



December 16, 2022

(Via email to rule-comments@sec.gov)
Vanessa A. Countryman
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

Re: *In the Matters of Weatherford International PLC, et al., and Ernst & Young LLP, et al.*, Administrative Proceeding File Nos. 3-17582 and 3-17628

Dear Ms. Countryman:

Securities Class Action Services, LLC (a subsidiary of Institutional Shareholder Services Inc. and referred to herein as "ISS SCAS") submits these comments on the Securities and Exchange Commission's (the "Commission") Proposed Plan of Distribution in the *Matters of Weatherford International PLC, et al., and Ernst & Young LLP, et al.*, Administrative Proceeding File Nos. 3-17582 and 3-17628 (the "Proposed Plan").

In submitting these comments, ISS SCAS references and incorporates by that reference the key points we articulated in our previous comment letter in the *Matter of Magna Chip, et al.*, File No. 3-17956 (the "Magna Chip Plan") attached as **Exhibit A**. ISS SCAS also provides the following further comments for the Commission's consideration.

The Proposed Plan provides for a "fair fund" of \$152,204,174 to be distributed to harmed investors as a result of federal securities violations by the Respondents (the "Fair Fund"). On November 17, 2022, the Commission's Secretary published a notice of the plan and provided interested parties with the opportunity to comment within thirty days.

The language in Paragraphs 85 and 86 of the Proposed Plan regarding Third-Party Filers is identical to that in the MagnaChip Plan. It also mirrors many other of the Commission's recent plans of distribution, which collectively provide the opportunity for hundreds of millions of dollars to be returned to defrauded investors. *See In the Matter of General Electric Company*, File No. 3-20165; *In the Matter of The Kraft Heinz Co. et al.*, File No. 3-20523; *In the Matter of Wells Fargo & Company*, File No. 3-19704. As noted in our comment letter regarding the Magna Chip Plan,

INSTITUTIONAL SHAREHOLDER SERVICES INC.

702 King Farm Boulevard Suite 400
Rockville, MD 20850

ISSGOVERNANCE.COM/SCAS

the Proposed Plan will effectively bar ISS SCAS from rendering these valuable services to important investor clients in connection with this Fair Fund, as we believe that the requirements of Paragraph 85 might preclude our typical operational processes. In addition, certain provisions of the Proposed Plan make it extremely difficult, if not impossible, for ISS SCAS to receive payment for services rendered.

As we further noted in our prior letter, these provisions impose undue burdens on those of our investor clients who have agreed by contract to compensate ISS SCAS for our services in the form of contingency arrangements with ISS SCAS, in particular those wealth management clients who serve individual investors. The unintended consequence is that such clients will effectively have to file claims themselves under the Proposed Plan, and cannot rely, as they typically do, on ISS SCAS's technology and operational processes to handle these recoveries. Without being able to rely on ISS SCAS, the net effect, we believe, is that many of these clients are highly unlikely to file claims and receive the recoveries to which they are entitled. This is contrary to the goal of maximizing the rate of participation in the Fair Fund.

Accordingly, for the same reasons expressed in *MagnaChip*, we respectfully request that the SEC remove the language highlighted in our previous letter. The excision of said language will eliminate unnecessary burdens and help maximize investor participation in this and future fair funds.

Thank you for your consideration. If you have any follow-up questions about these comments, please contact the undersigned.

Sincerely,



Ivar Eilertsen
Managing Director
Head of ISS Securities Class Actions Services

September 14, 2022

(Via email to rule-comments@sec.gov)
Vanessa A. Countryman
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

Re: *In the Matter of MagnaChip Semiconductor Corporation and Margaret Hye-Ryoung Sakai, CPA*, Administrative Proceeding File No. 3-17956

Dear Ms. Countryman:

Securities Class Action Services, LLC (a subsidiary of Institutional Shareholder Services Inc. and referred to herein as “ISS SCAS”) submits these comments on the Securities Exchange Commission’s (the “Commission”) Proposed Plan of Distribution for MagnaChip Semiconductor Corporation and Margaret Hye-Ryoung Sakai, CPA, Administrative File No. 3-17956 (the “Proposed Plan”). The Proposed Plan provides for a “fair fund” of \$3,135,000 to be distributed to harmed investors as a result of violations by MagnaChip and Sakai (the “Respondents”) of the federal securities laws (the “Fair Fund”).

ISS SCAS appreciates the work the Commission has done in obtaining this Fair Fund and supports its objective of distributing the proceeds to all harmed investors. However, ISS SCAS provides these comments to advise the Commission that the Proposed Plan, as currently written, may inadvertently undermine this intended goal. In particular, the Proposed Plan may inhibit the ability of “Third-Party Filers” such as ISS SCAS from filing claims on behalf of certain investors, thereby thwarting these investors’ ability to procure their rightful recoveries. For these reasons, ISS SCAS respectfully requests the Commission modify Paragraphs 85 and 86 of the Proposed Plan as explained below.

