Status Update - SEC Fairness Fund

In March 2014, the Securities and Exchange Commission (the "SEC") filed suit against AgFeed Industries ("AgFeed") and certain of its officers and directors in the United States District Court, Middle District of Tennessee ("District Court"). The suit sought monetary damages and other remedies for violations of federal securities laws. While the suit continues against the officers and directors, the company settled with the SEC by agreeing to pay a monetary fine to the agency. In connection with this settlement, the SEC established what it calls a "Fairness Fund" (totaling $5.5 million) to provide restitution to persons and entities that purchased and held AgFeed shares between March 14, 2008 and December 19, 2011, and suffered harm as a result of AgFeed's fraud on shareholders.

On September 28, 2016, the SEC filed a motion with the District Court to approve its Fairness Fund distribution program (the "Motion"). The distribution plan was approved by court order (the "Order") on October 18, 2016.

A summary of the SEC's proposed Fairness Fund distribution plan, as well as an estimated timeline to the commencement of distributions, follows below. This is only a summary. You should review the Motion and its exhibits for further detail.

Claims Process

The SEC is using Epiq Systems, Inc., as its claims administrator for the Fairness Fund. Epiq is also the claims administrator for the fund created to make distributions to defrauded shareholders (the "Class Action Fund") upon the settlement of the class action lawsuit styled as *Blitz v. AgFeed Industries, Inc., et al*, c3:11-cv-0992 (MD Tenn.) (the "Class Action"). A claimant may hold claims only against the Fairness Fund, or against both the Fairness Fund and the Class Action Fund. However, because of the difference in the way damages are calculated in the two proceedings, the holder of a valid claim against the Class Action Fund is not guaranteed to have a valid claim against the Fairness Fund.

In the Motion, the SEC indicates that it will accept valid and sufficient documentation filed in the Class Action (as determined by Epiq) as valid and sufficient documentation of a claim for purposes of determining whether the claimant is entitled to a Fairness Fund claim (an "Eligible Claim"). If a claim was denied in the Class Action for lack of sufficient documentation, the claimant will still get notice of and may still file a claim against the Fairness Fund.

Claims Formula

The amount of an Eligible Claim is based on the SEC's loss formula. The loss period runs from March 14, 2008 to December 19, 2011 (the "Recovery Period"). The SEC's distribution formula is based on a determination of each claimant's "Eligible Loss Amount." Damages giving rise to an Eligible Claim are calculated based on the SEC's determination of the extent to which the price at which a share that was purchased during the Recovery Period was artificially inflated due to AgFeed's reporting of false profits during the Recovery Period.

A claimant with an Eligible Claim may recover from both the Class Action Fund and the Fairness Fund; however, the total distribution to such claimant will be reduced by the amount received from the Class Action Fund, and will be capped at his Eligible Loss Amount. Here is an example:

<u>Fairness Fund Claimant: Jim Claimholder</u>

Jim has an Eligible Claim against the Fairness Fund and is calculated to have an Eligible Loss Amount of $50,000. Jim also has a claim against the Class Action Fund. Jim receives, in actual dollars, a distribution of $15,000 from the Class Action Fund. As a result, Jim's maximum cash distribution from the Fairness Fund would be $35,000 – that is, $50,000 less $15,000.

If the total amount of Eligible Claims exceeds the amount of available funds for distribution, Eligible Claims will be paid on a *pro rata* basis. For example, if there are $10 million in total Eligible Loss Amount for all Eligible Claims, and $5.3 million to distribute from the Fairness Fund (net of the costs of administration of the Fund), then each Eligible Claim will receive 53 cents per dollar of Eligible Loss Amount.

AgFeed Shareholders Entitled to Distribution from the Liquidating Trust

Certain Eligible Claimants may also be current shareholders of AgFeed who hold claims against the Liquidating Trust. If an Eligible Claimant receives a distribution from the Liquidating Trust, such distribution is not counted toward such claimant's Eligible Loss Amount and thus does not reduce such claimant's Fairness Fund distribution.

Timeline

Based on the schedule approved by the District Court, it is probable that distributions from the Fairness Fund will not commence until late in 2017. The distribution plan has a number of deadlines that, collectively, can stretch out over a year from the date of entry of the Order approving the distribution plan (the "Effective Date"). Following is a summary of key dates and deadlines following the Effective Date:

- Notice Date - 50 days after the Effective Date (on or before December 7, 2016): SEC sends notice of entry of the Order and claim forms to potential claimants.

- Claims Bar Date – no more than 120 days after the Notice Date (on or before April 6, 2017): Deadline for claimants to file claims with the claims administrator, Epiq. This date can be extended by Epiq, with the consent of the SEC, for individual claimants upon written request.

- Determination Notice – no more than180 days after the Claims Bar Date (on or before October 3, 2017): Epiq will notify claimants of the final amount of their claim and eligibility for distribution from the Fairness Fund.

- Eligible Claimant List – no more than 45 days after the issuance of Determination Notices (on or before November 17, 2017): The SEC will file a list of the Eligible

Claims with the District Court. The list will be filed "under seal" to keep names and amounts confidential.

Distributions from the Fairness Fund are expected to commence shortly after the filing of the Eligible Claimant List with the District Court.