



ASIC

Australian Securities &
Investments Commission

REGULATION IMPACT STATEMENT

Review of policy settings for regulating time-sharing schemes

December 2020

About this Regulation Impact Statement

This Regulation Impact Statement (RIS) addresses ASIC's proposals to make changes to the policy settings for regulating time-sharing schemes.

What this Regulation Impact Statement is about

- 1 This Regulation Impact Statement (RIS) addresses our proposals to make changes to the policy settings for regulating time-sharing schemes.
- 2 In developing ASIC's final position, we have considered the regulatory and financial impact of our proposals. We are aiming to strike an appropriate balance between:
 - (a) maintaining, facilitating and improving the performance of the financial system and entities in it;
 - (b) promoting confident and informed participation by investors and consumers in the financial system; and
 - (c) administering the law effectively and with minimal procedural requirements.
- 3 This RIS sets out our assessment of the regulatory and financial impacts of our proposed policy and our achievement of this balance. It deals with:
 - (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

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A Executive summary

- 4 We have provided technical relief for time-sharing schemes from certain requirements in the *Corporations Act 2001* (Corporations Act) by a series of class orders and individual relief. This is because they are ‘lifestyle products’ that are not purchased to generate a financial return.
- 5 We have imposed the conditions on some of the relief to address consumer harms that arise because of:
- (a) same-day sales practices;
 - (b) ongoing financial obligations associated with ownership of interests in time-sharing schemes; and
 - (c) the limited withdrawal arrangements that exist once a consumer becomes a member of a time-sharing scheme.

Note 1: In this RIS, ‘consumer’ means a retail client (as defined in s761G and 761GA of the Corporations Act) and a natural person or strata corporation (as defined in s6 of the *National Consumer Credit Protection Act 2009* (National Credit Act)).

Note 2: Further information about time-sharing schemes and ASIC regulation can be found in the appendix.

What is the problem?

- 6 We have recently:
- (a) undertaken formal consultation;
 - (b) commissioned independent research into consumers’ experiences with time-sharing schemes and the financial value of an interest in a time-sharing scheme for consumers; and
- Note: For a summary of the findings from the research, see [Media Release \(19-339MR\)](#) *ASIC report offers insights into consumer harm from timeshare schemes* (6 December 2019) and [Report 642](#) *Timeshare: Consumers’ experiences* (REP 642).
- (c) reviewed a sample of financial product advice on time-sharing schemes.
- 7 As a result, we have identified a need to amend the current regulatory settings for time-sharing schemes. We consider the settings require adjustment because:
- (a) consumers continue to make same-day purchases of interests in time-sharing schemes without properly considering key information about time-sharing schemes. In many cases consumers also enter into loan arrangements with credit providers that are associates of an operator (related finance providers) that:
 - (i) they do not understand;

- (ii) are unsuitable for them; or
- (iii) they do not want;
- (b) the timing for the offer, approval or refusal of loans to purchase interests are not conducive to consumers being able to exercise their cooling-off rights within the cooling-off period;
- (c) there are limited withdrawal arrangements for members whose circumstances have changed because of hardship and who are not able to continue to meet their financial obligations as a member of the scheme or use their membership (member suffering hardship); and

Note: In this RIS, 'hardship' is defined to include:

- 'severe financial hardship' (where a member or a member's dependant is suffering, or will likely suffer, severe long-term or permanent financial hardship);
- 'compassionate grounds' (where a member or a member's dependant is suffering a life-threatening illness or injury, chronic pain, or a severe, long-term chronic mental disturbance); and
- 'permanent incapacity' (where a member has ceased gainful employment by reason of mental or physical ill-health).

As a result of the hardship, the member must be unlikely to use their membership in the long term. Where couples hold interests in a scheme jointly, it is sufficient for one joint member to meet the hardship test so long as both joint members make the application.

- (d) the value of current members' interests may be diluted as a result of inadequate compliance measures governing the issue of new interests in registered time-sharing schemes structured as points-based programs.

8 There are also some unnecessary compliance burdens imposed on time-sharing schemes, the costs of which are ultimately borne by members.

9 There is a gap in industry understanding about ASIC's interpretation of the existing obligations:

- (a) for time-sharing schemes under the Corporations Act and the *Australian Securities and Investments Commission Act 2001* (ASIC Act); and
- (b) under the National Credit Act and National Credit Code (in Sch 1 of the National Credit Act) where finance is obtained for the purchase of interests in time-sharing schemes.

Note 1: For the definition of 'existing obligations', see paragraph 60.

Note 2: The 'responsible lending obligations' in Ch 3 of the National Credit Act prohibit credit providers—including related finance providers and their representatives—from entering into a credit contract with a consumer if the credit contract is unsuitable for the consumer. The Australian Government has announced proposed reforms that would replace the current responsible lending obligations.

Options considered

- 10 This RIS considers the four policy options outlined below. These options were presented to industry and consumer groups as part of [Consultation Paper 272 Remaking ASIC class orders on time-sharing schemes](#) (CP 272) and our further consultation on the proposals. For more information, see Section G.

Option 1—Amend the policy settings

- 11 Option 1 entails providing:
- (a) consumers with an ‘enhanced cooling-off model’—that is, additional time and methods for cooling off and clearer disclosure about these rights in a revised cooling-off statement;

Note: In light of the findings of our qualitative consumer research summarised in [REP 642](#), we have decided to revise this part of the option and not to progress the proposed enhanced cooling-off model—for more information, see paragraphs 12–15.
 - (b) consumers with formal ‘subject to finance’ rights. These rights allow consumers to withdraw their application for membership, independent of their cooling-off rights, and be refunded most of the finance application fees paid to related finance providers—that is, all fees minus the reasonable value of any administration costs the related finance provider incurred while processing the application before receiving the notification. To exercise this right, consumers must notify the operator that they:
 - (i) have failed to obtain finance;
 - (ii) decided not to proceed with the application for finance; or
 - (iii) rejected an offer of finance;
 - (c) more prominent consumer disclosure and warnings about the key features and risks of time-sharing schemes, to increase consumer understanding (for the definition of ‘key features’, see Table 3);
 - (d) formal hardship arrangements that would require operators to consider whether to approve a hardship application that meets one or more hardship criteria. The purpose of the arrangements is to enable a member suffering hardship to withdraw from the time-sharing scheme without further liability to the scheme (for the definition ‘formal hardship arrangements’, see paragraph 87);
 - (e) a new obligation on operators of points-based programs to have additional compliance procedures, to reduce the potential for the value of existing members’ interests to dilute; and
 - (f) specific guidance to the time-sharing industry on existing obligations under the Corporations Act and ASIC Act, and in the National Credit Act and National Credit Code, to raise standards in the industry and reduce consumer harm.

