



The Eco Resources Fund PCC plc (Qualifying Fund)

Frequently Asked Questions

These FAQs have been prepared by the Isle of Man Financial Services Authority (“**the Authority**”) and should be read in conjunction with the latest statement on the status of the Eco Resources Fund PCC plc (“Eco” or “the Fund”) available [here](#).

The FAQs will be updated to reflect the current position on a regular basis. The date when each question and answer was added or updated is indicated at the end of each answer.

The FAQs were last updated on 16 March 2017.

The FAQs are split across the following topics:

[A. What has happened to Eco?](#)

[B. Background](#)

- i. **Collective Investment Schemes**
- ii. **Licenceholders providing services to Collective Investment Schemes**

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A. What has happened to Eco?

1. The Eco Resources Fund PCC plc ("Eco").

On 16 March 2017 His Honour the Deemster Doyle sitting in the High Court of Justice of the Isle of Man heard an application from the Isle of Man Financial Services Authority seeking an order to wind up the Eco Resources Fund PCC plc under sections 162(6) and 164(1)(d) of the Companies Act 1931.

His Honour the Deemster Doyle granted the applications by [Orders](#), and appointed Mr. Gordon Wilson of CW Consulting Limited as deemed Official Receiver and provisional Liquidator and Liquidator of the Eco Resources Fund PCC plc.

The fund has had liquidity issues over a protracted period (since 2014) and has been trying to raise long and short term financing, however all avenues have now been exhausted. As at 20 December 2016 the fund had cash resources of GBP 12,545.73 and had accrued debts of over USD2 million.

In making the application the Authority took the following into account:

- a) On 16 December 2016 the High Court in the Isle of Man appointed an inspector to Eco.
- b) On 20 December 2016, following a shareholder vote against the liquidation of Eco all three directors of Eco resigned as they felt the result was a vote of no confidence. The proposed new directors have since refused to act, leaving the fund without a governing body.
- c) On 22 December 2016 the Authority appointed Mr Gordon Wilson to assume control of the affairs of the Fund.
- d) Premier Group (Isle of Man) Limited is itself in liquidation and resigned as manager of Eco on 7 February 2017. This led to the tripartite agreement being terminated and as such Moore Fund Administration (IOM) Limited are no longer appointed as administrator to the Fund.
- e) The Fund's Custodian (Kleinwort Benson CI) has given notice to terminate its services.
- f) The Company Secretary resigned with effect from 9 March 2017, leaving the fund with no functionaries.
- g) The Fund is unable to pay its debts as they fall due:
 - i. The Fund's former administrator has not been paid since the beginning of 2016.
 - ii. The Manager has issued a statutory demand for outstanding fees. The Fund has confirmed in writing that it is unable to pay this debt.

(Last update: 16 March 2017)

2. Who is responsible for the fund's investments?

A. The governing body of the fund is ultimately responsible for its investments.

(Last update: 16 March 2017)

B Background

A. Eco is an Isle of Man Qualifying Fund that launched in July 2012. It was incorporated under the Companies Act 1931 with a reference: 127199C. Eco invested indirectly, via a special purpose vehicle, ERF Limited, into bamboo plantations in Nicaragua and South Africa. ERF Limited invested in loan notes and equity stakes on behalf of the Fund.

Eco appointed a manager who is regulated by the Authority (The Premier Group (Isle of Man) Limited (in Liquidation)) and an administrator who is regulated by the Authority (Moore Fund Administration (IOM) Limited). These appointments are now terminated. The questions and answers below explain how Eco and the licenceholders fit into the regulatory regime.

(Last update: 16 March 2017)

i. Collective Investment Schemes

1. [My documentation refers to the Isle of Man Financial Supervision Commission - Who is the Isle of Man Financial Services Authority?](#)

A. On 1 November 2015 the Isle of Man Financial Supervision Commission and Isle of Man Insurance and Pensions Authority merged to create the Isle of Man Financial Services Authority (“the Authority”).

The Authority is the regulator of financial services business on the Isle of Man. The Authority aims to provide a framework of regulation and oversight which satisfies international standards, whilst enabling regulated entities to compete and develop their businesses.

