DRAFT GUIDELINES ON REQUIREMENT OF CHEMICAL & PHARMACEUTICAL INFORMATION BEFORE APPROVAL OF TRIALS/BE STUDIES

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Draft guidelines on requirement of chemical & pharmaceutical information before approval of trials/BE studies

On December 21, 2011, the CDSCO issued another guidance document for industry on “the Requirement of Chemical & Pharmaceutical Information including Stability Study Data Before Approval of Clinical Trials/BE Studies.” The draft guidelines apply to approval of clinical trial and BA/BE study of various categories of new drug formulations which are considered as new drug as per Rule 122E of Rules. However, these draft guidelines do not apply to biological and vaccine related clinical trials. The draft guidelines are based on regulatory requirements for approval of clinical trial of new drugs in India and detail the licence to be obtained by a manufacturer from the concerned state licensing authority based on NOC obtained from CDSCO for manufacturing trial batches of new drug for clinical trials in India. The CDSCO has mentioned that at present the draft guidelines have been published for feedback purposes only and it has invited comments and suggestions regarding these draft guidelines from the various stakeholders until January 20. The CDSCO after reviewing the comments received may issue a guideline on this aspect for the industry.

PSA view – The draft guidelines specify the requirements for submission of chemical and pharmaceutical information including stability study data for approval of clinical trial/BA-BE studies. Compliance to the draft guidelines will ensure that sufficient data is submitted to CDSCO to assess the safety as well the quality of the proposed clinical trials.

Compensation for injuries in clinical trials

By way of a notification dated November 18, 2011, the CDSCO proposed amendment in the Rules to include provisions related to compensation in the event of death/injury during clinical trials. Specific responsibilities of Sponsor(s), Investigator(s) and Ethics Committee have also been inserted. Accordingly, the Sponsor (including foreign sponsor through a local representative or CRO) is supposed to make payment for the medical treatment of the injured subject and compensation for the injury or death and the Investigator is obligated to, among others, **(i)** provide details of the Informed Consent Form to the subject, **(ii)** inform the subject or its legal heirs regarding its rights and process to claim compensation, **(iii)** request the Ethics Committee to review and recommend for payment of medical treatment in case of injury. In the event of an injury or death, the Ethics Committee shall review the SAE and recommend compensation. The Ethics

Committee have been given the authority to decide on compensation. The notification clarifies that the liability will arise if the injury or death occurs due to the following reasons – **(i)** adverse effect of investigational product(s), **(ii)** departure from approved protocol, scientific misconduct or negligence by Investigator, or Sponsor or local representative in the case of foreign sponsor or CRO, **(iii)** failure of an investigational product to provide intended therapeutic effect, **(iv)** administration of placebo providing no therapeutic benefits, **(v)** adverse effects due to concomitant medication administered as per approved protocol, and **(vi)** compensation to a child in-utero because of the participation of parent in a clinical trial. It has also been proposed that the Sponsor may take insurance coverage for the unforeseen injuries. The Sponsor is required to provide the quantum of minimum compensation for trial related injury or death in the Informed Consent Form and also provide a copy of the form to the study subject or his/her attendant. Finally, in case of failure to pay the compensation, the licensing authority after giving an opportunity of being heard can suspend or cancel clinical trial or restrict the Sponsor or local representative or CRO to conduct any further clinical trial in India or take such action that it deemed fit under the rules.

PSA view – The proposed amendment is a welcome step. However, there are certain ambiguities in the proposed draft and further clarifications are still required. To begin with, firstly, the proposed draft uses the terms “permanent injury” and “injury” interchangeably, which should be clarified to state that the liability shall arise only when there is permanent injury; however, the liability should be limited in case of other injuries. Secondly, it has not been specified how to determine the legal heirs. We think the name of the legal heirs should be provided in the consent form who should be entitled to receive the compensation. Thirdly, the draft provides no respite to the Sponsor or CRO against the decision of the Ethics Committee which the injured subjects or their legal heirs have. Fourthly, it has not been clarified if the Sponsor or CRO fails to pay to the trial victims in a particular trial, they will also be (not) permitted to carry out other unrelated trials, which may be prejudicial to the interests of CROs and other Sponsors with whom the same CRO might be conducting trials.

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