

ASTA FUNDING INC
Form SC TO-I/A
May 03, 2016

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

Amendment No. 1 to
SCHEDULE TO
TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) or 13(e)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934

Asta Funding, Inc.

(Name of Subject Company (Issuer) and Filing Person (Offeror))

Common Stock, par value \$0.01 per share

(Title of Class of Securities)

046220109

(CUSIP Number of Class of Securities)

Gary Stern

Asta Funding, Inc.

210 Sylvan Avenue

Englewood Cliffs, NJ 07632

(201) 567-5648

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

Copy to:

Robert A. Schwartz, Esq.

Windels Marx Lane & Mittendorf, LLP

120 Albany Street Plaza, FL 6

New Brunswick, NJ 08901

(732) 846-7600

CALCULATION OF FILING FEE

Transaction Valuation⁽¹⁾

\$30,750,000

Amount of Filing Fee⁽²⁾

\$3,096.53

- (1) Calculated solely for purposes of determining the amount of the filing fee. This amount is based upon the offer to purchase for not more than \$30,750,000 an aggregate of up to 3,000,000 shares of common stock of Asta Funding, Inc. at the maximum tender offer price of \$10.25 per share in cash.
- (2) The amount of the filing fee, calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, equals \$100.70 per million dollars of the value of the transaction.

.. 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.

Amount Previously Paid: N/A

Filing Party: N/A

Form or Registration No.: N/A

Date Filed: N/A

.. Check the box if 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.
- x 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: ”

Introduction

This Amendment No. 1 (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO (the Schedule TO) originally filed with the U.S. Securities and Exchange Commission by Asta Funding, Inc., a Delaware corporation (Asta or the Company), on April 11, 2016, in connection with the offer by Asta to purchase for cash up to 3,000,000 shares of its common stock, \$0.01 par value per share (the Shares), pursuant to (i) auction tenders at prices specified by the tendering shareholders of not greater than \$10.25 per Share nor less than \$9.50 per Share or (ii) purchase price tenders pursuant to which shareholders indicate they are willing to sell their Shares to the Company at the purchase price determined in the offer, in either case, net to the seller in cash, less any applicable withholding taxes and without interest, upon the terms and subject to the conditions described in the Offer to Purchase, dated April 11, 2016 (the Offer to Purchase), a copy of which was filed with the Schedule TO as Exhibit (a)(1)(A), and in the related Letter of Transmittal (the Letter of Transmittal, which together with the Offer to Purchase, as they may be amended or supplemented from time to time, constitute the Tender Offer), a copy of which was filed with the Schedule TO as Exhibit (a)(1)(B).

The purpose of this amendment is to update certain information originally contained in the Offer to Purchase to, among other things, reflect the termination on April 26, 2016 of the offer to purchase filed by MPF InvestCo 4, LLC with the SEC on April 15, 2016.

The information contained in the Offer to Purchase, as amended hereby and the Letter of Transmittal is hereby incorporated by reference into this Amendment, except that such information is hereby amended and supplemented to the extent specifically provided herein.

Item 1. Summary Term Sheet.

The information under the heading Summary Term Sheet, included in the Offer to Purchase, is incorporated herein by reference.

Item 2. Subject Company Information.

(a) The name of the issuer is Asta Funding, Inc. The address and telephone number of the issuer's principal executive offices are: 210 Sylvan Avenue, Englewood Cliffs, NJ 07632, (201) 567-5648.

(b) The subject security is Asta's common stock, par value \$0.01 per Share. As of March 30, 2016, there were 12,011,476 Shares issued and outstanding.

(c) Information about the trading market and price of the Shares is incorporated herein by reference from the Offer to Purchase under the heading Section 8 Price Range of Shares.

Item 3. Identity and Background of Filing Person.

(a) The filing person to which this Schedule TO relates is Asta Funding, Inc., the issuer of the Shares. The address and telephone number of Asta is set forth under Item 2(a) above. The interests of the directors and executive officers of Asta is as set forth in the Offer to Purchase under the heading Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares, and such information is incorporated herein by reference. The business address and business telephone number of each director and executive officer of Asta are c/o Asta Funding, Inc., 210 Sylvan Avenue, Englewood Cliffs, NJ 07632, (201) 567-5648.

Item 4. Terms of the Transaction.

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(a) The material terms of the transaction are incorporated herein by reference from the Offer to Purchase under the headings Summary Term Sheet, Section 1 Number of Shares; Purchase Price; Proration, Section 2 Purpose of the Offer; Certain Effects of the Offer, Section 3 Procedures for Tendering Shares, Section 4 Withdrawal Rights, Section 5 Purchase of Shares and Payment of Purchase Price, Section 6 Conditional Tender of Shares, Section 7 Conditions of the Offer, Section 9 Source and Amount of Funds, Section 10 Certain Information Concerning the Company, Section 11 Interests of Directors and Executive Officers;

Transactions and Arrangements Concerning the Shares, Section 14 U.S. Federal Income Tax Considerations and Section 15 Extension of the Offer; Termination; Amendment. There will be no material differences in the rights of security holders as a result of this transaction.