(Last update: 16 March 2017)

2. [How does the Authority register Qualifying Funds?](#)

A. Qualifying Funds are required to notify the Authority of their launch and provide details about the scheme no later than 14 days after they have launched. Likewise, standard changes to the funds are notified to the Authority no later than 14 days after the changes takes effect. The Authority does not review or approve these types of schemes.

(Last update: 16 March 2017)

3. [What is the Authorities remit for Qualifying Investor Funds?](#)

A. The Authority’s remit for such schemes is to register, receive notifications of changes and supervise their appointed Isle of Man functionaries.

It should be noted that these types of non-retail registered funds are not regulated by the Authority. Access to the funds is only available where investors confirm that they meet the various fund types minimum entry criteria. Further information on the entry criteria can be found in [section "G" Qualifying Funds](#).

(Last update: 16 March 2017)

4. [What are the mandatory risk disclosures that the Authority requires a non-retail fund to disclose in its offering document?](#)

A. Qualifying Funds are unregulated and unapproved collective investment schemes which are post notified to the Authority for the purpose of registration after they are launched. To ensure that potential investors are aware of the specific risks of investing into the funds, there are mandatory risk disclosures required in the offering documentation for each of these types of funds. The specific disclosures are contained in Schedule 5 to the relevant regulations. The mandatory risk disclosures can be found in paragraph 4 of the schedules:

[Qualifying Fund](#)

(Last update: 16 March 2017)

5. [What are the mandatory certifications that the Authority requires an investor to sign to invest in a fund of this type?](#)

A. Qualifying Funds are unregulated and unapproved collective investment schemes which are post notified to the Authority for the purpose of registration after they are launched. There are mandatory investor certifications for each of these types of funds. These certifications need to be completed by every investor prior to subscriptions being accepted into the funds. There are also certifications that have to be completed by those who are investing on behalf of another person.

The specific certifications are contained in Schedule 6 to the relevant regulations.

[Qualifying Fund](#)

(Last update: 16 March 2017)

ii. Licenceholders providing services to Collective Investment Schemes

1. [Which functionaries of Eco are regulated on the Isle of Man?](#)

A. Qualifying Funds are unregulated collective investment schemes which are not approved by the Authority and are post notified to the Authority for the purpose of registration.

The former Manager and former Administrator of Eco are licensed under the Financial Services Act 2008 and supervised by the Authority to provide services to collective investment schemes.

The fund types and regulation of the funds can be found [here](#).

The Premier Group (Isle of Man) Limited (In Liquidation) ("PGIOM") are licensed to conduct the following regulated activities to collective investment schemes:

- Manager
- Administrator
- Promotor
- Corporate services in respect of collective investment schemes

PGIOM acted as manager to Eco till their resignation in 2017.

Moore Fund Administration (IOM) Limited ("MFA") are licensed to conduct the following regulated activities to collective investment schemes:

- Manager
- Administrator
- Corporate services in respect of collective investment schemes

MFA acted as administrator to Eco till their resignation in 2017. They also provided corporate services.

The governing body of a Qualifying Fund is not vetted, approved or licensed as directors of collective investment schemes by the Authority.

(Last update: 16 March 2017)

2. [What does the Authority do to supervise licenceholders?](#)

A. The Isle of Man Financial Services Authority ("the Authority") has adopted a risk based approach to supervision that is relevant to all licenceholders under the Financial Services Act 2008, with its regulatory effort focused on areas of higher risk. The Supervisory Approach document sets out the high level supervisory approach for the areas of banking, investment business, collective investment schemes, corporate service providers and trust service providers. A copy of the supervisory approach can be found [here](#).

C [Who could invest into Eco?](#)

1. [I am not an Experienced Investor, how was I able to invest in this unregulated Fund?](#)

A. Eco is a Qualifying Fund. In order to have made an investment you would have been required by the fund's manager/ administrator to provide written confirmation that you met the criteria to be a [qualifying investor]. If you are unclear about your status you should contact the Financial Adviser who advised you on the investment into Eco.

Qualifying Fund

- [Statutory disclosures to be contained in the offering documents of a qualifying fund](#)
- [Statutory investor certifications to be contained in the application form of a qualifying fund](#)
- [The definition of a qualifying investor for a qualifying fund](#)

(Last update: 16 March 2017)

2. I invested into the fund through a life assurance policy/ personal portfolio bond— what does this mean?

A. Where you invest into a policy of life assurance/ personal portfolio bond, the life company is the legal owner of shares held in the fund and correspondence will go to the legal owner. The value of your investment (the life assurance policy or personal portfolio bond) is linked to the performance of the underlying funds that the life company invests in.

