



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549-4561

February 1, 2012

Marie L. Gibson  
Skadden, Arps, Slate, Meagher & Flom LLP  
marie.gibson@skadden.com

Re: Mylan Inc.  
Incoming letter dated January 6, 2012

Dear Ms. Gibson:

This is in response to your letter dated January 6, 2012 concerning the shareholder proposal submitted to Mylan by the Sheet Metal Workers' National Pension Fund. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Ted Yu  
Senior Special Counsel

Enclosure

cc: Kenneth Colombo  
Sheet Metal Workers' National Pension Fund  
Kcolombo@smwnpf.org

February 1, 2012

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: Mylan Inc.  
Incoming letter dated January 6, 2012

The proposal asks that the board of directors adopt a policy that the board's chairman be an independent director who has not previously served as an executive officer of the company.

There appears to be some basis for your view that Mylan may exclude the proposal under rule 14a-8(i)(11). We note that the proposal is substantially duplicative of a previously submitted proposal that will be included in Mylan's 2012 proxy materials. Accordingly, we will not recommend enforcement action to the Commission if Mylan omits the proposal from its proxy materials in reliance on rule 14a-8(i)(11).

Sincerely,

Matt S. McNair  
Attorney-Adviser

**DIVISION OF CORPORATION FINANCE  
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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VIENNA

January 6, 2012

**VIA EMAIL** (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission  
Division of Corporate Finance  
Office of Chief Counsel  
100 F Street, N.E.  
Washington, D.C. 20549

RE: Mylan Inc. - 2012 Annual Meeting Omission of  
Shareholder Proposal of the Sheet Metal Workers'  
National Pension Fund

Dear Ladies and Gentlemen:

This letter is submitted on behalf of Mylan Inc., a Pennsylvania corporation (the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended. The Company has received a shareholder proposal and a supporting statement (the "Proposal") from the Sheet Metal Workers' National Pension Fund (the "Proponent") for inclusion in the proxy materials to be distributed by the Company in connection with its 2012 annual meeting of shareholders (the "2012 Proxy Materials"). The Company requests that the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") concur with the Company's view that, for the reasons stated below, it may exclude the Proposal from the 2012 Proxy Materials.

In accordance with Division of Corporation Finance: Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), this letter and its attachments are being submitted by email to shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), copies of this letter and attachments are being sent to the Proponent as notice of the Company's intent to omit the Proposal from the 2012 Proxy Materials. The Company will promptly forward to the Proponent any response from the Staff to

this no-action request that the Staff transmits by email or facsimile to the Company only.

Rule 14a-8(k) and SLB 14D provide that a shareholder Proponent is required to send companies a copy of any correspondence that the Proponent elects to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

**I. The Proposal.**

The Proposal asks that the board of directors of the Company adopt a policy requiring the board's chairman to be an independent director who has not previously served as an executive officer of the Company.

**II. Basis for Exclusion.**

The Company respectfully requests that the Staff concur in the Company's view that in reliance on Rule 14a-8(i)(11) the Proposal may be excluded from the 2012 Proxy Materials because the Proponent's Proposal substantially duplicates the New York City Pension Funds & Retirement Systems proposal (the "Prior Proposal"), which the Company intends to include in its 2012 Proxy Materials.

**III. Factual Background.**

On November 18, 2011, the Company received the Prior Proposal, dated November 15, 2011, by mail, which the Company intends to include in its 2012 Proxy Materials. On November 22, 2011, the Company received the Proposal by facsimile transmission. Accompanying the Proposal was a cover letter dated November 22, 2011 ("November 22 Letter"). The Proposal, the November 22 Letter and the facsimile transmittal sheet are attached hereto as Exhibit A.

The Proposal asks that the board of directors of the Company adopt a policy requiring the board's chairman to be an independent director who has not previously served as an executive officer of the Company. The Proposal further requests that the policy "be implemented so as not to violate any contractual obligation." In addition, the Proposal requests that the policy should

"(a) specify how to select a new independent chairman if a current chairman ceases to be independent during the time between the

annual meetings of shareholders and (b) that compliance with the policy is excused if no independent director is available and willing to serve as chairman."

The Prior Proposal asks that the board of directors of the Company "adopt a policy to separate the positions of Chair of the Board of Directors and CEO, and that the Chair of the Board of Directors shall be an independent director, who is not a former or current employee of the Company." The Prior Proposal further asks that the policy "allow for departure under extraordinary circumstances, such as the unexpected resignation of the chair." The Prior Proposal and the cover letter are attached hereto as Exhibit B.

