

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 34-100868 / August 29, 2024

Admin. Proc. File No. 3-21462

In the Matter of
SUNRIDGE INTERNATIONAL, INC.

ORDER DIRECTING ADDITIONAL BRIEFING

On May 25, 2023, the Securities and Exchange Commission issued an order instituting proceedings against Sunridge International, Inc., pursuant to Section 12(j) of the Securities Exchange Act of 1934.¹

On October 24, 2023, the Commission directed the parties to submit additional briefing “addressing whether Sunridge has a class of registered securities that can be revoked under Exchange Act Section 12(j)” and, if not, “whether any remedy is available to the Commission or whether this proceeding should be dismissed.”² On November 14, 2023, the Division of Enforcement filed a response in which it argued that Sunridge has a class of securities registered under Exchange Act Section 12 because it filed a Form 8-A registration statement; that the Form 8-A purported to register Sunridge’s common stock pursuant to Exchange Act Section 12(b); and that while Sunridge was in fact ineligible to register its securities under that specific subsection, the Form 8-A nevertheless was effective to register them under Section 12(g).³ But as explained below, it is unclear from the record currently before the Commission if Sunridge was an issuer eligible to register any class of securities using Form 8-A and, thus, if it has a class of securities registered under Exchange Act Section 12 such that the Commission may order a remedy under Section 12(j).

The governing regulation provides that Form 8-A “may be used for registration” of a class of securities under Exchange Act Section 12(b) or (g) only by an issuer, as relevant here,

¹ *Sunridge Int’l, Inc.*, Exchange Act Release No. 97583, 2023 WL 3685963 (May 25, 2023).

² *Sunridge Int’l, Inc.*, Exchange Act Release No. 98791, 2023 WL 4743393 (Oct. 24, 2023).

³ Sunridge did not respond to the Commission’s order or the Division’s memorandum.

that is “required to file reports pursuant to sections 13 and 15(d) of that Act.”⁴ By contrast, “[a]n issuer must use a Form 10” to register a class of securities pursuant to Exchange Act Section 12 “if, at the time it files its registration statement, it is *not* already subject to a Section 13 or Section 15(d) reporting obligation.”⁵ It is not clear from the record whether Sunridge was subject to such a reporting obligation when it filed its Form 8-A on April 16, 2003.

Specifically, on July 17, 2001, Sunridge (then known as Tari, Inc.) filed a Form SB-2, which included a delaying amendment, to register the offer and sale of its common stock under the Securities Act of 1933.⁶ The Form SB-2 had a number of pre-effective amendments, the last of which was filed on April 26, 2002. Assuming the Form SB-2 registration statement became effective during Sunridge’s fiscal year ending March 31, 2003, Sunridge became subject to a reporting obligation under Exchange Act Section 15(d) for at least the “fiscal year within which [the] registration statement became effective”⁷—in other words, through March 31, 2003.

Section 15(d)(1) provides that the duty to file periodic reports is automatically suspended as to any fiscal year “if, at the beginning of such fiscal year, the securities . . . to which the registration statement relates are held of record by less than 300 persons.”⁸ On April 13, 2004, Sunridge filed an annual report on Form 10-KSB indicating that its common stock had 31 holders of record as of March 31, 2003.⁹

Thus, it appears that, if Sunridge incurred a Section 15(d) reporting obligation during or before its fiscal year ending March 31, 2003, it may have been suspended as to the fiscal year beginning April 1, 2003, and, accordingly, that Sunridge may not have been “required to file reports pursuant to sections 13 and 15(d) of [the Exchange] Act” at the time that it filed the Form 8-A (*i.e.*, on April 16, 2003).¹⁰

⁴ 17 C.F.R. § 249.208a(a)(1); *see also* Form 8-A, General Instructions § A(a).

⁵ *Amends. for Small & Additional Issues Exemptions Under the Securities Act (Regulation A)*, Securities Act Release No. 9741, 2015 WL 1788375, at *81 (Mar. 25, 2015) (emphasis added).

⁶ *See* Rule of Practice 323, 17 C.F.R. § 201.323 (permitting the Commission to take official notice of “any matter in the public official records of the Commission,” such as registration statements and periodic reports filed in the EDGAR database).

⁷ Exchange Act Section 15(d)(1), 15 U.S.C. § 78o(d)(1).

⁸ *Id.*

⁹ None of Sunridge’s subsequent annual reports reflects that its common stock ever had more than 35 holders of record.

¹⁰ Staff of the Division of Corporation Finance has issued a Compliance and Disclosure Interpretation stating that, under certain circumstances, a company that was required to file reports pursuant to Section 15(d), but which continued to file voluntarily all reports required by Section 15(d) after that reporting obligation was suspended, may nevertheless use Form 8-A. *See* Question 102.03, *Compliance and Disclosure Interpretations: Exchange Act Forms*,

As a result, we believe the Commission would be assisted in its determination of this proceeding if the parties filed additional submissions addressing whether Sunridge was eligible to register a class of securities pursuant to Section 12 using Form 8-A as of April 16, 2003, and, if not, whether Sunridge has a class of registered securities such that the Commission may order a remedy under Section 12(j).

Accordingly, IT IS ORDERED that the parties shall file simultaneous additional written submissions addressing the issues raised herein by September 19, 2024, and may file responsive briefs by October 3, 2024.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

available at <https://www.sec.gov/divisions/corpfin/guidance/exchangeactforms-interps.htm> (last visited Aug. 26, 2024). “These interpretations reflect the views of the staff of the Division of Corporation Finance. They are not rules, regulations, or statements of the Commission. The Commission has neither approved nor disapproved these interpretations.” *Compliance and Disclosure Interpretations*, available at <https://www.sec.gov/rules-regulations/staff-guidance/compliance-disclosure-interpretations> (last visited Aug. 26, 2024). The parties should address the potential applicability of this staff position, as well as whether the Commission should follow this approach in these circumstances.