For Qualifying Funds there are additional disclosures and certifications required for life company investments.

The fund offering documentation is required to contain a specific disclosure that the life company is expected to have given policy holders the opportunity to read the fund's offering document and as such to have information about the risks associated with an investment in the relevant fund.

Furthermore, the application form for such a fund is required to contain an additional certification by the life company, confirming that they have procedures to make information available to policy holders and that they do not make investments of this type without receiving appropriate declarations from the relevant policyholder.

Qualifying Fund

- [Statutory disclosures to be contained in the offering documents of a qualifying fund](#)
- [Statutory investor certifications to be contained in the application form of a qualifying fund](#)

(Last update: 16 March 2017)

3. I invested into the fund through a discretionary investment manager or other structure - what does this mean?

Where you invest into a Qualifying Fund through a third party, there are additional disclosures and specific certifications which the third party must make. These confirmations are designed to ensure that the ultimate investor is apprised of the risks associated with the fund and meets the criteria to invest in the fund.

Qualifying Fund

- [Statutory disclosures to be contained in the offering documents of a qualifying fund](#)
- [Statutory investor certifications to be contained in the application form of a qualifying fund](#)

(Last update: 16 March 2017)

4. I did not want to be exposed to risk?

A. Qualifying Funds are unregulated collective investment schemes which are not approved by the Authority and are post notified to the Authority for the purpose of registration.

All investment contains an element of risk. Investment into alternative investments can have a higher level of risk. The offering document for each fund type are required to make mandatory risk disclosures and investors are required to sign a declaration confirming that they understand and accept those risks and have taken relevant advice. The mandatory risk disclosures can be found at paragraph 4 of schedule 5 and the required certifications for the application form are in schedule 6.

Qualifying Fund

- [Statutory disclosures to be contained in the offering documents of a qualifying fund](#)
- [Statutory investor certifications to be contained in the application form of a qualifying fund](#)

(Last update: 16 March 2017)

D. What is going to happen now

1. What happens next?

A. Pursuant to his appointment Mr Gordon Wilson, as deemed Official Receiver, shall now proceed to hold separate meetings of the creditors and shareholders of the Funds. The first meetings will take place within 8 weeks of 16 March 2017.

After those meetings, Eco will then be under the control of Liquidator.

The Liquidators responsibility is to realise and distribute the assets of the companies, which will include assessing, and where appropriate taking steps to augment the estates of the companies. As part of that assessment the liquidators will need to investigate the circumstances which led to the failure of Eco.

The realisations achieved by the Liquidator, less costs of the liquidation, will be distributed pro rata to the respective classes of creditors and shareholders of Eco.

(Last update: 16 March 2017)

2. What has happened to the money I invested?

A. The money invested by you was invested by the governing bodies of Eco into ERF Limited and then onwards either by purchasing shares in or lending money to the plantation companies.

The recovery of value in those investments by Eco is dependent upon any value received for the plantations, however, as stated by Mr Gordon Wilson in his communication to participants on 8 March 2017, Mr Troy Wiseman has advised that Sustainable Asset Lending ("SAL") has foreclosed on the plantation assets, therefore any recovery appears unlikely

(Last update: 16 March 2017)

3. Will I get any of my money back?

A. At this stage it is not possible to estimate the amount of any recovery on the investments made by Eco. The financial distress of the underlying companies and the apparent foreclosure by SAL, does however mean that substantial recovery of value from the plantations may be unlikely.

(Last update: 16 March 2017)

E. Who should I contact and how do I get information

1. Who will keep me informed of what is happening with my investment?

Mr Gordon Wilson can be contacted as follows:

Mr Gordon Wilson
CW Consulting Limited
Bank Chambers
5-19 Athol Street
Douglas
Isle of Man

Tel: +44 (01624) 623195

Email address – eco@cwcliom.com

The Authority can be contacted on ecoenquiries@iomfsa.im. The Authority will update the [public statement](#) as and when required.

These Q&A's will also be updated when further information is available.

