THE ASSOCIATION OF GLOBAL CUSTODIANS

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COUNSEL AND SECRETARIAT TO THE ASSOCIATION:

BAKER & MCKENZIE LLP

EUROPE
ATT: ARUN SRIVASTAVA
100 NEW BRIDGE STREET
LONDON EC4V 6JA, ENGLAND
INT'L TEL: 44 20 7919 1000

GLOBAL
ATT: ROBIN TRUESDALE
815 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20006
TEL: 202 452 7000
FAX: 202 452 7074

WWW.THEAGC.COM

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Ms. Ir. Nurhaida, MBA
Chairperson,
Ketua Badan Pengawas Pasar Modal dan Lembaga Keuangan
Gedung Soemitro Djojohadikusumo, 3rd Floor
Jalan Lapangan Banteng Timur no. 2-4
Jakarta 10710
INDONESIA

Re: KSEI Single ID Issues

Dear Madam:

We write on behalf of the members of the Association of Global Custodians[1] to briefly convey members' concerns regarding the expanded scope of the KSEI Single ID data collection exercise to include indirect clients of the local custodians. This expansion has led local custodians to request Association members to obtain up to 100+ additional data elements from all of their customers by June 30, 2011. Members recently learned from local custodians that the reason for the expanded scope is to fulfill the Anti-Money Laundering (AML) and Know Your Customer ("KYC") requirements in Indonesia.

Members confirm the importance of complying with required AML and KYC regimes and the Association supports efforts by regulators in many jurisdictions to ensure that these requirements are met by all financial institutions along the chain. Members also understand the regulatory challenge involved in balancing the need to enhance oversight and enforcement against the risks of injecting unnecessary costs or burdens on market participants or creating other unintended consequences.

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1 The Association is an informal group of eleven global banking institutions with affiliates and branches in numerous jurisdictions that provide custody services and related asset-servicing functions to cross-border institutional investors around the globe. Members of the Association are listed on the letterhead above.

Members also confirm to you their compliance with the AML and KYC regulations imposed by their respective home jurisdictions. As highly regulated entities, members are subject to strict and substantial oversight and audit reviews on an ongoing basis by their home jurisdiction banking and market regulators; these regulatory regimes encompass regular reviews of the operation and adequacy of custodians' AML and KYC due diligence programs.

The industry standard for global custodians is use of a risk-based approach for AML consistent with the EU and Financial Action Task Force (FATF) guidelines. Under this approach, the level of data obtained from global custodians' institutional clients will vary depending on the client's risk profile. The expanded scope of the KSEI Single ID, which would collect significant additional data from indirect clients such as global custodians' clients is a very significant challenge that will introduce substantial costs and burdens for global custodians and that may entail requests for data that cannot feasibly be obtained. In addition, Association members do not believe that exercise will have a material impact for purposes of AML/KYC due to the low-risk nature of global custodians' institutional client base, clients' status as regulated institutions in their own right and global custodians' conservative business practices (please see annex for more details).

The spirit of mutual regulatory recognition is observed by many markets in various forms. That recognition takes into account that large global financial institutions are subject to close and strict regulatory oversight in their home jurisdiction and that they typically present relatively low risk.

Association members therefore request you to consider waiving the additional data requirements for indirect clients such as global custodians' clients for purposes of KYC/AML, including by observing the spirit of mutual regulatory recognition. Alternatively, global custodians could provide their local subcustodian with an AML/KYC "comfort" letter confirming that the global custodian has performed client due diligence in full compliance with the AML and KYC regulations imposed by their home jurisdiction; and local subcustodians could rely on that set of representations. This is standard practice in many countries, including Korea, and is one of the FATF recommendations.

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Members would welcome the opportunity to work with you to effectively support the SID implementation and to address any questions you may have concerning their AML/KYC client due diligence process. Thank you for your attention to this matter; we look forward to hearing from you. If you have any questions or would like additional information, please contact the undersigned at 1.312.861.2620.

Sincerely yours,

Dan W. Schneider
Baker & McKenzie LLP
Counsel to the Association

CC: Drs. M. Noor Rachman, MA
Head of Securities Transactions and Institution Bureau
Bapepam-LK

Mr. Ananta Wiyogo
President Director of KSEI

Ms. Dian Fachruddin
Chairperson, Indonesian Association of Custodian Banks

ATTACHMENT

ASSOCIATION OF GLOBAL CUSTODIANS - ANNEX

A. Global Custodians are subject to full compliance with AML and KYC regulations imposed by their home jurisdiction, which are generally consistent with the EU and FATF requirements

- Global custodian banks are fully regulated in their country of domicile, are subject to the supervision of the national-level banking agencies (e.g., Hong Kong Monetary Authority, Federal Reserve, Financial Services Authority) and bear strict accountability for compliance with KYC/AML regulations.
- Global custodians generally observe conservative business practice to safeguard their franchise and reputation as these are key considerations to win new business or mandates from their clients. Thus in addition to observing set risk-management standards for documentary and non-documentary verification of customers' identity, the custodian also has procedures to obtain additional documentation or perform enhanced due diligence where a customer is deemed to pose a higher risk for money laundering.

B. Global custodians generally use a risk-based approach to better allocate resources and focus on higher risk clients. Thus the level of data or documents collected from their clients will vary depending on the client risk profile and associated risk factors.

- This approach is consistent with the EU and FATF recommendation that enhanced due diligence is conducted for customers that fall into high risk categories. This risk-based approach is articulated in the 2007 report titled "Guidelines on the Risk-based Approach to Combating Money Laundering and Terrorist Financing" issued by FATF. This report also notes that if the same standard is set for all customers and resources are evenly applied, an unintended consequence may well result -- the customer identification or other program elements become simply a tick-the-box exercise. Most anti-money laundering regimes around the globe allow for some form of risk-based approach to conduct customer due diligence.
- Under the risk-based approach, documentary requirements are driven by various risk factors such as the custodian's experience with the client, the source of funds, geographic risk, planned investment and transaction activity, etc. Most jurisdictions impose a requirement that the custodian assign a money laundering risk rating to each customer. This exercise identifies customers that may pose a higher risk that requires the custodian to conduct enhanced due diligence and

impose more extensive monitoring and more frequent risk assessment on these accounts.

- The global custodians' primary client base consists of institutional investors that are themselves highly regulated collective investment vehicles -- pension funds, insurance companies, and other financial institutions. These investors are generally low risk in nature and qualify for Simplified Due Diligence ("SDD") where detailed documentation from these clients is not required. However, custodians must obtain suitable evidence to document the categorization of these clients for SDD.

Given the above, specific data requirements for indirect clients such as global custodians' clients would trigger a new and supplemental data collection exercise across a large client base, which will not be practical and may be infeasible to a large extent. In addition, such exercise is unlikely to mitigate exposure to money laundering and terrorist financing in a material way and will draw resources away from the identification and monitoring of clients who do pose a higher risk.

c. The spirit of mutual regulatory recognition is observed by many markets in various forms, recognizing that many of the large global financial institutions are subject to strong regulatory oversight from their home jurisdiction and they are relatively low risk and more conservative at safeguarding their franchise and reputation. Potential alternatives to burdensome or infeasible documentation requirements are:

    - Waive the requirement for additional data from indirect clients such as global custodians' clients for the purpose of KYC/AML on accordance with the spirit of mutual regulatory recognition.
    - Follow FATF recommendation to allow local custodians to rely on the global custodian to meet the global custodian's KYC duties, usually via the provision of an AML Comfort Letter or other form of introduction and confirming that the global custodian has performed customer due diligence.