

ALLIANCE FIBER OPTIC PRODUCTS INC
Form SC TO-T/A
June 02, 2016

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO/A

(Amendment No. 6)

Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934

Alliance Fiber Optic Products, Inc.
(Name of Subject Company (Issuer))
Apricot Merger Company
(Name of Filing Persons (Offeror))

a wholly owned subsidiary of
Corning Incorporated
(Name of Filing Persons (Parent of Offeror))

Common Stock, par value \$0.001 per share
(Title of Class of Securities)
018680306
(CUSIP Number of Class of Securities)

Lewis A. Steverson
Senior Vice President and General Counsel
Corning Incorporated
One Riverfront Plaza
Corning, NY 14831
Telephone: (607) 974-9000
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Filing Persons)

Copy to:

Clare O'Brien
David Connolly
Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4000

| Calculation of Filing Fee | |
|---------------------------|-------------------------|
| Transaction Valuation(1) | Amount of Filing Fee(2) |
| \$311,921,798.50 | \$31,410.52 |

(1) Estimated for purposes of calculating the amount of the filing fee only, in accordance with Rule 0-11(d) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Calculated by adding (a) 15,803,585 shares of common stock of Alliance Fiber Optic Products, Inc. issued and outstanding as of April 20, 2016, multiplied by \$18.50, the per share tender offer price, (b) 554,800 shares of common stock subject to outstanding stock options as of April 20, 2016, with an exercise price less than \$18.50, multiplied by \$11.12, which is the offer price of \$18.50 per share minus the weighted average exercise price for such options of \$7.38 per share, (c) 508,000 shares of restricted stock units as of April 20, 2016, multiplied by \$18.50, the per share tender offer price and (d) 208,360 shares issuable pursuant to an employee stock purchase plan as of April 20, 2016, multiplied by \$18.50, the per share tender offer price. The calculation of the filing fee is based on information provided by Alliance Fiber Optic Products, Inc. as of April 20, 2016.

(2) The filing fee was calculated in accordance with Rule 0-11 of the Exchange Act and Fee Rate Advisory #1 for fiscal year 2016, issued August 27, 2015, by multiplying the transaction valuation by 0.0001007.

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and date of its filing.

Amount Previously Paid: \$31,410.52 Filing Party: Apricot Merger Company and
Corning Incorporated
Form or Registration No.: Schedule TO-T Date Filed: April 21, 2016

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 following box if the filing is a final amendment reporting the results of the tender offer:

This Amendment No. 6 filed with the Securities and Exchange Commission on June 1, 2016, amends and supplements the Tender Offer Statement filed on Schedule TO (as amended or supplemented, the “Schedule TO”) with the Securities and Exchange Commission on April 21, 2016, by both Apricot Merger Company, a Delaware corporation (the “Purchaser”) and a wholly owned subsidiary of Corning Incorporated, a New York corporation (“Corning”), and Corning. The Schedule TO relates to the offer by the Purchaser to purchase all of the outstanding shares of common stock, par value \$0.001 per share, and the related rights to purchase shares of Series A Preferred Stock distributed to the holders of the common stock of Alliance Fiber Optic Products, Inc., a Delaware corporation (“AFOP”), pursuant to the Amended and Restated Rights Agreement, dated March 10, 2011, between AFOP and American Stock Transfer & Trust Company, LLC, as rights agent (the “Rights Agreement”) (each, a “Share” and collectively, the “Shares”) of AFOP, at a price of \$18.50 per Share, net to the holder thereof in cash, without interest and less any required withholding of taxes, upon the terms and subject to the conditions set forth in the offer to purchase, dated April 21, 2016 (as it may be amended or supplemented, the “Offer to Purchase”), and the related letter of transmittal (as it may be amended or supplemented, the “Letter of Transmittal,” and together with the Offer to Purchase, the “Offer”), copies of which are attached to the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively. The information set forth in the Offer to Purchase, including all schedules thereto, and the related Letter of Transmittal is incorporated herein by reference with respect to all of the applicable items in the Schedule TO, except that such information is hereby amended and supplemented to the extent provided herein. All capitalized terms used in this Amendment No. 6 without definition have the meanings ascribed to them in the Schedule TO.

Item 11. Additional Information.