(Last update: 16 March 2017)

F. What should I do now

1. How do I make a complaint/seek compensation?

A. The Island has a Financial Services Ombudsman Scheme which is available to individuals (personal customers) who have exhausted a financial institution's internal complaints procedure.

The ombudsman scheme is operated by the Isle of Man Government Office of Fair Trading. The address of the Financial Services Ombudsman Scheme is:

Isle of Man Office of Fair Trading, Thie Slieau Whallian, Foxdale Road, St John's, Isle of Man, British Isles, IM4 3AS or <https://www.gov.im/oft/ombudsman/complain.xml>

Should you wish to obtain independent legal advice, details of Manx Advocates are available from the Isle of Man Law Society, 27 Hope Street Douglas, Isle of Man, IM1 1AR, or www.iomlawsociety.co.im.

Should the Ombudsman or the court find against the licenceholder then the Authority would consider whether it should take any further action in respect of the licenceholder's conduct.

(Last update: 16 March 2017)

G. Qualifying Funds

Eco is a Qualifying Fund - What is an “Isle of Man Qualifying Fund”?

A. Please refer to the fund webpage, regulations and Key Features on the links below for further information:

- [IOMFSA Qualifying Fund webpage](#)
- [Qualifying Fund Regulations](#)
- [Qualifying Fund Key Features](#)

LEGISLATION LINKS

LEG LINK 1

Regulation 16

SCHEDULE 5

Specific matters to be contained in a qualifying fund's offering document –

1. The definition of qualifying investor in a prominent position, as set out in Schedule 1.
2. A description of arrangements for –
 - (a) the management of the fund's assets; and
 - (b) custody of the fund's assets including the extent to which any underlying investments, including any assets held within special purpose vehicles, are not held or controlled by an appointed custodian.
3. Statements that the fund –
 - (a) will only accept initial investment amounts from investors which are not less than a specified minimum, which is an amount jointly determined by the fund's governing body and manager;
 - (b) will only accept applications to invest in the fund or effect a transfer of an interest in the fund from qualifying investors who have signed the certification(s) required by regulation 17; and
 - (c) must issue audited annual financial statements to investors within six months from the end of each financial period of the fund, or within the timescales prescribed in the offering document (if earlier).

4 The following risk warning in a prominent position –

"[This fund] is a qualifying fund which is only suitable for "qualifying investors" as defined in the Collective Investment Schemes (Qualifying Fund) Regulations 2010 ("the Regulations").

All qualifying funds are required to register with the [Isle the Isle of Man Financial Services Authority ("the Authority")]. Accordingly, the fund must be registered with the [Authority] in accordance with the Regulations. In granting registration, the [Authority] has not reviewed this document but has relied upon the statement of compliance provided by the fund's governing body filed in accordance with the Regulations. Details of registration will be available at www.iomfsa.im

The fund's manager and its governing body are subject to ongoing filing and reporting obligations in accordance with the Regulations.

Investors are not protected by statutory compensation arrangements and the [Authority] does not vouch for the financial soundness of the fund or for the accuracy of statements made or opinions expressed about it.

Requirements which may be deemed necessary to protect retail or non-qualifying investors do not apply to qualifying funds. By signing the declaration at [] you confirm you are a “qualifying investor” and accept the reduced requirements, or absence of requirements, accordingly.

You are wholly responsible for ensuring that [this fund] is acceptable to you.

Investment in qualifying funds may involve special risks that could lead to a loss of all or a substantial portion of the investment. Unless you fully understand and accept the nature of [this fund] and the potential risks inherent in [this fund] you should not invest in [this fund].”

Where the fund does not expressly prohibit an investor from investing on behalf of another person – “If you are investing on behalf of someone else, the [Authority] expects you to be satisfied that person is a qualifying investor who understands the risks associated with this type of investment.”

Where the fund does not expressly prohibit a life assurance company from investing assets comprised within its long term business fund in circumstances where the fund has been selected by the policyholder of a particular policy as the basis for determining the benefit of that policy - “If you are a life assurance company investing assets within your long-term business fund, the [Authority] expects that relevant policyholders have had the opportunity to read the fund’s offering document and as such to have information about risks associated with an investment in this fund.”

LEG LINK 2

Regulation 17

SCHEDULE 6

Certifications to be contained in the qualifying fund's application form

The Part 2 Certification (1) may be omitted where the fund expressly prohibits an investor from investing on behalf of another person.