Revised Option 1—Amend the policy settings but maintain the existing cooling-off model

12 During 2019, we commissioned two independent external reviews into time-sharing schemes and undertook surveillance to test whether the advice provided by two operators complied with the law. Given the findings of these reviews, we consider that a deferred sales model—which incorporates an exclusion period to prevent same-day sales—might be a more appropriate option than a cooling-off model to address consumer harms arising from selling practices in the time-sharing industry.

13 Accordingly, we have revised Option 1 to remove the enhanced cooling-off model (described in paragraph 11(a)). All other aspects of original Option 1 would be introduced.

14 We still consider that the enhanced cooling-off model would provide greater consumer protection than the existing cooling-off model. We also acknowledge that this model has been the product of extensive consultation with industry and consumer representatives since 2017, and that we indicated our intention to implement it in August 2018.

Note: See [‘Time-sharing schemes: Update on the status of our review of the policy settings’](#) on the ASIC website.

15 However, we consider that it may be more appropriate to undertake more consultation—including on the enhanced cooling-off model and deferred sales model—before finalising our policy positions on this aspect of the regulatory settings. We have therefore decided to maintain the existing cooling-off model until the industry has implemented the other reforms in Option 1 and we decide whether to undertake further consultation. We consider it would be unduly burdensome to expect industry to implement the enhanced cooling-off model if it is replaced within a short period of time by a new regulatory setting, such as a deferred sales model.

Consumer benefits from revised Option 1

16 Under revised Option 1, consumers will benefit from:

- (a) new formal ‘subject to finance’ rights that operate independently of the existing cooling-off rights. These new rights:
 - (i) allow consumers to withdraw their application for membership (in the circumstances outlined on paragraph 11(b));
 - (ii) entitle consumers to a refund of any finance application fees paid to related finance providers (less any reasonable costs); and
 - (iii) give greater certainty to consumers than the informal ‘subject to finance’ arrangements provided or withheld at the discretion of operators and promoters;

Note: In this RIS, ‘informal ‘subject to finance’ arrangements’ refers to operators exercising their discretion to extend the cooling-off period or permit consumers to withdraw their application for membership when the consumer’s application for finance is pending or refused.

- (b) new formal hardship arrangements that:
 - (i) require operators to consider whether to approve a hardship application that meets one or more hardship criteria. The purpose of the arrangements is to enable members suffering hardship to withdraw from the time-sharing scheme without further liability to the scheme; and
 - (ii) give greater certainty to members than the informal hardship arrangements provided or withheld at the discretion of operators on an ad-hoc basis;

Note: In this RIS, ‘informal hardship arrangements’ refer to operators exercising their discretion on an ad-hoc basis to excuse members suffering hardship from repaying any shortfall or further payments on forfeiture.

- (c) new and amended disclosure requirements, to help inform their decision making. Issuers must provide consumers with key information (including consumer warnings) about time-sharing schemes. They must present this information clearly and prominently, verbally and in writing;
- (d) greater industry compliance and improved ASIC monitoring, as a result of our updated guidance on existing obligations under the Corporations Act, ASIC Act, and the National Credit Act and National Credit Code; and
- (e) improved access to accommodation when they want and delivery of promoted benefits, as a result of industry compliance with the new requirements targeting the dilution of interests in points-based programs.

Impact of revised Option 1 on industry

- 17 Under revised Option 1, operators and promoters will also benefit from:
 - (a) greater certainty associated with:
 - (i) formal ‘subject to finance’ rights and hardship arrangements;
 - (ii) a fees and costs disclosure regime specifically tailored to time-sharing schemes; and
 - (iii) guidance on existing obligations that is tailored to the time-sharing industry; and
 - (b) other reduced regulatory burdens where these do not result in a reduction in consumer protection.
- 18 Operators and promoters will incur additional compliance and administrative costs—some of which will be one-off costs—as a result of the changes to the

regulatory settings outlined in paragraph 11. The exceptions to this are the proposals in:

- (a) paragraph 11(a)—to provide an enhanced cooling-off model—because we are not progressing this proposal at this time; and
- (b) paragraph 11(f)—to provide specific guidance to the time-sharing industry about their existing obligations—because this proposal does not introduce new obligations.

Options 2 and 3—Adopt alternative changes to the policy settings in Option 1

- 19 Option 2 entails introducing an opt-in regime to replace the existing cooling-off regime. Under an opt-in regime consumers would need to actively confirm to the operator that they wish to proceed with the purchase within a defined number of days to avoid being treated as having cooled off.
- 20 The opt-in regime, while considered optimal by consumer groups, would increase compliance costs. It was not the subject of comprehensive consultation and would also be more detrimental to the industry than the enhanced cooling-off model in original Option 1.
- 21 Option 3 entails deferring the commencement and end of the cooling-off period to either:
- (a) the date the consumer has been informed about whether their finance application has been approved or refused and received all loan documentation (instead of the formal ‘subject to finance’ rights in revised Option 1); or
 - (b) for consumers on holidays, the date specified by the consumer that they expect to return to their usual place of residence.
- 22 The deferred commencement date would also significantly increase compliance costs, and lead to administrative uncertainty and inefficiency.
- 23 Option 2 and Option 3 also entail enhancing disclosure requirements in a different way to revised Option 1. Under these options, the fees and costs disclosure in the scheme’s Product Disclosure Statement (PDS) must include worked examples about fees and costs for the first 10 years and the life of the product.
- 24 The disclosure requirements under Option 2 and 3 would increase compliance costs, and may result in misleading disclosure for consumers.

Option 4—Maintain the status quo.

