ACTU CONGRESS18

POLICY

Workers Capital and Superannuation

25. WORKERS CAPITAL AND SUPERANNUATION

INTRODUCTION

1. Congress applauds the outstanding role played by Australian unions over four decades in helping to build our current retirement income system. In the 1970s and 1980s, the struggles and campaigning of unions resulted in many workers securing the right to workplace superannuation for the first time. Campaigning by unions for universal super led to the introduction of the Superannuation Guarantee in 1992. Today, because of the commitment of unions to improving the quality of life of all Australian workers after they retire, millions of workers will accumulate superannuation savings that will help them to lead a better and more dignified life when they stop working.

2. Congress further applauds the pioneering role played by unions in establishing many of the best governed and best performing superannuation funds in Australia. In contrast to banks and other financial corporations who sell super products for profit, unions believe super must put the interests of fund members first. Members of not-for-profit funds will retire with a greater amount in their accumulated savings than members of retail funds – this is because unions have established an all profits to members system, whilst at the same time, retail funds syphon commissions from their members' accounts to pay dividends to their funds' owners and excessive salaries to bank executives. Unions built not-for-profit funds because they embody our values. We govern them to ensure they continue to do so.

3. Congress recognises the enormous potential the Australian superannuation system has to generate the investments we need to build a more prosperous economy and a fairer society that meets the Paris Agreement[1] targets and a fairer society. The more we save the more we can invest. The more we responsibly invest the more jobs, incomes, and public revenues we can generate. We can then increase public spending in support of those who need it most. Superannuation is not just about retirement. It has potential to enable us to build more of the infrastructure and industries that adopt a just transition and public services that we need now and in the future.

4. Congress affirms that super is core union business. Unions will campaign to ensure that our values and our priorities shape the future of the funds we help to govern. We will continue to bargain to ensure the interests of our members are protected. We will continue to fight for government policies that will improve the quality of life for all retired workers.

---

[1] "The Paris agreement is a global climate agreement under the United Nations Framework Convention on Climate Change (UNFCCC) at the 21st Conference of the Parties (COP21) in Paris (30 November to 12 December 2015). The Paris Agreement sets in place a durable and dynamic framework for all countries to take climate action from 2020, building on existing international efforts in the period up to 2020. Key outcomes include: A global goal to hold average temperature increase to well below 2°C and pursue efforts to keep warming below 1.5°C above pre-industrial levels; all countries to set mitigation targets from 2020 and review targets every 5 years to build ambition over time, informed by a global stocktake; robust transparency and accountability rules to provide confidence in countries' actions and track progress towards targets; promoting action to adapt and build resilience to climate impacts; and, financial, technological and capacity building support to help developing countries implement the Agreement." - Source

UNION PRINCIPLES

5. Congress affirms that the future of our retirement income system requires policies grounded in the following principles:

    a) The primary focus of the Australian retirement income system must be to support workers when they stop working. It must not be a vehicle for those on high incomes to game their tax affairs to further enhance their wealth at the expense of public revenues.

    b) Unions support the establishment of a national objective for the Australian retirement income and superannuation system. Unions assert that the foundation principle for this objective should be that a worker's standard of living be able to be maintained when he or she leaves the paid workforce. This principle is achieved through a worker having an adequate retirement income stream to meet a level of expenditure consistent with average community standards which is financed through or by a combination of superannuation savings, private savings, and the Age Pension.

    c) A principal factor in the delivery of this level of adequacy is an appropriately funded superannuation saving system. Unions recognise the current level of mandated contribution is inadequate to achieve this goal and the immaturity of the system means many workers will continue to retire in the medium-term with less than adequate accumulated savings. Unions will continue their call for a review of the level of mandated contributions and the timing of their introduction.

    d) Unions assert that superannuation is one of three pillars for a strong retirement system. Superannuation, savings and the Age Pension uphold workers' ability to retire securely. The Australian Government must maintain the Age Pension at a rate which allows dignity, security and choice in retirement.