**IV. The Company May Omit The Proposal From the 2012 Proxy Materials Under Rule 14a-8(i)(11), Because The Proponent's Proposal Substantially Duplicates the Prior Proposal.**

Rule 14a-8(i)(11) provides that a proposal may be excluded if the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting. The Commission has stated that the exclusion provided for by Rule 14a-8(i)(11) was intended to "eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." *See*, Exchange Act Release No. 34-12598 (July 7, 1976).

The Staff has consistently taken the position that proposals can be considered substantially duplicative, even if they differ slightly in matters of implementation methodology and of scope, as long as the proposals have the same principal force and thrust. *See JPMorgan Chase & Co.* (March 7, 2011) (concurring with the exclusion of a stockholder proposal where the proposal had the same core issue and principal focus of a prior proposal); *also see The Goldman Sachs Group, Inc.* (March 9, 2010) (concurring with the exclusion of a stockholder proposal where the proposal had the same principal focus and thrust, but differed in the implementation and presentation of a prior proposal); *also see JPMorgan Chase & Co.* (March 5, 2010) (concurring with the exclusion of a stockholder proposal where the proposal had the same core issue and principal focus of a prior proposal, but had different means of accomplishing the proposal).

In this case, the Proposal has the same principal focus and thrust of the Prior Proposal, as both proposals seek to establish an independent chairman of the board of directors. The proposals differ slightly in scope, as the Proposal specifies that the policy should include how to select a new independent chairman if

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
January 6, 2012  
Page 4

a current chairman ceases to be independent during the time between annual shareholder meetings, as well as a provision excusing compliance with the policy if no independent director is available and willing to serve. The Prior Proposal on the other hand, only has one additional policy specification, that extraordinary circumstances should allow for departure from the policy. While the Proposal has more detail than the Prior Proposal, each proposal letter has the same principal focus of establishing an independent chairman of the board of directors. Furthermore, as in *JPMorgan Chase & Co.* (March 5, 2010), although the scope of the proposals differ slightly, the supporting statements of both proposals make clear that the core issue and principal focus of the two proposals is the same.

**V. Conclusion.**

For the reasons stated above, the Company believes that the Proposal may be omitted from the 2012 Proxy Materials in reliance on Rule 14a-8(i)(11), because the Proponent's Proposal substantially duplicates the Prior Proposal. Accordingly, the Company respectfully requests the concurrence of the Staff that it would not recommend enforcement action against the Company if the Company omits the proposal in its entirety from the 2012 Proxy Materials.

Should the Staff disagree with our conclusions regarding the omission of the Proposal, or should the Staff desire any additional information in support of our position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (212) 735-3207.

Very truly yours,



Marie L. Gibson

cc: Kenneth Colombo, Corporate Governance Advisor, Sheet Metal Workers'  
National Pension Fund  
Joseph F. Haggerty, Esq., Executive Vice President, Global General Counsel,  
Mylan Inc.  
Craig Rosenberg, Proxy Vote Plus

## **Exhibit A**

## SHEET METAL WORKERS' NATIONAL PENSION FUND



## FACSIMILE TRANSMITTAL SHEET

TO: JOSEPH F. HAGGERTY  
Corporate Secretary

FROM: KENNETH COLOMBO

COMPANY:  
Mylan Inc.

DATE:  
NOVEMBER 22, 2011

FAX NUMBER:  
908-542-2594

TOTAL NO. OF PAGES INCLUDING COVER:  
4

PHONE NUMBER:  
724-514-1800

CC:  
Craig Rosenberg (847) 205-0293

RE:  
Shareholder Resolution

URGENT

PLEASE COMMENT

PLEASE REPLY

## NOTES/COMMENTS:

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUALS TO WHOM IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL, THE DISCLOSURE OF WHICH IS PROHIBITED BY LAW. IF THE READER OF THIS TRANSMISSION IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS TRANSMISSION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY AT (703) 739-7000. THANK YOU.

601 N. FAIRFAX STREET, SUITE 500,  
ALEXANDRIA, VA 22314  
(703) 739-7000 OR  
(703) 683-0932 FAX

**SHEET METAL WORKERS' NATIONAL PENSION FUND**



[Sent via 908-542-2594 and via UPS]

November 22, 2011

Joseph F. Haggerty  
Corporate Secretary, Mylan Inc.  
110 Allen Road  
Basking Ridge NJ, 07920

Re: Separation of Chair and CEO Proposal

Mr. Haggerty:

On behalf of the Sheet Metal Workers' National Pension Fund ("Fund"), I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the Mylan Inc. ("Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal addresses our companies Chairman and CEO position. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission proxy regulations.