- 25 Option 4 does not involve any change to policy settings or any additional administrative or financial burdens for industry. Consequently, it does not:

- (a) address the impact on consumers of industry selling, advice and disclosure;
- (b) remedy the inadequacies in the existing exit arrangements; or
- (c) provide the additional benefits to consumers and industry outlined in paragraphs 16–17.

Regulatory impact of preferred option

- 26 Of the four options considered in this RIS to address the deficiencies in the regulatory settings, revised Option 1 delivers the highest net benefit.
- 27 Revised Option 1 would deliver the consumer benefits summarised in paragraph 16, which would strengthen consumer protection and promote the confident and informed participation of consumers in the financial system. It would achieve this while still providing the benefits to industry outlined in paragraph 17, and with less cost and disruption to the industry and existing members than the opt-in regime contemplated in Option 2 or the delayed commencement of the cooling-off period contemplated in Option 3.
- 28 By implementing revised Option 1, we can:
- (a) take the time to monitor the implementation of the other reforms in Option 1 and review time-sharing sales practices in early 2022. If we identify pressure selling conduct leading to poor consumer outcomes, we will consult on whether it is appropriate to replace the existing cooling-off model with an enhanced cooling-off model or a deferred sales model; and
 - (b) spare industry (and ultimately the existing members of the time-sharing schemes) the cost of implementing a regulatory setting that may soon be replaced by another.
- 29 The costs associated with revised Option 1 and Options 2 and 3 are primarily one-off costs associated with obtaining legal advice, convening any necessary meetings of members, making any necessary amendments to scheme constitutions and other documentation, revising disclosure and procedures, and training staff. There will also be ongoing costs for monitoring operations and maintaining records to support compliance.

B What is the problem?

30 Time-sharing schemes are complex in nature and the key features are often difficult for consumers to understand or compare with other products—especially in a pressure-selling environment. The purchase of interests in time-sharing schemes represents a considerable, long-term financial commitment with limited options for exit after the cooling-off period ends. The findings from our consumer research (outlined in [REP 642](#)) indicate that the current regulatory settings are not effectively reducing consumer harms arising in the context of time-sharing schemes.

Size of the time-sharing industry

31 At present, the time-sharing industry is comprised of:

- (a) 15 registered time-sharing schemes (registered schemes) operated by 10 responsible entities (operators). All the active registered schemes are points-based programs. Five operators have been actively issuing new interests in registered schemes to consumers during the last 12 months. Four of these operators are members of the Australian Timeshare and Holiday Ownership Council (ATHOC);
- (b) five related finance providers, which are associated with each of the operators actively issuing new interests. These credit providers hold Australian credit licences and provide credit to consumers to facilitate the purchase of interests in time-sharing schemes;
- (c) 36 state-exempt time-sharing schemes, title-based time-sharing schemes or member-controlled clubs operating under individual relief (legacy schemes), operated by 29 legacy scheme operators. The legacy schemes are not permitted to issue new interests, but may resell existing interests in the legacy scheme; and
- (d) other licensed entities, including:
 - (i) one licensed associate of an operator that is authorised to promote sales of interests in the operator’s registered schemes (promoter); and
 - (ii) six entities authorised to resell interests in time-sharing schemes (dealers).

Sales, cooling off and costs to consumers

- 32 During the 2018–19 financial year:
- (a) the time-sharing industry delivered 235,818 sales presentations;
 - (b) 8.9% of consumers purchased an interest in a time-sharing scheme as a result of the presentations;
 - (c) 48% of consumers took out a loan to buy an interest; and
 - (d) the rate of ‘cooling off’ was 24% of all sales.
- Note: See [REP 642](#) at paragraph 34.
- 33 During 2019, the five operators actively issuing interests in time-sharing schemes reported that:
- (a) 199,317 consumers attended sales presentations;
 - (b) 20,042 consumers completed applications to purchase an interest in a time-sharing scheme;
 - (c) 3,469 consumers ‘cooled off’ during the cooling-off period;
 - (d) 1,010 consumers who applied for an interest in a time-sharing scheme did not proceed with their application because their applications for finance were refused or rejected; and
 - (e) 1,277 consumers were permitted to cool off after the expiry of the cooling-off period.
- Note: It is unclear how many of the 1,277 consumers permitted to cool off after the expiry of the cooling-off period did so through informal ‘subject to finance’ arrangements.
- 34 Sales presentations generally consist of a group presentation, followed by an individual meeting between the consumer and representative of the operator. Consumers report that they often feel pressured to make same-day purchases of interests in time-sharing schemes: see [REP 642](#) at paragraphs 50–75. Related finance providers are available at sales presentations to offer finance to consumers to facilitate this same-day sales process.
- Note: Mainstream credit providers, such as banks, are generally not involved in providing finance for the purchase of interests in a time-sharing scheme. The exception to this is when a consumer purchases the interest on their credit card.
- 35 The purchase of an interest in a time-sharing scheme creates a significant, long-term financial obligation for a consumer. On average, consumers pay upfront costs of \$23,000 (ranging from \$14,990 and \$29,250) to purchase new memberships and \$800 in ongoing annual fees (ranging from \$645 to \$954): see [REP 642](#) at paragraphs 34 and 37. These ongoing annual fees are payable for the term of their membership (up to 80 years).
- 36 Consumers who finance their purchase through a related finance provider will also be liable for financing costs. On average, consumers pay a 13.51%

interest rate on a \$19,990 loan over a 71.9 month term. A consumer with a loan will pay on average \$36,618 for a membership held for 6.8 years, including the upfront payment, annual fees and loan interest costs: see [REP 642](#) at paragraphs 34 and 38.

Note: Further information about time-sharing schemes (including selling, advice and disclosure practices and exit arrangements) can be found in the appendix.