    e) The value of the Age Pension must be supported by linking it consistently to earnings so it can act as a proper safety net in order that a decent pension is always available to those who still need such a level of support.

    f) Retirement income policy settings relating to the preservation age and the availability of the Age Pension must allow workers to choose when they believe they can and should retire. They must also recognise that the capacity of workers to remain in employment can vary across industries and occupations.

    g) Superannuation contributions and earnings should be taxed at concessional rates up to a level which provide for adequate retirement income. Progressive rates of taxation should apply to encourage saving and to ensure fairness and equality of access to concessions across all levels of income.

    h) Unions recognise that a disproportionate number of workers who experience periods of unpaid leave from their workplace during their working lives are women. This has a significant impact on the retirement savings of women and must be recognised and addressed in superannuation policies.

i) Superannuation contributions are deferred wages. Superannuation is therefore an industrial issue in the context of which unions have a vital role to play in workplaces and in the governance of super funds to make sure the interests of workers are represented and defended.

j) In our compulsory system, in the context of persistently low levels of engagement with super, it is vital that workers and their unions continue to be able to decide collectively which funds are best for their workplaces and industries. This helps to reduce the risk that individuals are exploited by funds owned by for-profit corporations.

k) Workers have interests in addition to the quantum of their eventual retirement incomes. They are therefore entitled to expect that the investments their contributions make possible are used to support nation building infrastructure, environmental sustainability, appropriate labour standards and the highest standards of corporate governance.

6. Congress notes that this policy builds upon and updates 2012 and 2015 Congress policies. Many of the measures supported by those policies remain relevant. Congress agrees that over the next three years unions will:

The Industrial Status of Super

a) Vigorously resist any attempt to abolish or dilute the right of Australian workers to negotiate in relation to the quantum of superannuation contributions they receive or the selection of funds these contributions are paid to;

b) Advocate for a practical industry-based system for selecting default funds to appear in modern awards. The system should combine input from experts with the views of employer and employee representatives, under the jurisdiction of the Fair Work Commission. This is the best means to ensure the default funds which are selected best represent the interests of working Australians;

c) Defend the right of workers and their unions to collectively determine which funds are most appropriate to their workplace and industry. This is consistent with promoting workplace collectivism, encourages engagement with super, and helps to protect against the risk of poorly informed choices by disengaged individuals and employers;

d) Advocate for a superannuation system which entitles workers and their unions to pursue cases of superannuation theft and underpayment from employers as an industrial issue;

e) Investigate the establishment of an industrial regulatory agency which will oversee the governance, standards, and integrity of the superannuation sector. This agency would reflect the equal representation model of industry super funds and exist to make recommendations to government bodies regarding the default status of funds;

Governance

f) Oppose any attempt by government to dictate that not-for-profit funds should have a minimum or majority number of independent directors or an independent board chair. There is no evidence that equal representation governance is failing members or that mandating independent directors will improve outcomes. Congress notes that funds governed on an equal representation basis regularly outperform many of those governed by other means. Congress further notes that current regulation and some Trust Deeds already allow funds to appoint independent directors and chairs if they believe it is in the best interests of fund members to do so;

g) Fight to continuously improve the quality of fund governance by:

- Requiring all directors complete a minimum and ongoing program of induction and professional development;
- Ensuring nominating organisations consider the skills and experience sought by boards and the need to promote all diversities, including gender. Such organisations should also provide the time and support necessary for nominees to effectively discharge their duties as directors; and,
- Supporting potential nominees to gain the skills to become trustees;
- Undertaking a review of current fees and charges in the profit-to-member superannuation sector. Especially so that workers with incomes that are low, disparate or irregular; or, those on parental leave or workers' compensation do not have their retirement savings eroded by fees; and,
- Undertaking a review of fund professionals' remuneration levels and structures, which are now commonplace in the superannuation industry, paid in the profit-to-member sector are consistent with members' values and expectations.
- Campaign against the banking industry's push back on Labor's *Freedom of Financial Advice* (FOFA) Legislation;

