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VIA E-MAIL

September 21, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marches financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Me. Anne-Marie Beaudoin
Corporate Secretary
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John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
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e-mail: jstevenson@osc.gov.on.ca

Dear Sirs/Mesdames:

Re: CSA Consultation Paper 25-401 (the "Consultation Paper")
Potential Regulation of Proxy Advisory Firms

Magna International Inc. ("Magna") appreciates the opportunity to offer input on the subject of the potential regulation of proxy advisory firms and is submitting this letter in response to the request for comments contained in the Consultation Paper.

Background of Magna

Magna is a leading global automotive supplier with 296 manufacturing operations and 88 product development, engineering and sales centres in 26 countries. Our 115,000 employees are focused on delivering superior value to our customers through innovative processes and World Class Manufacturing. Magna's product capabilities include body, chassis, interiors, exteriors, seating,

powertrain, electronics, mirrors, closures and roof systems and modules, as well as complete vehicle engineering and contract manufacturing. Our common shares trade on the Toronto Stock Exchange (MG) and the New York Stock Exchange (MGA).

Magna's Submission

We are of the view that the Consultation Paper appropriately recognizes specific key concerns with proxy advisors, namely:

- potential conflicts of interest;
- lack of transparency;
- potential inaccuracies and limited opportunity for issuer engagement;
- potential corporate governance implications; and
- extent of reliance by institutional investors in Canada.

This letter offers comments on each of the above topics. However, we view the first three concerns above as elements of the broader issue of proxy advisor governance and address the last two concerns together as we view them as being interrelated. We have structured our response accordingly.

1. Concerns Relating to Proxy Advisor Governance

We submit that specific concerns relating to potential conflicts, lack of transparency, potential inaccuracies and limited issuer engagement need to be viewed as different symptoms of a common concern – proxy advisor governance more generally. Our experience has been that proxy advisors with better governance practices in one of these areas tend to have better practices in the other areas, with the converse being true as well. We recommend that the CSA consider ways to elevate proxy advisor governance more generally, instead of simply addressing a series of specific issues. Accordingly, a regulatory response by the CSA should consider adoption of the types of tools employed in the context of regulation of reporting issuers' corporate governance, including:

- regulatory articulation of guidelines/best practices in proxy advisor governance; and

- implementation of a "comply or explain" requirement for proxy advisors with respect to such guidelines.

While such a "comply or explain" approach is unlikely on its own to be sufficient in raising the bar on proxy advisor governance, it could be effective if combined with some of the other measures discussed in this submission to increase accountability over proxy advisors.

In the context of addressing proxy advisor governance generally, we believe that there are some measures which can be taken to address some of the specific issues identified in the Consultation Paper – our thoughts on these specific issues follow below.

a. Potential Conflicts of Interest

The CSA has identified two potential types of proxy advisor conflicts of interest: those arising due to advisory engagements for issuers and those arising from the ownership structure of proxy advisory firms. While advisory engagements for issuers create apparent conflicts of interest for proxy advisors, Magna believes that such conflicts have been mitigated in a reasonable manner in practice. Our primary concern relates to the ownership of a proxy advisory firm by an institutional shareholder and, specifically, whether such an arrangement effectively gives the institution disproportionate influence in relation to its shareholding and enables it to achieve some of the benefits of a dissident proxy solicitation without being seen to be initiating such a campaign. If the intent and/or effect of institutional shareholder ownership of a proxy advisor is to further the

institution's interests as a shareholder of its investee companies, as opposed to it merely being a passive investment, then:

- the proxy advisor is likely to be in a position of conflict with respect to the interests of its institutional shareholder parent company in relation to the interests of all its clients more generally; and
- the institutional shareholder parent company will have unfair advantages in relation to other shareholders as well as issuers, absent the types of protections provided by the dissident proxy solicitation rules.

