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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

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## Cocoa Co. Seeks Emergency Sale Of Forward Contracts

By **Cara Salvatore**

Law360, New York (March 30, 2017, 3:20 PM EDT) -- Cocoa trader Transmar Commodity Group Ltd. has asked a New York bankruptcy court on Tuesday for an emergency motion that would allow it to offload forward contracts for up to \$2 million, and creditors objected to an asset sale for a subsidiary.

Transmar, which filed for Chapter 11 on New Year's Eve, said in a Tuesday filing that speed was necessary to preserve the value of the forward book, a portfolio of contracts where price has already been agreed on and delivery is to take place at a specified date. FCStone Merchant Services LLC will serve as stalking horse for an auction, offering up to \$2 million, Transmar told the court.

"The debtor lacks the financial ability to continue to perform under the forward book and to purchase and sell cocoa product necessary to fulfill certain of its obligations thereunder," Transmar said. "It is critical that the service agreement be approved on an emergent basis in order preserve the value of the forward contracts ... it will enable counterparties to receive and sell product and preserve the value of the forward book."

The service agreement will cover inventory purchasing, processing-cost funding and other items necessary to allow the contracts in the forward book to continue to be fulfilled.

Meanwhile, on Wednesday, unsecured creditors objected to an asset sale for a Transmar unit, Cocoa Services West LLC.

The unsecured creditors told the court their committee "has a number of questions relating to the ultimate sale process and concerns about the lack of clarity relating to the committee oversight over the sale process."

Those questions include which assets are on the block and what happens to the proceeds assuming they're greater than liabilities, the committee said. It also wants to know about tax implications.

A hearing on the objection is set for April 6.

In January, a judge **gave emergency approval** for Transmar to use cash collateral to keep the lights on, but held off on full approval in order to make sure all relevant parties have been notified.

Transmar had filed its Chapter 11 petition on New Year's Eve; Transmar attorney Joseph Schwartz of Riker Danzig Scherer Hyland & Perretti LLP said in a hearing Jan. 4 that prepetition lenders had demanded that the company commence Chapter 11 proceedings by Dec. 31.

Transmar said in court papers that it has more than \$400 million in debt. Much of the problem involves indirect European subsidiary Euomar Commodities GmbH, which took a bath when unhedged forward contracts resulted in huge losses. Euomar is in insolvency, and while Transmar owes it some money, Euomar owes Transmar a lot more, Schwartz said.

The falling price of cocoa and unpredictably in currency also caused problems for Transmar, he said.

A privately held business based in Morristown, New Jersey, Transmar was founded more than 35

years ago by cocoa trader Peter Johnson, who is still its CEO.

Representatives for Transmar and for the unsecured creditors were not immediately available for comment.

Transmar is represented by Tracy Klestadt, Joseph Corneau and Christopher Reilly of Klestadt Winters Jureller Southard & Stevens LLP and Joseph Schwartz, Tara Schellhorn and Rachel Gillen of Riker Danzig Scherer Hyland & Perretti LLP.

The creditor banks are represented by Andrew DeNatale, Daniel Ginsberg and Matthew Garofalo of Stroock & Stroock & Lavan LLP.

The unsecured creditors are represented by Scott Markowitz, Rocco Cavaliere and Michael Brownstein of Tarter Krinsky & Drogin LLP.

The case is In re: Transmar Commodity Group Ltd., case number 1:16-bk-13625, in the U.S. Bankruptcy Court for the Southern District of New York.

--Additional reporting by William Gorta. Editing by Brian Baresch.

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