Consumer concerns

- 37 We received 189 complaints about time-sharing schemes between 2009 and 2019, representing a disproportionately high level of complaints about the industry when compared to other managed investment schemes.
- 38 Despite making up only 0.4% of all registered managed investment schemes, time-sharing schemes complaints represented:
- (a) on average, 3.6% of all managed investment scheme complaints we received between 2009 and 2017; and
 - (b) 20% of all managed investment scheme complaints we received in the 2018–19 financial year alone.
- 39 This high level of complaints is reflected in the complaints data of:
- (a) the Financial Ombudsman Service (FOS), which recorded 158 disputes about time-sharing schemes between 2013 and 2018;
 - (b) the Australian Financial Complaints Authority (AFCA), which received 111 complaints about time-sharing schemes between 1 November 2018 and 31 October 2019, representing approximately 13% of all complaints received about managed investment schemes; and
 - (c) ATHOC, which recorded 1,431 complaints in 2017 and 780 complaints during in 2018. Over half of the complaints in 2017 were about sales.
- 40 Our consumer research also found that complaints statistics may understate the extent of consumer issues:
- For some, the decision to purchase a membership, and the unintended consequences the purchase had invited, was a cause for embarrassment and self-reproach when later experiences with their membership fell short of expectations. The sense that participants themselves had contributed to this situation seemed to contribute to a lack of motivation to tenaciously pursue redress...
- Note: See [REP 642](#) at paragraph 24.
- 41 The most common types of complaints received by ATHOC members during 2018 were about the time-sharing scheme's accommodation, specific membership rules or benefits, and claims that members were allegedly

misinformed about the sale of the interest in the time-sharing scheme: see [REP 642](#) at paragraph 9.

- 42 Complaints we receive are predominantly about misleading and deceptive conduct, pressure-selling practices, and members' ability to access or use accommodation. Other complaints concerned cooling-off rights, fees and terms disclosure, exit arrangements, and responsible lending: see Table 1 for a summary of the categories of complaint we received between 2009 and 2019.

Table 1: Categories of complaints to ASIC about time-sharing schemes—2009–2019

Category	Number	Percentage
Misleading and deceptive conduct	47	24.9%
Accessing accommodation	22	11.6%
Exit and/or redemption of interests	22	11.6%
Sales practices	21	11.1%
Miscellaneous	16	8.5%
Unauthorised conduct	14	7.4%
Disclosure of fees and terms	11	5.8%
Affordability and/or cost	10	5.3%
Responsible lending	9	4.8%
Cooling-off rights	9	4.8%
Unconscionable conduct	8	4.2%
Total	189	100%

- 43 Our review of the current regulatory settings has identified several issues that lead to consumer harm. We have outlined the main concerns at paragraphs 44–67.

Existing cooling-off model

- 44 Consumer complaints and consumer group submissions show that the existing cooling-off model does not adequately facilitate cooling off by consumers or address the issue of pressure-selling. This is because:

- (a) the template cooling-off statement in [Pro Forma 208](#) *Time-sharing schemes: Cooling-off statement* (PF 208) is confusing and does not clearly communicate:
 - (i) what date the cooling-off period commences or ends; or

- (ii) how a consumer should exercise their rights;
- (b) existing cooling-off methods hamper consumers exercising their cooling-off rights;
- (c) consumers may have limited literacy skills; and
- (d) the cooling-off period is not long enough to allow consumers to properly consider their application, especially for consumers who:
 - (i) are on holiday and not at their usual residence; or
 - (ii) have finance applications pending and may not receive an offer of finance until after the end of the cooling-off period under the existing cooling-off model.

Note: Industry made submissions that PF 208 is confusing. They supported proposals to amend the content of the cooling-off statement and provide additional methods of cooling off, but did not support changing the length of the period.

- 45 The consumer research made similar findings about the cooling-off period. It also found that participants did not exercise their cooling-off rights because they:
- (a) had no particular reason to go back on their decision during the cooling-off period, either because they were in such a positive frame of mind after their purchase or had not had the opportunity to test their membership; and
 - (b) did not recall being told about the cooling-off period and assumed the period would be significantly longer—see paragraphs 86–88 of [REP 642](#).
- 46 We are also concerned about the high level of cooling off and the reasons members gave for exercising these rights. The consumer research found the most common reasons for cooling off that participants reported were:
- (a) changes in their personal circumstances (e.g. unexpected redundancy);
 - (b) changing their mind after doing research, or obtaining further information or advice from family members or friends; and
 - (c) in some cases, knowing at the time they signed up that they did not want a membership, but signing up on the day partly to avoid the pressure or awkwardness of leaving the sales presentation without making a purchase—see paragraph 91 of [REP 642](#).

‘Subject to finance’ rights

- 47 The existing regulatory settings do not allow for consumers who have been refused finance to exit the time-sharing scheme after the cooling-off period has ended, other than by forfeiture.

48 Operators that show leniency and understanding to these consumers, by providing informal ‘subject to finance’ arrangements, may be breaching the constitution of the scheme and their obligations to other members or the scheme.

Note: For example, the obligations under s601FB(1), 601FC(1)(b)–(d) and 601FC(1)(k) of the Corporations Act.

49 The selling practices used by the industry:

- (a) pressure consumers to make same-day purchases of interests in time-sharing schemes;
- (b) facilitate this same-day sale process by having related finance providers available at sales presentations; and
- (c) result in the financing of almost half of all sales, with loans provided by related finance providers.

50 Formal ‘subject to finance’ rights protect consumers by providing consumers with the rights to:

- (a) withdraw their application to purchase an interest, independent of their cooling-off rights;
- (b) a refund of all finance application fees paid to the related finance provider (less any reasonable costs); and
- (c) be effectively restored to the position they were in before they attended the sales presentation if they change their mind before the loan is provided.

51 By formalising these rights, we can also provide certainty to operators and promoters that extending formal ‘subject to finance’ rights and allowing consumers to withdraw their application after the expiry of the cooling-off period will be consistent with their obligations to other members of the scheme.

Existing disclosure arrangements

52 The existing disclosure arrangements do not promote informed decision making by consumers, particularly when they make a same-day purchase, as consumers are not provided with:

- (a) sufficiently prominent disclosure about the key features;
- (b) sufficient opportunity to compare disclosure about the key features in the PDS against statements made at the sales presentation; and
- (c) sufficiently prominent disclosure of fees and costs in the PDS and periodic disclosure that is relevant to time-sharing schemes.

53 The consumer research found that participants were provided with a very large pack of written information—often after they signed up—containing too much information to review at the time. As a result, the information appeared to confound them and few reported closely reviewing anything other than the brochures: see paragraph 75 of [REP 642](#).

