

SYNERGX SYSTEMS INC
Form PRER14A
May 28, 2010

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 14A

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES

EXCHANGE ACT OF 1934

(Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
 Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
 Definitive Proxy Statement
 Definitive Additional Materials
 Soliciting Material Pursuant to §240.14a-12

SYNERGX SYSTEMS INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
 Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

Common stock, par value \$0.001 per share, of Synergx Systems Inc. (the "Common Stock").

2) Aggregate number of securities to which transaction applies:

5,210,950 shares of Common Stock issued and outstanding as of March 31, 2010; and

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

The proposed maximum aggregate value of the transaction is determined based upon the product of 5,210,950 shares of Common Stock and the Merger Consideration of \$0.70 per share equal to \$3,647,665. In accordance with Section 14(g) of the Securities Exchange Act of 1934, as amended, the filing fee was determined by multiplying \$0.0000713

by the proposed maximum aggregate value of the transaction.

4) The proposed maximum aggregate value of transaction: \$3,647,665

5) Total fee paid: \$260.08

o Fee paid previously with preliminary materials.

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

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

PRELIMINARY COPIES-SUBJECT TO COMPLETION, DATED MAY [*], 2010

SYNERGX SYSTEMS INC.
209 Lafayette Drive
Syosset, NY 11791

[•], 2010

Dear Stockholder:

You are cordially invited to attend a special meeting of stockholders of Synergx Systems Inc. (“Synergx”) to be held on [•], 2010, at 10:00 a.m., New York time. The special meeting will take place at [•]. Notice of the special meeting and the related proxy statement is enclosed. We urge you to read the accompanying proxy statement carefully as it sets forth details of the proposed merger and other important information related to the merger.

Synergx entered into a Merger Agreement (as amended, the “Merger Agreement”), dated January 22, 2010, among Synergx, Firecom, Inc. (“Firecom”), and FCI Merger Corp., a newly-formed wholly-owned subsidiary of Firecom (the “Merger Sub”), as amended on March 19, 2009 by Amendment No. 1 to the Merger Agreement (the “Amendment”). The Merger Agreement, as amended, provides for Firecom to acquire Synergx through a merger of Merger Sub with and into Synergx (the “Merger”), with Synergx to be the surviving corporation and a wholly-owned subsidiary of Firecom. Pursuant to the Merger Agreement at the effective time of the Merger, each issued and outstanding share of common stock of Synergx (other than any shares owned by Firecom or Merger Sub, by Synergx as treasury stock, or by any stockholders who are entitled to, and who properly exercise, appraisal rights under Delaware law) will be cancelled and will be converted automatically into the right to receive \$0.70 in cash, without interest and less any applicable withholding taxes. The receipt of cash in exchange for shares of Synergx common stock in the Merger will constitute a taxable transaction for U.S. federal income tax purposes. A copy of the Merger Agreement and Amendment is included as Annex A to the attached Proxy Statement. At the special meeting, you will be asked to consider and vote upon a proposal to adopt the Merger Agreement.

A special committee of Synergx’s board of directors, consisting of the Company’s two non-employee independent disinterested directors, has unanimously determined that the Merger Agreement is substantively and procedurally fair to, and in the best interests of, the unaffiliated stockholders of Synergx, and recommended to the board of directors of Synergx that it approve and adopt the Merger Agreement and the transactions contemplated thereby. Synergx’s disinterested members of its board of directors, after considering various factors including the recommendation of the special committee, and the fairness opinion of an investment banking firm, determined that the Merger Agreement is advisable and substantively and procedurally fair to and in the best interests of the unaffiliated stockholders of Synergx and the disinterested directors unanimously adopted and approved the Merger Agreement and the transactions contemplated thereby, directed that the Merger Agreement be submitted to Synergx’s stockholders for their adoption and resolved to recommend that Synergx’s stockholders adopt the Merger Agreement. Synergx’s disinterested directors unanimously recommend that you vote “FOR” the proposal to adopt the Merger Agreement.

The completion of the Merger is subject to various conditions set forth in the Merger Agreement, including adoption of the Merger Agreement and the Merger by vote of holders of a majority of the outstanding shares of common stock at a special meeting. The Synergx stockholders will have statutory appraisal rights in accordance with the Delaware General Corporation Law. One closing condition, among others, is that holders of not more than an aggregate of 10% of Synergx’s outstanding shares of common stock have sought such appraisal rights. The transaction is not subject to a financing condition. As of the Effective Date, the directors of Synergx will resign and be replaced by designees of Firecom.

