

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 87479 / November 6, 2019

Admin. Proc. File No. 3-19429

In the Matter of

NXCHAIN, INC. F/K/A AGRIVEST  
AMERICAS, INC., ROCK ENERGY  
RESOURCES, INC., AND  
SOOUM CORP.

ORDER REQUESTING ADDITIONAL BRIEFS

The Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) on September 9, 2019, pursuant to Section 12(j) of the Securities Exchange Act of 1934, against SoOum Corp.<sup>1</sup> On October 16, 2018, the Division of Enforcement filed a motion to find SoOum in default and to revoke the registration of its securities and for expedited consideration of that motion. The Division stated that service of the OIP was made on SoOum on September 12, 2019, pursuant to Rule 141(a)(2)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

As stated in the OIP, SoOum’s answer was required to be filed within ten days of service of the OIP.<sup>3</sup> As of the date of this order, SoOum has not filed an answer, so Rule of Practice 155 would allow a finding of default. Nor has SoOum filed a response to the Division’s motion.

The Division’s motion states that, on September 19, 2019, SoOum filed a Form 15 to terminate the registration of its securities under Exchange Act Section 12(g) and Rule 12g-4(a)(1) thereunder.<sup>4</sup> Under that rule, an issuer may voluntarily terminate its registration of a class of securities if that class of securities is “held of record” by less than 300 persons.<sup>5</sup> SoOum certified on its Form 15 that the “[a]pproximate number of holders of record as of the

---

<sup>1</sup> *NXChain, Inc. f/k/a AgriVest Americas, Inc.*, Exchange Act Release No. 86908, 2019 WL 4274123 (Sep. 9, 2019). The OIP also instituted proceedings against three other issuers. *Id.*

<sup>2</sup> 17 C.F.R. § 201.141(a)(2)(ii).

<sup>3</sup> *NXChain, Inc. f/k/a AgriVest Americas, Inc.*, 2019 WL 4274123, at \*2.

<sup>4</sup> 15 U.S.C. § 78l(g); 17 C.F.R. § 240.12g-4(a)(1).

<sup>5</sup> 17 C.F.R. § 240.12g-4(a)(1).

certification” was 112. The Form 15 will take effect 90 days later, on December 18, 2019, unless the Commission institutes proceedings pursuant to Section 12(g)(4) to deny termination of registration on the basis that the Form 15 certification is untrue.<sup>6</sup> The Division requests that the Commission give expedited consideration to its motion to declare SoOum in default so that the registration of SoOum’s securities can be revoked prior to the Form 15’s effective date.

## I.

The Commission would benefit from further briefing on two issues. First, based on a review of SoOum’s Form 15 and other filings, it appears that the company may not meet the requirements to terminate its registration under Exchange Act Rule 12g-4(a)(1). As discussed above, that rule allows termination if the class of securities is held by less than 300 persons. However, in an Information Statement Pursuant to Section 14(c) of the Securities Act of 1933 filed on March 22, 2018, SoOum stated that, as of March 16, 2018, there were “approximately 382 holders of record of the Company’s existing common stock.”<sup>7</sup> Apart from the Form 15, the record does not contain more recent information regarding the current number of holders of record of SoOum’s securities. The Commission requests further briefing on this issue.<sup>8</sup>

## II.

Second, the Commission requests further briefing on whether expedited consideration is appropriate in this matter. According to the Division, SoOum’s counsel stated that the purpose of the Form 15 was to terminate the registration of SoOum’s securities, and thus to “avoid the effects of a revocation order”—namely, that “[n]o member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of” any security whose registration has been revoked under Section 12(j).<sup>9</sup> The Division asserts that if the Form 15 became effective before revocation, SoOum would be able to “continue to trade before it provides the market with current and timely information.”

---

<sup>6</sup> 15 U.S.C. § 78l(g)(4); *see, e.g., Consumers Fin. Corp.*, Exchange Act Release No. 61567, 2010 WL 627516 (Feb. 23, 2010) (instituting proceedings under Section 12(g)(4)).