Existing public disclosures by applicable proxy advisors do not provide sufficient information to enable market participants to conclude whether the above concerns are real and, if so, whether they are being mitigated effectively. We submit that all market participants would benefit from disclosure of information relating to ownership by an institutional shareholder of any ownership stake in a proxy advisor (whether or not a controlling stake), as well as additional information to enable market participants to properly assess the extent to which:

i. **A director, officer or employee of an institutional shareholder serves in any capacity with the proxy advisor** - we are particularly concerned about the possibility that directors, officers or employees of institutional shareholders:

    - responsible for issuer engagement on behalf of the institution;
    - having influence over the institution's investment policies; and/or
    - possessing authority with respect to specific investment decisions on behalf of the institution,

    could be involved with the proxy advisor subsidiary, including as a director on the proxy advisor's board of directors. We note that there is no current regulatory requirement for disclosure of such involvement, nor is there voluntary disclosure in practice.

ii. **The institutional shareholder's actual voting practices correspond with the recommendations of its proxy advisor subsidiary** - we note that the market has no effective ability to test the assertions of independence made by proxy advisors owned by institutional shareholders. It is reasonable to assume that meaningful independence of the proxy advisor would result in divergence between the interests of parent and subsidiary from time to time, which should be evident in the relationship between the proxy advisor's voting recommendations and the parent company's voting practices. We submit that a strong correlation between the two may be indicative of a lack of meaningful independence of the proxy advisor.

Disclosures of the type sought could easily be made on the proxy advisor's website and in its voting recommendation reports to ensure that the information is transparent to all market participants.

b. Lack of Transparency

The concerns around lack of transparency in the Consultation Paper appear to be focused on whether proxy advisors' voting recommendations need to be fully in the public domain. While we do have concerns relating to the lack of transparency between proxy advisor and the market generally with respect to development of voting policies, our primary concern relates to the lack of transparency between proxy advisor and issuer. We submit that good proxy advisor governance requires that the following basic principles be met in order to enhance transparency:

i. **Proxy voting guidelines must be:**

- **Easily Accessible** – the complete set of proxy voting guidelines must be made available on a proxy advisor's website and/or provided directly to the issuer. While we are aware of one major proxy advisor which makes its guidelines readily available on its website, we have significant concerns regarding other practices in the market, such as public dissemination solely of an abridged version of proxy voting guidelines.

- **Clear, Objective, Policy-Driven and Consistently Applied** – all market participants should be able to determine with reasonable certainty how a proxy advisor's voting guidelines will be applied to a specific issuer's circumstances. We recognize the risk that strict application of this principle could reinforce the concern among issuers that voting guidelines are applied too rigidly (the "check the box" approach), but we believe it preferable to the alternative – application of an unpredictable, inconsistent and potentially subjective and/or ideologically-driven approach.

- **Reflective of Input from Market Participants** – we respect the fact that proxy advisors' voting guidelines are their proprietary work product and, in their view, competitive advantage. However, incorporation of policy input from market participants can only serve to enhance the overall quality of those guidelines and any specific voting recommendations made in accordance with them, as well as to give the shareholders which rely on proxy advisors' work product a better basis on which to make intelligent and informed voting decisions. We are aware of one major proxy advisor which annually seeks policy input from all market participants and submit that good proxy advisor governance requires all proxy advisors to do the same.

ii. **A proxy voting recommendation must promptly be made available to the issuer to which it relates** – every issuer must know, and ought to have the opportunity of addressing directly with shareholders, any concerns raised by a proxy advisor in its voting recommendation relating to that issuer. At a minimum, this requires a proxy advisor to provide the final voting recommendation report relating to that issuer simultaneously with dissemination to the proxy advisor's clients. We are aware of one proxy advisor which follows this approach as a standard practice, but have significant concern regarding other practices in the market, such as provision of a voting recommendation solely upon the issuer's written request and payment of a fee.