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Whether or not you plan to attend the special meeting, please complete, date, sign and return, as promptly as possible, the enclosed proxy by mail in the accompanying reply envelope, or submit your proxy by telephone or the Internet. Stockholders who attend the meeting may revoke their proxies and vote in person. Your vote is very important regardless of the number of shares of common stock that you own. If you fail to vote by proxy or in person, or fail to instruct your broker on how to vote, it will have the same effect as a vote against the proposal to adopt the Merger Agreement.

Thank you for your cooperation and continued support.

Very truly yours,

[•]

John A. Poserina, Chief Financial Officer

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the Merger, passed upon the merits or fairness of the Merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

The attached proxy statement is dated [•], 2010 and is first being mailed to stockholders on or about [•], 2010.

SYNERGX SYSTEMS INC.

209 Lafayette Drive

Syosset, NY 11791

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To Be Held On [•], 2010

To the Stockholders of Synergx Systems Inc.:

A special meeting of the stockholders of Synergx Systems Inc., a Delaware corporation (“Synergx,” “we” or “us”), will be held on [•], 2010, at [•], at 10:00 a.m., New York time, for the following purposes:

1. To consider and vote on a proposal to adopt the Agreement and Plan of Merger, dated as of January 22, 2010 (“Original Merger Agreement”), by and among Synergx, Firecom, Inc., a New York corporation (“Firecom”), and FCI Merger Corp., a Delaware corporation and a wholly-owned subsidiary of Firecom (“Merger Sub”), as amended by Amendment No. 1 to the Merger Agreement, dated March 19, 2010 (the “Amendment” and together with the Original Merger Agreement, the “Merger Agreement”), and as it may be amended from time to time, pursuant to which Merger Sub will merge with and into Synergx, with Synergx surviving as a wholly-owned subsidiary of Firecom (the “Merger”).
2. To consider and vote on any proposal to adjourn or postpone the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in favor of the proposal to adopt the Merger Agreement.
3. To consider and vote on such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

A copy of the Original Merger Agreement and the Amendment are attached as Annex A to the accompanying proxy statement. Pursuant to the terms of the Merger Agreement, as amended, Merger Sub will merge with and into Synergx, which we refer to as the “Merger,” and each share of Synergx common stock, par value \$0.001 per share, or the “Common Stock,” issued and outstanding immediately prior to the effective time of the Merger, other than shares held by Synergx in treasury, shares held by Firecom or Merger Sub and shares of stockholders who have properly exercised appraisal rights under Delaware law, will be converted into the right to receive \$0.70 in cash, without interest and less any applicable withholding taxes.

Only holders of Common Stock of record as of the close of business on [•], 2010 are entitled to notice of and to vote at the special meeting and or any adjournment or postponement thereof. As of the record date, there were 5,210,950 shares of Synergx Common Stock outstanding. Each share of Common Stock is entitled to one vote on each matter properly brought before the special meeting. Firecom owns 2,068,012 shares of Synergx Common Stock equal to approximately 40% of Synergx’s outstanding Common Stock.

Under Delaware law, our stockholders are entitled to seek appraisal of the fair value of their shares in connection with the Merger. The requirements and procedures for, and rules applicable to, the exercise of appraisal rights are described in the section entitled “Appraisal Rights” beginning on page 47 of the accompanying proxy statement.

Your vote is important. The adoption of the Merger Agreement requires the affirmative vote of the holders of a majority of the outstanding shares of our Common Stock entitled to vote at the special meeting. Therefore, your failure to vote in person at the special meeting or to submit a signed proxy card or to submit your proxy by phone will

have the same effect as a vote by you “AGAINST” the adoption of the Merger Agreement. Any adjournments or postponements of the special meeting, if necessary or appropriate, to solicit additional proxies must be adopted by the affirmative vote of holders of a majority of the shares of our Common Stock present in person or by proxy and voting at the special meeting. Properly executed proxy cards with no instructions indicated on the proxy card will be voted “FOR” the adoption of the Merger Agreement and “FOR” the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies. Even if you plan to attend the special meeting in person, we recommend that you complete, sign, date and return the enclosed proxy or submit your proxy by telephone prior to the special meeting to ensure that your shares will be represented at the special meeting if you become unable to attend. If you attend the special meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. If you hold your shares through a bank, broker or other custodian, you should follow the instructions for voting provided by your bank, broker or other custodian and, if you intend to vote your shares in person at the special meeting, you must first obtain a legal proxy from such custodian. Your prompt attention is greatly appreciated.

