
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO

**TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR 13(e)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No. 7)**

CHEMBIO DIAGNOSTICS, INC.
(Name of Subject Company (Issuer))

PROJECT MERCI MERGER SUB, INC.
(Offeror)

A wholly-owned indirect subsidiary of

BIOSYNEX SA

(Parent of Offeror)

BIOSYNEX U.S. HOLDINGS, INC.

(Other Persons)

(Names of Filing Persons (identifying status as Offeror, Issuer or Other Person))

COMMON STOCK, PAR VALUE \$0.01 PER SHARE
(Title of Class of Securities)

163572209
(CUSIP Number of Class of Securities)

Alexis Steinmetz
c/o Biosynex SA
22 Boulevard Sébastien Brant
67400 Illkirch-Graffenstaden, France
+33 (0)6 70 86 00 15

(Name, address, and telephone numbers of person authorized to receive notices and communications on behalf of filing persons)

Copies to:
James Hu
Marc Petitier
White & Case LLP
1221 Avenue of the Americas
New York, NY 10020
(212) 819-8200

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

☒ Third-party tender offer subject to Rule 14d-1.

☐ Issuer tender offer subject to Rule 13e-4.

☐ Going-private transaction subject to Rule 13e-3.

☐ Amendment to Schedule 13D under Rule 13d-2.

Check the appropriate boxes below to designate any transactions to which the statement relates: ☐

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

☐ Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

☐ Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

This Amendment No. 7 (this “Amendment”) amends and supplements the Tender Offer Statement on Schedule TO (as amended and together with any subsequent amendments and supplements hereto, the “Schedule TO”) filed by Biosynex SA, Inc., a French société anonyme (“Parent”), Biosynex U.S. Holdings, Inc., a Delaware corporation and a wholly-owned direct subsidiary of Parent (“Holdco”), and Project Merci Merger Sub, Inc., a Nevada corporation and a wholly-owned indirect subsidiary of Parent (“Purchaser”) with the Securities and Exchange Commission on February 14, 2023. The Schedule TO relates to the tender offer for all of the issued and outstanding shares of common stock, par value \$0.01 per share (the “Shares”), of Chembio Diagnostics, Inc. (“CEMI”), at a price of \$0.45 per Share, net to the seller in cash without interest and subject to any required withholding taxes (the “Offer Price”), upon the terms and conditions set forth in the offer to purchase, dated February 14, 2023 (together with any amendments or supplements thereto, the “Offer to Purchase”), a copy of which is attached to the Schedule TO as Exhibit (a)(1)(A), and in the related letter of transmittal (together with any amendments or supplements thereto, the “Letter of Transmittal” and, together with the Offer to Purchase, the “Offer”), a copy of which is attached to the Schedule TO as Exhibit (a)(1)(B).

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO remains unchanged. This Amendment is being filed to reflect certain updates as reflected below. Capitalized terms used but not defined herein have the meanings assigned to such terms in the Offer to Purchase or the Schedule TO. You should read this Amendment together with the Schedule TO and the Offer to Purchase.

Items 1 through 9 and Item 11.

The Offer to Purchase and Items 1 through 9 and Item 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented by adding the following paragraphs thereto:

“On April 13, 2023, Purchaser issued a press release announcing an extension of the Offer Expiration Time until 6:00 pm, New York City time, on April 26, 2023, unless the Offer is further extended or earlier terminated as permitted by the Merger Agreement. The Offer was previously scheduled to expire at 6:00 p.m., New York City time, on April 12, 2023.

The Depositary and Paying Agent has advised Purchaser that, as of 6:00 p.m., New York City time, on April 12, 2023, approximately 17,738,529 Shares have been validly tendered and not validly withdrawn pursuant to the Offer, representing approximately 48.3% of the then-outstanding Shares.

The press release announcing the extension of the Offer is attached hereto as Exhibit (a)(5)(J) and incorporated herein by reference.”

Amendments to the Offer to Purchase and Exhibits to the Schedule TO

All references to “6:00 p.m., New York City time, on April 12, 2023” set forth in the Offer to Purchase (Exhibit (a)(1)(A)), Letter of Transmittal (Exhibit (a)(1)(B)), Letter from the Information Agent to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (Exhibit (a)(1)(C)), and Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (Exhibit (a)(1)(D)) are hereby amended and replaced with “6.00 p.m., New York City time, on April 26, 2023.”