Existing hardship arrangements

- 54 There are no mechanisms or formal hardship arrangements that members suffering hardship can use to:
- (a) exit time-sharing schemes (other than by forfeiture); or
 - (b) protect them from being pursued for amounts owing in circumstances where the member is unable to use their membership due to hardship.
- 55 Between 2018 and 2019, the average number of people across ATHOC-member time-sharing schemes who exited membership of a scheme as a result of hardship or forfeiture was 43.0%. On average, those who exited their membership held their interest in the time-sharing scheme for 6.8 years: see paragraph 34 of [REP 642](#).
- 56 The existing regulatory settings do not provide operators discretion to allow members to withdraw from the time-sharing scheme. Operators that show leniency and understanding to members suffering hardship by providing informal hardship arrangements may be breaching the constitution for the scheme and their obligations to other members or the scheme.
- 57 During 2019, the five operators actively issuing interests in time-sharing schemes reported that they provided informal hardship arrangements to allow 1,967 members to forfeit because of severe financial hardship or on compassionate grounds.
- 58 We consider that the implementation of formal hardship arrangements will provide clear benefits for members suffering hardship who are unable to use their membership. Under the arrangements, operators would be required to consider whether to approve a hardship application that meets one or more hardship criteria. These benefits become more pronounced when these members suffering hardship can be shielded from the long-term financial obligations that attach to interests in time-sharing schemes (such as annual levies) and the impact of the limited exit options.
- 59 By formalising these rights, we can provide certainty to members of time-sharing schemes and the industry alike.

Guidance on existing obligations

- 60 We last reviewed our regulatory guidance for time-sharing schemes in 2007. There have been several significant legislative changes introduced since that time that apply to time-sharing schemes and their operators. Our current guidance does not provide specific guidance to the time-sharing industry about:
- (a) our interpretation of the following existing obligations in the Corporations Act and ASIC Act:

- (i) the financial services disclosure provisions, including Statement of Advice (SOA), Financial Services Guide (FSG) and general advice warning requirements (Pt 7.7 of the Corporations Act);
 - (ii) the best interests duty (Pt 7.7A of the Corporations Act);
 - (iii) the hawking prohibitions (Div 8 of Pt 7.8 of the Corporations Act);
 - (iv) the PDS and ongoing disclosure requirements (Pt 7.9 of Corporations Act), and the enhanced fee disclosure requirements for disclosing fees and costs in PDSs and periodic statements (Sch 10 of the Corporations Regulations 2001 (Corporations Regulations)); and
 - (v) the general consumer protection provisions (Pt 7.10 of the Corporations Act and Div 2 of Pt 2 of the ASIC Act); or
- (b) obligations and consumer rights that apply under the National Credit Act and National Credit Code when the purchase of an interest is financed.

Note: Under revised Option 1, we will update our guidance to reflect the proposed amendments to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#), including guidance about how the proposed enhanced disclosure obligations and time-sharing specific fee disclosure will apply.

- 61 We consider that these existing obligations are operating effectively and efficiently. When they are understood and complied with by industry, we consider that they will effectively address some of those industry practices that lead to consumer harm.
- 62 Industry has identified that it would help if we provided specific guidance about the existing obligations, as they apply to time-sharing schemes and related finance.
- 63 The complaints we received between 2009 and 2019 suggest that the industry would benefit from this guidance. We received complaints about misleading and deceptive conduct (47 complaints), sales practices (21 complaints), unconscionable conduct (eight complaints) and the responsible lending obligations (nine complaints): see Table 1.
- 64 The complaints data, together with recent surveillance work, show that operators and promoters have been engaging in conduct that results in consumer harm, including:
- (a) using incentives to encourage consumers to attend sales presentations without clearly disclosing that the purpose is to offer an interest in a time-sharing scheme. This is a potential contravention, and contrary to the intent, of the hawking prohibitions;
 - (b) using sales processes that pressure consumers to purchase interests without proper consideration of risks and benefits of the product, or its suitability to their needs;

- (c) using sales processes that pressure consumers to take up offers of credit on short notice, contrary to the responsible lending obligations; and
- (d) providing financial product advice to consumers suggesting that they purchase an interest in a time-sharing scheme when it may not be in the best interests of the consumer.

65 The consumer research found that:

- (a) all participants were offered at least one incentive to attend the sales presentation and attended primarily to receive that incentive;
- (b) few participants understood that the sales presentation related to purchasing an interest in a time-sharing scheme;
- (c) participants were offered ‘exclusive’ incentives if they signed up on the spot. Operators and promoters used high-pressure sales tactics that focused on the potential benefits of membership, without explaining the total costs or discussing the participant’s needs or whether they could afford it;
- (d) participants got caught up in the excitement and reported feeling compelled to decide based only on the information available to them at the time;
- (e) most participants felt they would have benefited from walking away to research or consult with others before committing to the purchase;
- (f) participants found it easy to get a loan. As the application was made without access to financial records, their income, financial commitments and other information was all estimated, without reference to documentation. Most participants did not consider the total cost of membership over the term of the loan, including interest charges;
- (g) participants could not recall receiving financial advice about whether the purchase was suitable for them based on their overall objectives, financial situation and needs; and
- (h) few participants recalled receiving an SOA.

Note: See [REP 642](#) at paragraphs 48–68, 76 and 82–83.

Dilution of member interests in points-based programs

66 The existing regulatory settings have not expressly prescribed adequate compliance or audit controls to protect members in points-based programs from having their interest devalued or diluted through the issue of new interests in the scheme. This dilution can occur where operators incorrectly issue points against the accommodation assets in the scheme. When this happens, consumers may find it more difficult to access accommodation when they want or obtain the promoted benefits.

Unnecessary compliance burdens

- 67 The existing regulatory settings impose unnecessary compliance burdens on the industry—with the costs ultimately borne by members—because:
- (a) they require trust accounts for rental pools and levies to be audited every six months, instead of the annual audit requirements imposed on comparable trust accounts; and
 - (b) there are some inconsistencies in the current settings that create uncertainty.

C Why is Government action required?

