

Edgar Filing: EON LABS INC - Form SC 13D

EON LABS INC
Form SC 13D
March 02, 2005

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

EON LABS, INC.

(Name of Issuer)

COMMON STOCK, PAR VALUE \$0.01 PER SHARE

(Title of Class of Securities)

29412E100

(CUSIP Number of Class of Securities)

George Miller
Novartis AG
Lichtstrasse 35
CH-4002, Basel
Switzerland
41-61-324-1111

Trevor S.Norwitz, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52 Street
New York , New York 10019
(212) 403-1000

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications on Behalf of Filing Persons)

February 20, 2005

(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of ss.ss.240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. []

NOTE: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See ss.240.13d-7 for

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other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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CUSIP No. 29412E100

1. NAMES OF REPORTING PERSONS:
Novartis Corporation

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY):
13-1834433

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS):

(a) []

(b) []

3. SEC USE ONLY:

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):
AF

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(D) OR 2(E) []

6. CITIZENSHIP OR PLACE OF ORGANIZATION

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New York

Number of Shares Beneficially Owned by Each Reporting Person With

7. SOLE VOTING POWER
0

8. SHARED VOTING POWER
0

3

9. SOLE DISPOSITIVE POWER
0

10. SHARED DISPOSITIVE POWER
60,000,000

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
60,000,000 (1)

12. CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS) []

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
67.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)
CO

(1) The Reporting Persons may be deemed to have shared dispositive power over the Santo Shares (as defined in Item 4) pursuant to the Santo Stock Purchase Agreement (as defined in Item 4). The Reporting Persons hereby disclaim beneficial ownership of any shares of Common Stock.

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CUSIP No. 29412E100

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1. NAMES OF REPORTING PERSONS:
Zodnas Acquisition Corp.

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY):
Not available

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS):

(a)

(b)

3. SEC USE ONLY:

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):
AF

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(D) OR 2(E)

6. CITIZENSHIP OR PLACE OF ORGANIZATION
Delaware

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With

7. SOLE VOTING POWER
0

8. SHARED VOTING POWER
0

9. SOLE DISPOSITIVE POWER
0

10. SHARED DISPOSITIVE POWER
60,000,000

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
60,000,000 (2)

12. CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN Shares (See Instructions)

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13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
67.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)
CO

(2) The Reporting Persons may be deemed to have shared dispositive power over the Santo Shares (as defined in Item 4) pursuant to the Santo Stock Purchase Agreement (as defined in Item 4). The Reporting Persons hereby disclaim beneficial ownership of any shares of Common Stock.

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CUSIP No. 29412E100

1. NAMES OF REPORTING PERSONS:
Novartis AG

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY):
98-0363351

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS):

(a) []

(b) []

3. SEC USE ONLY:

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):
WC

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(D) OR 2(E) []

6. CITIZENSHIP OR PLACE OF ORGANIZATION
Switzerland

Number of 7. Sole Voting Power

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Shares	0
Beneficially	
Owned by	
Each	
Reporting	8. Shared Voting Power
Person With	0

7	
9.	SOLE DISPOSITIVE POWER
	0

10.	SHARED DISPOSITIVE POWER
	60,132,122

11.	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
	60,132,122 (3)

12.	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN
	SHARES (SEE INSTRUCTIONS) []

13.	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
	67.7%

14.	TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)
	CO

(3) The Reporting Persons may be deemed to have shared dispositive power over the Santo Shares (as defined in Item 4) pursuant to the Santo Stock Purchase Agreement (as defined in Item 4) and Novartis AG may be deemed to have shared dispositive power over the Hexal Owned Shres (as defined in Item 5) pursuant to the Hexal Agreement (as defined in Item 5). The Reporting Persons hereby disclaim beneficial ownership of any shares of Common Stock.

