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VIA E-MAIL

March 31, 2011

Ontario Securities Commission
20 Queen Street West
Toronto, Ontario
Canada
M5H 3S8

Attention: John Stevenson
Secretary

Dear Sirs/Mesdames:

Re: OSC Staff Notice 54-701 (the "Notice")
Regulatory Requirements Regarding Shareholder Democracy Issues

This letter is being submitted on behalf of Magna International Inc. ("Magna") in response to the request for comments contained in the Notice. In particular, we appreciate the opportunity to offer our comments on the subject of "Say on Pay" (as defined in the Notice) and have set forth below our reasons for recommending that the OSC not mandate such an approach for enabling shareholders to express their views on the subject of executive compensation.

Background of Magna

Magna is the most diversified automotive supplier in the world. Magna designs, develops and manufactures automotive systems, assemblies, modules and components, and engineers and assembles complete vehicles, primarily for sale to original equipment manufacturers of cars and light trucks in North America, Europe, Asia, South America and Africa. Magna has more than 96,000 employees in 256 manufacturing operations and 82 product development, engineering and sales centres in 26 countries. Magna maintains a unique entrepreneurial corporate culture which seeks to encourage productivity, ingenuity and innovation and align the interests of employees, management and shareholders. This corporate culture is reflected in a Corporate Constitution, which is embedded in Magna's articles of incorporation and which provides for:

- employee participation in Magna's profits and growth through an employee equity sharing and profit participation program that allocates 10% of Magna's qualifying pre-tax profit to eligible employees;

- management participation in Magna's profits and growth through variable incentive compensation based on up to 6% of Magna's pre-tax profits before profit sharing;
- shareholder participation in Magna's profits and growth through the right to receive dividends equal to a minimum of: (a) 10% of Magna's after-tax profits for a fiscal year; and (b) on average, 20% of Magna's after-tax profits for a fiscal year and the two immediately preceding fiscal years;
- allocation of a minimum of 7% of Magna's pre-tax profit for research and development; and
- designation of up to 2% of Magna's pre-tax profit to various types of social causes to support the basic fabric of society.

Magna's emphasis on direct profit sharing for employees and management has been a critical element of Magna's growth and success. By way of recent example, we believe that the incentives created by Magna's management profit participation system were instrumental in driving the significant and rapid restructuring undertaken by Magna during the 2008/2009 recession which allowed it to achieve profitability for the benefit of all stakeholders in spite of continuing relatively low vehicle production volumes (when compared to historical levels).

Magna's Submission

In considering whether, and if so how, to approach the subject of Say on Pay, we submit that the OSC should carefully consider the following factors:

- contextual factors relating to the adoption of Say on Pay by regulators in other jurisdictions, as well as differences in regulatory approaches to corporate governance issues;
- existing tools of shareholder democracy, including the right to bring proposals relating to Say on Pay, as well as proxy access;
- the utility of a Say on Pay vote to an issuer's board of directors; and
- the complexity of the factors considered by boards in fulfilling their fiduciary duties in respect of the design and development of an effective compensation system.

In general, we submit that regulatory intervention to mandate advisory Say on Pay votes should only be taken in the face of compelling justification, combined with the absence or impracticality of less intrusive alternatives to such intervention. Moreover, if a decision is made in favour of intervention, a regulator should seek the most effective means of achieving the ultimate goal of the intervention. For the reasons below, we are of the view that no compelling basis for regulatory intervention exists and that there are more effective means to achieving the goals which apparently underlie Say on Pay.

1. Regulatory Approach

In considering whether and how to address Say on Pay, Magna believes that it is important for the OSC to take a thoughtful approach which considers a variety of contextual factors. Particularly in the case of considering whether to follow the recent U.S. adoption of Say on Pay, we submit that it is important to consider the circumstances surrounding such adoption. We note the following as some of the factors relevant to understanding why Say on Pay emerged and was adopted in the U.S., but note that none of these factors is relevant to the current circumstances in Ontario or in Canada:

- the failures of a number of major U.S. financial institutions, and their subsequent "bailout" by the U.S. government;

- U.S. taxpayer disapproval of the financial institution and other bailouts, particularly in light of compensation levels within the financial and investment banking community;
- the high degree of politicization around the financial institution bailouts, as reflected in the media at the time, as well as in the titles ascribed to the applicable legislation, including the “Dodd-Frank **Wall Street Reform** and Consumer Protection Act” (“Dodd-Frank Act”) and its prior title, the “**Restoring American Financial Stability** Act of 2010” (emphasis added); and
- the timing of enactment of the Dodd-Frank Act, including in relation to the November 2010 U.S. mid-term elections.