The Fund is the beneficial owner of approximately 11,048 shares of the Company's common stock that have been held continuously for more than a year prior to this date of submission. The Fund and other Sheet Metal Worker pension funds are long-term holders of the Company's common stock.

The Fund intends to hold the shares through the date of the Company's next annual meeting of shareholders. The record holder of the stock will provide the appropriate verification of the Fund's beneficial ownership by separate letter. Either the undersigned or a designated representative will present the Proposal for consideration at the annual meeting of shareholders.

Edward F. Carlough Plaza  
601 N. Fairfax Street, Suite 500  
Alexandria, VA 22314 (703) 739-7000 facsimile (703) 683-0932

**SHEET METAL WORKERS' NATIONAL PENSION FUND**



If you have any questions or wish to discuss the Proposal, please contact Ken Colombo (703) 739-7018 or [Kcolombo@smwnpf.org](mailto:Kcolombo@smwnpf.org). Copies of correspondence or a request for a "no-action" letter should be directed to me at Sheet Metal Workers' National Pension Fund, 601 N. Fairfax Street, Suite 500, Alexandria, VA 22314.

Copies should also be forwarded to Mr. Craig Rosenberg, ProxyVote Plus, One Lane Center, 1200 Shermer Rd., Suite 216, Northbrook, IL 60062.

Sincerely,

Kenneth Colombo  
Corporate Governance Advisor

Enclosure

cc: Craig Rosenberg

Edward F. Carlough Plaza  
601 N. Fairfax Street, Suite 500  
Alexandria, VA 22314 (703) 739-7000 facsimile (703) 683-0932

## **Independent Chairman of the Board**

**RESOLVED:** That stockholders of Mylan Inc. ("the Company") ask the board of directors to adopt a policy that the board's chairman be an independent director who has not previously served as an executive officer of Mylan Inc. The policy should be implemented so as not to violate any contractual obligation. The policy should also specify (a) how to select a new independent chairman if a current chairman ceases to be independent during the time between annual meetings of shareholders; and, (b) that compliance with the policy is excused if no independent director is available and willing to serve as chairman.

### **Supporting Statement**

It is the responsibility of the Board of Directors to protect shareholders' long-term interests by providing independent oversight of management, including the Chief Executive Officer (CEO), in directing the corporation's business and affairs. Currently at our Company Robert J. Coury holds both the positions of Chairman of the Board and CEO. We believe that this current scheme may not adequately protect shareholders.

Shareholders require an independent leader to ensure that management acts strictly in the best interests of the Company. By setting agendas, priorities and procedures, the position of chairman is critical in shaping the work of the Board of Directors. Accordingly, we believe that having an independent director serve as Chairman can help ensure the objective functioning of an effective Board.

As a long-term shareholder of our Company, we believe that ensuring that the Chairman of the Board of our Company is independent, will enhance Board leadership at the Company, and protect shareholders from future management actions that can harm shareholders. Other corporate governance experts agree. As a Commission of The Conference Board recently stated, "The ultimate responsibility for good corporate governance rests with the board of directors. Only a strong, diligent and independent board that understands the key issues, provides wise counsel and asks management the tough questions is capable of ensuring that the interests of shareowners as well as other constituencies are being properly served."

We believe that the recent wave of corporate scandals demonstrates that no matter how many independent directors there are on the Board, that Board is less able to provide independent oversight of the officers if the Chairman of that Board is also the CEO of the Company.

We, therefore, urge shareholders to vote FOR this proposal.

**Exhibit B**



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, N.Y. 10007-2341

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John C. Liu  
COMPTROLLER

November 15, 2011

Mr. Joseph F. Haggerty  
Corporate Secretary  
Mylan, Inc.  
1500 Corporate Drive  
Canonsburg, PA 15317

Dear Mr. Haggerty:

I write to you on behalf of the Comptroller of the City of New York, John C. Liu. The Comptroller is the custodian and a trustee of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Fire Department Pension Fund, and the New York City Police Pension Fund, and custodian of the New York City Board of Education Retirement System (the "Systems"). The Systems' boards of trustees have authorized the Comptroller to inform you of their intention to present the enclosed proposal for the consideration and vote of stockholders at the Company's next annual meeting.

Therefore, we offer the enclosed proposal for the consideration and vote of shareholders at the Company's next annual meeting. It is submitted to you in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, and I ask that it be included in the Company's proxy statement.

