

Corporate Securities Law

July 15, 2010

Supplemental Disclosure of Magna

Introduction

On July 8, 2010, Magna International Inc. filed a substantial supplement to its management information circular for the special meeting of shareholders that originally had been scheduled for June 28, 2010 to consider a reorganization of Magna that would result in, among other things, the collapse of Magna's dual class capital structure.

The supplement was filed as a result of a decision of the Ontario Securities Commission (see our June 30, 2010 Update - "*Magna - The OSC Decision*") that concluded that Magna's original circular did not provide the disclosure necessary for shareholders to be able to make an informed decision when voting on the reorganization in circumstances where neither Magna's board nor its special committee had made any recommendation as to how shareholders should vote. The OSC required that shareholders be provided with substantially the same information and analysis that the special committee received in considering and addressing the legal and business issues raised by the reorganization.

Summary of the Supplemental Disclosure

Magna's supplemental disclosure was to respond to 12 specific items required by the OSC decision and includes:

- a discussion of how management and the board arrived at the consideration to be paid and the potential economic benefits to the shareholders;
- an explanation of the relevance to determining the value of certain prior transactions and privatization and restructuring proposals;
- a description of the potential alternatives considered by the special committee;
- a detailed discussion of the review and approval process adopted by the special committee (including the steps taken to negotiate the terms with detailed information as to what variations were proposed and the responses to those proposals);
- inclusion of the reports of CIBC World Markets Inc. and PricewaterhouseCoopers LLP (which reports had already been publicly disclosed) and a discussion of the advice received with respect to the material financial elements of the reorganization;
- the dilution suffered by minority shareholders in other historical transactions in which dual class share structures had been collapsed and the relevance to shareholders under the reorganization;
- a clear statement of how CIBC assessed the reorganization from a financial perspective and the reasons why it concluded that it could not provide a fairness opinion;
- a discussion of the advice received by the special committee as to the nature of the legal standard to be applied by a court in determining whether the arrangement is fair and reasonable and what matters the court would likely consider in reaching that determination;
- a clear statement by the special committee whether they have concluded that (a) the reorganization is fair and reasonable in accordance with the applicable corporate law standard, or (b) they have reached no such conclusion (the special committee stated that the choice to approve or reject the proposed reorganization would result in a fair and reasonable result);
- an explanation as to why the change in the market price of the shares subsequent to the public announcement of the terms of the reorganization does not change the position of the board or the special committee that it cannot make any recommendation to shareholders as to how they should vote (and clarifies that there is at least a question whether the increase in the market price was also

Goodmans^{LLP} Update

affected by the other public announcements on that day);

- the analysis related to Magna's conclusion that it is exempt from a valuation requirement under the related party transaction rules; and
- explains what it means to say that the purchase price is equal to the fair market value determined by mutual agreement "taking into account the valuation work conducted by PwC for the Special Committee".

As required by the OSC, the supplemental disclosure also includes a statement that the special committee has concluded that the circular, as supplemented, provides disclosure and information sufficient to permit shareholders to make an informed decision as to how to vote.

Lessons for the Future

While the unique circumstances suggest that the OSC's decision need not be viewed as requiring a fundamental shift in Canadian disclosure practices, it does suggest that in higher profile transactions there is the real possibility that the OSC may become actively involved in the review of shareholder meeting materials that – in contrast to the United States – generally have not been subject to review by Canadian securities regulators. The Magna experience reinforces the importance of a board process and record that directors and their advisors will be comfortable with if it was required to be disclosed in greater detail than often has been the case in Canada in the past.

Please contact any member of Goodmans' Corporate Securities Group to discuss this decision.