The Offer to Purchase and Item 11 of the Schedule TO, to the extent Item 11 incorporates by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as set forth below:

The information set forth in the “Summary Term Sheet - How will my outstanding options or RSUs be treated in the Offer and the Merger?” is hereby amended by inserting the following language as a fifth bullet point:

“Pursuant to the terms of the Merger Agreement, at the Effective Time, each outstanding and unexercised option to purchase Shares to the extent unvested as of the Effective Time (each, an “Unvested Option”) will be assumed by Corning and converted into an option to purchase that number of shares of common stock of Corning as is determined by multiplying the number of Shares that were subject to such Unvested Option immediately prior to the Effective Time by the “conversion ratio” (as defined below), at a per Share exercise price as is determined by dividing the per Share exercise price of such Unvested Option as in effect immediately prior to the Effective Time by such conversion ratio and rounding the resulting exercise price up to the nearest whole cent. The resulting option to purchase shares of common stock of Corning will be subject to the same vesting terms and conditions as in effect immediately prior to the Effective Time. The “Conversion Ratio” means a fraction having a numerator equal to the Offer Price and a denominator equal to the average closing sales price of Corning’s common stock as reported on the New York Stock Exchange for the ten consecutive trading day period ending (and including) the second trading day prior to the Effective Time. Notwithstanding the foregoing, Unvested Options held by individuals in China and Taiwan shall be cancelled and replaced with the right to receive a payment, for each Share covered thereby immediately prior to cancellation, in an amount equal to the excess, if any, of the Offer Price over the per Share exercise price of the related Unvested Options. Such payment shall be made, subject to applicable withholding, in accordance with, and subject to, the vesting schedule of the related Unvested Options.”

The information set forth in Section 12, “Merger Agreement; Other Agreements” is hereby amended by inserting the following language as a fifth bullet point at the end of subsection (a) Merger Agreement – Effect on AFOP Options and Restricted Stock:

“Pursuant to the terms of the Merger Agreement, at the Effective Time, each Unvested Option will be assumed by Corning and converted into an option to purchase that number of shares of common stock of Corning as is determined by multiplying the number of Shares that were subject to such Unvested Option immediately prior to the Effective Time by the Conversion Ratio, at a per Share exercise price as is determined by dividing the per Share exercise price of such Unvested Option as in effect immediately prior to the Effective Time by such conversion ratio and rounding the resulting exercise price up to the nearest whole cent. The resulting option to purchase shares of common stock of Corning will be subject to the same vesting terms and conditions as in effect immediately prior to the Effective Time.

Notwithstanding the foregoing, Unvested Options held by individuals in China and Taiwan shall be cancelled and replaced with the right to receive a payment, for each Share covered thereby immediately prior to cancellation, in an amount equal to the excess, if any, of the Offer Price over the per Share exercise price of the related Unvested Options. Such payment shall be made, subject to applicable withholding, in accordance with, and subject to, the vesting schedule of the related Unvested Options.”

Items 12.

Exhibits.

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

Exhibit

No.

Description

(d)(4)

Amendment No. 1 to Agreement and Plan of Merger by and among Corning Incorporated, Apricot Merger Company, and Alliance Fiber Optic Products, Inc. dated as of June 1, 2016.

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: June 1, 2016

APRICOT MERGER COMPANY

By: /s/ William L. Juan
Name: William L. Juan
Title: Secretary

CORNING INCORPORATED

By: /s/ Linda E. Jolly
Name: Linda E. Jolly
Title: Secretary

- Item 12. Exhibits.
- (a)(1)(A)* Offer to Purchase, dated April 21, 2016.
 - (a)(1)(B)* Form of Letter of Transmittal.
 - (a)(1)(C)* Form of Notice of Guaranteed Delivery.
 - (a)(1)(D)* Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
 - (a)(1)(E)* Form of Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
 - (a)(1)(F)* Summary Advertisement as published in the New York Times on April 21, 2016.
 - (a)(5)(A)* Joint press release issued by Corning and AFOP on April 7, 2016 incorporated by reference to the Schedule TO-C filed by Corning Incorporated and Purchaser on April 8, 2016.
 - (a)(5)(B)* Press Release of Corning Incorporated, dated May 13, 2016.
 - (b) Not applicable.
 - (c) Not applicable.
 - (d)(1)* Agreement and Plan of Merger, dated as of April 7, 2016, by and among Corning, Purchaser and AFOP.
 - (d)(2)* Confidentiality Agreement, dated as of February 17, 2015, by and between Corning and AFOP.
 - (d)(3)* Exclusivity Agreement, dated as of January 13, 2016, by and between Corning and AFOP.
 - (d)(4) Amendment No. 1 to Agreement and Plan of Merger by and among Corning Incorporated, Apricot Merger Company, and Alliance Fiber Optic Products, Inc. dated as of June 1, 2016.
 - (g) Not applicable.
 - (h) Not applicable.

* Previously filed.