68 Time-sharing schemes are specifically regulated under the Corporations Act as managed investment schemes. We have previously modified the Corporations Act to:

- (a) introduce measures to reduce consumer harms arising from same-day sales of long-term products with limited exit options; and
- (b) provide relief from certain obligations under the Corporations Act to better tailor the regulatory settings to the nature of time-sharing schemes.

69 Our consultation, reviews and surveillance have highlighted that some of the measures introduced to reduce consumer harms have not been as effective as expected, and some obligations imposed under the current settings may be overly burdensome on industry without delivering any benefit to consumers.

70 As a result, we consider action is required to:

- (a) promote informed decision making by consumers based on clear and prominent information about the key features of time-sharing schemes. This information should include the key risks, benefits, costs, terms of membership and cooling-off rights and should be disclosed to consumers *before* they decide to purchase an interest, or enter a loan to purchase an interest, in the scheme;
- (b) provide new exit options for members suffering hardship;
- (c) reduce the potential for dilution of the interests of existing members arising from the issue of new interests in a points-based program; and
- (d) reduce the regulatory burden on operators where this would not result in a reduction in consumer protection.

71 Our review has also highlighted that we need to update our regulatory guidance to ensure that the time-sharing industry understands our interpretation of the existing obligations, and the application of these obligations to the industry.

72 Although our review and findings from the consumer research (outlined in [REP 642](#)) showed deficiencies in the existing cooling-off model, we consider further consultation is required for a measured response to the problem of pressure selling in the time-sharing industry.

D Options under consideration

- 73 This RIS considers the following policy options:
- (a) *Revised Option 1*—Amend the policy settings but maintain the existing cooling-off model;
 - (b) *Option 2*—Adopt alternative changes to the policy settings in Option 1 by introducing an opt-in regime;
 - (c) *Option 3*—Adopt alternative changes to the policy settings in Option 1 by introducing a deferred commencement date for cooling-off; and
 - (d) *Option 4*—Maintain the status quo.

Revised Option 1: Amend the policy settings but maintain the existing cooling-off model (preferred option)

- 74 Revised Option 1 entails amending the conditions attached to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) to strengthen consumer protection and remove some regulatory burden on industry.
- 75 We propose to do this through the introduction of the enhanced or new requirements in Table 2.

Table 2: Requirements to strengthen consumer protection

Requirement	Explanation
'Subject to finance' rights	We would include formal 'subject to finance' rights that can also be exercised outside of the cooling-off period. Under revised Option 1, the cooling-off period is unchanged. These 'subject to finance' rights will benefit consumers by providing formal rights to withdraw their application for membership (in the circumstances outlined on paragraph 11(b)) and be refunded any finance application fees paid to related finance providers (less the reasonable value of any administration costs the related finance provider incurred while processing the application before receiving the notification). These rights operate independently of cooling-off rights.

Requirement	Explanation
Enhanced disclosure obligations	<p>We would enhance the disclosure obligations to make the key features of time-sharing schemes more prominent.</p> <p>We would also introduce a prescribed warning (prescribed consumer warning), that outlines the information consumers should consider before they purchase an interest, so that they can assess the suitability of the product and the costs and risks of purchasing it. The warning would cover:</p> <ul style="list-style-type: none"> • the consumer considering whether purchasing an interest in a time-sharing scheme is right for them; • the long-term nature of time-sharing scheme membership generally, and the specific term of the interest offered under the PDS; • the ongoing costs that apply for as long as the consumer holds an interest in the time-sharing scheme, regardless of usage; • limitations on access to accommodation or locations; • the limited ability to exit a time-sharing scheme after the cooling-off period has ended; and • the nature of an acquisition of interests: <ul style="list-style-type: none"> – the fact that interests in time-sharing schemes are not for the purposes of financial investment; and – the fact that interests in time-sharing schemes may not involve any form of direct ownership of real property. <p>These enhanced disclosure obligations will benefit consumers by providing them with key information (including consumer warnings) about time-sharing schemes—presented clearly and prominently, verbally and in writing—to inform their decision making.</p>
Requirements for points-based programs	<p>To address the potential dilution of members' points, we would introduce requirements for operators of points-based programs to:</p> <ul style="list-style-type: none"> • audit points holdings; and • assess the impact of points issue on existing members. <p>These new requirements for points-based programs targeting the dilution of interests will benefit consumers by improving their membership experience, including improving access to accommodation when they want and the delivery of promoted benefits.</p>
76	<p>Under revised Option 1, we would also amend ASIC Corporations (Time-sharing Schemes) Instrument 2017/272 to:</p> <ol style="list-style-type: none"> (a) reduce certain compliance burdens, taking into consideration industry practices and product features, to reduce costs to industry and members without compromising consumer protection; and (b) simplify the regime by centralising requirements in one legislative instrument.
77	<p>Finally, we would provide commercial certainty and improve standards by providing specific guidance about ASIC's interpretation of the existing obligations, as they apply to the time-sharing industry. Consumers will benefit from any improvements to industry compliance and ASIC monitoring that result from this guidance.</p>

78 A summary of the changes for operators of registered schemes under revised Option 1 is outlined at paragraphs 80–97 and 100.

79 Revised Option 1 also entails amending individual relief granted to legacy schemes to reflect the amendments to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#), as appropriate, following consultation with these legacy scheme operators. Consumers are likely to benefit from similar amendments to individual relief for legacy schemes. For information about individual relief provided to legacy schemes, see paragraphs 98–100.

Cooling-off rights

80 Our concerns about the adequacy of the existing cooling-off model were confirmed by our consultation and research.

81 We intended that *original* Option 1 would:

- (a) extend the cooling-off period for consumers who apply to purchase interests in registered schemes to:
 - (i) 14 days (from 7 days), if the operator is an ATHOC member; and
 - (ii) 21 days (from 14 days), if the operator is not an ATHOC member;

Note: We proposed to continue to provide cooling-off concessions to ATHOC members to encourage ATHOC membership. Membership is open to the time-sharing industry broadly, and all ATHOC members are subject to co-regulatory oversight and ATHOC's Code of Ethics and Code of Practice. Four of the five operators of active registered schemes are currently members of ATHOC.