We respectfully submit that, while it may be important for the OSC to keep abreast of regulatory trends elsewhere, it is important to respond to those trends only where the circumstances in Ontario and affecting issuers over which the OSC has jurisdiction warrant regulatory action. In our view, the above-mentioned and other factors which led to the adoption of Say on Pay in the U.S. do not apply in Canada.

As part of the consideration of contextual factors, it is also important to take into account the considerable influence of market participants such as the Canadian Coalition for Good Governance (“CCGG”) and institutional shareholders. Both have had a significant impact on the governance practices of Canadian issuers, including causing a significant number of issuers to adopt Say on Pay. In light of the impact of their activities, it is arguable that regulatory action is not warranted.

In the event that the OSC does determine to address Say on Pay through regulatory action, we encourage the OSC to take a flexible approach which recognizes the diversity of issuers in the Canadian market, consistent with the Canadian Securities Administrators’ (“CSA”) approach to corporate governance as reflected in National Policy 58-201. The “comply or disclose” approach adopted in National Policy 58-201 managed to appropriately balance the interests of different types of issuers and other market participants, while responding to changes in governance trends. We would caution against adopting a “one-size fits all” or prescriptive approach on Say on Pay, particularly where there are already more effective tools available to shareholders (as discussed below).

2. Existing Tools of Shareholder Democracy

While there has undoubtedly been a global trend towards mandatory Say on Pay in recent years, there are a number of tools of shareholder democracy which are more effective in enabling shareholders to express their views on the subject of executive compensation. Importantly, some of these tools are already available under Ontario corporate law.

Shareholders of corporations incorporated under the *Business Corporations Act* (Ontario) (“OBCA”) have the ability to bring shareholder proposals on any subject, including Say on Pay. The right to bring such a shareholder proposal is not subject to any significant restrictions which would inhibit a shareholder from attempting to bring a proposal. In the U.K., where Say on Pay originated, shareholder proposals require the submitting shareholder to own 5% or more of the total voting rights, or alternatively have the written support of at least 100 members (shareholders) entitled to vote on the matter at the company’s annual meeting. As a result of these hurdles, shareholder proposals have been less common in the U.K. Given the fact that Ontario shareholders may bring a proposal with no meaningful restrictions, it is not clear why regulatory action regarding Say on Pay is needed in Ontario.

Shareholders of OBCA companies also have other tools available to them, including proxy access to nominate candidates for election as a director. While proxy access may be an extreme way for shareholders to seek to express dissatisfaction on executive compensation or other matters, it is an incredibly powerful one. Accordingly, unlike the ability to bring other types of shareholder proposals,

proxy access under the OBCA is restricted to shareholders with at least 5% of the shares entitled to be voted at the applicable shareholder meeting. By way of contrast, prior to the passage of the Dodd-Frank Act, shareholders of companies incorporated under the State of Delaware (and other U.S. states) did not have any proxy access rights.

Ultimately, we submit that the most effective tool which shareholders have to express their views on executive compensation is that of direct engagement with the independent directors of the boards of issuers. Unlike Say on Pay, direct engagement affords issuers and their shareholders the opportunity to develop mutual understanding as to why particular compensation practices may be the most appropriate given the nature of the issuer, its business and industry, as well as the factors which drive its performance and long-term growth. In the course of shareholder engagement meetings, a number of our largest institutional shareholders have made it clear to us that they are not supportive of Say on Pay.

3. Utility of a Say on Pay Vote

Although a Say on Pay vote is merely advisory, it is not entirely clear what a company's board of directors may take away as the message from such a vote, irrespective of the specific wording of a Say on Pay resolution.