<sup>7</sup> *See generally Helpeo, Inc.*, Exchange Act Release No. 82551, 2018 WL 487320, at \*4 n.37 (Jan. 19, 2018) (taking official notice under Rule 323 of EDGAR filings).

<sup>8</sup> *Cf. Accredited Bus. Consolidators Corp.*, Exchange Act Release No. 73900, 2014 WL 7243177 (Dec. 19, 2014) (requesting briefs on apparent deficiencies in a Form 15).

<sup>9</sup> 15 U.S.C. § 78l(j); *see also Eagletech Commc’ns., Inc.*, Exchange Act Release No. 54095, 2006 WL 1835958, \*3 (July 5, 2006) (“[R]evocation of the registration . . . would lessen, but not eliminate, the shareholders’ ability to transfer their . . . securities[.]”).

We recognize that, in some cases, issuers have had their securities' registrations revoked pursuant to Exchange Act Section 12(j) where the issuers filed a Form 15 after the institution of Section 12(j) proceedings but the Form 15 had not yet become effective.<sup>10</sup> But in other cases, the Division has “agreed to wait ninety days” and allow the Form 15 to become effective with the result that the Section 12(j) proceeding was ultimately dismissed without revocation of registration.<sup>11</sup> Once an issuer “no longer has a class of securities registered under Section 12 of the Exchange Act”—e.g., upon the effectiveness of a Form 15—dismissal of a Section 12(j) proceeding is appropriate “[b]ecause revocation and suspension of registration are the only remedies available in a proceeding instituted under Section 12(j).”<sup>12</sup>

---

<sup>10</sup> See, e.g., *Blink Techs., Inc.*, Initial Decision Release No. 1134, 2017 WL 1953457 (May 11, 2017), *declared final* by Exchange Act Release No. 81553, 2017 WL 3953333, at \*5 (Sep. 7, 2017); *Earth Dragon Res., Inc.*, Initial Decision Release No. 786, 2015 WL 1968391 (May 5, 2015), *declared final* by Exchange Act Release No. 75175, 2015 WL 3746039 (June 16, 2015); *Aqua Soc’y, Inc.*, Initial Decision Release No. 439, 2011 WL 5275847, at \*7 (Nov. 3, 2011), *declared final* by Exchange Act Release No. 65856, 2011 WL 7444644 (Dec. 1, 2011); *Secured Digital Applications, Inc.*, Exchange Act Release No. 64533, 2011 WL 1998395, at \*3-4 (May 23, 2011).

<sup>11</sup> See, e.g., *Largo Vista Grp., Ltd.*, Initial Decision Release No. 486, 2013 WL 1856028, at \*1 (May 3, 2013), *proceeding dismissed*, Exchange Act Release No. 70803, 2013 WL 5883871 (Nov. 4, 2013); *Aegis Assessments, Inc.*, Exchange Act Release No. 67360, 2012 WL 2674588, at \*1 (July 6, 2012) (noting that the “Division of Enforcement did not disagree with [the law judge’s] decision to wait ninety days . . . to allow” the Form 15 to become effective), *proceeding dismissed*, Exchange Act Release No. 68379, 2012 WL 6055468 (Dec. 6, 2012); *see also Hartcourt Cos.*, Exchange Act Release No. 68686, 2013 WL 208968 (Jan. 18, 2013), *proceeding dismissed*, Exchange Act Release No. 69994, 2013 WL 3724986 (July 16, 2013).