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ITEM 1. SECURITY AND ISSUER

This Schedule 13D filed by Novartis AG ("Novartis"), Novartis Corporation, ("Novartis Corp"), and Zodnas Acquisition Corp. ("Zodnas" and, together with Novartis and Novartis Corp, the "Reporting Persons") relates to the Common Stock, par value \$0.01 per share (the "Common Stock"), of Eon Labs, Inc., a Delaware corporation (the "Company"). The principal executive offices of the Company are located at 1999 Marcus Avenue, Lake Success, NY 11042.

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ITEM 2. IDENTITY AND BACKGROUND

(a), (b), (c) and (f). The name, business address, present principal occupation or employment and citizenship of the executive officers and members of the Board of Directors of each of the Reporting Persons is set forth on Schedule I hereto and is incorporated herein by reference.

(d) and (e). None of the Reporting Persons nor, to the best knowledge of each of them, any of the persons listed on Schedule I hereto with respect to each such Reporting Person during the last five years, (i) has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (ii) was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

The funds for the transactions described in Item 4 below will be obtained from cash on hand.

ITEM 4. PURPOSE OF TRANSACTION

(a) and (b). On February 20, 2005, Novartis Corp, Santo Holding (Deutschland) GmbH ("Santo") and for purposes of Section 12 thereof only, Novartis, entered into an Agreement for Purchase and Sale of Stock (the "Santo Stock Purchase Agreement") relating to the purchase by Novartis Corp (or its designee) of 60,000,000 shares of Common Stock (the "Santo Shares") representing approximately 67.5% of the outstanding shares of Common Stock. A copy of the Santo Stock Purchase Agreement is attached as Exhibit 2.1 hereto and incorporated by reference herein.

Also on February 20, 2005, Novartis Corp, Zodnas, the Company and for purposes of Section 10.12 only, Novartis, entered into an Agreement and Plan of Merger (the "Merger Agreement"). The Merger Agreement provides for Zodnas to commence a tender offer (the "Offer") for any and all shares of the Common Stock at a price of \$31.00 per share in cash (the "Offer Price"). However, although the Offer is being made for any and all shares of Common Stock, Santo has agreed to sell the Santo Shares to Novartis Corp (or its designee) pursuant to the Santo Stock Purchase Agreement at a price per share that is less than the Offer Price. Therefore, effectively the Offer will be made for all shares of Common Stock, other than the Santo Shares (the "Public Shares"). The closing of the Offer is conditioned, among other things, upon the contemporaneous or immediately subsequent purchase of the Santo Shares under the Santo Stock Purchase Agreement. The Merger Agreement further provides that if a majority of the Public Shares are tendered into the Offer, Novartis Corp will cause a merger of Zodnas with and into the Company, with the Company surviving, where all of the remaining holders of Common Stock will receive \$31.00 per share (the "Merger"). In the event that less than a majority of the Public Shares are tendered into the Offer, the Merger Agreement provides that the standstill provisions in the Confidentiality Agreement, dated as of February 11, 2005 by and between Novartis Corp and the Company (the "Confidentiality Agreement") will be amended to provide that Novartis Corp and Zodnas will be permitted to make acquisitions of shares of Common Stock that are voluntary to the holders of Common Stock (such as by means of legally permissible open market purchases or additional tender offers) and may consummate a merger or other business combination with the Company prior to February 11, 2006, only if: (1) a majority

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of the then-

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outstanding Public Shares approve such transaction; or (2) Novartis Corp and its subsidiaries own 90% or more the total outstanding shares of Company Stock, provided that the price per share of Common Stock paid in any such transaction described in (2) above is at least equal to the Offer Price.

Following the completion of the Offer, Novartis Corp and Zodnas are required to use their reasonable best efforts to keep the Common Stock quoted for trading on the NASDAQ National Market as long as the Company is registered under the Securities Exchange Act of 1934, as amended and satisfies the NASDAQ National Market's listing standards (other than standards entirely within the Company's control).

