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Paris, September 3 2013

Re: Revenue Recognition project – Constraints – Minimum requirements and Sales Based Royalties

Dear Sirs

This letter is in response to the tentative decisions made at the July 24, 2013 joint meeting by the International Accounting Standards Board and the Financial Accounting Standards Board ("the Boards") regarding the minimum requirements on recognition of variable consideration:

a. to specify that, *for all contracts*, an entity should include a minimum amount of variable consideration in the estimate of the transaction price, when including that amount would not result in a significant revenue reversal; and
b. not to specify the circumstances when that minimum amount should be zero, nor to specify an exception for sales-based royalties on licenses of intellectual property .

This letter is fully aligned with comment letters that you have received either jointly or individually from many other pharmaceutical ("Pharma") companies in the past month (Allergan, Johnson and Johnson, Lilly, Novartis, Bayer, Roche, GSK to name a few). However, we would like to stress as a preliminary remark that this topic is not an industry specific topic. Sales based royalties are a very common form of revenue and other industries could be impacted by conclusions not specific enough or drawn too hastily as well.

Sanofi has been very active along with other European Pharma companies in the standard making process, specifically on the topic of sales based variable consideration. The first Revenue Recognition Exposure Draft ("ED") in 2010 required the upfront recognition of all sales-based royalties for licenses that transfer "at a point in time". There was significant feedback that this approach would not result in useful financial information. These concerns were addressed in the second ED with the inclusion of paragraph 85 which specifically allows an exception for sales based royalties. However, paragraph 85 was considered rule based and deleted in December 2012. We have participated since then in specific outreach sessions with the staff to help better define the topic in its diversity. As a result of these efforts, the Staff Paper (item 7C) presented at the July 24 meeting, proposed in the paragraph 56.3 (b) that a minimum amount be recognized *only when the uncertainty associated with the consideration is resolved for performance obligations satisfied at a point in time*. We strongly believe that this principle based language provides more concise guidance while at the same time takes into account the diversity of contingent revenue arrangements in our industry as well as across industries.

There are typically two forms of out-license arrangements transferring intellectual property at a point in time: one which is in substance an "outright sale" of intellectual property and the other which is in substance a long-term revenue sharing agreement. The key differences between these two types of arrangements are the earning process and the time period over which the sales-based royalties span, at inception of the transaction.

For outright sale transactions which typically involve mature products with a performance history and a relatively short sales based royalty period, the royalties consideration are "earned" at the time of "sale" and we agree that a minimum amount of royalties should be included in the transaction price and recognized up front, as the standard currently proposes.

For long term revenue sharing arrangements which involve risk sharing over an extended period of product development, approval process and commercialization, we strongly disagree with the upfront recognition requirements for the following reasons:

1. The contingent royalties are not earned by the licensor until there is a viable approved product and the licensee completes the underlying product sale. Pharma product development and commercialization are subject to significant constraints including regulatory, product safety, manufacturing, marketing capabilities, external competition on alternative medical treatments, etc. any of which could have a significant impact on sales. For those agreements, recognizing revenue in advance of the underlying sales is inconsistent with the underlying economics of the transactions and implies a level of certainty regarding future events that does not exist.

2. Any estimated minimum amount would be meaningless and potentially subject to significant adjustments, resulting in less than reliable financial information for the user: the current ED would require an estimate of the amount representing future royalties, then, an estimate of an amount that would "not result in a significant revenue reversal". However, paragraph 35 of IAS36 - Impairment of Assets acknowledges that "*detailed, explicit and reliable financial budgets/forecasts of future cash flows for periods longer than five years are generally not available*." If such information is not available to the licensee, then it is even less available to the licensor. Any resulting estimate by the licensor will be completely subjective and not supported by evidence.

For the life of these long term arrangements, we believe that downstream royalty revenue can only be recognized when all constraints are resolved and the underlying product sale is complete.

We strongly urge the Boards to reconsider their decision regarding sales based variable consideration and include the wording of paragraph 56.3 a. and b. as proposed in the Staff Paper in the final standard. We believe that this language describes a principle that will provide clearer guidance to preparers and be valuable for users by minimizing the diversity of practice.

Sincerely,

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