We recognize that there is a relatively wide range of practices among proxy advisors and that the existing practices of some proxy advisors may achieve some of the above principles. We encourage the CSA to consider adopting the above to help ensure that the practices of those proxy advisors which lag are brought up to a minimum acceptable standard.

c. Potential Inaccuracies and Limited Opportunity for Issuer Engagement

Magna recognizes that proxy advisors have a challenging task of reviewing a significant number of proxy circulars in a relatively brief period of time during proxy season. However, in light of:

- the significant role that proxy advisors play in the capital markets;

- their influence on voting behaviour; and

- the likelihood of inadvertent errors occurring during proxy season as a result of the high volume of work in a relatively brief period of time,

the integrity of the markets requires that proxy advisors' work product be subject to the same standard of care as issuers' own public disclosures. Given that a commercial relationship exists between proxy advisors and their institutional shareholder clients, one would expect those

shareholders to hold proxy advisors fully accountable for the quality of the work product delivered. However, it is not clear to us that this is happening, possibly because the direct impact of proxy advisors' activities is borne by issuers and their director nominees rather than shareholders.

We submit that issuers must be allowed a reasonable advance opportunity to verify a voting recommendation report in order to help ensure the accuracy of the facts contained in the voting recommendation report, as well as the:

- validity of the assumptions underlying a proxy advisor's voting recommendations; and
- consistency of a proxy advisor's analysis and recommendations with its own policies and voting guidelines.

We emphasize that advance verification is about much more than factual verification. In our experience, proxy advisors are generally willing to promptly correct factual errors. The more difficult and contentious issues relate to the assumptions they may have made or the manner in which their voting guidelines have been applied to a set of facts and assumptions.

Currently, we are aware of one proxy advisor which provides a limited opportunity for issuer verification prior to dissemination of its voting recommendations. Ideally, issuers should be given a minimum of between 48 and 72 hours in which to review and respond to a proxy advisor's draft voting recommendation relating to regular meeting business, a time period which we do not believe will materially impact the amount of time available for institutional shareholders to vote their shares. In the case of a complex transaction or contentious special business, we submit that it may be necessary to have a slightly longer period for issuers to verify and engage with the proxy advisor.

Other parties which have submitted comments in response to the Consultation Paper have recommended that proxy advisors be required to include an issuer response in their final voting recommendation report – we are generally supportive of such recommendation.

2. Potential Corporate Governance Implications and Extent of Reliance by Institutional Investors

In our view, the primary governance concern arising from the work of proxy advisors relates to how their reports are ultimately used by institutional shareholders. We are aware of a range of practices among institutional shareholders – some consider proxy voting recommendation reports merely as one among many inputs into their voting decisions, while others have effectively delegated the voting of their shares to proxy advisors, whether in accordance with customized or general voting policies developed by the proxy advisor. We are of the view that each party in the proxy process has rights and responsibilities – in the case of institutional shareholders, the voting of investee company shares in a carefully considered manner is a key responsibility, particularly where the institution is acting as fiduciary. We recommend that the CSA remind institutional shareholders of this responsibility, particularly for those institutions which act as fiduciaries, and establish minimum expectations in that regard.

We also recommend that consideration be given to requiring institutional shareholders to publicly identify one or more representatives with whom issuers can engage in connection with a proxy advisor's voting recommendation. Effective engagement between issuers and shareholders should allow issuers to directly address any issues arising from a proxy voting recommendation. However, while issuers typically have contact with portfolio managers responsible for making buy/sell decisions regarding the issuer's shares, our experience has been that the proxy voting process is at times disconnected from portfolio management decisions within larger institutional shareholders. Additionally, portfolio managers may be reluctant to facilitate direct contact between issuers and their colleagues responsible for voting decisions, thus making it difficult for an issuer to effectively

engage with the key decision maker(s) on voting issues, including the recommendations which proxy advisors may have made.

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We respectfully submit the comments in this letter for your consideration and would welcome an opportunity to discuss them with you.

Regards,

Bassem A. Shakeel
Vice-President and Secretary