

CHATTEM INC  
Form SC TO-T  
January 11, 2010

**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**

**CHATTEM, INC.**

*(Name of Subject Company (Issuer))*

**RIVER ACQUISITION CORP.**

**SANOFI-AVENTIS**

**SANOFI-AVENTIS AMERIQUE DU NORD S.N.C.**

**AVENTIS INC.**

*(Offerors)*

*(Names of Filing Persons (identifying status as offeror, issuer or other person))*

**Common Stock, without par value (including the associated**

**Series A Junior Participating Preferred Stock Purchase Rights)**

*(Title of Class of Securities)*

**162456107**

*(CUSIP Number of Class of Securities)*

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**Karen Linehan**

**Senior Vice President Legal Affairs and General Counsel**

**Sanofi-Aventis**

**174, avenue de France**

**75013 Paris, France**

**Telephone: +33 1 53 77 40 00**

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

*Copy to:*

**Michael J. Aiello, Esq.**

**Weil, Gotshal & Manges LLP**

**767 Fifth Avenue**

**New York, NY 10153**

**(212) 310-8000**

**CALCULATION OF FILING FEE**

**Transaction Valuation(1)**  
\$2,264,563,268

**Amount of Filing Fee(2)**  
\$161,464

- (1) Estimated for purposes of calculating the filing fee only. The transaction valuation was calculated by adding the sum of (i) 18,934,034 shares of common stock, without par value, of Chattem, Inc. ( Chattem ) outstanding multiplied by the offer price of \$93.50 per share, (ii) 1,798,116 shares of common stock, without par value, of Chattem, which were subject to issuance pursuant to the exercise of outstanding options multiplied by the offer price of \$93.50 per share and (iii) 3,487,778 shares of common stock, without par value, of Chattem, which were reserved for issuance upon the exercise of warrants, multiplied by the offer price of \$93.50 per share. This calculation excludes 4,367,275 shares of common stock, without par value, of Chattem, reserved for issuance upon conversion of the 2% convertible notes of Chattem due 2013 and the 1.625% convertible notes of Chattem due 2014 because the convertible notes will be settled in cash pursuant to the Agreement and Plan of Merger, dated as of December 20, 2009, among sanofi-aventis, River Acquisition Corp. and Chattem. The calculation of the filing fee is based on Chattem s representation of its capitalization as of December 18, 2009.
- (2) The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934 by multiplying the transaction value by 0.00007130.

.. 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 the date of its filing.

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Amount Previously Paid: None  
Form of Registration No.: N/A

Filing Party: N/A  
Date Filed: N/A

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 Tender Offer Statement on Schedule TO (which, together with any amendments and supplements thereto, collectively constitute this Schedule TO ) is filed by (i) River Acquisition Corp., a Tennessee corporation (the Purchaser ), and an indirect wholly-owned subsidiary of sanofi-aventis, a French *société anonyme* ( Parent ), (ii) Parent, (iii) Sanofi-aventis Amérique du Nord S.N.C., a French *société en nom collectif* ( ADN ), and a wholly-owned subsidiary of Parent, and (iv) Aventis Inc., a Pennsylvania corporation ( Aventis ), and a wholly-owned subsidiary of ADN. This Schedule TO relates to the offer (the Offer ) by the Purchaser to purchase all of the outstanding shares of common stock, without par value (including the associated preferred stock purchase rights, the Shares ), of Chattem, Inc., a Tennessee corporation ( Chattem ), at a purchase price of \$93.50 per Share (the Offer Price ) net to the sellers in cash, without interest thereon and less any required withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated January 11, 2010 (which, together with any amendments and supplements thereto, collectively constitute the Offer to Purchase ) and in the related Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(1)(A) and (a)(1)(B).

**Item 1. Summary Term Sheet.**

The information set forth in the section of the Offer to Purchase entitled Summary Term Sheet is incorporated herein by reference.

**Item 2. Subject Company Information.**

(a) The name of the subject company and the issuer of the securities to which this Schedule TO relates is Chattem, Inc., a Tennessee corporation. Chattem's principal executive offices are located at 1715 West 38th Street, Chattanooga, Tennessee 37409. Chattem's telephone number at such address is (423) 821-4571.