Retirement Income Adequacy

h) Bargain for early or immediate implementation of the 12 per cent Superannuation Guarantee (SG) rate. Unions will campaign for the delay in the legislated increase to 12 per cent to 2025 to be scrapped. Congress also calls on the next Labor Government to investigate the SG rate at which workers can maintain their standard of living into retirement, and create the legislative frameworks to achieve this. Congress further reiterates its commitment for an Age Pension of 35% of full time adult male weekly ordinary time earnings (AMWOTE);

i) Campaign for the Superannuation Guarantee to reach 15%, or whichever greater figure achieves retirement income adequacy for workers;

j) Campaign for a reasonable Age Pension asset test and taper rate. The current rate leaves too many workers and families worse off for having a modest superannuation balance;

k) Advocate for progressive taxation of superannuation, based on marginal rates minus a rebate. Congress notes that superannuation tax concessions are increasingly used by high-income earners to minimise tax and current arrangements are heavily skewed to the benefit of the wealthiest in our community. Unions will pursue the Low Income Superannuation Contribution (LISC) being maintained until a progressive system has been implemented;

l) Unions will further campaign for:

- The removal of the $450 per month minimum earnings threshold for SG entitlement;
- The removal of minimum age restrictions for SG entitlements
- Ensuring contractors, self-employed, casuals and other non-secure workers receive SG contributions;
- The SG entitlement to be paid on all earnings, rather than Ordinary Time Earnings;
- Full superannuation contributions being paid during all periods of paid and unpaid parental and maternity leave, and whilst on Workers Compensation;

Adequacy of Superannuation for Women

a) Policies which increase the superannuation savings of women, including removing the $450 threshold, noting that average superannuation balances are lower for women than for men;

b) The payment of an extra 2% superannuation for women workers;

c) The introduction of a superannuation accumulation pathway to which superannuation contributions below the pathway are topped-up by the government;

d) The removal of 15% contributions tax for all workers more than 10% below the accumulation pathway;

e) The inclusion of superannuation payments in Family Tax Benefit B;

f) Workplace agreements and awards which include a co-contribution of 1.5% for all staff more than 5% below the accumulation pathway;

g) Fee discounts from super funds for all account holders more than 10% below the accumulation pathway;

h) A fixed maximum fee for all super account holders below the accumulation pathway;

i) A fee-free period of up to twelve months for parents on paid or unpaid parental leave;

j) The option of tax averaging over a defined number of years when a period of unpaid parental or carers leaves has been accessed.

k) Free financial literacy education for all low-balance account holders by super funds; and,

l) Paying of superannuation contributions by government on behalf of long term transfer payment recipients including carers in receipt of Carer Payments or Allowances.

Retirement Income Streams

k) Advocate for retirement income stream policy settings which facilitate options such as enabling retirees to use their lump sum to purchase a life-time increase to the Age Pension from government or converting an accumulated balance into a regular AWOTE indexed income stream unless some or all the balance is used to complete mortgage repayments; and,

l) Consider new retirement products for superannuation which improve the adequacy, sustainability, and stability of retirement incomes for workers, given Australia's changing population. Retirement incomes should be predictable and provide for a similar standard of living for workers through their retirement as they had through their working life. Unions and superannuation funds should explore the practicality and potential benefits of establishing Collective Defined Contribution (CDC) Plans in an Australian context, and ensure such products integrate with the industry fund distribution model given through the workplace and award system.

7. Congress urges affiliates to campaign against any further attempts to increase the preservation age or the age at which the Age Pension becomes available and will campaign to restore age 65 for accessing the pension. While some workers may wish to work for more years than was typical in the past, policy must recognise that the capacity of workers to do so varies across industries and occupations. Congress agrees that policy must facilitate a reasonable degree of choice and flexibility that allows workers, and particularly those who are employed in dangerous or physically-demanding occupations, to retire when they believe they can and should.