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

| Exhibit | |
|----------------|--|
| No. | Description |
| (a)(5)(J) | Press Release issued by Biosynex SA, dated April 13, 2023. |

| Exhibit No. | Description |
|------------------------------------|--|
| <u>(a)(1)(A)*</u> | Offer to Purchase, dated February 14, 2023. |
| <u>(a)(1)(B)*</u> | Letter of Transmittal. |
| <u>(a)(1)(C)*</u> | Letter from the Information Agent to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees. |
| <u>(a)(1)(D)*</u> | Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees. |
| <u>(a)(1)(E)*</u> | Summary Advertisement, as published in the New York Times on February 14, 2023. |
| (a)(2) | Not applicable. |
| (a)(3) | Not applicable. |
| (a)(4) | Not applicable. |
| <u>(a)(5)(A)*</u> | Joint Press Release issued by Chembio Diagnostics, Inc. and Biosynex SA, dated January 31, 2023 (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K filed with the SEC by Chembio Diagnostics, Inc. on January 31, 2023). |
| <u>(a)(5)(B)*</u> | Press Release issued by Biosynex SA, dated March 15, 2023. |
| <u>(a)(5)(C)*</u> | Press Release and Letter to Stockholders issued by Chembio Diagnostics, Inc., dated March 15, 2023. |
| <u>(a)(5)(D)*</u> | Reminder to Chembio Diagnostics, Inc. Stockholders to Tender Shares dated March 21, 2023. |
| <u>(a)(5)(E)*</u> | Press Release issued by Biosynex SA, dated March 29, 2023. |
| <u>(a)(5)(F)*</u> | Press Release and Letter to Stockholders issued by Chembio Diagnostics, Inc., dated April 3, 2023. |
| <u>(a)(5)(G)*</u> | Twitter post linking to the Press Release and Letter to Stockholders, dated April 3, 2023. |
| (a)(5)(H)* | Press Release and Letter to Stockholders issued by Chembio Diagnostics, Inc., dated April 10, 2023. |
| (a)(5)(I)* | Twitter post linking to the Press Release and Letter to Stockholders, dated April 10, 2023. |
| <u>(a)(5)(J)**</u> | Press Release issued by Biosynex SA, dated April 13, 2023. |
| (b) | Not applicable. |
| (d)(1) | Agreement and Plan of Merger, dated January 31, 2023, by and among Biosynex SA, Project Merci Merger Sub, Inc. and Chembio Diagnostics, Inc. (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed with the SEC by Chembio Diagnostics, Inc. on January 31, 2023). |
| (d)(2)* | Confidentiality Agreement, dated May 25, 2022, by and among Biosynex SA and Chembio Diagnostics, Inc. |
| (g) | None. |
| (h) | None. |
| <u>107*</u> | Filing Fee Table. |

* Previously filed.

** Filed herewith.

SIGNATURE

After due 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: April 13, 2023

PROJECT MERCI MERGER SUB, INC.

By /s/ Larry Abensur

Name: Larry Abensur

Title: President

BIOSYNEX U.S. HOLDINGS, INC.

By /s/ Larry Abensur

Name: Larry Abensur

Title: President

BIOSYNEX SA

By /s/ Larry Abensur

Name: Larry Abensur

Title: Chief Executive Officer

Biosynex Extends Tender Offer for the shares of Chembio Diagnostics, Inc.

STRASBOURG, France, April 13, 2023 (GLOBE NEWSWIRE) -- Biosynex SA ("Biosynex") (EPA: ALBIO), a French market leader specializing in the design and distribution of rapid tests, today announced that Project Merci Merger Sub, Inc. ("Purchaser"), a Nevada corporation and its wholly-owned indirect subsidiary, has extended the expiration time for the previously announced tender offer to purchase all of the issued and outstanding shares of common stock (the "Shares") of Chembio Diagnostics, Inc. (Nasdaq: CEMI) ("Chembio") at a price of \$0.45 per Share, net to the seller in cash, without interest and subject to any required tax withholding, until 6:00 p.m., New York City time on April 26, 2023, unless further extended. The tender offer was previously scheduled to expire at 6:00 p.m., New York City time, on April 12, 2023. All other terms and conditions of the tender offer remain unchanged.

Securities Transfer Corporation, the depositary and paying agent for the tender offer, has indicated that, as of 6:00 p.m., New York City time, on April 12, 2023, approximately 17,738,529 Shares had been validly tendered into and not validly withdrawn from the tender offer, representing approximately 48.3% of the Shares then outstanding. Stockholders who have already tendered their Shares into the tender offer do not have to re-tender their Shares or take any other action as a result of the extension of the expiration time of the tender offer.

Completion of the tender offer remains subject to additional conditions described in the Tender Offer Statement on Schedule TO (as amended or supplemented) filed by Purchaser and Biosynex with the U.S. Securities and Exchange Commission ("SEC") on February 14, 2023.

Requests for documents and questions regarding the tender offer may be directed to Alliance Advisors, LLC, the Information Agent for the tender offer, by telephone (toll-free) at 866-620-7692 or by email at CEMI@allianceadvisors.com.

