

ALEXION PHARMACEUTICALS INC

Form S-4/A

June 09, 2015

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As filed with the Securities and Exchange Commission on June 9, 2015

Registration No. 333-204426

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

Amendment No. 1
to
FORM S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Alexion Pharmaceuticals, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)
352 Knotter Drive,
Cheshire, Connecticut 06410
(203) 272-2596
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

13-3648318
(I.R.S. Employer Identification Number)

David Hallal
Chief Executive Officer
Alexion Pharmaceuticals, Inc.
352 Knotter Drive
Cheshire, Connecticut 06410
(203) 272-2596
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

Copies to:

John B. Moriarty, Jr. Executive Vice President, General Counsel Alexion Pharmaceuticals, Inc. 352 Knotter Drive Cheshire, Connecticut 06410	Daniel A. Neff Mark Gordon Wachtell, Lipton, Rosen & Katz 51 West 52nd Street New York, New York 10019	Thomas Beetham Senior Vice President, General Counsel & Chief Legal Officer Synageva BioPharma Corp. 33 Hayden Avenue Lexington, Massachusetts 02421 (781) 357-9900	Matthew G. Hurd Krishna Veeraraghavan Sullivan & Cromwell LLP 125 Broad Street New York, New York 10004 (212) 558-4000	Paul M. Kinsella Ropes & Gray LLP 800 Boylston Street Boston, Massachusetts 02199 (617) 951-7000
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(203) 272-2596 (212)
403-1000

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after the effectiveness of this registration statement and the satisfaction or waiver of the conditions to the transactions described herein.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer		Accelerated filer
Non-accelerated filer	(Do not check if a smaller reporting company)	Smaller reporting company

If applicable, place an in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Common stock, par value \$0.0001 per share	27,425,229 shares(1)	N/A	\$ 4,076,903,439.18(2)	\$ 473,736.18(3)(4)

(1) Represents the maximum number of shares of Alexion Pharmaceuticals, Inc. (“Alexion”) common stock estimated to be issuable upon consummation of the transactions, calculated by multiplying the exchange ratio of 0.6581 by 41,673,346 shares of common stock of Synageva BioPharma Corp. (“Synageva”), which is the sum of 37,225,329, the number of shares of Synageva common stock outstanding as of May 15, 2015, plus 4,250,191, the number of shares of Synageva common stock reserved for issuance under existing Synageva equity plans, plus 197,826, the number of shares of Synageva common stock that would be entitled to receive the transaction consideration if Synageva made a grant of restricted stock units with the maximum number of shares of Synageva common stock underlying such restricted stock units as permitted under the transaction agreement, and then rounding up. In accordance with Rule 416, this registration statement also covers an indeterminate number of additional shares of Alexion securities as may be issuable as a result of stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457 under the Securities Act on the basis of the market value of the shares of Synageva common stock to be exchanged in the transactions, computed in accordance with Rule 457(f)(1) and Rule 457(f)(3) based on (a) the product of (i) \$212.83, the average of the high and low sales prices per share of Synageva common stock on May 20, 2015, as reported by Nasdaq, and

(ii) 41,673,346, the estimated number of shares of Synageva common stock to be exchanged in the transactions for the transaction consideration, less (b) the product of (x) \$115.00, the per-share cash consideration that will be paid by Alexion to Synageva stockholders in the transactions, and (y) 41,673,346, the estimated number of shares of Synageva common stock to be exchanged in the transactions for the transaction consideration.

(3)

The amount of the filing fee, calculated in accordance with Rule 457(c) and Rule 457(f) under the Securities Act, equals 0.00011620 multiplied by the proposed maximum offering price.

(4)

Previously paid.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this document may change. The registrant may not complete the transactions and issue these securities until the registration statement filed with the U.S. Securities and Exchange Commission is effective. This document is not an offer to sell these securities and the registrant is not soliciting an offer to buy these securities in any state or jurisdiction in which such offer is not permitted.

PRELIMINARY AND SUBJECT TO CHANGE, DATED JUNE 9, 2015

Offer by

PULSAR MERGER SUB INC.,

a direct wholly owned subsidiary of

ALEXION PHARMACEUTICALS, INC.,

to exchange each outstanding share of common stock of

SYNAGEVA BIOPHARMA CORP.

for

\$115.00 in cash

and

0.6581 shares of common stock of Alexion Pharmaceuticals, Inc.

THE OFFER AND THE WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, AT THE END OF JUNE 19, 2015, UNLESS EXTENDED OR TERMINATED.

Alexion Pharmaceuticals, Inc. (“Alexion”), through its direct wholly owned subsidiary Pulsar Merger Sub Inc. (the “Offeror”), is offering, upon the terms and subject to the conditions set forth in this prospectus/offer to exchange and in the accompanying letter of transmittal, to exchange for each outstanding share of common stock of Synageva BioPharma Corp. (“Synageva”), par value \$0.001 per share, that is validly tendered in the offer and not properly withdrawn:

- \$115.00 in cash, without interest and less any applicable withholding taxes; and

- 0.6581 shares of Alexion common stock, par value \$0.0001 per share, together with cash in lieu of any fractional shares of Alexion common stock, without interest and less any applicable withholding taxes.

