

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

Form 8-K

**Current Report
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): April 19, 2021

SunPower Corporation
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34166
(Commission File Number)

94-3008969
(I.R.S. Employer
Identification No.)

51 Rio Robles, San Jose, California 95134
(Address of principal executive offices, with zip code)

(408) 240-5500
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of exchange on which registered
Common Stock	SPWR	NASDAQ

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement.

On April 19, 2021 (the “Effective Date”), SunPower Corporation (the “Company”) entered into an Amendment No. 5 (the “Amendment”) to the Affiliation Agreement, dated as of August 28, 2011, by and among the Company, Total Solar INTL SAS (formerly known as Total Gas & Power USA SAS), and Total Gaz Electricité Holding (together, “Total”). The Amendment provides for certain temporary adjustments to the composition of the Company’s Board of Directors (the “Board”) to accommodate Thomas H. Werner’s continued service as Chairman of the Board through November 1, 2021 (or such earlier date as designated by the Board) (such date, the “Reversion Date”), including (i) requiring the Board to take all necessary action on or prior to the Effective Date to increase the size of the Board to 11 directors; (ii) providing that, from the Effective Date until the Reversion Date, the immediate past Chief Executive Officer of the Company (the “Transitional Chairman”) shall serve as the Chairman of the Board; (iii) providing for the addition of one Total-designated Board member from the Effective Date to the Reversion Date; and (iv) providing that, upon the Reversion Date, the Transitional Chairman shall resign from his position on the Board, Total shall as promptly as practicable cause one of its designated members to resign from the Board, the Board shall take all necessary action to reduce the size of the Board to 9 directors, and the Chief Executive Officer of the Company shall thereafter serve as the Chairman of the Board.

The foregoing description of the Amendment is not a complete description of all terms of the Amendment and is qualified in its entirety by reference to the full text of the Amendment, a copy of which is filed as an exhibit to this current report on Form 8-K and incorporated by reference herein.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Directors

On April 19, 2021, following a vote to expand the size of the Board to 11 directors, as permitted under the Company’s Restated Bylaws and in connection with the Amendment described above, the Board appointed Peter Faricy, the Company’s newly appointed President and Chief Executive Officer, to serve as a member of the Board. Mr. Faricy serves as a Class III director, to serve until the Company’s annual meeting of stockholders to be held in 2023.

As previously disclosed, there are no arrangements or understandings between Mr. Faricy and any other persons pursuant to which Mr. Faricy will be named to this position with the Company.

Also on April 19, 2021, the Board appointed Bernadette Baudier to serve as a Class II director, to serve until the Company’s annual meeting of stockholders to be held in 2022. Ms. Baudier serves as a designee of Total pursuant to the Affiliation Agreement, as amended.

Ms. Baudier has served as senior vice president, finance within the Gas, Renewables and Power division of Total SE since 2020. Previously, she served as senior vice president, corporate affairs of the Exploration & Production division of Total SE from 2016 to 2019, with responsibilities covering finance, compliance, legal, human resources, communication, and information technology. From 2013 to 2016, Ms. Baudier was senior vice president for internal control and audit of the Total Group. Prior to those positions, Ms. Baudier held various other positions in finance within the Total Group, where she has been employed since 1988. Ms. Baudier is a graduate of École des Hautes Études Commerciales.

The information required by Item 404(a) of Regulation S-K regarding the Company’s agreements with Total is set forth in the Company’s definitive proxy statement on Schedule 14A filed by the Company with the U.S. Securities and Exchange Commission (the “SEC”) on April 2, 2021 under the caption “Corporate Governance—Certain Relationships and Related Persons Transactions—Agreements with Total and Total S.E.” and incorporated herein by reference.

The Company and Ms. Baudier will enter into the Company’s standard form of indemnification agreement for directors and officers, in substantially the form filed as Exhibit 10.18 to the Company’s annual report on Form 10-K for the fiscal year ended January 3, 2021 filed with the SEC on February 22, 2021.

Transition Agreement

On April 19, 2021, the Company and Thomas H. Werner, Chairman of the Board and former Chief Executive Officer, entered into a Transition and Retirement Letter Agreement (the "Transition Agreement"), pursuant to which Mr. Werner has agreed to continue to serve as Chairman of the Board and provide certain other transition services through November 1, 2021 (or such earlier date as agreed by him and the Board), at which time he will retire from the Company and resign from his position as Chairman of the Board and as a director of the Company. Pursuant to the Transition Agreement, Mr. Werner will be paid a base salary of \$37,500 per month and continue to participate in the Company's benefits plans. Although Mr. Werner will not be eligible for a bonus during the transition period, he will receive a pro-rated bonus for the first half of the fiscal year based on actual performance with proration determined based on his service as Chief Executive Officer until April 19, 2021. Mr. Werner also agreed to terminate his executive employment agreement with the Company and waive entitlement to any benefits under the Company's 2019 Management Career Transition Plan. In addition, in accordance with their terms, a total of 113,348 restricted stock units granted to Mr. Werner on February 22, 2021 vested on April 19, 2021 upon the Board's acceptance of Mr. Werner's resignation from his position as the Company's Chief Executive Officer.

