DUSA PHARMACEUTICALS INC
Form SC TO-T/A
December 20, 2012

QuickLinks -- Click here to rapidly navigate through this document

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

SCHEDULE TO

TENDER OFFER STATEMENT
UNDER SECTION 14(d)(1) OR SECTION 13(e)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No. 6)

DUSA PHARMACEUTICALS, INC.

(Name of Subject Company)

CARACO ACQUISITION CORPORATION

(Name of Filing Person (Offeror))
a wholly-owned subsidiary of

CARACO PHARMACEUTICAL LABORATORIES, LTD.

(Name of Filing Person (Parent of Offeror))

SUN PHARMA GLOBAL, INC.

(Name of Filing Person (Other Person))

SUN PHARMACEUTICAL INDUSTRIES LIMITED

(Name of Filing Person (Other Person))

DILIP S. SHANGHVI

(Name of Filing Person (Other Person))

COMMON STOCK, NO PAR VALUE PER SHARE
(Title of Class of Securities)
266898105
(CUSIP Number of Class of Securities)
Mukul Rathi

Caraco Acquisition Corporation
1150 Elijah McCoy Drive
Detroit, MI 48202
Telephone: (313) 871-8400

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

with copies to:
Fred B. Green, Esq.
Bodman PLC
1901 St. Antoine Street
6th Floor at Ford Field
Detroit, MI 48226
Tel: (313) 259-7777 Fax: (313) 393-7579

CALCULATION OF FILING FEE

Transaction Valuation(1)	Amount of Fling Fee(2)
$227,454,630	$31,024.81

(1) Estimated for purposes of calculating the filing fee only. The transaction valuation was calculated by adding the sum of (i) 25,027,683 shares of common stock, no par value, of DUSA Pharmaceuticals, Inc. outstanding multiplied by the offer price of $8.00 per share, (ii) 2,310,874 shares of common stock issuable pursuant to outstanding options multiplied by the offer price of $8.00 per share less $4.13, which is the weighted average exercise price of outstanding options, (iii) 1,549,000 outstanding restricted shares multiplied by the offer price of $8.00 per share, and (iv) 1,145,259 shares of common stock issuable pursuant to outstanding warrants multiplied by the offer price of $8.00 per share less $2.85, which is the exercise price of outstanding warrants. The calculation of the filing fee is based on information provided by DUSA Pharmaceuticals, Inc. as of November 8, 2012.

(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 0.00013640.

ý 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: $31,024.81	Filing Party: Caraco Acquisition Corporation
Form or Registration No.: SC TO-T	Date Filed: November 21, 2012

o 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:

- ý third-party tender offer subject to Rule 14d-1.
- o issuer tender offer subject to Rule 13e-4.
- o going-private transaction subject to Rule 13e-3.
- o 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: ý

This Amendment No. 6 (this "Amendment") amends and supplements the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on November 21, 2012 (which, together with this Amendment, Amendment No. 1 filed on November 29, 2012, Amendment No. 2 filed on December 3, 2012, Amendment No. 3 filed on December 5, 2012, Amendment No. 4 filed on December 13, 2012, Amendment No. 5 filed on December 14, 2012 and any subsequent amendments and supplements thereto, collectively constitute this "Schedule TO"). This Schedule TO relates to the tender offer by Caraco Acquisition Corporation, a New Jersey corporation (the "Purchaser") and a wholly owned subsidiary of Caraco Pharmaceutical Laboratories, Ltd., a Michigan corporation ("CPL") and subsidiary of Sun Pharmaceutical Industries Limited, an Indian corporation ("Sun Pharma"), for all of the outstanding shares of common stock, no par value per share ("Shares"), of DUSA Pharmaceuticals Inc., a New Jersey corporation ("DUSA"), at a price of $8.00 per share net to the seller thereof in cash, without interest thereon and less any applicable withholding taxes, upon the terms and conditions set forth in the offer to purchase dated November 21, 2012 (as it may be amended or supplemented from time to time, the "Offer to Purchase"), a copy of which is attached as Exhibit (a)(1)(A), and the related letter of transmittal (as it may be amended or supplemented from time to time, the "Letter of Transmittal"), a copy of which is attached as Exhibit (a)(1)(B), which collectively constitute the "Offer." CPL is owned by Sun Pharma Global, Inc., a corporation organized under the laws of the British Virgin Islands ("Sun Global"), and Sun Pharma. Sun Global is wholly owned by Sun Pharma. Dilip S. Shanghvi is the controlling shareholder of Sun Pharma.