Letters from The Bank of New York Mellon Corporation certifying the Systems' ownership, for over a year, of shares of Mylan, Inc. common stock are enclosed. Each System intends to continue to hold at least \$2,000 worth of these securities through the date of the Company's next annual meeting.

We would be happy to discuss the proposal with you. Should the Board of Directors decide to endorse its provision as corporate policy, we will withdraw the proposal from

Mr. Haggerty  
Page 2

consideration at the annual meeting. If you have any questions on this matter, please feel free to contact me at 1 Centre Street, Room 629, New York, NY 10007; phone (212) 669-2536.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Millicent Budhai', with a large, sweeping flourish extending to the right.

Millicent Budhai  
Director of Corporate Governance

Enclosure

MB/ma

Mylan, inc. – Independent Board Chair

Mydoc. 2012 Corporate Governance

## **INDEPENDENT BOARD CHAIR**

*Submitted by John C. Liu, Jr. Comptroller, City of New York, on behalf of the Boards of Trustees of the New York City Pension Funds & Retirement Systems*

Whereas: The Board of Directors of a company is meant to be an independent body, elected by, and accountable to, shareholders;

Whereas: The Board of Directors is charged by law with the duty, authority, and responsibility to formulate and direct corporate policies that serve the interests of the shareholders;

Whereas: The Chair of the Board of Directors is charged with overseeing the Board, with a central role in the Board's selection, independent oversight, and evaluation of the company's chief executive officer (CEO);

Whereas: In order to avoid conflicts-of-interest, and to ensure the independent oversight of the CEO, the Chair of the Board of Directors should not be a current or former employee of the company;

**RESOLVED:** Shareholders request that the Board of Directors adopt a policy to separate the positions of Chair of the Board of Directors and CEO, and that the Chair of the Board of Directors shall be an independent director, who is not a former or current employee of the company. The policy should allow for departure under extraordinary circumstances, such as the unexpected resignation of the Chair.

### **SUPPORTING STATEMENT**

The recent economic and banking crisis raises the issue of whether boards of directors are providing adequate and effective oversight of management, and protecting the interests of shareholders. The combination of the positions of Chair of the Board of Directors and CEO at a number of the weakened companies has given rise to deep concerns about whether the independent oversight of such boards was compromised by the influence of the CEOs.

While the management of the company is the purview of the CEO, the Board of Directors is obligated to independently oversee the CEO and management, and to protect the interests of the shareholders. Combining the positions of CEO and Chair of the Board of Directors potentially undermines the independence of the Board of Directors, and creates the environment for negative impacts of conflicting interests. As companies move forward beyond the crisis, boards of directors need to be more vigilant and active in adopting, and ensuring compliance with, policies to avert events of such magnitude and impact.

The existence of the non-executive Chair of the Board of Directors is the norm in many countries outside the United States - over 79% of large British companies and all German and Dutch companies have split the positions (Millstein Center for Corporate Governance), and support for this reform is growing in the United States. Approximately 73% of directors on boards with an

independent chairperson believe that their companies benefited from the split (Survey, 2008 Public US National Association of Corporate Directors). More that 88% of senior financial executives believe the positions should be separated (Grant Thornton, 2009 Survey).



BNY MELLON  
ASSET SERVICING

November 15, 2011

To Whom It May Concern

**Re: Mylan Inc.**

**Cusip#: 628530107**

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 15, 2010 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Employees' Retirement System.

The New York City Employees' Retirement System

459,151 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Richard Blanco  
Vice President



BNY MELLON  
ASSET SERVICING

November 15, 2011

To Whom It May Concern

**Re: Mylan Inc.**

**Cusip#: 628530107**

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 15, 2010 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Teachers' Retirement System.

The New York City Teachers' Retirement System

492,549 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Richard Blanco  
Vice President



BNY MELLON  
ASSET SERVICING

November 15, 2011

To Whom It May Concern

**Re: Mylan Inc.**

**Cusip#: 628530107**

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 15, 2010 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Police Pension Fund.

The New York City Police Pension Fund

139,282 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Richard Blanco  
Vice President



BNY MELLON  
ASSET SERVICING

November 15, 2011

To Whom It May Concern

**Re: Mylan Inc.**

**Cusip#: 628530107**

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 15, 2010 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Fire Department Pension Fund.

The New York City Fire Department Pension Fund

56,094 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Richard Blanco  
Vice President



BNY MELLON  
ASSET SERVICING

November 15, 2011

To Whom It May Concern

**Re: Mylan Inc.**

**Cusip#: 628530107**

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 15, 2010 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Board of Education Retirement System.

The New York City Board of Education Retirement System

52,236 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Richard Blanco  
Vice President