8. Congress notes that the Australian superannuation system is subject to continuous policy review and change, and this is undermining public confidence in the system. Congress agrees this is driven in large part by sharply conflicting views of what our super system should be about, generating the highest possible incomes for retirees or generating profits for retail funds owned by banks. Congress supports the establishment of a Council of Superannuation Custodians whose role would be to assess, endorse or reject future reform proposals to the extent they are consistent with enhancing the adequacy, sustainability and fairness of the superannuation system. Such a Council should be independent of government and be comprised of eminent Australians committed to progressive social policy and should include union representation.

9. Congress notes that Australian superannuation system assumes all individuals have similar language, literacy and numeracy skills, and similar levels of life expectancy. These assumptions act to exclude and disadvantage many Aboriginal and Torres Strait Islanders (ATSI). Congress agrees ATSI people should have early access to retirement, the Age Pension and preserved superannuation accounts. Furthermore, Congress urges the superannuation industry to provide increased training and education to directors and fund staff about the particular needs of ATSI people and the difficulties they often encounter when attempting to engage with a system that has been designed for others.

10. Congress notes that those who unknowingly hold multiple accounts suffer an erosion of their retirement savings due to duplicated fees. Unions call on industry funds to address multiple accounts on the principle that superannuation is an industrial right and the solution to multiple accounts should be consistent with this principle.

PORTABILITY OF ENTITLEMENTS

11. Congress notes the significant changes to nature and regulation (or lack thereof) of work in our society and acknowledges that as work changes so to must the benefits and entitlements provided to workers. As work becomes more mobile and fluid our systems of entitlements needs to be equally mobile and portable so that change is not a means to deny or erode hard won entitlements. The problem of unpaid super and superannuation theft already illustrates this challenge. Similar challenges can be identified in relation to other established entitlements such as annual leave and long service leave. To address these problems, Congress calls on the ACTU and a future Labor Government to investigate the potential for our superannuation system to be utilised as a mechanism to ensure other workers entitlements are maintained and mobilised as our society continues to change.

WORKERS' CAPITAL: GROWTH, SUSTAINABILITY & SOCIAL JUSTICE

INVESTING IN THE ECONOMY

12. To promote the greater use of workers' capital to generate the sustainable growth and the progressive society unions want to see, Congress agrees that unions will prioritise the following work:

    a) The ACTU, in consultation with affiliates and other relevant organisations, will develop principles and guidelines to encourage superannuation funds to invest in ways that promote the adoption of agreed labour standards derived from the ILO's eight core Labour Conventions and the UN Guiding Principles on Business and Human Rights, just transition principles derived from the Paris Climate Agreement, and respects human rights within Australia and abroad across the investment chain. All workers have the right to work in safety, to be paid a living wage, to operate under a collective agreement, to be supported in transitioning to emerging industries arising from structural change due to climate change and to be represented by trade unions. The investment of workers' savings should promote these and other standards in the workplace;

    b) The development of additional training and support for trustee directors that highlights the scope for more action by superannuation funds to:

- Invest collectively in Australia's economic and social infrastructure;
- To support just transition initiatives that address employment and labour market issues;
- Demand better governance, investment, and employment practices by the companies in which super funds invest; and,
- Engage with, screen out or divest from those companies who persist in engaging in unsustainable, high-risk, or irresponsible behaviour;

c) Identify and promote alternative models of investment that meet our societal and union objectives and where such models do not undermine public service employment and public service provision;

d) Advocate for the national government to establish a new representative Superannuation Investment Agency (SIA) comprising government, employee and employer all-profit-to-member (APTM) Industry Superannuation Fund representatives, the ACTU, and superannuation sector institutional investors, to oversee a number of new government functions, responsible for facilitating and enabling additional superannuation investment in key sectors of the economy. The new functions include:

