

SYNGENTA AG  
Form SC 14D9/A  
June 01, 2016

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**SCHEDULE 14D-9**

**(RULE 14d-101)**

**(Amendment No. 3)**

**SOLICITATION/RECOMMENDATION STATEMENT**

**UNDER SECTION 14(D)(4) OF THE SECURITIES EXCHANGE ACT OF 1934**

**SYNGENTA AG**

(Name of Subject Company)

**SYNGENTA AG**

(Name of Person(s) Filing Statement)

**Common shares, nominal value CHF 0.10 per share (“Common Shares”)  
American Depositary Shares (“ADSs”), each representing one-fifth of a Common  
Share of Syngenta AG, nominal value CHF 0.10 per share**

(Title of Class of Securities)

**CH0011037469 (Common Shares)**

**87160A100 (ADSs)**

(CUSIP Number of Class of Securities)

**Christoph Mäder**

**Group General Counsel**

**Syngenta International AG**

**P.O. Box**

**CH-4002 Basel, Switzerland**

**+41 61 323 1111**

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of the Person(s) Filing Statement)

**With copies to:**

**Louis L. Goldberg**

**H. Oliver Smith**

**Davis Polk & Wardwell LLP**

**450 Lexington Avenue**

**New York, NY 10017**

**(212) 450-4000**

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

This Amendment No. 3 to Schedule 14D-9 (this “**Amendment**”) amends and supplements the Solicitation/Recommendation Statement on Schedule 14D-9 originally filed with the United States Securities and Exchange Commission (the “**SEC**”) on March 23, 2016 (together with the Exhibits and Annexes thereto and as amended or supplemented hereby and from time to time, the “**Schedule 14D-9**”) by Syngenta AG, a Swiss corporation (*Aktiengesellschaft*) with registered office in Basel, Switzerland (the “**Company**”). The Schedule 14D-9 relates to a tender offer by CNAC Saturn (NL) B.V. (the “**Offeror**”), a private company with limited liability (B.V. or “*Besloten Vennootschap met beperkte aansprakelijkheid*”) organized under the laws of The Netherlands, that is an indirect wholly-owned subsidiary of China National Chemical Corporation, a state-owned enterprise organized under the laws of the People’s Republic of China (“**ChemChina**”), to purchase (i) up to 100% of the issued and outstanding publicly held registered shares (*Namenaktien*), with a nominal value of 0.10 Swiss francs per share, of the Company (collectively the “**Common Shares**” and each a “**Common Share**”) that are held by residents in the United States (“**U.S.**”), including holders who are “U.S. holders” (as that term is defined under instruction 2 to paragraphs (c) and (d) of Rule 14d-1 under the U.S. Securities Exchange Act of 1934, as amended), and (ii) up to 100% of the outstanding American Depositary Shares of the Company, issued by The Bank of New York Mellon acting as depositary, each representing one-fifth of a Common Share, of the Company (collectively the “**ADSs**” and each an “**ADS**”) from all holders, wherever located, for \$465.00 per Common Share, and \$93.00 per ADS, in each case, in cash, without interest, payable in U.S. dollars, and less the amount of any fees, expenses and withholding taxes that may be applicable (including, in the case of ADSs, a fee of \$0.05 per ADS for the cancellation of tendered ADSs), upon the terms and subject to the conditions set forth in the U.S. Offer to Purchase, dated March 23, 2016, and in the related Common Share Acceptance Letter or the ADS Letter of Transmittal, as applicable, contained in the Tender Offer Statement on Schedule TO, dated March 23, 2016 filed by ChemChina and the Offeror with the SEC on March 23, 2016, as amended or supplemented from time to time.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the meanings ascribed to them in the Schedule 14D-9.

### ITEM 3. PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS.

Section (b) “*Arrangements with Current Executive Officers and Directors of the Company*” of Item 3 of the Schedule 14D-9 is hereby amended and supplemented by amending and restating the sections entitled “*Employment Agreements.*”, “*Notice Periods.*” and “*Change of Control Provisions.*” immediately following the first paragraph under the heading “*Company Executive Officer Agreements with the Company.*”:

“Employment Agreements.

On April 24, 2015, the Company entered into new employment agreements with each Company Executive Officer (each an “**Employment Agreement**”) as a result of changes in Swiss law. Each Employment Agreement is for an indefinite term and can only be terminated in the manner described below in the section entitled “*Notice Periods*”. Each

Employment Agreement includes (i) a description of the applicable Company Executive Officer's duties; (ii) the annual base compensation of the applicable Company Executive Officer; (iii) the applicable Company Executive Officer's participation in the incentive plans; (iv) a fixed allowance payable to the applicable Company Executive Officer; (v) certain fringe, pension and welfare benefits payable to the applicable Company Executive Officer; and (vi) restrictive covenants, including one-year non-competition and non-solicitation covenants, an indefinite confidentiality covenant and an obligation to assign intellectual property rights.

