

Tu James
Form 4
April 03, 2019

FORM 4

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
Tu James

(Last) (First) (Middle)

1 BRIDGE PLAZA NORTH, #275,

(Street)

FORT LEE, NJ 07024

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol

ENERGY FOCUS, INC/DE [EFOI]

3. Date of Earliest Transaction (Month/Day/Year)

03/29/2019

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)

CEO, President and Interim CFO

6. Individual or Joint/Group Filing(Check Applicable Line)

Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Ownership (Instr. 4) |
|---------------------------------|--------------------------------------|--|--------------------------------|---|---|--|-----------------------------------|
| | | | | (A) or (D) | Code V Amount (D) Price | | |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474
(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

| 1. Title of Derivative Security | 2. Conversion or Exercise | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities | 6. Date Exercisable and Expiration Date (Month/Day/Year) | 7. Title and Amount of Underlying Security (Instr. 3 and 4) |
|---------------------------------|---------------------------|--------------------------------------|-----------------------------------|--------------------------------|------------------------------------|--|---|
|---------------------------------|---------------------------|--------------------------------------|-----------------------------------|--------------------------------|------------------------------------|--|---|

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| (Instr. 3) | Price of Derivative Security | (Month/Day/Year) | Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | | Date Exercisable | Expiration Date | Title |
|----------------------------------|------------------------------------|------------------|--|---|---------------------|--------------------|---|
| | | | Code | V | | | |
| Convertible Notes due 2021 | <u>(1)</u> <u>(2)</u> <u>(3)</u> | 03/29/2019 | P <u>(1)(2)(3)</u> | \$ 1,080,000 <u>(1)</u> <u>(2)</u> <u>(3)</u> | <u>(1)(2)(3)</u> | <u>(1)(2)(3)</u> | Series A Convertible Preferred Stock <u>(1)</u> <u>(2)</u> <u>(3)</u> |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|--|---------------|-----------|-----------------------------------|-------|
| | Director | 10% Owner | Officer | Other |
| Tu James 1 BRIDGE PLAZA NORTH, #275 FORT LEE, NJ 07024 | X | X | CEO, President and Interim CFO | |
| Huang Gina 3F-4, NO.9, MIN QUAN EAST ROAD SECTION 3 LANE 140 SONG SHAN DISTRICT TAIPEI CITY, F5 105 | | X | | |
| Jag International Co Ltd. 3F-4, NO.9, MIN QUAN EAST ROAD SECTION 3 LANE 140 SONG SHAN DISTRICT TAIPEI CITY, F5 105 | | X | | |
| Brilliant Start Enterprise, Inc. 3F-4, NO.9, MIN QUAN EAST ROAD SECTION 3 LANE 140 SONG SHAN DISTRICT TAIPEI CITY, F5 105 | | X | | |
| Luo Jiangang 18 MICHELLE WAY PINE BROOK, NJ 07058 | | X | | |
| Cleantech Global Ltd ONE OFFSHORE INCORPORATION CENTRE ROAD TOWN TORTOLA, D8 | | X | | |
| 5 ELEMENTS GLOBAL FUND, LP 1 BRIDGE PLAZA NORTH, #275 FORT LEE, NJ 07024 | | X | | |
| Cheng Yeh Mei-Hui SEA MEADOW HOUSE, BLACKBURNE HIGHWAY, | | X | | |

P.O. BOX 116 ROAD TOWN
TORTOLA, D8

Communal International, Ltd.
1 BRIDGE PLAZA NORTH, #275
FORT LEE, NJ 07024

X

5 Elements Energy Efficiency Ltd.
17F, NO.87, SUNG CHIANG ROAD
TAIPEI, F5 104

X

Signatures

| | | |
|---|---------------------------------|------------|
| /s/ James Tu | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| /s/ Gina Huang (Mei-Yun Huang) | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| JAG INTERNATIONAL, LTD. By: /s/ Gina Huang (Mei-Yun Huang), General Partner | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| BRILLIANT START ENTERPRISE, INC. By: /s/ Gina Huang (Mei-Yun Huang), General Partner | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| /s/ Jiangang Luo | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| CLEANTECH GLOBAL LTD. By: /s/ Jiangang Luo, Managing Partner | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| 5 ELEMENTS GLOBAL FUND L.P. By: /s/ James Tu, Managing Partner | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| /s/ Yeh-Mei Hui Cheng | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| COMMUNAL INTERNATIONAL, LTD. By: /s/ Yeh-Mei Hui Cheng, Authorized Representative | | 04/02/2019 |
| | __Signature of Reporting Person | Date |
| 5 ELEMENTS ENERGY EFFICIENCY LIMITED By: /s/ Yeh-Mei Hui Cheng, Authorized Representative | | 04/02/2019 |
| | __Signature of Reporting Person | Date |

Explanation of Responses:

- * If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) On March 29, 2019, the Issuer entered into a note purchase agreement with Fusion Park LLC ("Fusion Park") (of which James Tu is the sole member), F&S Electronic Technology (HK) Co., Ltd., Brilliant Start Enterprises, Inc. ("Brilliant Start"), Vittorio Viarengo and Amaury Furmin for the purchase of an aggregate of \$1.7 million in subordinated convertible promissory notes (the "Notes") of which Fusion Park and Brilliant Start purchased \$580,000 and \$500,000, respectively. The Notes, which were issued on March 29, 2019, have a maturity date of December 31, 2021 and bear interest at a rate of 5% per annum until June 30, 2019 and at a rate of 10% per annum thereafter. The Notes and accrued interest will convert into shares of the Issuer's Series A convertible preferred stock (the "Series A Preferred Stock") on April 17, 2019, if permitted without stockholder approval under the equity issuance rules of the Nasdaq Stock

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Market (the "Nasdaq Cap")

- (2) (cont'd) and to the extent sufficient shares of Series A Preferred Stock are authorized under the Issuer's certificate of incorporation (the "Charter"), based on a conversion price equal to the greater of (a) the volume-weighted average trading price of the Issuer's common stock ("Common Stock") measured over the 10 trading day period ending on April 16, 2019 or (b) \$0.20 (as applicable, the "Conversion Rate"). If the Notes cannot fully convert on April 17, 2019 due to the Nasdaq Cap, then no portion of the Notes will convert into Series A Preferred Stock until the Issuer obtains stockholder approval of the transaction in accordance with the Nasdaq rules. If shares of the Series A Preferred Stock can be issued under the Nasdaq Cap, but insufficient shares of Series A Preferred Stock are available under the Charter,

- (3) (cont'd) then the Notes will convert in part to the extent of the authorized shares and the remainder will convert upon approval by the Issuer's stockholders of an amendment to the Charter to increase the authorized number of shares of Series A Preferred Stock. Assuming the Issuer's stockholders approve the transaction and the lowest Conversion Rate of \$0.20, the maximum number of shares of Series A Preferred Stock that could be issued upon conversion of the Notes and the maximum number of shares of Common Stock that could be issued to the Reporting Persons pursuant to the conversion of the Series A Preferred Stock would be 5,400,000 (of which 2,900,000 and 2,500,000 shares of Series A Preferred Stock would be issued to Fusion Park and Brilliant Start, respectively), plus any shares issued in respect of accrued interest. The shares of Series A Preferred Stock are convertible into shares of Common Stock at the option of the Reporting Persons on a one-for-one basis.

Remarks:

On November 30, 2018, the Reporting Persons filed a Schedule 13D reporting that they may be deemed to be a "group" under

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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