- Coordinating targeted capital raising from the APTM superannuation funds and to act as a capital aggregator to invest in specific projects and sectors of the economy, such as:
    - Capital for research and development, innovation and commercialisation, especially in low carbon industries;
    - Scaling up small and medium enterprises (SMEs) in key industry sectors such as advanced manufacturing;
    - The provision of long-term debt for the development of Australian infrastructure and industry; and,
    - Thematic investment such as in affordable housing;
- Determining the potential and capacity for projects under consideration for inclusion on the Infrastructure Australia Priority Infrastructure List (PIL) for delivering economic or social infrastructure, to be funded and financed by government through tax revenue, a bond issue, borrowing or, superannuation sector equity and other forms of investment;
- Designing and coordinating project procurement where governments seek direct superannuation or fund investment to fully or partly fund and finance government economic and social priorities in circumstances where it has been determined that such projects are suitable for funding, in whole or in part, by the superannuation sector, in conjunction with one or more fund managers from a pre-qualified list of fund managers;

- Performing a global clearing house role in relation to foreign pension fund investment in Australian economic and social infrastructure (public and private) to ensure that each proposed foreign pension fund investment is in the national interest;
- Facilitating the making of binding agreements involving industry, government, trade unions and civil society, on responsible business conduct at the industry level (as has been commenced by the Dutch Government).

e) Advocate for a remodelling of Infrastructure Australia (IA) by:

- Altering its Business Case Assessment Guidelines to require project proponents to consult with the Superannuation Investment Agency in the preparation of funding and financing options for inclusion in business cases for assessment by IA.
- Requiring projects on the Infrastructure Australia Priority Infrastructure List (PIL) that have been determined as suitable for funding, in whole or in part, by the superannuation sector to be referred to the Superannuation Investment Agency for designing and coordinating project procurement in conjunction with a selected fund manager.
- Amending the *Infrastructure Australia Act 2008* by including in s5A Functions—evaluating infrastructure proposals - a new subsection that requires Infrastructure Australia to consult the community in evaluating infrastructure proposals.

12) Congress recognises that to attract superannuation fund support, these initiatives will need to be founded on sound risk mitigation approaches encompassing a commitment by APTM superannuation funds and their asset managers to:

a) Engage with labour unions and/or coalitions of labour unions and/or peak labour union councils;

- Immediately after a decision is made to participate in a bid process for an infrastructure asset, or to participate in a private public partnership (P3) (either alone or as a co-investor); and,
- At the due diligence stage in a bid for an infrastructure asset (prior to accessing the data room);

b) Strong corporate governance requiring appointment to the board of the asset operating company one or more independent directors with competency and expertise in environmental, social, and governance (ESG) standards generally and labour relations, safety and workforce development in particular;

c) Report annually on an operating company's ESG performance;

d) Establish a stakeholder advisory body to the operating company board that includes each of the unions operating within the company's new asset. The role of such a body is to provide advice to the board and management team on strategic issues including such matters as master planning, asset productivity, investment planning and execution, implementation strategies for new technologies, workforce security and workforce safety;

e) A commitment to adopt agreed labour standards including in upstream and downstream supply chains; and,

f) A Just Transition strategy based on three key principles:

- Rights at work (freedom of association and effective recognition of the right to collective bargaining);
- Social protection (access to health care and income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a main income earner); and
- Social dialogue.

SUPERANNUATION FUND INVESTMENT IN INFRASTRUCTURE (SOCIAL AND ECONOMIC) AND REAL ASSETS

14. The ACTU supports industry and public sector super fund investment in economic and social infrastructure, and real assets, to help provide the assets and services required by the community, and to diversify the investments those funds make to help improve retirement outcomes for super fund members.

15. The ACTU will oppose government policies or actions which incentivise privatisation, such as asset recycling programs.