(b) This Schedule TO relates to the outstanding shares of common stock, without par value (including the associated Series A Junior Preferred Stock Purchase Rights), of Chattem. Chattem has advised Parent that, on December 18, 2009, there were 18,934,034 Shares issued and outstanding, 1,798,116 Shares reserved and available for issuance upon, or otherwise deliverable in connection with, the exercise of outstanding options, 3,487,778 Shares reserved for issuance upon the exercise of warrants (which Chattem will seek to settle in cash pursuant to the Agreement and Plan of Merger, dated as of December 20, 2009, among sanofi-aventis, River Acquisition Corp. and Chattem, Inc. (the Merger Agreement )), and 4,367,275 Shares reserved for issuance upon conversion of Chattem's convertible notes (which Chattem will settle in cash pursuant to the Merger Agreement).

(c) The information set forth in the section in the Offer to Purchase entitled Price Range of Shares; Dividends is incorporated herein by reference.

**Item 3. Identity and Background of Filing Person.**

This Schedule TO is filed by Parent, ADN, Aventis and the Purchaser. The information set forth in the section of the Offer to Purchase entitled Certain Information Concerning Parent, the Purchaser and Certain Related Persons and in Schedule I is incorporated herein by reference.

**Item 4. Terms of the Transaction.**

The information set forth in the Offer to Purchase is incorporated herein by reference.

**Item 5. Past Contacts, Transactions, Negotiations and Agreements.**

The information set forth in the sections of the Offer to Purchase entitled Summary Term Sheet, Introduction, Certain Information Concerning Parent, the Purchaser and Certain Related Persons, Background of the Offer; Past Contacts or Negotiations with Chattem, Purpose of the Offer; Plans for Chattem and The Merger Agreement; Other Agreements, respectively, is incorporated herein by reference.

**Item 6. Purposes of the Transaction and Plans or Proposals.**

The information set forth in the sections of the Offer to Purchase entitled Summary Term Sheet, Introduction, Price Range of Shares; Dividends, Certain Effects of the Offer, Purpose of the Offer; Plans for Chattem, and The Merger Agreement; Other Agreements, respectively, is incorporated herein by reference.

**Item 7. Source and Amount of Funds or Other Consideration.**

The information set forth in the section of the Offer to Purchase entitled Source and Amount of Funds is incorporated herein by reference.

**Item 8. Interest in Securities of the Subject Company.**

The information set forth in the sections of the Offer to Purchase entitled Certain Information Concerning Parent, the Purchaser and Certain Related Persons, Purpose of the Offer; Plans for Chattem, and The Merger Agreement; Other Agreements, respectively, is incorporated herein by reference.

**Item 9. Persons/Assets Retained, Employed, Compensated or Used.**

The information set forth in the section of the Offer to Purchase entitled Fees and Expenses is incorporated herein by reference.

**Item 10. Financial Statements.**

Not applicable.

**Item 11. Additional Information.**

(a)(1) The information set forth in the sections of the Offer to Purchase entitled Certain Information Concerning Parent, the Purchaser and Certain Related Persons, Background of the Offer; Past Contacts or Negotiations with Chattem, Purpose of the Offer; Plans for Chattem and The Merger Agreement; Other Agreements, respectively, is incorporated herein by reference.

(a)(2) The information set forth in the sections of the Offer to Purchase entitled Purpose of the Offer; Plans for Chattem, Certain Conditions of the Offer and Certain Legal Matters; Regulatory Approvals, respectively, is incorporated herein by reference.

(a)(3) The information set forth in the sections of the Offer to Purchase entitled Certain Conditions of the Offer and Certain Legal Matters; Regulatory Approvals, respectively, is incorporated herein by reference.

(a)(4) The information set forth in the sections of the Offer to Purchase entitled Certain Effects of the Offer, Source and Amount of Funds and Certain Legal Matters; Regulatory Approvals, respectively, is incorporated herein by reference.

(a)(5) The information set forth in the section of the Offer to Purchase entitled Certain Legal Matters; Regulatory Approvals is incorporated herein by reference.

(b) The information set forth in the Offer to Purchase is incorporated herein by reference.