The Part 2 Certification (2) may be omitted where the fund expressly prohibits a life assurance company from investing assets comprised within its long term business fund in circumstances where the fund has been selected by the policyholder of a particular policy as the basis for determining the benefit of that policy.

Part 1 Certification - This certification is to be completed by all applicants. The investor confirmations (a) to (d) apply to all applicants. The investor confirmation (e) applies to all applicants except those who are signing a Part 2 certification.

"I/we confirm that —

- (a) I am/we are a qualifying investor as defined on page [] of the offering document of [name of fund] dated []; and
- (b) I am/we are sufficiently experienced to understand the features and risks associated with an unauthorised and unapproved fund of this type; and
- (c) I/we have read and fully understood the offering document, including in particular the information on the risks associated with the fund (contained on pages [X – X] of the offering document), before deciding to invest in the fund; and
- (d) I/we confirm that, where appropriate, I/we have taken independent advice on the suitability of this investment within my/our overall investment portfolio; and
- (e) I/we personally accept all the risks associated with this investment and particularly that my/our investment in the [name of fund] involves risks that could result in a loss of a significant proportion or all of the sum invested.

[Signed] [Dated]"

Part 2 Certification –

(1) The following certification is to be completed by any investor who is investing on behalf of another person.

"I/We confirm that I am/we are investing in the qualifying fund on behalf of another person/ other persons and have certification(s) signed by such person/persons to show that each such person is a qualifying investor and understands and accepts the risks associated with this type of investment.

[Signed] [Dated]"

(2) The following certification is to be completed by an investor who is a life assurance company investing assets comprised within its long term business fund where the [XYZ fund] has been selected by the policyholder of a particular policy as the basis for determining the benefit of that policy (as appropriate).

“We confirm that we are investing assets comprised within our long term business fund and—

- (a) we have procedures and controls in place to obtain client declarations from our policyholders which include confirmation from the policy holder to the effect that —
 - (i) the policyholder has the opportunity to read the offering documents for funds of this nature, where they wish to do so, and as such has information about and accepts the levels of risks associated with this type of investment; and
 - (ii) the policyholder, where necessary, meets the minimum criteria of a class of investor in a fund of this nature;
- (b) we confirm no investment in this type of fund is made without a client declaration being obtained from relevant policyholders.

[Signed] [Dated]”.

Part 3 Certification – This certification is to be completed by the financial adviser who has advised the investor where that investor qualifies as a qualifying investor only by virtue of Schedule 1 paragraph (h) —

“I confirm that —

- (a) I am the appointed financial adviser for the above named client; and
- (b) I have discussed the features and risks attendant to an investment in a nonregulated fund of this type with the client; and
- (c) I have discussed the specific risks attendant to an investment in the [name of qualifying fund] as set out in the offering document dated [] ; and
- (d) the client has confirmed that they understand these risks and wish to proceed with the investment.

I am not aware of any information that would lead me to believe that the client does not understand and accept these risks.

[Signed] [Dated]

[Business name]

[Regulated status]”

LEG LINK 3

Schedule 1

“Meaning of qualifying investor

A qualifying investor is a person or body who has certified that they are sufficiently experienced to understand the risks associated with an investment in that fund and who, at the time of the initial investment in that fund falls into one of the following categories —

- (a) a person, body corporate, partnership, trust or other unincorporated association whose ordinary business or professional activity includes acquiring, underwriting, managing, holding or disposing of investments, whether as principal or agent, or giving advice about investments;
- (b) any director or partner of or consultant to a person referred to in paragraph (a);
- (c) a functionary to a qualifying type EIF or an associate of a functionary to a qualifying type EIF;
- (d) an employee, director or shareholder of or consultant to a person in (c) who is acquiring the investment as part of his remuneration or an incentive arrangement or by way of co-investment;
- (e) a trustee of a family trust settled by or for the benefit of one or more persons referred to in paragraphs (c) or (d);
- (f) a trustee or operator of any employment benefit or executive incentive scheme or trust established for the benefit of persons referred to in paragraphs (c) or (d) or their dependants;
- (g) a government, local authority, public authority or supra-national body in the Isle of Man or elsewhere; or
- (h) a person whose expertise, experience and knowledge to adequately appraise the investment is certified in accordance with Schedule 6 Part 3.”