

September 14, 2022

(Via email to [rule-comments@sec.gov](mailto: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

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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