The foregoing description of the Agreement is not a complete description of all terms of the Transition Agreement and is qualified in its entirety by reference to the full text of the Transition Agreement, a copy of which is filed as an exhibit to this current report on Form 8-K and incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	<u>Amendment No. 5 to Affiliation Agreement, dated as of April 19, 2021, by and among the Company, Total Solar INTL SAS (formerly known as Total Gas & Power USA SAS), and Total Gaz Electricité Holding</u>
10.2	<u>Transition and Retirement Letter Agreement, dated as of April 19, 2021, by and between the Company and Thomas H. Werner</u>

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

April 20, 2021

SUNPOWER CORPORATION

By: _____ /s/ REGAN MACPHERSON
Name: **Regan MacPherson**
Title: **Executive Vice President and
Chief Legal Officer**

AMENDMENT NO. 5 TO AFFILIATION AGREEMENT

This AMENDMENT NO 5 (this "Amendment") to the Affiliation Agreement, dated as of August 28, 2011 (the "Affiliation Agreement"), by and among Total Solar INTL SAS, formerly known as Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of the Republic of France, Total Gaz Electricité Holdings France SAS, a *société par actions simplifiée* organized under the laws of the Republic of France (together, "Parent") and SunPower Corporation, a Delaware corporation (the "Company"), is made and entered into as of April 19, 2021 (the "Effective Date") by and between the Parent and the Company. Capitalized terms used in this Amendment and not otherwise defined shall have the meaning given to them in the Affiliation Agreement.

WITNESSETH:

WHEREAS, Parent and the Company desire to amend the Affiliation Agreement to reflect certain changes to the composition of the Company's Board of Directors, as set forth below.

NOW, THEREFORE, in consideration of the foregoing premises and the matters set forth herein, as well as other good and valuable consideration the receipt and sufficiency of which are hereby acknowledge and accepted, and intending to be legally bound, Parent and the Company hereby agree as follows:

1. Amendment. A new subsection shall be added to Section 3.2 of the Affiliation Agreement, to read as follows:

(I) Temporary Changes to Board Composition. Notwithstanding anything in Section 3.2(a) or Section 3.2(d) to the contrary:

(i) On or prior to the Effective Date, the Company Board shall take all action necessary to increase the size of the Company Board to eleven (11) directors.

(ii) From the Effective Date until November 1, 2021 (or such earlier date as may be designated by the Company Board) (such date, the "Reversion Date"), the Company Board shall consist of (i) the Chief Executive Officer of the Company, (ii) the immediate past Chief Executive Officer of the Company, who shall serve as Chairman of the Company Board (the "Transitional Chairman"), (iii) three (3) Disinterested Directors, (iv) subject to Section 3.2(d), six (6) Terra Directors, and (v) such number of Disinterested Directors as to fill any vacancies on the Company Board resulting from a reduction in the number of Terra Directors pursuant to Section 3.2(d), in each case taking into account the provisions of Section 3.1(f).

(iii) Upon the Reversion Date, (A) the Transitional Chairman shall resign from his position on the Company Board, (B) Terra shall as promptly as practicable cause one (1) Terra Director to resign from the Company Board, and (C) the Company Board shall take all action necessary to reduce the size of the Company Board to nine (9) directors.

(iv) From and after the Reversion Date, Section 3.2 shall be deemed amended and restated to read as Section 3.2 read immediately prior to the Effective Date and without giving effect to this Amendment.

2. Agreement. All references to the "Agreement" set forth in the Affiliation Agreement shall be deemed to be references to the Affiliation Agreement as amended pursuant to this Amendment.

3. Headings. The headings set forth in this Amendment are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Amendment or any term or provision hereof.

4. Ratification. Article I shall be deemed modified as of the date of this Amendment. Other than as expressly modified pursuant to this Amendment, all provisions of the Affiliation Agreement, as amended prior to the date of this Amendment are hereby ratified and remain unmodified, and in full force and effect.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the undersigned have caused this Amendment No. 5 to be executed by their respective duly authorized officer to be effective as of the Effective Date.