- (b) update the template cooling-off statement to clarify when the cooling-off period starts and ends, and to include a consumer warning statement. The template was intended to be included as a schedule to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#); and
- (c) amend the ways consumers can exercise their cooling-off rights to include post, through the operator's website and by email.

82 We have decided not to progress the proposal to provide an enhanced cooling-off model. We will retain the existing cooling-off model: see paragraphs 12–15.

'Subject to finance' rights

83 During our consultation, respondents highlighted concerns about the failure of the existing cooling-off model to:

- (a) provide consumers with formal 'subject to finance' rights that can also be exercised after the end of the cooling-off period; and
- (b) require operators of registered schemes to take reasonable steps to ensure that where a consumer applies for finance from a related finance provider and exercises their formal 'subject to finance' rights, all money paid in relation to the application for finance is refunded to the consumer.

- 84 During this time we also found that a related finance provider was signing up consumers to loans at a time-sharing scheme sales presentation without first assessing whether the consumers could afford the loans or if the loans were right for them. We fined the related finance provider for responsible lending failures.

Note: See [Media Release \(18-253MR\)](#) *ULTIQA Lifestyle timeshare lender fined for responsible lending failures* (31 August 2018).

- 85 Revised Option 1 aims to address these concerns by providing formal ‘subject to finance’ rights, as well as providing some alignment with the consumer protection benefits in the National Credit Act, including the National Credit Code.

Disclosure

- 86 To help consumers work out if the product is right for them and understand the financial obligations related to the interest they are purchasing, under revised Option 1 we are proposing to introduce enhanced disclosure requirements for the fees and costs and other key features of registered schemes: see Table 3.

Table 3: Enhanced disclosure requirements

Requirement	Explanation
Fees and costs disclosure	<p>We would introduce a fees and costs disclosure regime tailored to the time-sharing industry, including:</p> <ul style="list-style-type: none"> tailored standardised templates, to incorporate different structures and capture all the upfront and ongoing fees and costs associated with a purchase; and a tailored example of annual fees and costs, to help consumers understand how much they could be paying for an interest in a scheme (with and without finance) each year the product is held. <p>This tailored fees and costs disclosure will provide meaningful disclosure to consumers about upfront and ongoing fees and costs associated with time-sharing schemes. This information should help them decide whether an interest in the time-sharing scheme is right for them.</p>
Prescribed consumer warning	<p>We would require a prescribed consumer warning (set out in ASIC Corporations (Time-sharing Schemes) Instrument 2017/272) to be provided:</p> <ul style="list-style-type: none"> verbally to consumers at sales presentations; and at the beginning of the PDS. <p>This prescribed consumer warning will provide clear and prominent information about the costs, long-term nature, risks and other important details of time-sharing schemes. This information should help them decide whether an interest in a time-sharing scheme is right for them.</p>

Requirement	Explanation
Explanation of key features	<p>We would require operators to include the following information (key features) in the first seven pages of the PDS after the written consumer warning:</p> <ul style="list-style-type: none"> • the membership term of the interest in the time-sharing scheme being offered under the PDS; • any criteria used by the operator to identify consumers the operator considers most likely to: <ul style="list-style-type: none"> – be suited to a time-sharing scheme; and – be interested in acquiring an interest in the scheme through its sale presentations; • a description of the restrictions on exit and a statement that the consumer should have no expectation of being able to sell the membership on any market or get any money back; • a description of the cooling-off rights and ‘subject to finance’ rights, and a reference to the cooling-off statement; <p>Note: Under revised Option 1, this requires a description of the existing cooling-off rights and new ‘subject to finance’ rights and a reference to the existing cooling-off statement;</p> <ul style="list-style-type: none"> • a description of key limitations on access to accommodation (such as seasonality or other factors); • a summary of the fees and costs involved, and a cross-reference to where further information can be found in the PDS; and • for points-based programs, a summary of how the points system works and a cross-reference to where further information can be found in the PDS. <p>Consumers will benefit from this clear and prominent disclosure about the costs, long-term nature, risks and other important information of the time-sharing scheme. This information should help them decide whether purchasing an interest in the time-sharing scheme is right for them.</p>

Hardship arrangements

- 87 To help members suffering hardship, revised Option 1 requires operators to consider a member’s request to withdraw from the scheme because of hardship circumstances. If the request is found to meet specified hardship criteria, operators have the discretion to approve the withdrawal as at the date the request was lodged and release the member from all liability to the scheme, including any shortfall from resale or outstanding and future payments (formal hardship arrangements).
- 88 We received feedback during our consultation that it is the practice of some operators to provide informal hardship arrangements. The proposed formal hardship arrangements will standardise and formalise this practice across the industry and provide more certainty to:
- (a) members suffering hardship, compared to the informal hardship arrangements offered or withheld at the discretion of operators on an ad-hoc basis; and
 - (b) operators, which will now be able to provide hardship arrangements consistent with the constitution of the scheme and their obligations to other members and the scheme.

Specific guidance to time-sharing industry

89 Under revised Option 1, we will update [Regulatory Guide 160](#) *Time-sharing schemes* (RG 160) to provide more detail on our interpretation of:

- (a) the changes made under this policy option, including guidance on the consumer warnings and fees and costs disclosure; and
- (b) changes in the law since RG 160 was last substantively updated, including changes to the existing obligations. Our guidance on these changes will be tailored to the time-sharing industry.

90 This guidance on the existing obligations does not introduce new obligations. It is intended to help industry comply with its existing obligations and ASIC to monitor industry's compliance with these obligations.

91 We consider that additional guidance may help the industry understand our interpretation of the existing obligations. Consumers will benefit from any improvements to industry compliance and ASIC monitoring that result from this guidance, including a reduction in the harm caused by pressure selling and other questionable sales practices, poor disclosure, inappropriate advice, and misleading conduct.

Compliance obligations

92 Revised Option 1 imposes a new obligation on operators of points-based programs to have additional compliance procedures to measure whether:

- (a) the number of points each member holds reflects the extent of their interest in benefits produced by the scheme; and
- (b) consideration has been given to the impact of further issues of interests on existing members.

93 If these compliance procedures are not introduced, consumers will remain vulnerable to having their interests diluted and membership experience diminished.