We urge you to read the accompanying proxy statement carefully as it sets forth details of the proposed Merger and other important information related to the Merger.

By Order of the Board of Directors

[·]
John A. Poserina, Chief Financial Officer
Syosset, New York

[·], 2010

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Annex A-2 Amendment No.1 to Agreement and Plan of Merger, dated March 19, 2010.

Annex B Opinion of Ladenburg Thalmann & Co. Inc., dated January 22, 2010.

Annex C Section 262 of the Delaware General Corporation Law.

SUMMARY

The following summary highlights only selected information from this proxy statement and may not contain all of the information that may be important to you. Accordingly, we encourage you to read this proxy statement carefully in its entirety, including the annexes and the other documents referred to or incorporated by reference in this proxy statement. Each item in this summary includes a page reference directing you to a more complete description of that topic. See “Where You Can Find More Information” on page 51 of this proxy statement.

Purpose of the Stockholders Vote

You are being asked to consider and vote upon a proposal to adopt the Agreement and Plan of Merger (the “Original Merger Agreement”, and, as amended, the “Merger Agreement”), dated as of January 22, 2010, by and among Synergx Systems Inc. (“Synergx”, the “Company” or “we,” “us,” “our” and similar terms), Firecom, Inc. (“Firecom”) and FCI Merger Corp. (“Merger Sub”) and the Merger contemplated thereby, as amended by Amendment No. 1 to the Merger Agreement, dated March 19, 2010. All references to the Merger Agreement will be to the terms of the Merger Agreement as amended by the Amendment. See “The Special Meeting” beginning on page 36 and “The Merger Agreement” beginning on page 39 of this proxy statement.

The Parties to the Merger (See page 35)

Synergx Systems Inc.

Synergx Systems Inc. is a Delaware corporation organized in October 1988 to acquire controlling interests in companies engaged in the design, manufacture, distribution, sale and servicing of fire, life safety, security, energy management, intercom, audio-video communication and other systems. Reference to Synergx or the Company include operations of each of its subsidiaries except where the context otherwise requires. Synergx's business is conducted through subsidiaries in the New York City metropolitan area. Synergx conducts its business in New York principally through Casey Systems Inc., its wholly owned subsidiary located in New York City and Long Island, New York.

Firecom, Inc. and FCI Merger Corp.

Firecom, Inc. is a New York corporation which, through its subsidiaries, designs, manufactures, distributes and maintains safety and security systems for high rise office buildings, hotels, apartment buildings and other large commercial buildings. FCI Merger Corp. is a newly-formed Delaware corporation and a wholly-owned subsidiary of Firecom. Merger Sub was formed solely for the purpose of entering into the Merger Agreement and consummating the transactions contemplated thereby and has not carried on any business or activities to date, except activities incidental to its formation and activities undertaken in connection with the Merger Agreement and the transactions contemplated thereby. Firecom owns 2,068,012 shares of Synergx Common Stock equal to approximately 40% of Synergx's outstanding Common Stock. Firecom and FCI Merger Corp. are private companies.

The Merger Agreement and Merger Consideration (See page 39)

Pursuant to the Merger Agreement, at the effective time of the Merger, Merger Sub will be merged with and into Synergx with Synergx continuing as the surviving corporation and becoming a wholly-owned subsidiary of Firecom. We sometimes use the term “surviving corporation” in this proxy statement to refer to Synergx as the surviving corporation following the Merger. In the Merger, each share of Synergx Common Stock, par value \$0.001 per share (“Common Stock”), issued and outstanding immediately prior to the effective time of the Merger (other than shares held by us in treasury, shares held by Firecom or Merger Sub and shares of stockholders who have properly exercised appraisal rights under Section 262 of the Delaware General Corporation Law (which we refer to as the “DGCL”)), will

be cancelled and converted into the right to receive \$0.70 in cash, which we refer to as the “Merger Consideration,” without interest and less any applicable withholding taxes. As a result of the Merger, Synergx will become a private company, controlled by Firecom, and our Common Stock will no longer be publicly traded.