TOTAL SOLAR INTL SAS

By: /S/ Noemie Le Baut

Name: Noemie Le Baut

Title: Director

TOTAL GAZ ELECTRICITÉ HOLDINGS FRANCE SAS

By: /S/ Noemie Le Baut

Name: Noemie Le Baut

Title: Director

SUNPOWER CORPORATION

By: /S/ Thomas H. Werner

Thomas H. Werner

Chairman of the Board of Directors

April 19, 2021

Thomas H. Werner

Re: Transition and Retirement

Dear Tom:

The purpose of this letter (this "**Agreement**") is to memorialize our agreement regarding your retirement from SunPower Corporation (the "**Company**"). As more specifically described below: (a) you have resigned your position as Chief Executive Officer of the Company effective as of April 19, 2021 (the "**Resignation Date**") but agreed to provide transition services to your successor through November 1, 2021 or such earlier date agreed between you and the Board (the "**Retirement Date**") while continuing to serve as the Chairman of the Company's Board of Directors (the "**Board**"); (b) your outstanding restricted stock units will fully vest on the Resignation Date in accordance with their existing terms; and (c) you will cease serving as Chairman of the Board on the Retirement Date and fully retire from the Company.

Transition Services. During the period (the "**Transition Period**") between the Resignation Date and the Retirement Date, in addition to your duties and responsibilities as Chairman of the Board, you have agreed to assist with the transition of your duties and responsibilities to the Company's newly appointed Chief Executive Officer in accordance with the duties and responsibilities set forth on Exhibit A. We expect for your services to the Company to require your full-time employment through May 5, 2021 and approximately 30 hours per week thereafter. During the Transition Period, the only remuneration you will receive for these services will be base salary at the rate of \$37,500 per month, which will be paid, less withholding taxes, in accordance with the Company's standard payroll procedures. During the Transition Period, you will continue to be eligible to participate in the Company's benefit plans on the same terms as the Company's other executives. You will not be eligible for a bonus during the Transition Period, though you will be paid a pro-rated bonus (based on your service as Chief Executive Officer through April 19) for the first fiscal half under the Company's Executive Semi-Annual Incentive Bonus Program based on actual performance.

Restricted Stock Units. In accordance with their terms, the 113,348 restricted stock units granted to you on February 22, 2021 vest on the earlier of December 1, 2021 or the date in 2021 on which you and the Board agree that your service as the Company's Chief Executive Officer is concluded. We have agreed that the latter condition will be satisfied as of the Resignation Date and, therefore, all of your restricted stock units will vest as of the Resignation Date.

Retirement. On the Retirement Date, you will fully retire from the Company. You hereby resign as Chairman and member of the Board effective as of the Retirement Date. You agree to execute any documents deemed necessary or appropriate by the Company to memorialize your resignation. In addition, the Retirement Date will represent your final day of employment with the Company, and on, or as soon as administratively practicable following, the Retirement Date, you will be paid any earned but unpaid base salary. You will also be reimbursed for any business expenses incurred by you in accordance with the Company's policies prior to the Retirement Date.

Waiver of MCTP Participation; At-Will Employment. By signing this Agreement, you expressly waive your right to participate in the Company's 2019 Management Career Transition Plan or any successor plan (the "**MCTP**"). Notwithstanding anything in the MCTP to the contrary, you acknowledge and agree that you will not be entitled to any severance or other post-termination benefits under the MCTP in the event of your termination of employment with the Company for any reason. Your employment with the Company is, and will continue to be, at-will employment, which means that it may be terminated by you or the Company at any time for any reason. The Company also has the right to change the terms and conditions of employment with or without cause and with or without notice.

Proprietary Information Agreement. The Agreement Concerning Proprietary Information and Inventions entered into between you and the Company (your "**Proprietary Information Agreement**") remains in effect pursuant to its terms. You reaffirm your obligations under the Proprietary Information Agreement and agree to remain bound by its provisions in accordance with its terms.

Complete Agreement. This Agreement, collectively with the Proprietary Information Agreement and the agreements evidencing your restricted stock units, comprises the entire agreement between you and the Company with regard to the subject matter hereof and supersedes, in their entirety, any other agreements between you and the Company with regard to the subject matter hereof including, without limitation, the Employment Agreement entered into between you and the Company as of July 21, 2020 (the "**Employment Agreement**"). You agree that the Employment Agreement shall be terminated and of no further force or effect as of the date you sign this Agreement. You acknowledge that there are no other agreements, written, oral or implied, and that you may not rely on any prior negotiations, discussions, representations or agreements. This Agreement may be modified only in writing, and such writing must be signed by both parties and recited that it is intended to modify this Agreement. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

* * * * *

Please indicate your agreement to the terms of this letter by signing below and returning a copy of it to me.

Very truly yours,

SunPower Corporation

/S/ Pat Wood III

Pat Wood III, Director

Acknowledged and agreed:

/S/ Thomas H. Werner

Thomas H. Werner

Date: 04/19/2021

Exhibit A – Duties and Responsibilities During Transition Period