On November 18, 2015, the Company entered into a supplemental agreement with Mr. Ramsay (the "**Supplemental Agreement**") following Mr. Ramsay's appointment as Interim Chief Executive Officer and leader of the Company's Executive Committee. The Supplemental Agreement provides that his recall or resignation as Interim Chief Executive Officer shall be deemed notice of termination with a one-month notice period to the end of the following month, after which his Employment Agreement continues to apply. As a result, Mr. Ramsay is entitled to an approximately one-month notice period under the Supplemental Agreement, after which his Employment Agreement, which provides for an approximately 12-month notice period, continues to apply.

Effective as of June 1, 2016, the Company and J. Erik Fyrwald entered into an employment agreement (the "**CEO Employment Agreement**") pursuant to which Mr. Fyrwald will serve as the Company's Chief Executive Officer. The CEO Employment Agreement is for an indefinite term and can only be terminated in the manner described in the section below entitled "*Notice Periods*". The CEO Employment Agreement includes a description of the applicable duties and sets forth the terms of Mr. Fyrwald's employment with the Company, including terms relating to (i) annual base compensation; (ii) participation in the variable incentive compensation plans; (iii) additional compensation in respect to forfeited equity awards and 2016 bonus with Mr. Fyrwald's former employers, which, in the case of the additional compensation in respect of forfeited equity awards (which are unvested), will vest and become payable upon a termination of Mr. Fyrwald's employment without cause, due to Mr. Fyrwald's death or disability or other termination other than by reason of breach of the CEO Employment Agreement; (iv) a fixed annual allowance to cover certain expenses; (v) certain fringe, pension and welfare benefits; and (vi) restrictive covenants, including one-year non-competition and non-solicitation covenants, an indefinite confidentiality covenant and an obligation to assign intellectual property rights.

*Notice Periods.* The CEO Employment Agreement and each of the Employment Agreements is for an indefinite duration and can only be terminated (i) by either party by giving 12 months' written notice to the other party to the end of one calendar month of intent to terminate or (ii) by retirement.

The CEO Employment Agreement and each of the Employment Agreements provides that, in the event of (i) Mr. Fyrwald's or the applicable Company Executive Officer's retirement, (ii) the termination of Mr. Fyrwald's or the applicable Company Executive Officer's employment other than by reason of breach of the CEO Agreement or the applicable Company Executive Officer's Employment Agreement or (iii) any other lawful termination of Mr. Fyrwald's or the applicable Company Executive Officer's employment by the Company, by Mr. Fyrwald or by the applicable Company Executive Officer, as applicable, the Company shall pay for the period up to the end of employment to Mr. Fyrwald the applicable Company Executive Officer or his or her legal representatives or designees, (A) a proportionate base salary and (B) a proportionate target short-term incentive award; provided, however, that as per the applicable short-term incentive plan, similar short-term incentives are granted to other Company Executive Officers for the relevant year and the same period of time.

*Change of Control Provisions.* The CEO Employment Agreement and each of the Employment Agreements provides that in the event of a change in control of the Company, all options, RSUs, shares, share awards and matching shares granted under the LTIP and the DSP will vest and be granted, respectively, and any blocking periods will be waived, and that the provisions of the Company's Executive Long-Term Incentive Plan ("**Executive LTI Plan**") will control the result of a change in control on all awards issued under the Executive LTI Plan.

Apart from the vesting of equity and equity-based compensation as described in this section and in the Section entitled "*Employment Agreements*", the CEO Employment Agreement and each of the Employment Agreements do not provide specific benefits if the Company Executive Officer's employment is terminated during or after a change in control."

#### ITEM 6. INTEREST IN SECURITIES OF THE SUBJECT COMPANY

Item 6 of the Schedule 14D-9 is hereby amended and supplemented by adding the following table immediately following the table under the heading "*Other Transactions by Company Executive Officers and Non-Executive Directors*":

Name of Person	Transaction Date	Number of ADSs	Price Per ADS (\$)	Nature of Transaction
	May 4, 2016	6,200	\$80.66	

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J. Erik Fyrwald, Trustee of the J. Erik Fyrwald Revocable Trust under agreement dated December 8, 2015				Purchase of ADSs.
J. Erik Fyrwald, Trustee of the J. Erik Fyrwald Revocable Trust under agreement dated December 8, 2015	May 4, 2016	6,190	\$80.8958	Purchase of ADSs.
J. Erik Fyrwald, Trustee of the Mary Lou Fyrwald Irrevocable Trust for Descendants under agreement dated December 21, 2012	May 4, 2016	6,190	\$80.8958	Purchase of ADSs.
J. Erik Fyrwald, Trustee of the Mary Lou Fyrwald Irrevocable Trust for Descendants under agreement dated December 21, 2012	May 10, 2016	6,235	\$80.53	Purchase of ADSs.

ITEM 9. EXHIBITS.

The following is hereby added to the list of exhibits, following Exhibit No. (e)(17) "Regulations Governing the Internal Organization of Syngenta AG, effective as of January 1, 2016.":

Exhibit No.	Description
(e)(18)	Contract of Employment between Syngenta International AG and Erik Fyrwald effective as of June 1, 2016.*

\*

Filed herewith.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Amendment is true, complete and correct.

SYNGENTA AG

By: /s/ Erik Fyrwald

Name: Erik Fyrwald

Title: Chief Executive Officer

Dated: June 1, 2016