We are working toward completing the Merger as quickly as possible, but in no event more than three business days after all the conditions to completion of the Merger contained in the Merger Agreement (described in the section entitled “The Merger Agreement – Conditions to Completion of the Merger” beginning on page 44 of this proxy statement) are satisfied or waived. The completion of the Merger is subject to various conditions set forth in the Merger Agreement, including fulfillment of the customary closing conditions, adoption of the Merger Agreement and the Merger by vote of holders of a majority of the outstanding shares of Common Stock at a special meeting to be called after the Company files with and obtains clearance from the SEC staff of the requisite proxy material and completion of the Merger by June 30, 2010. However, we cannot predict the exact timing of the completion of the Merger or whether the Merger will be completed.

Important Considerations

Recommendation of the Special Committee of Synergx's Board of Directors (See page 15)

A special committee of our Board (the "Special Committee") was established on October 1, 2009 by a resolution of the Board, to consider, examine, explore, review, analyze and negotiate the terms and conditions of a "going private transaction". The Special Committee consists of the Company's two non-employee independent disinterested directors, Harris Epstein and Ronald Fetzer. The Special Committee has unanimously:

- approved the terms of the Merger Agreement, including the Merger and the other transactions contemplated by the Merger Agreement, and declared the same to be advisable and substantively and procedurally fair to, and in the best interests of, Synergx and its unaffiliated stockholders;
- resolved to recommend that holders of Synergx Common Stock adopt the Merger Agreement; and
- recommended that the Board approve and adopt the Merger Agreement, and the transactions contemplated thereby, and recommend that the holders of Synergx Common Stock adopt the Merger Agreement.

Opinion of Ladenburg Thalmann & Co. Inc. to the Special Committee (See page 21)

On January 22, 2010, Ladenburg Thalmann & Co. Inc. ("Ladenburg Thalmann") rendered an oral opinion to the Special Committee (which was confirmed in writing by delivery of its written opinion dated the same date), as to the fairness, from a financial point of view, of the original merger consideration of \$0.60 in cash per share to be received by the unaffiliated holders of our Common Stock (other than Firecom or Merger Sub) in the Merger, as of January 22, 2010 and based upon and subject to the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Ladenburg Thalmann in preparing its opinion.

Ladenburg Thalmann's opinion was directed to the Special Committee and only addressed the fairness, from a financial point of view, of the original Merger Consideration of \$0.60 in cash per share to be received by the unaffiliated holders of our Common Stock (other than Firecom or Merger Sub) in the Merger and does not address any other aspect or implication of the Merger. The summary of Ladenburg Thalmann's opinion in this proxy statement is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Ladenburg Thalmann in preparing its opinion. We encourage our stockholders to carefully read the full text of Ladenburg Thalmann's written opinion. However, neither Ladenburg Thalmann's opinion nor the summary of its opinion and the related analyses set forth in this proxy statement are intended to be, and do not constitute advice or a recommendation to the Special Committee, our Board of Directors or any stockholder as to how to act or vote with respect to the Merger or related matters. A more detailed description of the opinion of Ladenburg Thalmann is set forth in the section entitled "Special Factors: Background of the Merger – Opinion of Ladenburg Thalmann & Co. Inc. to the Special Committee" beginning on page 21 of this proxy statement.

Recommendation of Synergx's Board of Directors (See page 18)

The disinterested directors on our Board have unanimously, and a majority of our directors who are not employees of the Company have:

- approved the terms of the Merger Agreement, including the Merger and the other transactions contemplated by the Merger Agreement, and declared the same to be advisable and substantively and procedurally fair to, and in the best interests of, Synergx and its unaffiliated stockholders;

- adopted the Merger Agreement, including the Merger and the other transactions contemplated by the Merger Agreement;
- directed that the Merger Agreement be submitted to the holders of Synergx Common Stock for their adoption at a special meeting; and
- recommended that you vote “FOR” the proposal to adopt the Merger Agreement and “FOR” the proposal to approve any adjournments or postponements of the special meeting, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the special meeting to adopt the Merger Agreement.

We have five directors on our Board, including three directors, Harris Epstein, Ronald Fetzer and Peter Barotz, who are not employees of the Company . Two of our directors, Paul Mendez and Peter Barotz, are affiliated with Firecom and did not vote on the Merger Agreement or any of the above items.

Financing (See page 28)

As part of the Merger Agreement, Firecom and Merger Sub represented and warranted to Synergx that Firecom and Merger Sub have all of the funds necessary (\$2,200,057) to consummate the Merger on the terms and conditions in the Merger Agreement.