**Item 12. Exhibits.**

| <b>Exhibit</b> | <b>Exhibit Name</b>  |
|----------------|--|
| (a)(1)(A)      | Offer to Purchase dated January 11, 2010.*   |
| (a)(1)(B)      | Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number (TIN) on Substitute Form W-9).*  |
| (a)(1)(C)      | Notice of Guaranteed Delivery.*  |
| (a)(1)(D)      | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*   |
| (a)(1)(E)      | Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*  |
| (a)(5)(A)      | Joint Press Release issued by sanofi-aventis and Chattem, Inc. on December 21, 2009, incorporated herein by reference to Exhibit 99.1 to the Schedule TO-C filed by sanofi-aventis on December 21, 2009.       |
| (a)(5)(B)      | Sanofi-aventis presentation for investor/analyst conference call, dated December 21, 2009, incorporated herein by reference to Exhibit 99.2 to the Schedule TO-C filed by sanofi-aventis on December 21, 2009. |
| (a)(5)(C)      | Presentation regarding sanofi-aventis, dated December 21, 2009, incorporated herein by reference to Exhibit 99.3 to the Schedule TO-C filed by sanofi-aventis on December 21, 2009.                            |
| (a)(5)(D)      | Presentation regarding Chattem, Inc., dated December 21, 2009, incorporated herein by reference to Exhibit 99.4 to the Schedule TO-C filed by sanofi-aventis on December 21, 2009.                             |
| (a)(5)(E)      | Transcript of sanofi-aventis conference call held on December 21, 2009, incorporated herein by reference to Exhibit 99.1 to the Schedule TO-C filed by sanofi-aventis on December 22, 2009.                    |
| (a)(5)(F)      | Transcript of Chattem, Inc. conference call held on December 21, 2009, incorporated herein by reference to Exhibit 99.2 to the Schedule TO-C filed by sanofi-aventis on December 22, 2009.                     |
| (a)(5)(G)      | Form of Summary Advertisement as published on January 11, 2010 in The Wall Street Journal.   |
| (a)(5)(H)      | Press Release issued by sanofi-aventis on January 11, 2010.  |
| (b)            | Not applicable.  |
| (d)(1)         | Agreement and Plan of Merger, dated as of December 20, 2009, among sanofi-aventis, River Acquisition Corp. and Chattem, Inc. (included as Annex A to the Offer to Purchase).*                                  |
| (d)(2)         | Confidentiality Agreement, dated November 23, 2009, between Chattem, Inc. and sanofi-aventis.  |
| (d)(3)         | Form of Retention Agreement, dated December 20, 2009, by and between sanofi-aventis and each of Zan Guerry and Robert E. Bosworth.   |
| (d)(4)         | Form of Retention Agreement, dated December 20, 2009, by and between sanofi-aventis and each of Robert B. Long and Theodore K. Whitfield, Jr.  |
| (g)            | Not applicable.  |
| (h)            | Not applicable.  |

\* Included in mailing to shareholders.

**Item 13. Information required by Schedule 13E-3.**

Not applicable.

**SIGNATURE**

After due inquiry and to the best of the knowledge and belief of each of the undersigned, each of the undersigned hereby certifies that the information set forth in this statement is true, complete and correct.

SANOFI-AVENTIS

By: /s/ JÉRÔME CONTAMINE  
Name: **Jérôme Contamine**  
Title: **Executive Vice President, Chief Financial Officer**

RIVER ACQUISITION CORP.

By: /s/ GREGORY IRACE  
Name: **Gregory Irace**  
Title: **Chief Executive Officer and President**

SANOFI-AVENTIS AMÉRIQUE DU NORD S.N.C.

By: /s/ JEAN-LUC RENARD  
Name: **Jean-Luc Renard**  
Title: **Manager**

AVENTIS INC.

By: /s/ JOHN SPINNATO  
Name: **John Spinnato**  
Title: **Authorized Signatory**

Date: January 11, 2010

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| (a)(5)(H)      | Press Release issued by sanofi-aventis on January 11, 2010.  |
| (b)            | Not applicable.  |
| (d)(1)         | Agreement and Plan of Merger, dated as of December 20, 2009, among sanofi-aventis, River Acquisition Corp. and Chattem, Inc. (included as Annex A to the Offer to Purchase).*                                  |
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