About Biosynex

Founded in 2005 and based in Illkirch-Graffenstaden in Alsace, France, Biosynex is a major player in public health with 380 employees. Biosynex designs, manufactures and distributes Rapid Diagnostic Tests (RDTs) as well as diagnostic equipment for healthcare professionals and the general public, aiming to improve patient care through rapid results and ease of use. As the leader in the RDT market in France, Biosynex has complete control over its value chain thanks to its technological platform, which can be adapted to numerous applications and is suitable for different types of users such as laboratories, hospitals, doctors and consumers. Driven by strong values of innovation, Biosynex has a proactive vision of tomorrow's medicine focused on prevention, screening, emergency diagnosis and rapid treatment. Learn more at www.biosynex.com.

Additional Information and Where to Find It

This press release relates to a pending business combination between Biosynex and Chembio. This press release is for informational purposes only and does not constitute an offer to purchase or a solicitation of an offer to sell shares of Chembio, nor is it a substitute for any tender offer materials that the parties have filed or will file with the SEC in connection with the tender offer. CHEMBIO STOCKHOLDERS ARE URGED TO READ THE TENDER OFFER MATERIALS (INCLUDING AN OFFER TO PURCHASE, A RELATED LETTER OF TRANSMITTAL AND CERTAIN OTHER TENDER OFFER DOCUMENTS), THE SOLICITATION / RECOMMENDATION STATEMENT AND OTHER RELEVANT DOCUMENTS THAT HAVE BEEN AND MAY BE FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO ANY OF THE FOREGOING DOCUMENTS CAREFULLY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION THAT HOLDERS OF CHEMBIO SECURITIES SHOULD CONSIDER BEFORE MAKING ANY DECISION REGARDING TENDERING THEIR SECURITIES. The Solicitation/Recommendation Statement, the Offer to Purchase, the related Letter of Transmittal and certain other tender offer documents were sent to all of Chembio's stockholders at no expense to them. The tender offer materials and the Solicitation / Recommendation Statement are also available for free on the SEC's website at www.sec.gov or from the information agent named in the tender offer materials. Copies of the documents filed with the SEC by Biosynex are available free of charge under the News heading of Biosynex's website at <https://www.biosynex.com>. Copies of the documents filed with the SEC by Chembio will be available free of charge under the SEC filings heading of the Investors section of Chembio's website at <https://chembio.com/investors>.

Forward Looking Statements

This press release contains forward-looking statements regarding the acquisition of Chembio Diagnostics, Inc. by Biosynex SA. Forward-looking statements involve inherent risks and uncertainties and you are cautioned that a number of important factors could cause actual results to differ materially from those contained in any such forward-looking statement. These statements can otherwise be identified by the use of words such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “feel,” “forecast,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “seek,” “should,” “would,” “will,” and similar expressions intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. The forward-looking statements contained in this press release include, but are not limited to, statements related to Biosynex’s and Chembio’s plans, objectives, expectations and intentions with respect to the proposed transaction and the combined company, the anticipated timing of the proposed transaction, the conditions precedent to the closing of the proposed transaction, and the potential impact the transaction will have on Chembio or Biosynex and other matters related to either or both of them. The forward-looking statements are based on assumptions regarding current plans and estimates of management of Biosynex and Chembio. Such management believes these assumptions to be reasonable, but there is no assurance that they will prove to be accurate.

Factors that could cause actual results to differ materially from those described in this press release include, among others: changes in expectations as to the closing of the transaction including timing and changes in the method of financing the transaction; the satisfaction of the conditions precedent to the consummation of the proposed transaction (including a sufficient number of Chembio shares being validly tendered into the tender offer to meet the minimum condition); the risk of litigation and regulatory action related to the proposed transactions; expected synergies and cost savings are not achieved or achieved at a slower pace than expected; integration problems, delays or other related costs; retention of customers and suppliers; and unanticipated changes in laws, regulations, or other industry standards affecting the companies; and other risks and important factors contained and identified in Biosynex’s and Chembio’s filings with the SEC, including Chembio’s Quarterly Reports on Form 10-Q and Annual Reports on Form 10-K.

The foregoing list of factors is not exhaustive. Readers are cautioned not to place undue reliance on any forward-looking statements, which speak only as of the date hereof. Readers are urged to carefully review and consider the various disclosures, including but not limited to risk factors contained in Chembio’s Annual Reports on Form 10-K and its quarterly reports on Form 10-Q, as well as other filings it and Biosynex have filed with the SEC. Forward-looking statements reflect the analysis of management of Biosynex and Chembio as of the date of this press release. Neither Biosynex nor Chembio undertakes to update or revise any of these statements in light of new information or future events, except as expressly required by applicable law.

For further information:

Biosynex Contacts:

Larry Abensur
Président-Directeur Général
investisseurs@biosynex.com

Julia Bridger

Listing Sponsor
+33 1 44 70 20 84
jbridger@elcorp.com

Gilles Broquelet

Communication financière
+ 33 1 80 81 50 00
gbroquelet@capvalue.fr