16. The ACTU is strongly opposed to industry and public sector super funds promoting or aiding the privatisation of existing public assets or services. ACTU and union nominated trustees on industry and public sector super funds will actively monitor their fund's participation in the privatisation of any infrastructure, service, or real asset investment to ensure the fund does not promote or aid privatisation.

17. The ACTU supports industry and public sector super funds investing in infrastructure and real assets in partnership with government in circumstances where governments seek institutional or private capital to supplement or substitute public finances to build or provide new infrastructure or where there are current service gaps (i.e. where the government does not currently provide that type of service), or to upgrade existing infrastructure, subject to the following conditions:

    a) That the proposal from government has been subject to a public assessment process to determine if, in the case of projects under consideration for inclusion on the Infrastructure Australia Priority Infrastructure List (PIL) such projects should be fully funded and financed by government through tax revenue, borrowing or a bond issue; or, if there could be a role for the private sector in funding or financing in whole or in part such proposals. The case for privatisation needs to be made by

government and be transparent with full public disclosure as to the costs, risks and benefits, including an analysis of service provision to the community (reportable measures by which the private providers will be held accountable in the service provision), and labour standards.

b) That there is appropriate economic regulation in place that fairly balances the needs of the investor and the fund members (beneficiaries) it represents with the stakeholders who use (users) or operate the asset (workers).

c) That project costs must be fully transparent and subject to review by public authorities including Auditors General or equivalent bodies.

d) That if the proposal involves the privatisation of an existing public infrastructure asset or service where public sector workers are affected, that there be an agreed process involving unions for addressing the transition from public operation to private operation. Workers' pay and conditions, including their job security, cannot be worse off as a result of the privatisation.

e) That any government procurement process inviting private capital participation in the proposal include environmental, social and governance (ESG) standards that must be complied with by tenderers, or in the absence of government imposed ESG standards, the super fund tenderer publicly declare the ESG standards that it will adhere to if it is the successful bidder. That in relation to the social standards, the minimum requirements must include the following commitments:

- That there will be engagement with labour unions and/or coalitions of labour unions and/or peak labour union councils.

- That the governance arrangements to be put in place by the new operator, lessee or owner require(in circumstances where the market offer is for long term operation, lease or sale of a physical asset or service), the appointment to the board of the asset operating company (i) one or more independent directors with competency and expertise in environmental, social, and governance (ESG) standards generally and labour relations, safety and workforce development in particular; and (ii) a culturally and gender diverse board that includes at least equal number of men and women.

- That the operating company report annually on the operating company's ESG performance against an agreed set of human rights and labour standards indicators.

- That the operating company establish a stakeholder advisory body to the operating company board that includes each of the unions operating within the company's new asset or service. The role of such a body is to provide advice to the board and management team on strategic issues including such matters as master planning, labour relations, asset productivity, investment planning and execution, implementation strategies for new technologies, workforce security and workforce safety.

- That the operating company publish its Responsible Investment Policy and a Responsible Contractor Policy which specifies the agreed labour standards that will apply to the operation, including in the company's upstream and downstream supply chains.

- That the operating company adopt an agreed Just Transition strategy.

- That the operating company agree to adopt agreed labour relations standards consistent with the 8 core ILO conventions (and other ILO conventions and standards)

GOVERNMENT PROCUREMENT

18. Congress commits the ACTU to advocate for the inclusion of robust and best practice environmental, social, and governance (ESG) principles in all Government (Commonwealth and State/Territory) procurement policy and processes, that draws on the leading examples from Australian State and Territory government and foreign government procurement policy. Congress will advocate for:

    a) The inclusion of specific environmental standards, greenhouse emissions reduction targets and just transition obligations, including a commitment to social dialogue, as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government;

    b) The inclusion of specific labour and human rights standards, for each of the 8 core ILO Convention requirements (such as workforce unionisation, currency of collective agreements, to provide job security, the presence of active workforce and union engagement processes, and commitment to social dialogue on all labour issues) and for OHS, workforce diversity and grievance mechanisms, as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government;

    c) The inclusion of specific governance standards, including but not limited to compliance with the law and tax obligations as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government; and,

    d) The inclusion of specific ESG obligations, as outlined in (a) to (c) above, on investors that bid for the purchase or lease of a Government asset or service or that offer to finance a public-private partnership (PPP), however structured, in the tender documents that invite investor participation any government economic or social infrastructure project or service.