Further, the Merger Agreement provides that from and after the date on which Zodnas becomes obligated to accept for payment any and all shares of Common Stock tendered into the Offer, Novartis Corp will be entitled to designate each member of the Company's Board of Directors, and the Company will be required to promptly take all actions necessary to cause Novartis Corp's designees to be so elected. However, if Novartis and Zodnas have purchased in the Offer a majority of the Public Shares, then until the effective time of the Merger, Novartis Corp and Merger Sub will permit the members of the special committee (the "Special Committee") of the Company's Board of Directors (or their designees) to remain on the Company's Board of Directors.

A copy of the Merger Agreement is attached hereto as Exhibit 2.2 and incorporated by reference herein and a copy of the Confidentiality Agreement is attached as Exhibit 2.3 hereto and incorporated by reference herein.

The summaries of each of the Santo Stock Purchase Agreement, the Merger Agreement and the Confidentiality Agreement are qualified in their entirety by reference to the full text of the documents attached hereto as Exhibits 2.1, 2.2 and 2.3, respectively.

A copy of the press release relating to the transactions described above is attached as Exhibit 99.1 hereto and incorporated by reference herein.

ITEM 5. INTEREST IN SECURITIES OF ISSUER

(a) and (b) On February 16 and 17, 2005, Novartis (Deutschland) GmbH ("Novartis Deutschland") and Novartis (as guarantor) entered into a Share and Partnership Interest Sale and Transfer Agreement (the "Hexal Agreement"), with Dr. Andreas Strungmann, Ms. Susan Strungmann, Ms. Nicole Strungmann, Mr. Florian Strungmann, Dr. Thomas Strungmann, Ms. Cornelia Strungmann, Mr. Fabian Strungmann, Ms. Janina Strungmann, Ms. Fiona Strungmann, Mr. Felix Strungmann, Hexal Aktiengesellschaft and A+T Vermögensverwaltung GmbH, relating to the acquisition of shares in A+T Vermögensverwaltung GmbH as well as partnership interests in A+T Holding GmbH & Co. KG (the "Hexal Business"). In connection with the purchase of the Hexal Business, Novartis Deutschland will acquire 132,122 shares of Common Stock currently held by the companies comprising the Hexal Business (the "Hexal Owned Shares"), which represents approximately .1% of the outstanding shares of Common Stock.

Other than as described in this Item 5 and in Item 4 above, as of the date hereof, none of the Reporting Persons are the record holder of any shares of Common Stock or have the right to acquire any Common Stock.

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Novartis Corp may be deemed to have shared power to dispose or to direct the disposition with respect to the Santo Shares and Novartis may be deemed to have shared power to dispose or to direct the disposition with respect to the Hexal Owned Shares. Novartis is the beneficial owner of all Common Stock beneficially owned by Novartis Corp and Novartis Deutschland.

The Reporting Persons hereby disclaim beneficial ownership of any shares of Common Stock. To the best knowledge of each of the Reporting Persons, none of the persons listed on Schedule I hereto with respect to such Reporting Person is the beneficial owner of any shares of Common Stock.

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(c) Neither the Reporting Persons nor, to the best knowledge of each of the Reporting Persons, any of the persons listed on Schedule I with respect to each such Reporting Person has engaged in any transaction in the Common Stock in the past 60 days other than as described in Item 4 and Item 5 above.

(d) Not applicable.

(e) Not applicable.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER

See Item 4 and Item 5 above.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS.