(b) The details regarding any purchases from an officer, director or affiliate of Asta are incorporated herein by reference from the Offer to Purchase under the heading Section 2 Purpose of the Offer; Certain Effects of the Offer , and Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares.

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

(e) Information regarding agreements involving Asta's securities is incorporated herein by reference from the Offer to Purchase under the heading Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares.

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

(a) Information regarding the purpose of the transaction is incorporated herein by reference from the Offer to Purchase under the headings Summary Term Sheet and Section 2 Purpose of the Offer; Certain Effects of the Offer.

(b) Information regarding the treatment of Shares acquired pursuant to the Offer is incorporated herein by reference from the Offer to Purchase under the heading Section 2 Purpose of the Offer; Certain Effects of the Offer.

(c) Information about any plans or proposals is incorporated herein by reference from the Offer to Purchase under the headings Section 2 Purpose of the Offer; Certain Effects of the Offer, and Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares.

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

(a) Information regarding the source of funds is incorporated herein by reference from the Offer to Purchase under the heading Section 9 Source and Amount of Funds.

(b) Financing will not be required in connection with the Offer.

(d) None of the consideration for the Offer will be borrowed. Asta will use cash and cash equivalents and securities available-for-sale to fund the Offer.

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

(a) The information under the heading Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares in the Offer to Purchase is incorporated herein by reference.

(b) The information under the heading Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares in the Offer to Purchase is incorporated herein by reference.

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

(a) The information under the headings Summary Term Sheet and Section 16 Fees and Expenses in the Offer to Purchase is incorporated herein by reference.

Item 10. *Financial Statements.*

(a)-(b) Not applicable. The consideration offered consists solely of cash. The Offer is not subject to any financing condition and Asta is a public reporting company under Section 13(a) of the Exchange Act that files reports electronically on EDGAR.

Item 11. Additional Information.

The Company will amend the Schedule TO to include documents that the Company may file with the Securities and Exchange Commission (the SEC) after the date of the Offer to Purchase pursuant to Sections 13(a), 13(c) or 14 of the Exchange Act and prior to the expiration of the Offer to the extent required by Rule 13e-4(d)(2) of the Exchange Act.

(a)(1) The information under the heading Section 11 Interests of Directors and Executive Officers; Transactions and Arrangements Concerning the Shares in the Offer to Purchase is incorporated herein by reference. The Company will amend this Schedule TO to reflect material changes to information incorporated by reference in the Offer to Purchase to the extent required by Rule 13e-4(d)(2).

(a)(2) The information under the heading Section 13 Certain Legal Matters; Regulatory Approvals in the Offer to Purchase is incorporated herein by reference.

(a)(3) The information under the heading Section 13 Certain Legal Matters; Regulatory Approvals in the Offer to Purchase is incorporated herein by reference.

(a)(4) The information under the heading Section 2 Purpose of the Offer; Certain Effects of the Offer in the Offer to Purchase is incorporated herein by reference.

(a)(5) None. The information under the heading Section 13 Certain Legal Matters; Regulatory Approvals in the Offer to Purchase is incorporated herein by reference.

(c) The information set forth in the Offer to Purchase and the related Letter of Transmittal, as each may be amended or supplemented from time to time, is incorporated herein by reference.

Item 12. Exhibits.

Exhibit No.	Description
(a)(1)(A)	Offer to Purchase, dated April 11, 2016 as amended on April 26, 2016
(a)(1)(B)	Letter of Transmittal. *
(a)(1)(C)	Notice of Guaranteed Delivery.*
(a)(1)(D)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees, dated April 11, 2016.*
(a)(1)(E)	Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees, dated April 11, 2016.*
(a)(2)	None.
(a)(3)	Not applicable.
(a)(4)	Not applicable.
(a)(5)(A)	Press release dated April 11, 2016, announcing the commencement of the Offer.*
(a)(5)(B)	Press release dated May 3, 2016, announcing the amendment of the Offer.
(b)	None.

- (d) None
- (g) None.
- (h) None.

* Incorporated by reference to the applicable exhibit as filed with the Securities and Exchange Commission on April 11, 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.

ASTA FUNDING, INC.

By: /s/ Gary Stern

Name: Gary Stern

Title: Chairman, President & CEO

Date: May 3, 2016

EXHIBIT INDEX

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(a)(2)	None.
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(a)(5)(A)	Press release dated April 11, 2016, announcing the commencement of the Offer.*
(a)(5)(B)	Press release dated May 3, 2016, announcing the amendment of the Offer.
(b)	None.
(d)	None
(g)	None.
(h)	None.

* Incorporated by reference to the applicable exhibit as filed with the Securities and Exchange Commission on April 11, 2016