A NEW COLLECTIVE VEHICLE

19. Congress supports the establishment of a new collective vehicle (Risk Ratings Agency) which will be used to evaluate environmental, labour and social, and governance (ESG) risks for workers' capital investments. The model, methodology, structure and ownership of the agency will be determined in consultation with affiliates and other relevant organisations.

A MODERN SLAVERY ACT FOR AUSTRALIA

20. Congress supports the introduction of a Modern Slavery Act for Australia as recommended by the Senate Inquiry Report entitled Hidden in Plain Sight, released on 7 December 2017. The ACTU highlights the following features as important for inclusion in an Australian Modern Slavery Act:

    a) That it apply to a broad range of companies based on annual turnover so that all large Australian businesses are captured, with the exemption of small businesses not engaged in international trade.

    b) That it apply extra-territorially so Australian companies operating abroad are required to disclose the risks in their supply chains both domestically and overseas.

    c) That it cover public bodies as procurement by all levels of government can play a role in eliminating forced labour from supply chains.

    d) That it establish a central register of statements, hosted by a Government agency, allowing trade unions and other civil society organisations, and government to monitor compliance and the quality of reporting.

    e) That it contain appropriate penalties for failure to publish a statement or issuing a fraudulent statement.

    f) That the guidance provided to companies on how to report be mandatory and follow due diligence guidelines requiring the company to provide:

        - Information about how an entity identifies, addresses and mitigates the modern slavery risks present in its operations and supply chains and how effective the entity has been in this;

        - Details of how an entity tracks and monitors the effectiveness of its response to modern slavery;

        - Information on effectiveness that demonstrates how the entity is assessing its actions to improve performance in addressing modern slavery, rather than reporting on key performance indicators or similar; and

        - Details of an entity's grievance mechanisms and other forms of remediation for those impacted by slavery.

IMPROVING SHAREHOLDER RIGHTS AND COMPANY DISCLOSURE

21. Congress agrees to advocate for changes to laws, regulation and guidance aimed at improving shareholder rights and company ESG disclosure. The key initiatives Congress which agrees to advocate are:

    a) Amendments to the Corporations Act 2001 (Cth) to:

        - Provide for a general-purpose right to move both binding directive and non-binding resolutions at a company annual general meeting (AGM), with

regulations to set out the criteria that must be met by a shareholder in determining if its resolution is permitted as either binding directive or non-binding resolution – with a 50% threshold;

- Provide for a binding vote on a sustainability/ESG report. Again, regulations could specify the factors that could be advanced by a shareholder seeking a binding vote in relation to a company's sustainability/ESG report (Note: this presupposes that sustainability reports become mandatory in Australia, which is covered by proposal (vi) below. This requirement is emerging as a mandatory requirement based on new European Commission (EC) laws which will spread to the rest of the world.) – with a 50% threshold;

- Enhance shareholder participation in company governance by making it simpler to lodge resolutions at company AGMs. To achieve this, it is proposed to reduce the percentage of votes required to be held from 5% to 3%, and the number of members entitled to vote, who may put a resolution, from 100 to 20;

- Provide a similar rule applied by the US Securities and Exchange Commission (SEC) – the proxy access rule - granting holders of 3 percent or more of a company's shares for two years, access to the company's proxy statement for nominees for up to 25 percent of the board;

- Clarify that the duty to act in the best interests of the corporation contained in s.181(1) - Good faith—civil obligations - requires directors to give effect to business enterprises' obligation to respect human rights.

