

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **March 21, 2023**



CHEMBIO DIAGNOSTICS, INC.

Nevada
(State or Other Jurisdiction of Incorporation or
Organization)

001-35569
(Commission File Number)

88-0425691
(I.R.S. Employer Identification No.)

3361 Horseblock Road
Medford, New York 11763
(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: **(631) 924-1135**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, \$0.01 par value	CEMI	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 8.01 Other Matters.

On March 21, 2023, we issued a press release titled “Chembio Stockholders Reminded to Tender Shares Before 6:00 PM New York City Time, on March 28, 2023.” A copy of the press release is included as Exhibit 99.1 to this report.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.*

Exhibit No.	Description
<u>99.1</u>	Press Release of Chembio Diagnostics, Inc., dated March 21, 2023
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be filed on its behalf by the undersigned hereunto duly authorized.

CHEMBIO DIAGNOSTICS, INC.

Dated: March 21, 2023

By: /s/ Lawrence J. Steenvoorden
Executive Vice President, Chief Financial Officer

**Chembio Stockholders Reminded to Tender Shares Before 6:00 PM New York City Time, on March 28, 2023**

MEDFORD, N.Y., March 21, 2023 (GLOBE NEWSWIRE) -- Chembio Diagnostics, Inc. (Nasdaq: CEMI), a leading point-of-care diagnostics company focused on infectious diseases, today released the following letter to stockholders concerning the pending tender offer by Biosynex SA.

March 21, 2023

Fellow Chembio Stockholders,

As previously disclosed, Chembio Diagnostics, Inc. ("Chembio" or the "Company") entered into an Agreement and Plan of Merger (the "Merger Agreement"), dated as of January 31, 2023, with Biosynex SA, a French société anonyme ("Biosynex"), and Project Merci Merger Sub, Inc., a Nevada corporation and wholly-owned indirect subsidiary of Biosynex (the "Purchaser"). Pursuant to the Merger Agreement, the Purchaser commenced a tender offer (the "Offer") to purchase all of the issued and outstanding shares of the Company's common stock, par value \$0.01 per share (the "Shares"), for a purchase price of \$0.45 per share, net to the seller in cash, without interest and subject to any required tax withholding. On March 15, 2023, Biosynex announced an extension of the Offer until **6:00 p.m., New York City time, on March 28, 2023.**

I am reaching out to remind you to tender your shares prior to the expiration of the Offer on March 28, 2023. If less than a majority of the outstanding shares of Chembio common stock are tendered, the Offer will not be completed and Chembio will not merge with Biosynex.

What Happens If Stockholders Don't Tender Their Shares:

There are substantial risks to Chembio remaining an independent company if the Offer and merger between Biosynex and Chembio are not completed. As discussed in further detail in the Schedule 14D-9 and the Company's letter to stockholders dated March 15, 2023, the risks faced by the Company include:

- Breaching a financial covenant in its Credit Agreement that could force the Company to pursue a transaction or financing arrangement that is highly dilutive to existing stockholders or a bankruptcy or restructuring proceeding;
 - Being delisted by Nasdaq as soon as April 2023; and
 - The Company's ability to continue as a going concern due to its net losses from operations and ongoing liquidity concerns.
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How to Tender Your Shares:

If you hold shares of Chembio common stock through a broker, dealer, commercial bank, trust company or other nominee, instruct such broker or other nominee to tender your shares. **Please do so promptly to allow sufficient time to meet any broker processing deadlines before the Offer expiration at 6:00 p.m. New York City time on March 28, 2023. Do not wait until the Offer expires to tender your shares.**

Contact Information for Commonly Used Brokers:

- Call TD Ameritrade at 888-723-8504, option 1
- Call Fidelity at 800-343-3548
- Call E-Trade at 1-800-387-2331
- Contact Robinhood at <https://robinhood.com/contact>
 - o To participate, please include the stock symbol for the offer (**CEMI**) and the number of shares you'd like to participate with.
- If your broker is not listed above, please contact your broker's customer service department and ask to speak with **Corporate Actions**. From here, you should be directed to someone who can help you.
- Chembio stockholders who hold shares directly or in registered name can follow the instructions in the materials mailed to you.
- Stockholders should contact the Information Agent, **Alliance Advisors** with any questions or to request documents and assistance at **866-620-7692** or email CEMI@allianceadvisors.com.

If you were unable to previously tender your shares due to processing deadlines from your broker, you may tender your shares during the extension period. Please act as soon as possible to ensure you can tender your shares on time. Chembio stockholders who have previously tendered their shares do not need to re-tender their shares or take any other action as a result of the extension of the Offer.

On behalf of our entire team and the Board of Directors, thank you for your continued support of Chembio.

Sincerely,

Richard L. Eberly
President and Chief Executive Officer

About Chembio Diagnostics

Chembio is a leading diagnostics company focused on developing and commercializing point-of-care tests used to detect and diagnose infectious diseases, including sexually transmitted disease, insect vector and tropical disease, COVID-19 and other viral and bacterial infections, enabling expedited treatment. Coupled with Chembio's extensive scientific expertise, its novel DPP technology offers broad market applications beyond infectious disease. Chembio's products are sold globally, directly and through distributors, to hospitals and clinics, physician offices, clinical laboratories, public health organizations, government agencies, and consumers. Learn more at www.chembio.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 U.S. Securities and Exchange Commission ("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 THAT ARE OR 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 are 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 as well as the matters in the section captioned "What Happens If Stockholders Don't Tender Their Shares". 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 impacts on Chembio if the proposed transaction should not close, 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); 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.

Contact:

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