2.1	Agreement for Purchase and Sale of Stock, by and among Novartis Corporation, Santo Holding (Deutschland) GmbH and for purposes of Section 12 only, Novartis AG, dated as of February 20, 2005
2.2	Agreement and Plan of Merger, by and among Novartis Corporation, Zodnas Acquisition Corp., Eon Labs, Inc. and for purposes of Section 10.12 only, Novartis AG, dated as of February 20, 2005
2.3	Confidentiality Agreement, by and between Novartis Corporation and Eon Labs, Inc., dated as of February 11, 2005
99.1	Press Release, dated February 21, 2005
99.2	Joint Filing Agreement, by and among Novartis AG, Novartis Corporation and Zodnas Acquisition Corp., dated as of March 2, 2005

SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct. Dated: March 2, 2005

NOVARTIS AG

By: /s/ Reto Brandli

Name: Reto Brandli
Title: Head Group BP&A

By: /s/ Joerg Walther

Name: Joerg Walther
Title: Authorized Signatory

NOVARTIS CORP

By: /s/ Martin Henrich

Name: Martin Henrich
Title: Executive Vice President

ZODNAS ACQUISITION CORP

By: /s/ Urs A. Naegelin

Name: Urs A. Naegelin
Title: Director

Exhibit Index

2.1 Agreement for Purchase and Sale of Stock, by and among Novartis Corporation, Santo Holding (Deutschland) GmbH and for purposes of

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Section 12 only, Novartis AG, dated as of February 20, 2005

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2.2 Agreement and Plan of Merger, by and among Novartis Corporation, Zodnas Acquisition Corp., Eon Labs, Inc. and for purposes of Section 10.12 only, Novartis AG, dated as of February 20, 2005

- 2.3 Confidentiality Agreement, by and between Novartis Corporation and Eon Labs, Inc., dated as of February 11, 2005

- 99.1 Press Release, dated February 21, 2005

- 99.2 Joint Filing Agreement, by and among Novartis AG, Novartis Corporation and Zodnas Acquisition Corp., dated as of March 2, 2005

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DIRECTORS AND EXECUTIVE OFFICERS OF NOVARTIS, NOVARTIS CORP AND ZODNAS

DIRECTORS AND EXECUTIVE OFFICERS OF NOVARTIS

The name, address, citizenship and present principal occupation or employment of each of the directors and executive officers of Novartis are set forth below. Unless otherwise indicated below, each occupation set forth opposite an individual's name refers to employment with Novartis.

NAME, FUNCTION AND BUSINESS ADDRESS	CITIZENSHIP	PRINCIPAL OCCUPATION
Daniel Vasella Chairman of the Board of Directors, Chief Executive Officer c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Chairman of the Board of Directors, Chief Executive Officer
Hans-Jorg Rudloff Vice Chairman of the Board of Directors c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Germany	Chairman of the Executive Committee of Barclays Capital
Prof. Dr. Helmut Sihler Vice Chairman of the Board of Directors	Austria	Retired

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c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

Birgit Breuel
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

Germany

Member of the Supervisory
Board of Gruner + Jahr AG,
German

Prof. Dr. Peter Burckhardt
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

Switzerland

Head of Medical Service at
the University Hospital of
Lausanne

Prof. Srikant Datar, PhD.
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

India

Senior Associate Dean for
Executive Education at
Harvard Business School

William W. George
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

USA

Chairman and Chief
Executive Officer of
Medtronic, Inc.,
Minneapolis

Alexandre F. Jetzer
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

Switzerland

Consultant

Pierre Landoldt
Director
c/o Novartis AG
Lichtstrasse 35

Switzerland

President of the Sandoz
Family Foundation

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CH-4002 Basel, Switzerland

Prof. Dr. Rolf M. Zinkernagel
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel,
Switzerland

Switzerland

Professor and Director of
the Institute of
Experimental Immunology at
the University of Zurich

Prof. Ulrich Lehner, PhD
Director
c/o Novartis AG
Lichtstrasse 35
CH-4002 Basel, Switzerland

Germany

President and Chief
Executive Officer of
Henkel KGaA

Dr.-Ing. Wendelin Wiedeking

Germany

Chairman of Porsche AG

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c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland		Director
Dr. Raymund Breu c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Chief Financial Officer
Dr. Urs Barlocher c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Head of Legal and General Affairs
Jurgen Brokatzky-Geiger c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Germany	Head of Human Resources
Dr. Paul Choffat c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Head of Novartis Consumer Health
Thomas Ebeling c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Germany	Head of Pharmaceuticals
Mark C. Fishman c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	USA	Head of Biomedical Research
Steven Kelmar c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	USA	Head of Public Affairs and Communications