<sup>12</sup> See, e.g., *Expleo Solutions, Inc.*, Exchange Act Release No. 78638, 2016 WL 4426914, at \*1 (Aug. 22, 2016) (dismissing Section 12(j) proceeding against respondent that had filed Form 15 after OIP was instituted and therefore no longer had a class of securities registered under Section 12(g)); *Ruby Creek Res., Inc.*, Exchange Act Release No. 76060, 2015 WL 5718239 (Sept. 30, 2015) (same). We note that the effectiveness of a Form 15 would not exhaust the Commission’s remedial options under provisions of the securities laws other than Exchange Act Section 12(j). See, e.g., Exchange Act Section 15(c)(4), 15 U.S.C. § 78o(c)(4) (authorizing the Commission to issue order requiring compliance with, *inter alia*, reporting requirements); S. Rep. No. 379 at p. 62, 88th Cong., 1st Sess. (1963) (“After termination of registration, the Commission could require . . . reports in respect of periods while a security was registered.”); Exchange Act Section 21(e), 15 U.S.C. § 78u(e) (mandamus); Exchange Act Section 21C, 15 U.S.C. § 78u-3 (allowing Commission to impose cease-and-desist order); Exchange Act Section 32(b), 15 U.S.C. § 78ff(b) (providing for civil forfeiture of \$559 per day per failure to file, as adjusted by Exchange Act Release No. 85118, 2019 WL 585533 (Jan. 15, 2019)).

And more generally, the Commission has stated that, “under certain circumstances,” issuers “that are unable or unwilling to continue to comply with reporting requirements” have the “option” of filing a Form 15 to voluntarily terminate the registration of their securities.<sup>13</sup>

In short, to the extent that the Division’s request for expedited consideration rests principally on the fact that SoOum informed the Division that by filing the Form 15, it wanted to “avoid the effects of a revocation order” or “continue to trade” before it provided the market with current and timely information, this rationale likely could apply to virtually every delinquent issuer that filed a Form 15 once a Section 12(j) proceeding was pending. Thus, it would effectively be a blanket policy that such proceedings should proceed (and the potential for revocation remain) notwithstanding the filing of a Form 15. However, other, more case-specific considerations potentially apply, such as the need to protect potential investors in the face of continuing efforts to effect or solicit transactions in the issuer’s securities; the issuer’s failure to respond to the Division’s motion for expedited consideration, which may be regarded as a forfeiture of arguments in opposition to the imposition of Section 12(j)’s post-revocation trading restrictions; or other conduct giving rise to investor protection concerns, such as the inclusion of materially false statements in a form filed with the Commission. Ruling on the Division’s motion for expedited consideration is therefore deferred pending the receipt of additional briefs.

\* \* \*

Accordingly, it is ORDERED that each party shall file a brief by November 13, 2019, not to exceed 2,500 words, limited to addressing (1) the potential deficiencies in SoOum’s Form 15 regarding the number of SoOum’s holders of record as well as the impact, if any, these deficiencies have on the effectiveness of the Form 15; and (2) the basis, if any, for affording expedited consideration to this matter. It is further ORDERED that the parties may file simultaneous reply briefs (not to exceed 2,000 words in length) by November 20, 2019. The parties should provide each other with emailed courtesy copies of the briefs submitted in response to this order.

To the extent the parties deem it necessary, any additional evidentiary materials shall be attached to the briefs, which must contain specific citations to the evidence relied upon.<sup>14</sup> A party’s failure to make a required filing may result in the Commission’s determination of the matter at issue against that party; a finding of forfeiture, waiver, or abandonment; or such other sanction as the Commission finds appropriate.<sup>15</sup> This order is not to be construed as expressing

---

<sup>13</sup> See *Citizens Cap. Corp.*, Exchange Act Release No. 67313, 2012 WL 2499350, at \*4 n.22 (June 29, 2012).

<sup>14</sup> Rule of Practice 452, 17 C.F.R. § 201.452.

<sup>15</sup> Rule of Practice 180(c), 17 C.F.R. § 201.180(c).

any view as to the Commission's resolution of these issues or the proceeding generally or as relieving SoOum from the consequences of its failure to file a timely answer in this proceeding.<sup>16</sup>

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

Vanessa A. Countryman  
Secretary

---

<sup>16</sup> Rule of Practice 155, 17 C.F.R. § 201.155.