ISS SCAS is a sophisticated business that provides litigation research and comprehensive claims filing solutions to our institutional investor clients. Due to the complexities and burdens associated with the securities class action claims filing process, many investors retain third party filing services such as ISS SCAS to assist them with the recovery of the funds to which they are

INSTITUTIONAL SHAREHOLDER SERVICES INC.

702 King Farm Boulevard Suite 400
Rockville, MD 20850

ISSGOVERNANCE.COM/SCAS

entitled under securities class actions settlements, including SEC Fair Funds. Investors rely on ISS SCAS's subject matter expertise, technology and operational processes, procedures and controls, which generally allows us to handle the submission and processing of recoveries more effectively and efficiently and at a lower cost than if each investor were to manage this process themselves.

As currently drafted, the Proposed Plan will effectively bar ISS SCAS from rendering these valuable services to important investor clients in connection with this Fair Fund. This is because Paragraph 85 of the Proposed Plan provides, in the first instance, that "a Third-Party Filer shall not be the payee of any Distribution Payment check or electronic Distribution Payment." In many situations, ISS SCAS does initially receive distribution amounts on behalf of its clients and then remits those amounts to its clients. We believe that the requirements of Paragraph 85 might preclude our typical operational processes.

In addition, certain provisions of the Proposed Plan make it extremely difficult, if not impossible, for ISS SCAS to receive payment for services rendered. Paragraph 85 of the Plan further provides that "[c]ompensation to a Third-Party Filer for its services may not be paid or deducted from the Distribution Payment." Even where, under Paragraph 86 of the Plan, a Third-Party Filer is given permission to initially receive a distribution payment on behalf of a client provided certain procedural requirements are met, it requires the distribution payment to be ultimately distributed *entirely* to the Payee without allowing the Third-Party Filer to deduct any fees to which it is entitled. Indeed, Paragraph 86 states that each Third-Party Filer must confirm to the Fund Administrator and the Commission staff that "each Payee received the Distribution Payment directed to him, her, or it."

The proposed provisions in particular will affect ISS SCAS's clients who have contractually agreed to a contingency fee arrangement, whereby the fees they are charged for the service are based on a pre-agreed percentage of any recovery obtained (the "Contingency Clients"). Many of the Contingency Clients are institutions who represent individual investors, smaller investment funds, or separately managed accounts. These institutions have specifically chosen to enter into these contingency fee arrangements with ISS SCAS as opposed to a fixed-fee annual subscription model, because they benefit from only being charged for the limited number of securities class action settlements from which they expect to receive recoveries. Under such arrangements with these Contingency Clients, the typical, and effectively only way for ISS SCAS to get paid is to receive a deduction or distribution from the recovery. However, since such compensation from the Fair Fund is seemingly prohibited under the Proposed Plan, ISS SCAS will not be in a position to file claims on these clients' behalf.

The unintended consequence is that Contingency Clients will effectively have to file claims themselves under the Proposed Plan, and cannot rely, as they typically do, on ISS SCAS's technology and operational processes to handle these recoveries. Without being able to rely on ISS SCAS, the net effect, we believe, is that many of the Contingency Clients are highly unlikely to file claims and receive the recoveries to which they are entitled. This is contrary to the goal of maximizing the rate of participation in the Fair Fund. Moreover, even if some of the Contingency

Clients were to file claims on their own, we believe that they would not be able to do so as efficiently or reliably as ISS SCAS, which is why they retained ISS SCAS on a contingency fee basis in the first place.

Respectfully, ISS SCAS submits that modifying the Proposed Plan to eliminate the explicit preclusion of the offset of Third-Party Filer compensation from Distribution Payments would be consistent with protecting the integrity of Commission distributions, given the strict documentation requirements and oversight by the Fund Administrator. Indeed, this would also be consistent with Paragraphs 85 and 86, where the Commission has already acknowledged that with Payee authorization and proper documentation, including confirmation of an existing contract with the Eligible Claimant, and in consultation with Commission staff, the Fund Administrator can distribute payment to a Third-Party Filer. Allowing the deduction of Third-Party Filer compensation per contractually agreed-upon contingency fee arrangements would not place the Commission in the position of inadvertently restricting defrauded investors from seeking recoveries with the help of third-party services or discouraging distribution participation altogether.

Accordingly, while we understand and appreciate the objective of the Proposed Plan to ensure that the Fair Fund entirely benefits the harmed investors, in actuality aspects of the plan may have the opposite effect. Millions of individuals and other smaller investors who are the clients of our institutional clients will not receive the recoveries to which they are entitled since they effectively cannot make use of third-party filing services. To ensure that these investors receive the recoveries they deserve, we suggest that the Commission remove the language highlighted above in Paragraphs 85 and 86.

Thank you for your consideration. If you have any follow-up questions about these comments, please contact the undersigned.

Sincerely,



Ivar Eilertsen
Managing Director
Head of ISS Securities Class Actions Services