All the information set forth in the Offer to Purchase is incorporated by reference herein in response to Items 1 through 12 of this Schedule TO, except those items as to which information is specifically provided herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Offer to Purchase.

This Amendment is being filed to amend and supplement Items 1, 4, 5, 6, 11 and 12 as reflected below.

Items 1, 4 and 11.

Items 1, 4, and 11 of this Schedule TO are hereby amended and supplemented by adding the following text thereto:

"The Offer and withdrawal rights expired at 12:00 Midnight, New York City time, on December 19, 2012. The Depositary has advised that, as of the Offer's expiration, an aggregate of approximately 20,946,624 Shares (excluding approximately 1,035,094 Shares subject to guarantees of delivery) were validly tendered and not withdrawn, representing approximately 82.4% of the outstanding Shares. Therefore, the minimum tender condition has been satisfied. All Shares that were validly tendered and not validly withdrawn have been accepted for purchase by the Purchaser. The Purchaser will promptly pay for such Shares in accordance with the terms of the Offer.

The Purchaser also intends to exercise its Top-Up Option, pursuant to which DUSA will issue Shares to the Purchaser, at a price per share equal to the Offer Price, in an amount sufficient to ensure that the Purchaser and the Parent can effect a "short-form" merger under applicable New Jersey law.

As a result of the purchase of Shares in the Offer and the issuance of Shares pursuant to the Top-Up Option, CPL and the Purchaser will have sufficient voting power to approve the Merger without the affirmative vote of any other shareholder of DUSA. Accordingly, CPL and the Purchaser intend to promptly effect a "short-form" merger in which the Purchaser will be merged with and into DUSA, with DUSA surviving the Merger and continuing as a wholly owned direct subsidiary of CPL. In the Merger, each Share issued and outstanding immediately prior to the Effective Time (except for Shares held by (i) DUSA as treasury stock or (ii) Sun Pharma, CPL or their direct or indirect subsidiaries) will be converted into the right to receive the Offer Price per share net to the seller

thereof in cash, without interest thereon and less any applicable withholding taxes. All Shares converted into the right to receive the Offer Price will be cancelled and cease to exist.

On December 20, 2012, CPL issued a press release announcing the expiration and results of the Offer. The full text of the press release is attached hereto as Exhibit (a)(1)(I) and is incorporated herein by reference."

Items 5-6.

The Offer to Purchase and Items 5-6 of the Schedule TO, to the extent such items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as follows:

"In connection with the consummation of the Merger, on December 20, 2012, each of the following members of the DUSA Board resigned from the DUSA Board: Messrs. Alfred Altomari, David M. Bartash, Alexander W. Casdin, Robert F. Doman, Jay M. Haft, Paul J. Hondros, Magnus Moliteus and David M. Wurzer.

Pursuant to the terms of the Merger Agreement, on December 20, 2012, each of the directors of Purchaser immediately prior to the Effective Time, which were Messrs. Kal Sundaram and G.P. Singh, became the directors of DUSA following the Merger."

Item 12.

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

Exhibit No.	Description
(a)(1)(I)	Press Release issued by Caraco Pharmaceutical Laboratories, Ltd. on December 20, 2012.

