

# GMX Creditor Trust

## FIFTH QUARTERLY REPORT

May 12, 2015



# Introduction

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## **CREDITOR TRUST OVERVIEW**

- On February 3, 2014 the Debtors' First Amended Joint Plan of Reorganization became effective, creating the GMX Resources Creditor Trust.
- Upon the plan's effective date, John P. Madden, Senior Managing Director of Emerald Capital Advisors ("Emerald") became the Creditor Trustee. As of the filing date of this report, Mr. Madden continues to serve as the Creditor Trustee.
- As per the Trust Agreement, the Trustee is required to file quarterly reports. The fifth quarterly report includes the February 1<sup>st</sup> 2015 through April 30<sup>th</sup> 2015 period.
  - In this report, the activities of the Trust are reviewed and summarized, including an accounting of cash to date as well as the near term expected action/work plan.

## **NEAR TERM ACTION ITEMS (MAY 1, 2015 – JULY 31, 2015)**

- Maintain the books & records for the Trust, including the filing of all necessary tax related documents;
- Continue to negotiate with recipients of unsettled preference payments, and with recipients of preferred dividends; at this point, the Trust has filed all litigation associated with the Chapter 5 Causes of Action.
- Continue to prosecute the D&O litigation; and
- Make a second interim distribution to holders of allowed general unsecured claims that are not currently on preference hold.

# Fifth Quarterly Trust Activities

## OPERATING ACTIVITIES (FEBRUARY 1, 2014 – APRIL 31, 2015)

- A formal Directors and Officers (“D&O”) complaint was filed in Oklahoma state court on August 19, 2014, asserting claims against certain former directors and officers for various breaches of fiduciary duty.
  - The Trust continues to prosecute and litigate the D&O complaint as appropriate.
- The Depository Trust Company (“DTC”) provided Emerald with the names of all brokers who had clients/customers who held shares of GMX preferred stock during 2012. Letters were sent to these brokers and subpoenas were issued as necessary, requesting relevant beneficial holder information (that is, names and holdings for those who received dividend payments during the relevant periods).
  - Emerald has performed an analysis on all holdings information received thus far, and has filed complaints against 135 identified counterparties for dividends received in 2010, 2011 and 2012.
  - **During the Fifth Quarter, the Trust has recovered over \$162,000 in fraudulent conveyances and potentially stands to recover hundreds of thousands more in the near term.**
  - The Trust and its counsel continue to litigate and negotiate with recipients on a day to day basis.
- Since the beginning of the Fifth Quarter, Emerald and Counsel have continued to negotiate with recipients of preferential payments. Through a detailed and thorough analysis of the payments, the Trust filed complaints against 63 counterparties.
  - As a result of the complaints, the Trust is currently negotiating with numerous parties named in the Adversary Proceedings and potentially stands to recover additional sums for the benefit of unsecured creditors.
- **Emerald completed its review of the claims universe, and its analysis has led to a reduction of the total claims pool by more than \$46,000,000. In total, over 95 claims were objected to, many of them resulting in disallowance and expungement.**
- The Trust is diligently working towards making a second distribution to holders of allowed unsecured claims during the Sixth Quarter. The projected distribution will bring the total amount distributed to 0.70% of allowed claims.
  - All holders of general unsecured claims that have also received payments during the 90-day pre-filing period are subject to a “preference hold” on distributions until the complaints are resolved.

## OPERATING SUMMARY

	Operating Account	Claims / Distribution Reserve	Total
<u>Cash Balance as of 1/31/15</u>	\$435,178	\$432,649	\$867,827
Interest Earned	202	--	202
Payments Recovered by Trustee	162,269	--	162,269
Complaint Filing Fees	(67,000)		(67,000)
<b>Total</b>	<b>\$530,649</b>	<b>\$432,649</b>	<b>\$963,298</b>
<u>Professional Fees</u>			
Payments to Trustee	(\$32,971)	\$ --	(\$32,971)
Payments to Counsel	(\$45,527)	--	(45,527)
<b>Total Professional Fees</b>	<b>(\$78,498)</b>	<b>\$ --</b>	<b>(\$78,498)</b>
<u>Adjustments</u>			
Claims / Distribution Reserve	(\$129,088)	\$129,088	\$ --
<b>Total Cash Balance as of 4/30/15</b>	<b>\$323,063</b>	<b>\$561,737</b>	<b>\$884,800</b>

## CLAIMS POOL AND CLAIMS RESERVE

<b>Claims Pool as of 2/1/14</b>	<b>\$185,716,425</b>
( - ) Withdrawn and settled claims <sup>(1)</sup>	22,102,481
<b>Claims Pool as of 4/30/15</b>	<b>\$163,613,944</b>
( + ) Claims Reserve <sup>(2)</sup>	6,386,056
<b>Adjusted Claims Pool</b>	<b>\$170,000,000</b>
Projected Distribution %	0.70%
<b>Projected Distribution</b>	<b>\$1,190,000</b>
( - ) Initial Distribution	628,263
<b>Distribution Reserve as of 4/30/15</b>	<b>\$561,737</b>

### Notes:

- (1) Represents claims that the Trustee is no longer obligated to reserve for because they have been settled or withdrawn
- (2) Due to (1) on going preference actions and (2) potential unknown, the Trustee feels it is appropriate to continue to maintain a claims reserve until all adversary proceedings are settled.