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DIRECTORS AND EXECUTIVE OFFICERS OF NOVARTIS CORP

The name, address, citizenship and present principal occupation or employment of each of the directors and executive officers of Novartis Corp are set forth below. Unless otherwise indicated below, each occupation set forth opposite an individual's name refers to employment with Novartis Corp.

NAME, FUNCTION AND BUSINESS ADDRESS	CITIZENSHIP	PRINCIPAL OCCUPATION
Daniel Vasella Chairman of the Board of Directors c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Chairman of the Board of Directors and Chief Executive Officer of Novartis
Terence Barnett Vice Chairman of the Board of	Great Britain	Vice Chairman, President and Chief Executive

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Directors c/o Novartis Corporation 608 Fifth Avenue New York, NY 10020, USA		Officer
Dr. Raymund Breu Director c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Chief Financial Officer of Novartis
Thomas Ebeling Director c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Germany	Head of Novartis Pharma
Fred Meyer Director c/o Omnicom Group, Inc. 437 Madison Avenue New York, NY 10022, USA	Switzerland	Retired
Urs Naegelin c/o Novartis Corporation 608 Fifth Avenue New York, NY 10020, USA	Switzerland	Executive Vice President and Chief Financial Officer
Dr. Paul Choffat c/o Novartis AG Lichtstrasse 35 CH-4002 Basel, Switzerland	Switzerland	Division Head Consumer Health
Dr. Martin Henrich c/o Novartis Corporation 608 Fifth Avenue New York, NY 10020, USA	Switzerland	Executive Vice President, Regional General Counsel and Secretary of Novartis Corp

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DIRECTORS AND EXECUTIVE OFFICERS OF ZODNAS

The name, address, citizenship and present principal occupation or employment of each of the directors and executive officers of Zodnas are set forth below. Unless otherwise indicated below, each occupation set forth opposite an individual's name refers to employment with Zodnas.

NAME, FUNCTION AND BUSINESS ADDRESS	CITIZENSHIP	PRINCIPAL OCCUPATION
Terence Barnett Chairman of the Board of Directors c/o Novartis Corporation 608 Fifth Avenue New York, NY 10020, USA	Great Britain	Vice Chairman, President and Chief Executive Officer of Novartis Corp
Urs Naegelin	Switzerland	Executive Vice President

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Director, Vice President
c/o Novartis Corporation
608 Fifth Avenue
New York, NY 10020, USA

and Chief Financial
Officer of Novartis Corp

Martin Henrich
Director, Vice President and
Assistant Secretary
c/o Novartis Corporation
608 Fifth Avenue
New York, NY 10020, USA

Switzerland

Executive Vice President
and Regional General
Counsel of Novartis Corp

John Sedor
President
c/o Sandoz Inc.
506 Carnegie Center, Suite 400
Princeton, NJ 08540, USA

USA

President and Chief
Executive Officer of
Sandoz Inc.

Eric W. Evans
Vice President and Chief Financial
Officer
c/o Sandoz Inc.
506 Carnegie Center, Suite 400
Princeton, NJ 08540, USA

USA

Vice President and Chief
Financial Officer of
Sandoz Inc.

Eric Pomerantz
Vice President and Secretary
c/o Sandoz Inc.
506 Carnegie Center, Suite 400
Princeton, NJ 08540, USA

USA

Vice President and General
Counsel of Sandoz Inc.

Wayne P. Merkelson
Vice President and Assistant
Secretary
c/o Novartis Corporation
608 Fifth Avenue
New York, NY 10020, USA

USA

Vice President and
Associate General Counsel
of Novartis Corp