- Require companies to disclose political expenditure to shareholders in annual reports and at AGMs; and,

- Require mandatory sustainability reporting, setting out the key matters that must be included in company sustainability reports.

b) Amendments to the Superannuation Industry (Supervision) Act 1993 (SIS Act) to:

- Strengthen the covenants to be included in the governing rules of registrable superannuation entities (RSEs) around a broad definition of fiduciary duty to take into consideration environmental, social and governance (ESG) issues in assessing risk;

- Prohibit profit making entities from becoming a RSE on the basis that profiting shareholders and allowing speculative trading of shares in a RSE is inconsistent with the primary objective of superannuation;

- Require default superannuation funds to have a responsible investment policy that includes, inter alia:

    - Explicit identification of the environmental, social and governance (including tax practices) risks that the fund considers are essential

to disclose, measure and report, consistent with its investment beliefs;

- Explicit commitment to adopt a minimum or benchmark set of labour relations and human rights indicators that can be rated or measured that are integrated into investment decision making for: (i) screening of potential investments; and (ii) active ownership of existing investments;
- A just transition strategy that considers employment, skills, and labour issues;
- Adoption of an Australian Social Indicators Ratings System; and,
- Adoption of a Labour Standards Code or Responsible Contractor Policy for infrastructure investments.

c) Reform of regulatory practice including:

- Requiring the Australian Prudential Regulation Authority (APRA) to update the ESG provisions in its Prudential Practice Guide SPG 530 Investment Governance (and equivalent prudential standards/guidance applicable to its regulated banks and insurers) to clarify to superannuation funds that ESG issues are salient to risk and return analysis and that ESG risks should therefore be incorporated alongside other risk factors in investment decision making;
- Requiring the Australian Securities Exchange (ASX) to strengthen its Corporate Governance Principles regarding:
  - Human capital management and in particular commitment around labour and human rights;
  - A just transition strategy; and,
  - Tax practices, consistent with the OECD Action Plan on Base Erosion and Profit Shifting (BEPS), and associated corporate reporting and disclosure.
- Requiring the Australian Securities and Investments Commission (ASIC) to monitor and report on the quality of corporate disclosure and reporting, including sustainability reporting that addresses ESG and tax practices performance;
- Requiring ASIC to amend its Regulatory Guide 65 which advises on Section 1013DA disclosure requirements relating to Product Disclosure Statements (PDSs) for superannuation products, so the Guidelines provide clear guidance on the detail of labour standards performance, including just transition measures, taken into account in selecting, retaining or realising an investment; and,

- Incorporate ESG sustainability ratings and research agencies within APRAs regulatory framework aimed at ensuring greater accountability of these firms and to ensure they comply with minimum performance standards and levels of transparency in their ratings methodologies and reporting.

TAX REGULATION

22. Congress welcomes the work undertaken by affiliates in relation to ensure multinational companies pay a fair and appropriate level of tax for their earnings in the country in which those earnings are made. Congress also notes this is a significant corporate governance issue and calls on union directors of superannuation funds to exercise their rights as part owners of these companies to ensure such companies adopt ethical practices as well as legal ones in the payment of their tax. Congress calls for legislative improvements in the transparency and disclosure of the operation of multinational companies' tax arrangements.

INTERNATIONAL COLLABORATION AND COORDINATION

23. Congress acknowledges the important work that the International Trade Union Confederation (ITUC) and its Committee of Workers Capital (CWC) along with the Council of Global Unions (CGU) representing the Global Union Federations (GUFs) plays in coordination of the global workers capital agenda, and in particular the strategic, policy and networking leaderships that these organisations play. Congress agrees that the ACTU continue to support these organisations and, in particular, provide material support to the CWC, and actively participate in its global networking, trustee education, campaigning and information exchange initiatives.