We refer to the above as the “transaction consideration.”

The Offeror’s obligation to accept for exchange, and to exchange, shares of Synageva common stock for cash and shares of Alexion common stock in the offer is subject to a number of conditions, including there having been validly tendered and not properly withdrawn a number of shares of Synageva common stock that, together with any shares of Synageva common stock directly or indirectly owned by Alexion and the Offeror, represents at least a majority of the outstanding shares of Synageva common stock. See “Transaction Agreement — Conditions to the Transactions — Conditions to the Offer” for a description of all such conditions.

The offer is being made pursuant to an Agreement and Plan of Reorganization (the “transaction agreement”), dated May 5, 2015, among Alexion, the Offeror, Galaxy Merger Sub LLC, a direct wholly owned subsidiary of Alexion (“Merger Sub”), and Synageva. A copy of the transaction agreement is attached to this document as Annex A.

The offer is the first step in Alexion’s plan to acquire control of, and ultimately all of the outstanding equity in, Synageva. Accordingly, if the offer is completed, pursuant to the terms and subject to the conditions of the transaction agreement, as soon as practicable following the consummation of the offer, Alexion intends to consummate a merger of the Offeror with and into Synageva, with Synageva surviving the merger (which we refer to as the “first merger”). The purpose of the first merger is for Alexion to acquire all shares of Synageva common stock that it did not acquire in the offer. In the first merger, each outstanding share of Synageva common stock that was not acquired by Alexion or the Offeror in the offer (other than certain dissenting, converted and cancelled shares, as described further in this document) will be converted into the right to receive the transaction consideration. After the first merger, the Synageva business will be held in a direct wholly owned subsidiary of Alexion, and the former stockholders of Synageva will no longer have any direct ownership interest in the surviving corporation. If the offer is

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completed, such that Alexion accordingly owns at least a majority of Synageva's outstanding common stock, the first merger will be governed by Section 251(h) of the General Corporation Law of the State of Delaware (the "DGCL"), and accordingly no stockholder vote will be required to complete the first merger.

Alternatively, if any of the conditions to the offer are not yet satisfied as of any scheduled expiration date of the offer occurring after July 12, 2015, Alexion may elect to cause the termination of the offer and seek to instead effect the first merger through a "long-form" merger governed by Section 251(c) of the DGCL, and accordingly a vote of Synageva's stockholders will be required to consummate the first merger. If the offer is terminated and the parties to the transaction agreement instead propose to effect the transactions through a long-form merger, Synageva will convene a meeting of Synageva stockholders to seek their approval of the transaction agreement, and Synageva stockholders will receive a proxy statement in the mail. However, at this time, neither Alexion nor the Offeror is asking you for a proxy and you are requested not to send a proxy.

Regardless of whether the first merger is completed with or without a stockholder vote, immediately following the first merger, the surviving corporation will merge with and into Merger Sub (which we refer to as the "second merger" and together with the first merger, the "mergers"), with Merger Sub surviving the second merger. As a result of the second merger, the surviving company will be converted from a corporation into a limited liability company.

The board of directors of Synageva unanimously determined that the terms of the transaction agreement and the transactions contemplated by the transaction agreement, including the offer and the first merger, are fair to, and in the best interests of, Synageva and its stockholders. The board of directors of Synageva has also resolved to recommend that the stockholders of Synageva accept the offer and tender their shares of Synageva common stock to the Offeror pursuant to the offer.

The board of directors of Alexion also unanimously determined that the terms of the transaction agreement and the transactions contemplated by the transaction agreement, including the offer and the first merger, are fair to, and in the best interests of, Alexion and its stockholders.

Alexion common stock is listed on the NASDAQ Global Select Market ("Nasdaq") under the symbol "ALXN," and Synageva common stock is listed on Nasdaq under the symbol "GEVA." You are encouraged to obtain current market quotations for Alexion common stock and Synageva common stock in connection with your decision whether to tender your shares.

The first merger will entitle Synageva stockholders to appraisal rights under the DGCL. To exercise appraisal rights, a Synageva stockholder must strictly comply with all of the procedures under the DGCL. These procedures are described more fully in the section entitled "The Transactions — Dissenters' Rights."

For a discussion of certain factors that Synageva stockholders should consider in connection with the offer, please read the section of this document entitled "Risk Factors" beginning on page 21.

You are encouraged to read this entire document and the related letter of transmittal carefully, including the annexes and information referred to or incorporated by reference in this document.

Neither Alexion nor the Offeror has authorized any person to provide any information or to make any representation in connection with the offer other than the information contained or incorporated by reference in this document, and if any person provides any information or makes any representation of this kind, that information or representation must not be relied upon as having been authorized by Alexion or the Offeror.

Neither the U.S. Securities and Exchange Commission (the "SEC") nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this document. Any representation to the contrary is a criminal offense.

The date of this prospectus/offer to exchange is June 9, 2015.

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