SIGNATURES

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

Dated: December 20, 2012

CARACO ACQUISITION CORPORATION
By: /s/ MUKUL RATHI

Name: Mukul Rathi
Title: *President*

SUN PHARMACEUTICAL INDUSTRIES LIMITED
By: /s/ DILIP S. SHANGHVI

Name: Dilip S. Shanghvi
Title: *Managing Director*

SUN PHARMA GLOBAL, INC.
By: /s/ HARIN MEHTA

Name: Harin Mehta
Title: *Managing Director*

CARACO PHARMACEUTICAL LABORATORIES, LTD.
By: /s/ MUKUL RATHI

Name: Mukul Rathi
Title: *Interim Chief Financial Officer*

DILIP S. SHANGHVI
/s/ DILIP S. SHANGHVI

Dilip S. Shanghvi

EXHIBIT INDEX

Exhibit No.	Description
(a)(1)(A)	Offer to Purchase, dated November 21, 2012.*
(a)(1)(B)	Letter of Transmittal.*
(a)(1)(C)	Notice of Guaranteed Delivery.*
(a)(1)(D)	Letter from the Information Agent 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)(1)(F)	Press Release issued by Sun Pharmaceutical Industries Limited and DUSA Pharmaceuticals, Inc. on November 8, 2012 (incorporated by reference to Exhibit 99.1 to the Form 8-K filed by DUSA Pharmaceuticals, Inc. with the Securities and Exchange Commission on November 8, 2012).*
(a)(1)(G)	Summary Advertisement as published in the New York Times on November 21, 2012.*
(a)(1)(H)	Joint Press Release issued by Caraco Pharmaceutical Laboratories, Ltd. and DUSA Pharmaceuticals, Inc. on December 5, 2012.*
(a)(1)(I)	Press Release issued by Caraco Pharmaceutical Laboratories, Ltd. on December 20, 2012.**
(a)(5)	Class Action Complaint filed in the Superior Court of New Jersey, Law Division, Mercer County on November 14, 2012 captioned Bello V. Doman, et al., Docket No. MER-L-2688-12 (incorporated by reference to Exhibit (a)(10) to Schedule 14D-9 filed by DUSA Pharmaceuticals, Inc. with the Securities and Exchange Commission on November 21, 2012).*
(a)(6)	Amended Class Action Complaint in the Superior Court of New Jersey, Law Division, Mercer County captioned Bello v. Doman, et al., Docket No. MER-L-2688-12.*
(a)(7)	Amended Class Action Complaint filed in the Superior Court of New Jersey, Chancery Division, Mercer County captioned Stein v. DUSA Pharmaceuticals, Inc., et. al., Docket No. C-97-12.*
(a)(8)	Class Action Complaint filed in the Superior Court of New Jersey, Chancery Division, Mercer County captioned Dhama v. DUSA Pharmaceuticals, Inc., et. al., Docket No. C-98-12.*
(a)(9)	Class Action Complaint filed in the Superior Court of New Jersey, Chancery Division, Mercer County captioned Hagen v. DUSA Pharmaceuticals, Inc., et. al., Docket No. C-96-12.*
(a)(10)	Class Action Complaint filed in the Superior Court of New Jersey, Chancery Division, Mercer County captioned Bourne v. DUSA Pharmaceuticals, Inc., et. al.*
(a)(11)	Class Action Complaint filed in the Superior Court of Massachusetts, Suffolk County on December 3, 2012 captioned Jakubovic v. Altomari, et. al., Docket No. 12-4374.*
(a)(12)	Letter from Gardy & Notis, LLP informing the court of the settlement (incorporated by reference to Exhibit (a)(19) to the Schedule 14D-9/A filed by DUSA Pharmaceuticals, Inc. with the Securities Exchange Commission on December 14, 2012).*

Exhibit No.	Description
(d)(1)	Agreement and Plan of Merger, dated as of November 8, 2012, by and among Sun Pharmaceutical Industries Limited, Caraco Acquisition Company and DUSA Pharmaceuticals, Inc. (incorporated by reference to Exhibit 2.1 to the Form 8-K filed by DUSA Pharmaceuticals, Inc. with the Securities and Exchange Commission on November 8, 2012).*
(d)(2)	Confidentiality Agreement dated May 11, 2012 by and between DUSA Pharmaceuticals, Inc. and Sun Pharmaceutical Industries, Inc.*
(d)(3)	Form of Support Agreement (incorporated by reference to Exhibit 2.2 to the Schedule 13D filed by Sun Pharmaceutical Industries Limited, Sun Pharma Global, Inc., Caraco Pharmaceutical Laboratories, Ltd., Caraco Acquisition Corporation and Dilip S. Shanghvi with the Securities and Exchange Commission on November 21, 2012).*

*
Previously filed.

**
Filed herewith.

QuickLinks

CALCULATION OF FILING FEE

Items 1, 4 and 11.
Items 5-6.
Item 12.
SIGNATURES
EXHIBIT INDEX