

EXHIBIT 3

Plan of Allocation

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: RANBAXY GENERIC DRUG APPLICATION
ANTITRUST LITIGATION

MDL No. 2878

THIS DOCUMENT RELATES TO:

All End-Payor Actions

Master File No.
19-md-02878-NMG

PLAN OF ALLOCATION

This Plan of Allocation will govern distributions from the net proceeds of the \$145 million settlement fund created by the April 8, 2022 Settlement Agreement in *In re Ranbaxy Generic Drug Application Antitrust Litig.*, No. 19-MD-02878 (D. Mass.), entered into by Plaintiffs United Food and Commercial Workers Health and Welfare Fund of Northeastern Pennsylvania, Louisiana Health Service & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana, and HMO Louisiana, Inc. (collectively, “Plaintiffs”), on behalf of themselves and the certified End Payor Classes they represent (the “End-Payor Classes” or “EPPs”) and Defendants Ranbaxy Inc. and Sun Pharmaceutical Industries, Ltd (collectively “Ranbaxy”). To receive a distribution under this Plan of Allocation, an entity must timely submit a Proof of Claim and be an Eligible Claimant. The manner in which payments will be allocated and distributed to Eligible Claimants who timely submit Proofs of Claim is described below. If an entity submitting a Proof of Claim is not a Class Member or does not provide the required information, then that entity shall not be entitled to any distribution under this Plan of Allocation. If an entity is a Class Member and the entity provides the required information, then that entity’s eligibility to participate in this Plan of Allocation and the amount of payment the Eligible Claimant shall receive (if any) is described below.

I. General Definitions¹

As used in this Plan of Allocation, the following terms shall have the indicated meanings:

1. “Allocation Funds” means the Diovan Fund, Nexium Fund, and Valcyte Fund, as further defined below:
 - a. “Diovan Fund” shall mean 72.6% of the Net Settlement Fund, which shall be distributed to Class Members who submit Qualifying Diovan Claims.
 - b. “Nexium Fund” shall mean 26.2% of the Net Settlement Fund, which shall be distributed to Class Members who submit Qualifying Nexium Claims. To be clear, and as defined below, purchases of brand Nexium are not Qualifying Nexium Claims.
 - c. “Valcyte Fund” shall mean 1.2% of the Net Settlement Fund, which shall be distributed to Class Members who submit Qualifying Valcyte Claims.
2. “Settlement Administrator” means A.B. Data, Ltd.
3. “Claim Documentation” means the materials required for submission of a claim to the Settlement Administrator pursuant to this Plan of Allocation, including purchase data for Diovan and Valcyte and/or their AB-rated generic equivalents, and for AB-rated generic equivalents of Nexium, if so required.
4. “Class Member” means any entity falling within the definition of at least one of the End Payor Classes certified by this Court² who is not a Class Opt-Out.

¹ If not otherwise defined herein, capitalized terms shall be as defined in the Settlement Agreement.

² See *In re Ranbaxy Generic Drug Application Antitrust Litig.*, No. 19-MD-02878-NMG (ECF No. 487) (D. Mass. Oct. 26, 2021).

5. “Class Opt-Out” means any entity falling within the definition of at least one of the End Payor Classes who timely and validly submitted a request for exclusion from the End Payor Classes in accordance with the procedures set forth in the Class Notice.³

6. “Class Notice” mean the legal notice authorized by the Court.⁴

7. “Eligible Claimant” means a Class Member who submits a Proof of Claim that is accepted in whole or in part by the Settlement Administrator. Class Opt-Outs are excluded from Eligible Claimants.

8. “Lead Class Counsel” means the law firms of Lowey Dannenberg, P.C. and The Dugan Law Firm, APLC.

9. “Net Settlement Fund” means the Settlement Fund after deducting fees, expenses, taxes, service awards, and costs, including costs of notice and claims administration for Class Members.

10. “Proof of Claim” means the document titled “Third-Party Payor Proof of Claim.” The timeliness and validity of a Claimant’s Proof of Claim shall be determined by the Settlement Administrator.