First, in light of the growth in influence of proxy advisory firms and the continued outsourcing by many significant institutional shareholders of their most basic right as a shareholder, regulators and issuers should be concerned about whether the views being expressed in any Say on Pay vote are those of shareholders or those of proxy advisory firms. Additionally, we understand that proxy advisory firms typically have a relatively short time and limited resources in which to develop their voting recommendations, primarily due to the relatively narrow time period in which most Canadian issuers disseminate their shareholder meeting materials and the extremely tight time period thereafter in which proxy advisory firms are expected by their clients to issue voting recommendations. In such circumstances, is it reasonable to expect proxy advisors to develop a sufficient understanding of the diverse compensation structures across Canadian issuers? Specifically, is it reasonable to expect that proxy advisors will be able to invest the time and resources to fully understand and make a balanced and informed recommendation on compensation structures that may be less prevalent or involve unique features? In the context of corporate governance practices, issuers have become familiar with the often rigid "check-the-box" approach followed by proxy advisors. We submit that it is reasonable to ask whether such an approach will be adopted with respect to their review and recommendations on compensation practices, which are necessarily more complex and more varied than governance practices and thus not conducive to such an approach.

Second, Say on Pay votes generally address the short-term – if held annually, shareholders will likely vote on the basis of the one-year period covered by the issuer's proxy circular. Although performance is measurable over any time period, a meaningful compensation system will seek to achieve performance results which are consistent and sustained over the long-term. Given the mismatch between the time perspective reflected in a Say on Pay vote and the time period over which performance should be achieved, what weighting can a board place on the results of a Say on Pay vote?

Third, assuming a mandatory Say on Pay vote on the basis of language consistent with that contained in the CCGG's Model Say on Pay policy, there are a number of potential messages which a board may receive through the results of a negative Say on Pay vote, including that:

- shareholders are displeased with the:
 - link between executive compensation and performance;

- quantum paid to one or more named executive officers, irrespective of the link between executive compensation and performance; and
- relationship between executive compensation and the company's share price return since the last Say on Pay vote, irrespective of whether share price return is a meaningful measure of performance in all circumstances (given the impact of market forces); and
- shareholders may not fully understand the company's compensation system or the many complex considerations involved in the design of such system.

Needless to say, how a board decides to address a negative Say on Pay vote depends on what exactly shareholders are communicating. We submit that the precision required to send an effective message to a board can most effectively be achieved through engagement.

4. Fiduciary Duties of a Board of Directors

Under the OBCA, the duty of an issuer's board of directors is to act in the best interests of the corporation. In fulfilling this fiduciary duty with respect to executive compensation, a board necessarily must consider, weigh and balance a wide range of complex considerations relevant to executive compensation, including:

- what incentives and disincentives are created by different compensation elements;
- which of such compensation elements will best serve to assist in recruitment and retention of a skilled executive team;
- what weight should be assigned to each element within the compensation system;
- how to appropriately recognize and reward both individual and executive team effort;
- what are the primary drivers of performance in the company's business and industry and what are the appropriate metrics used to measure such performance;
- how to appropriately and effectively link executive compensation to the key performance drivers and metrics identified;
- how to link the interests of management to the interests of shareholders; and
- how to address all of the foregoing considerations in a way which results in compensation terms which are competitive within the company's geographic area and industry.

The design and development of an effective executive compensation system will typically include involvement not just of boards, but also independent advisors with a high degree of specialization in different areas, including compensation plan design, pensions, employment law, accounting and potentially other areas. It seems odd that all of the complex considerations and delicate balancing involved in the design of an effective compensation system by boards and their specialized independent advisors, can then be subjected to a simple yes/no vote. For all the reasons stated earlier, to the extent that the underlying aim of Say on Pay is to facilitate dialogue between boards and shareholders, we submit that there are far more effective ways to achieve this goal.

Please do not hesitate to contact the undersigned if you wish to discuss any of the submissions contained in this letter.

Regards,

A handwritten signature in black ink, appearing to read 'B. Shakeel' with a stylized flourish at the end.

Bassem A. Shakeel
Vice-President and Secretary