**Position Paper on Indonesia's Negative Investment List 2010**

**Issued: June 2013**

The government issued the President Regulations (Peraturan Presiden or Perpres) No. 76/2007 and No. 77/2007, which amended by PP No. 111/2007. In order to compliance of Indonesian commitment with the ASEAN Economic Community, the government revised the PP 111/2007 through the PP 36/2010, concerning Criteria and Requirements of Business Development of Open and Closed with requirements for foreign investment (Foreign Direct Investment or FDI).

In this decree, it is stated that new pharmaceutical establishments will carry 75% foreign shareholders at the maximum. Although we respectfully disagree with this limitation, IPMG and its members are pleased to note that the negative investment list is not retroactive and that established investors can refer back the initial permanent establishment license or *Ijin Usaha Tetap* (IUT). This was confirmed during the latest meeting of the Trade Minister and team with KADIN, AMCHAM, EUROCHAM etc. in mid-January, 2008.

IPMG continues to advocate with relevant stakeholders such as Ministry of Health, Bappenas, and the BPOM by providing recommendations in an attempt have no limitation of foreign shareholder ownership in pharmaceutical industry from 75% to 100%.

Pharmaceutical industry currently has received indications from the government that the foreign ownership in the pharmaceutical industry will be changed from 75% to 100%. IPMG hope this can be included revision of Regulation 36/2010 which will take effect in the year 2013.

## IPMG's Position Recommendations

IPMG fully supports the government's efforts to increase the level of FDI especially in the pharmaceutical industry, which will be positive to the Indonesia's development / improvement on both healthcare and economy in general. The recommendations in this position paper are intended for constructive purposes. They are meant to realistically reflect our current situation as experienced by members of the IPMG. They are offered in the spirit of contributing to further attract investment into the pharmaceutical industry in Indonesia and to be able to increase our presence here by way of bringing more new medicines in the areas of cancer, AIDS, infection diseases, cardiovascular diseases, etc. providing more employment opportunities and extending the most state the art scientific information about our products and services to the healthcare professionals in the conformity with the international Code of Ethics that we abide.

IPMG respectfully submits the following recommendations / comments for the government's consideration with regard to guidelines for PP No. 36/2010.

- PP 36/2010 stipulate that foreign investment will be capped at 75% for pharmaceutical manufacturers. We fully recognize the strategic importance of pharmaceutical manufacturing in Indonesia and any given country. Currently, market share of multinational pharmaceutical companies in Indonesia is around 25%. If the objective of the 75% limit is to encourage the growth of domestic industry, we believe such objective has already been exceeded. The 75% limit can restrict future multinational investment in the pharmaceutical sector.

- Investment for pharmaceutical set up requires substantial amount and it may be difficult to find a local partner(s) who is willing to put up 25% investment in the venture. As such, we would like to continue our operations with no limitation to foreign shareholder ownership.

- Multi-national industries continuously doing the research and developments to produce and brings innovative drugs in the market. Dissimilar with national pharmaceutical industries which producing generic products, whether branded or not. 100% of foreign ownership would optimize the performance of pharmaceutical industry in producing innovative medicines.

- The global pharmaceutical industry is going through a process of merger and acquisitions (M&A). We request that guidelines for Perpres take into account M&A and consolidation in the industry in such a way that merging companies' new shareholder structure would remain intact after the merger takes place.

- We also seek clear statement with regard to the grandfather clause for established businesses in Indonesia as there are many ambiguities in the implementation. Such clarity will provide legal certainty for established foreign investment in Indonesia.

- We stand ready to take part in public-private sector consultation in the development of guidelines for PP 36/2010 which will benefit Indonesia and the investment community.

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**About IPMG**

As a government partner to improve the healthcare system in Indonesia which provides innovative, safety and high quality of international standard medicines, IPMG fully support the medical community in a scientific manner and comply with respective laws and especially the ethical marketing codes. Being a multinational company and a good corporate citizen, all of the members are also committed to participate actively in support local community health program, public education on diseases and health promotion.

**IPMG member companies:**

**USA**: Abbott, Eli Lilly, Janssen, Merck Sharp and Dohme, Pfizer, **Switzerland:** Novartis, Roche, **Germany:** Boehringer Ingelheim, Merck, Bayer, **Japan**: Astellas, Eisai, Meiji, Otsuka, Takeda, Tanabe, **France**: Sanofi Group, Servier, **Singapore:** Transfarma Medica-Indah, **United Kingdom**: Astra Zeneca, GlaxoSmithKline, **Denmark:** Novo Nordisk

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