Interests of Our Directors and Executive Officers in the Merger (See page 28)

In considering the recommendation of our Board that you adopt the Merger Agreement, you should be aware that certain of our directors and executive officers may have interests in the transaction that are different from, or are in addition to, your interests as a stockholder, including the following:

- the Merger Agreement also provides for post-Merger indemnification arrangements for each of Synergx's current and former directors and officers, as well as continuation of directors and officers insurance coverage for their services to Synergx;
- two directors of Synergx, Paul Mendez and Peter Barotz, are affiliated with Firecom, which beneficially owns approximately 40% of Synergx's outstanding Common Stock which shall vote all of its shares of Common Stock in favor of the proposal to adopt the Merger Agreement, and would vote against any other acquisition proposal;
 - the Chief Executive Officer of Synergx, Paul Mendez, is the Chief Executive Officer of Firecom; and
- our Chief Financial Officer shall receive payments and benefits under his employment arrangement if his employment is terminated at any time without cause.

Solicitation of Other Offers (See page 42)

Under the Original Merger Agreement, during the period from the date of the Merger Agreement through February 8, 2010 (the "Solicitation Period"), the Company, and its officers, directors, employees and representatives, were permitted to solicit third parties to make a Superior Proposal (as defined in the Merger Agreement) to acquire the Company. Any third party solicited during the Solicitation Period or who contacted the Company during such Period, and who the Special Committee believed in good faith to have the financial capability to effect a Takeover Proposal, and who executed an Acceptable Confidentiality Agreement by February 16, 2010 was deemed a "Solicited Party." After the termination of the Solicitation Period and until the earlier of the effectiveness of the Merger or the termination of the Merger Agreement, the Company had the right to negotiate and consider a Superior Proposal from a Solicited Party or from a person who contacted the Company on an unsolicited basis after the termination of the Solicitation Period (an "Unsolicited Party"). In the event the Merger Agreement is terminated by reason of the Company's consideration of a Superior Proposal, the Company would not have to pay any termination fee to Firecom with respect to a Superior Proposal submitted by a Solicited Party, but would have to pay a fee in the amount of \$200,000 with respect to a Superior Proposal submitted by an Unsolicited Party. In either event, upon termination of the Merger Agreement, the Company would have to reimburse Firecom's expenses, not to exceed \$100,000 as described in the section entitled "The Merger Agreement – Effects of Terminating the Merger Agreement" beginning on page 46 of this proxy statement.

Pursuant to the Merger Agreement, Ladenburg Thalmann performed a "market check" on behalf of, and at the request of, the Special Committee. As a result of those activities and the receipt of third party offers, the Special Committee and Firecom negotiated an increase to the original \$0.60 per share merger consideration to the \$0.70 per share Merger Consideration.

Pursuant to the Amendment, and in consideration of Firecom agreeing to increase the Merger Consideration to \$.70 per share, any party which may have been considered a "Solicited Party" during the "Solicitation Period" was no longer considered to have such status for all purposes of the Merger Agreement. Further, as required by the Amendment, Firecom has placed \$500,000 into an escrow account to be held until the first to occur of: (i) the closing of the Merger at which time the escrow funds shall be applied to the consideration to be paid to the Company's stockholders, (ii) the termination of the Merger Agreement other than by reason of the failure to obtain the Company's

stockholders' approval at the meeting at which time the escrow funds shall be returned to Firecom, subject to any right of the Company to be reimbursed for expenses, and (iii) the termination of the Merger Agreement by reason of the failure to obtain the Company's stockholders' approval at the meeting at which time the escrow funds shall be delivered to the Company. In addition, upon a third party Takeover Proposal being determined as a Superior Proposal, such third party must deposit \$100,000 with the Company, by reason of costs incurred and to be incurred by it, and upon entering into an acquisition agreement with the Company the third party must deposit \$400,000 pursuant to an escrow agreement similar to the one that the Company had with Firecom.

Conditions to the Completion of the Merger (See page 44)

Conditions to Each Party's Obligation to Effect the Merger. Each party's obligation to effect the Merger is subject to the satisfaction or waiver of the following conditions:

- adoption of the Merger Agreement by Synergx's stockholders at the special meeting to be called after the Company files with and obtains clearance from the SEC staff of the requisite proxy material; and

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