicators 4 Conduct supplier assessments 	<u>Out-of-the box questionnaire templates and scoring framework</u> <u>Fully automated tool for conducting assessments</u>
3.4 Plan to Implement On-Going Improvements <i>Goal: Plan for ongoing improvements of MS program to enhance transparency, awareness, and reporting and meet government expectations</i>	<ol style="list-style-type: none"> 1 Continue to implement new supplier review and onboarding requirements 2 Continue to embed appropriate contractual provisions in new and existing contracts with suppliers 3 Continue to add required employee and supplier training programs 4 Focus on leverage options to influence change 	

▶ 4. File Required Modern Slavery Statement with Australian Government

Step	Tasks	Available in CENTRL MSA360
4.1 Develop Reports That Meet Guidelines <i>Goal: Ensure that annual statement complies with internal approval and signature requirements and external submission requirements</i>	<ol style="list-style-type: none"> 1 Internal requirements: Ensure that statement of each reporting entity meets two specific requirements for approval pre-submission: <ol style="list-style-type: none"> a Approved by principal governing body or reporting entity b Signed by responsible member of reporting entity 2 External Requirements: Ensure that statements of each reporting entity meets with two specific requirements for submission to government: <ol style="list-style-type: none"> a Submitted to the Australian Border Force for publication in an online central register at https://modernslaveryregister.gov.au b Submitted to Australian Border Force within six months from end-of-reporting entity's period (subject to pandemic related exception for certain initial reporting periods) 	Template of internal report
4.2 Ensure That Reports Are Filed On Time <i>Goal: Ensure that annual statement is submitted to the government register by the applicable reporting guideline</i>	<ol style="list-style-type: none"> 1 Keep track of the reporting deadlines and their extension due to the pandemic (see Appendix C for reporting deadline) 2 Ensure that the content of the report meets ABF guidelines (See Appendix C for details) 	Sample report template

▶ 5. Manage Ongoing Requirements

Step	Tasks	Available in CENTRL MSA360
5.1 Plan Program to Meet Annual Requirements <i>Goal: Build MS governance to meet annual reporting requirements</i>	<ol style="list-style-type: none"> 1 Plan for annual assessment and review of operations and suppliers 2 Plan for continuous engagement with operations and suppliers to enhance transparency, awareness and reporting 	Set up recurring schedule in MSA360 to automate annual program
5.2 Set up Continuous Improvement <i>Goal: Set up MS compliance program for continuous improvement</i>	<ol style="list-style-type: none"> 1 Set up continuous improvement goals and annual reporting including goals to enhance depth and breadth of content of annual reports 2 Engage with local, national and global community to raise awareness and advocate for actions to eradicate modern slavery 	Use Issues Module to manage remediation of known issues

► Appendix A

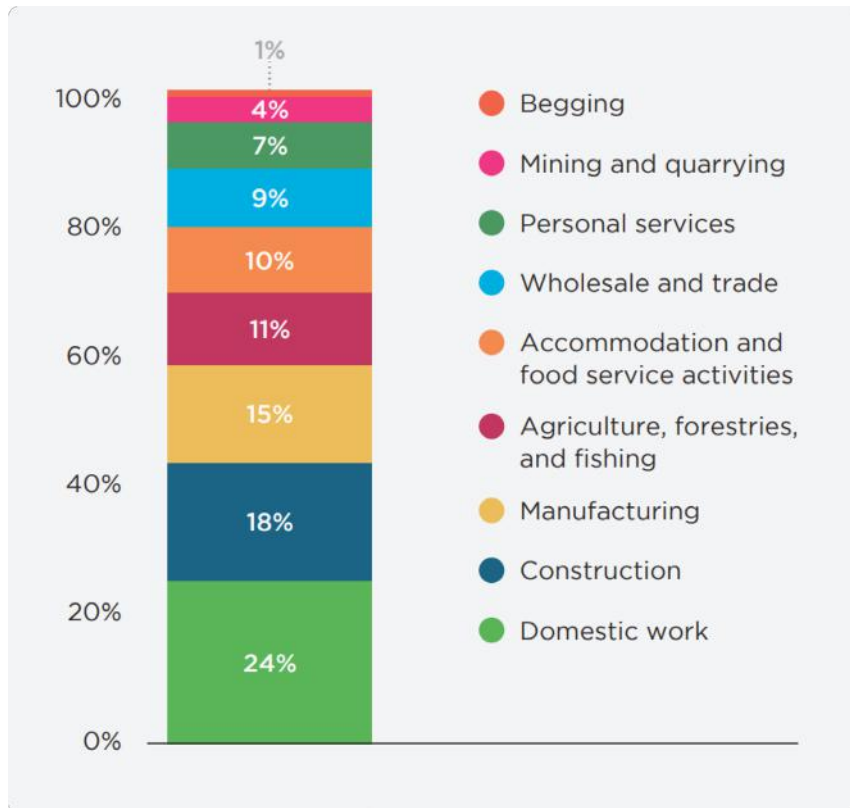
- List of Countries with High Modern Slavery Risk:		
1		North Korea
2		South Sudan
3		Sudan
4		Democratic Republic of Congo
5		Syria
6		Yemen
7		Eritrea
8		Somalia
9		Pakistan
10		Iraq

Source: World Slavery Index
<https://www.globalslaveryindex.org/>

► Appendix B

Industries at Risk for Modern Slavery Practices

No industry is immune from the risk of modern slavery practices. The International Labour Organization has noted that the majority of forced labor cases come from the following sectors:



Source: Global Estimates of Modern Slavery at

https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

► Appendix C: Reporting Deadlines & Content of Report

Reporting Deadlines

Due to the COVID-19 pandemic, the original deadlines for initial annual reporting by certain reporting entities were extended, as noted in the chart below:

Reporting period	Original deadline for submission of modern slavery statement	New extended deadline for submission of modern slavery statement
April 1, 2019 – March 31, 2020 (Foreign Financial Year)	September 30, 2020	December 31, 2020
July 1, 2019 – June 30, 2020 (Australian Financial Year)	December 31, 2020	March 31, 2021
Reporting periods ending after June 30, 2020	The six-month deadline for reporting periods ending after June 30, 2020 remains unchanged.	

Content of Report

An annual statement must include all of the following information:

- 1 Identify the reporting entity;
- 2 Explain the structure, operations and supply chains of the reporting entity;
- 3 Identify the risks of modern slavery practices in the operations and supply chains of the reporting entity (and any entities that the reporting entity owns or controls);
- 4 Identify the actions taken by the reporting entity (and any entity that the reporting entity owns or controls) to assess and address those risks;
- 5 Explain how the reporting entity assesses the effectiveness of such actions;
- 6 Describe the process of consultation with any entities the reporting entity owns or controls or is issuing a joint modern slavery statement with; and
- 7 Describe any other information that the reporting entity, or the entity giving the statement, considers relevant.

In addition, companies must continue to take steps to assess and address modern slavery risks during the COVID-19 pandemic and they should report on those actions in their modern slavery statements, including any impacts the pandemic may have had on their capacity to assess and address modern slavery risks during their reporting period.

A model annual modern slavery statement form, check-the-box form, or other similar template form was not prescribed by law and has not been provided by the Australian Border Force. Instead, reporting entities will need to draft an annual statement that addresses each of the required items above in narrative detail.