11. “Qualifying Claim” means “Qualifying Diovan Claim,” “Qualifying Valcyte Claim,” or “Qualifying Nexium Claim” as further defined below:

- a. “Qualifying Diovan Claim” means a Proof of Claim from an Eligible Claimant that paid for or provided reimbursement for some or all of the purchase price of brand and/or AB-rated generic Diovan from September 28, 2012 through and until April 1, 2020 (the “Diovan Class Period”)

³ See *In re Ranbaxy Generic Drug Application Antitrust Litig.*, No. 19-MD-02878-NMG (ECF No. 549-1) (D. Mass. Feb. 28, 2022).

⁴ See *In re Ranbaxy Generic Drug Application Antitrust Litig.*, No. 19-MD-02878-NMG (ECF No. 487) (D. Mass. Oct. 26, 2021).

throughout the United States, which claim shall be calculated as the total dollars spent by the Eligible Claimant on Diovan during the Diovan Class Period;

- b. “Qualifying Valcyte Claim” means a Proof of Claim from an Eligible Claimant that paid for or provided reimbursement for some or all of the purchase price of brand and/or AB-rated generic Valcyte from August 1, 2014 through and until April 1, 2020 (the “Valcyte Class Period”) throughout the United States, which claim shall be calculated as the total dollars spent by the Eligible Claimant on Valcyte during the Valcyte Class Period;
- c. “Qualifying Nexium Claim” means a Proof of Claim from an Eligible Claimant that paid for or provided reimbursement for some or all of the purchase price of AB-rated generic Nexium from May 27, 2014 through and until February 1, 2019 (the “Nexium Class Period”) throughout the United States, which claim shall be calculated as the total dollars spent by the Eligible Claimant on AB-rated generic Nexium during the Nexium Class Period.

II. Distribution Among Eligible Claimants

12. No Eligible Claimant shall be permitted to recover from any Allocation Fund unless that Claimant submits a Proof of Claim with a Qualifying Claim for that Allocation Fund.

13. Each Allocation Fund shall be distributed to Eligible Claimants in that Allocation Fund on a *pro rata* basis. To determine each Eligible Claimant’s *pro rata* share of an Allocation Fund, the Settlement Administrator shall multiply the total value of that Allocation Fund by a

fraction, for which (a) the numerator is the Qualifying Claim for that Eligible Claimant for that Allocation Fund, and (b) the denominator is the sum total of all Qualifying Claims by all Eligible Claimants for that Allocation Fund. In no event shall any Eligible Claimant be allowed to collect more than an amount equal to that Eligible Claimant's Qualifying Claim.

14. Eligible Claimants shall only be paid out of each Allocation Fund for which they submit a Qualifying Claim. Claimants are not eligible to be paid from an Allocation Fund if they are a Class Opt-Out.

15. If an Eligible Claimant's Qualifying Claim is more than \$300,000, the Eligible Claimant will be required to supplement their Proof of Claim with additional Claim Documentation. Eligible Claimants with Qualifying Claims less than \$300,000 may be required to submit additional Claim Documentation at the discretion of the Settlement Administrator.

16. If an Eligible Claimant's distribution amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Eligible Claimant.

17. If there is any balance remaining in the Net Settlement Fund after a reasonable amount of time from the initial date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), the Settlement Administrator shall, if feasible, reallocate such balance among Eligible Claimants, who successfully received and deposited, cashed or otherwise accepted a distribution amount and who would receive a distribution of at least \$10.00, in an equitable and economic fashion. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is no longer economically feasible to distribute to Eligible Claimants.

18. Any funds not distributed pursuant to the terms of this Plan of Allocation shall be paid to a *cy pres* beneficiary, to be determined at a later date.

III. Administration

19. All determinations under this Plan of Allocation shall be made by the Settlement Administrator, subject to review by Lead Class Counsel and approval by the Court.

20. Each Class Member shall warrant that any data, or other information it submits to the Settlement Administrator will be true and accurate in good faith and to the best of its ability. To verify the accuracy of claim information and to prevent duplication of claims, the Settlement Administrator may reasonably request additional information from Class Members as the Settlement Administrator deems appropriate.

IV. Amendments to the Plan of Allocation

21. This Plan of Allocation may be amended. To obtain the most up-to-date information regarding the Plan of Allocation visit www.RanbaxyTPPLitigation.com.