



ANDA 204663

**ANDA APPROVAL**

Zydus Pharmaceuticals (USA) Inc.  
73 Route 31 North  
Pennington, NJ 08534  
Attention: Srinivas Gurram  
Vice President and Head of Regulatory Affairs

Dear Sir:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on October 19, 2012, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg.

Reference is also made to the complete response letter issued by this office on October 14, 2016, and to your amendments received on March 7 and May 22, 2017.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly, the ANDA is **approved**, effective on the date of this letter. The Office of Bioequivalence has determined your Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, to be bioequivalent and, therefore, therapeutically equivalent to the reference listed drug (RLD), Suprenza (phentermine hydrochloride) Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, of Citius Pharmaceuticals, LLC (Citius).<sup>1</sup> Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your application.

The RLD upon which you have based your ANDA, Citius's Suprenza (phentermine hydrochloride) Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, is subject to periods of patent protection. The following patents and expiration dates are currently listed in the Orange Book:

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<sup>1</sup> We note that the RLD upon which you have based this ANDA, Citius's Suprenza (phentermine hydrochloride) Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, are no longer being marketed in the United States and are currently listed in the discontinued section of FDA's *Approved Drug Products with Therapeutic Equivalence Evaluations* (the "Orange Book"). The Agency has determined that Citius's Suprenza (phentermine hydrochloride) Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, were not withdrawn from sale for reasons of safety or effectiveness. FDA will publish this determination in the *Federal Register* as soon as is practicable. This determination allows the Agency to approve ANDAs for the discontinued drug products.

<u>U.S. Patent Number</u>	<u>Expiration Date</u>
6,149,938 (the '938 patent)	July 23, 2018
8,440,170 (the '170 patent)	March 14, 2029

Your ANDA contains paragraph IV certifications to each of the patents<sup>2</sup> under section 505(j)(2)(A)(vii)(IV) of the FD&C Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, under this ANDA. You have notified the Agency that Zydus Pharmaceuticals (USA) Inc. (Zydus) complied with the requirements of section 505(j)(2)(B) of the FD&C Act and that litigation was initiated within the statutory 45-day period against Zydus for infringement of the '938 patent in the United States District Court for the District of Delaware [Alpex Pharma, S.A., Citius Pharmaceuticals, LLC and Prenzamax, LLC, v. Zydus Pharmaceuticals USA, Inc. and Cadila Healthcare Limited, Civil Action No. 1:13-cv-01143 (SLR)]. You have also notified the Agency that this case was dismissed.

With respect to 180-day generic drug exclusivity, we note that Zydus was the first ANDA applicant to submit a substantially complete ANDA for Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg. Therefore, with this approval, Zydus may be eligible for 180 days of generic drug exclusivity for Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg. This exclusivity, which is provided for under section 505(j)(5)(B)(iv) of the FD&C Act, would begin to run from the date of the commercial marketing identified in section 505(j)(5)(B)(iv). The Agency notes that Zydus failed to obtain tentative approval of this ANDA within 30 months after the date of which the ANDA was filed. See section 505(j)(5)(D)(i)(IV) of the FD&C Act (forfeiture of exclusivity for failure to obtain tentative approval). The Agency is not, however, making a formal determination at this time of Zydus' eligibility for 180-day generic drug exclusivity. It will do so only if a subsequent paragraph IV applicant becomes eligible for full approval (a) within 180 days after Zydus begins commercial marketing of Phentermine Hydrochloride Orally Disintegrating Tablets, 15 mg, 30 mg, and 37.5 mg, or (b) at any time prior to the expiration of the '938 patent if Zydus has not begun commercial marketing. Please submit correspondence to this ANDA informing the Agency of the date commercial marketing begins.

Under section 506A of FD&C Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Please note that if FDA requires a Risk Evaluation and Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS. See section 505-1(i) of the FD&C Act.

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<sup>2</sup> The Agency notes that the '170 patent was submitted to the Agency after submission of your ANDA. Litigation, if any, with respect to this patent would not create a statutory stay of approval.

## **REPORTING REQUIREMENTS**

Postmarketing reporting requirements for this ANDA are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

## **PROMOTIONAL MATERIALS**

You may request advisory comments on proposed introductory advertising and promotional labeling materials prior to publication or dissemination. Please note that these submissions are voluntary. To do so, submit, in triplicate, a cover letter requesting advisory comments, the proposed materials in draft or mock-up form with annotated references, and the package insert (PI), Medication Guide, and patient PI (as applicable) to:

OPDP Regulatory Project Manager  
Food and Drug Administration  
Center for Drug Evaluation and Research  
Office of Prescription Drug Promotion  
5901-B Ammendale Road  
Beltsville, MD 20705

Alternatively, you may submit a request for advisory comments electronically in eCTD format. For more information about submitting promotional materials in eCTD format, see the draft Guidance for Industry (available at:

<http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM443702.pdf>).

You must also submit final promotional materials and package insert(s), accompanied by a Form FDA 2253, at the time of initial dissemination or publication [21 CFR 314.81(b)(3)(i)]. Form FDA 2253 is available at

<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM083570.pdf>.

Information and Instructions for completing the form can be found at

<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM375154.pdf>. For more information about submission of promotional materials to the Office of Prescription Drug Promotion (OPDP), see <http://www.fda.gov/AboutFDA/CentersOffices/CDER/ucm090142.htm>.

## **ANNUAL FACILITY FEES**

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1st of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the *Federal Register* notice announcing facility fee amounts. All finished dosage forms (FDFs) or active pharmaceutical ingredients (APIs) manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those

responsible, injunctions, or seizures of misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

### **CONTENT OF LABELING**

As soon as possible, but no later than 14 days from the date of this letter, submit, using the FDA automated drug registration and listing system (eLIST), the content of labeling [21 CFR 314.50(l)] in structured product labeling (SPL) format, as described at <http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm>, that is identical in content to the approved labeling (including the package insert, and any patient package insert and/or Medication Guide that may be required). Information on submitting SPL files using eLIST may be found in the guidance for industry titled “SPL Standard for Content of Labeling Technical Qs and As” at <http://www.fda.gov/downloads/DrugsGuidanceComplianceRegulatoryInformation/Guidances/UCM072392.pdf>. The SPL will be accessible via publicly available labeling repositories.

The Electronic Common Technical Document (eCTD) is CDER’s standard format for electronic regulatory submissions. Beginning May 5, 2017, ANDAs must be submitted in eCTD format and beginning May 5, 2018, drug master files must be submitted in eCTD format. Submissions that do not adhere to the requirements stated in the eCTD Guidance will be subject to rejection. For more information please visit: [www.fda.gov/ectd](http://www.fda.gov/ectd).

Sincerely yours,

*{See appended electronic signature page}*

Priya Shah, PharmD  
Acting Deputy Director  
Office of Regulatory Operations  
Office of Generic Drugs  
Center for Drug Evaluation and Research



Priya  
Shah

Digitally signed by Priya Shah  
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