SYNERGETICS USA INC
Form SC 14D9/A
October 06, 2015

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-9

Solicitation/Recommendation Statement

Under Section 14(d)(4) of the Securities Exchange Act of 1934

(Amendment No. 5)

SYNERGETICS USA, INC.

(Name of Subject Company)

SYNERGETICS USA, INC.

(Name of Person Filing Statement)

Common Stock, par value $0.001 per share

(Title of Class of Securities)

87160G107

(CUSIP Number of Class of Securities)

Peter Rasche

General Counsel

Synergetics USA, Inc.

3845 Corporate Centre Drive

O Fallon, Missouri 63368

(636) 939-5100

(Name, address and telephone number of person authorized to receive notices and communications on behalf of the person filing statement)

With copies to:

David W. Braswell, Esq.

Jennifer R. Byrne, Esq.

Armstrong Teasdale LLP

7700 Forsyth Boulevard

St. Louis, Missouri 63105

(314) 621-5070

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

This Amendment No. 5 amends and supplements Item 8 in the Solicitation/Recommendation Statement on Schedule 14D-9 filed by Synergetics USA, Inc. (the Company) with the Securities and Exchange Commission (SEC) on September 16, 2015 (as amended and supplemented from time to time, the Schedule 14D-9). The Schedule 14D-9 relates to the tender offer by Blue Subsidiary Corp., a Delaware corporation (the Purchaser) and a wholly owned subsidiary of Valeant Pharmaceuticals International, a Delaware corporation (the Parent), to purchase all Shares that are issued and outstanding, at a price per Share of $6.50, net to the holder in cash (less any applicable withholding taxes and without interest), plus one non-transferable contractual contingent value right per Share, which represents the right to receive up to two contingent payments, if any, of up to $1.00 in the aggregate net to the holder in cash (less any applicable withholding taxes and without interest) upon the achievement of certain specified milestones within an agreed upon time period, at the times and upon the terms and subject to the conditions set forth in the Offer to Purchase, dated September 16, 2015 (together with any amendments or supplements thereto, the Offer to Purchase), 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). The Offer is described in a Tender Offer Statement on Schedule TO filed by the Purchaser and Parent with the SEC on September 16, 2015, as amended from time to time.

Except as otherwise set forth below, the information set forth in the Schedule 14D-9 remains unchanged. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Schedule 14D-9.

Item 8.   *Additional Information to be Furnished.*

The section captioned   Antitrust Compliance   under Item 8 of the Initial Schedule 14D-9 is hereby amended and supplemented by deleting the second paragraph and replacing it in its entirety with the following:

  Pursuant to the HSR Act, the Parent and the Company filed their respective Premerger Notification and Report Forms with the FTC and the Antitrust Division on September 22, 2015 for review in connection with the Offer. The initial waiting period under the HSR Act, which was scheduled to expire at 11:59 P.M., New York time, on October 7, 2015, was granted early termination by the FTC, effective October 5, 2015. Accordingly, the condition of the Offer relating to the expiration or termination of the HSR Act waiting period has been satisfied. On October 5, 2015, Valeant issued a press release announcing the early termination of the applicable waiting period under the HSR Act.

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SIGNATURE

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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.

Date: October 5, 2015   **SYNERGETICS USA, INC.**

                                                              By: /s/ David M. Hable
                                                                   David M. Hable
                                                                   President and Chief Executive Officer