94 This option also reduces the burden on operators by amending some current disclosure requirements. Currently, operators must disclose full details of the composition and calculation of all continuing charges and levies, which requires the provision of very detailed information. Under revised Option 1, operators must give members a notice of levies and a copy of the budget that relates to the period (which can be provided electronically or published on the website, if notification requirements are satisfied). The proposed disclosure is more likely to be understood by members and will be easier for operators to provide.

- 95 This option also reduces compliance burdens on schemes and members (who ultimately fund these costs via the payment of levies) by:
- (a) reducing the requirement to audit trust accounts from twice to once a year; and
 - (b) expanding the definition of ‘special custody assets’ under [Class Order \[CO 13/760\]](#) *Financial requirements for responsible entities and operators of investor directed portfolio service* to include:
 - (i) land and other real property of a time-sharing scheme; and
 - (ii) levies of a time-sharing scheme that are held in an account with an Australian authorised deposit-taking institution (ADI), styled as a trust account.
- 96 This option also clarifies that the 30% cap on deposits for the purchase or issue of interests only applies if the registered scheme is for a property development or part of a property development that is not ready for occupation.
- 97 This option centralises the ongoing obligations for operators of registered schemes and dealers into [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#).

Individual relief for legacy schemes

- 98 Under revised Option 1, and following further consultation with legacy scheme operators relying on individual relief, the individual relief granted to legacy schemes will be updated to reflect amendments to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) (set out in paragraphs 80–96), including a reduction of audit requirements for trust accounts from twice a year to once a year.
- 99 The outdated Pro Forma 205 *Time-sharing schemes formerly exempt under state laws* (PF 205), Pro Forma 206 *Time-sharing schemes—Chapter 5C relief* (PF 206) and Pro Forma 207 *Title-based time-sharing schemes* (PF 207) have been revoked, and requests for similar relief and the conditions of any relief granted will be considered on a case-by-case basis.

Transition period

- 100 Under revised Option 1, mindful of the challenges that the COVID-19 pandemic has created for the tourism industry, we will provide a minimum nine-month transition period (transition period). This will give industry time to adapt its processes and practices to the changes as set out in [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) and the individual relief instruments.

Option 2: Adopt alternative changes to policy settings, including introducing an opt-in regime

101 Option 2 entails amending the conditions attaching to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) in an alternative way to revised Option 1.

Opt-in regime

102 Under Option 2, the existing cooling-off rights would be replaced by an opt-in regime where consumers would need to actively confirm to the operator that they wish to proceed with the purchase within a defined number of days to avoid being treated as having cooled off.

Other changes

103 Under Option 2 we would make the following changes:

- (a) An operator would only be required to take reasonable steps to ensure that all finance fees paid to a related finance provider are returned.
- (b) The PDS fees and costs disclosure must include:
 - (i) the total amount of fees and costs to be paid by a member for the term of the product; and
 - (ii) a worked example of the annual fees and costs a member would pay on average for the first 10 years if they were to acquire a typical time-sharing scheme interest with *and* without financing.
- (c) We would amend our guidance in [RG 160](#) to include our expectation that operators would provide:
 - (i) verbal disclosure to consumers of the prescribed consumer warning; and
 - (ii) a prominent summary of the key features and the prescribed consumer warning in the PDS;

Note: In contrast to revised Option 1, which imposes these as obligations in [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#).

- (d) we would facilitate hardship relief via individual relief on a case-by-case basis only; and
- (e) the definition of ‘special custody assets’ would be expanded.

104 Under this option we would also:

- (a) provide the specific guidance to the time-sharing industry (set out in paragraphs 89–91);
- (b) introduce the changes to compliance arrangements (set out in paragraphs 92–97); and

- (c) amend the individual relief granted to legacy schemes to reflect the amendments to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#), as appropriate, following consultation with these legacy scheme operators.

Option 3: Adopt alternative changes to policy settings, including introducing a deferred commencement date for the cooling-off period

105 Option 3 entails amending the conditions attaching to [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) in an alternative way to Options 1 or 2.

Deferred commencement

106 Under Option 3, we would amend the cooling-off rights to have a deferred commencement and end date for the cooling-off period.

107 A consumer making an initial acquisition of an interest in the scheme will have a 7-day (for ATHOC members) or 14-day (for non-ATHOC members) cooling-off period *commencing from*:

- (a) if the consumer has made an application for finance to purchase an interest in the registered scheme, the date the consumer has been informed of the decision whether the finance has been approved or not and received all loan documentation (instead of the formal ‘subject to finance’ rights under revised Option 1); and/or
- (b) if the consumer is on holidays when they acquire the interest in the registered scheme, the date specified by the consumer that they expect to return to their usual place of residence.

Other changes

108 Under Option 3 we would also:

- (a) provide the specific guidance to the time-sharing industry set out in paragraphs 89–91;
- (b) introduce the changes to compliance arrangements set out in paragraphs 92–97; and
- (c) make the other changes outlined in Option 2 (see paragraphs 103–104).

Option 4: Maintain the status quo

- 109 Option 4 does not involve any change to policy settings. The existing relief under [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#)—including the conditions that apply to some of the relief—and the existing individual relief for legacy schemes will continue to apply.

E Cost–benefit and impact analysis of each option

Revised Option 1: Amend the policy settings but maintain the existing cooling-off model (preferred option)

- 110 The key focus of the changes to the policy settings under this option is to:
- (a) allow consumers to withdraw after the cooling-off period when they have applications for finance pending or refused, or decide not to proceed with an application for finance;
 - (b) improve consumer understanding in the context of same-day sales processes by providing additional and more prominent disclosure, and written and verbal warnings to consumers;
 - (c) help members suffering hardship to exit the scheme and shield them from incurring additional costs; and
 - (d) improve consumer outcomes and industry levels of compliance through more specific guidance on our interpretation of the existing obligations in the context of time-sharing schemes.
- 111 We have also proposed other changes that we consider will reduce the regulatory burden on industry without reducing consumer protections.

Impact on operators and promoters of registered schemes

- 112 We do not anticipate that this option will cause operators and promoters undue disruption, as in some cases the changes reflect industry practice. For example, operators have told us they currently provide informal ‘subject to finance’ and hardship arrangements at their discretion on an ad-hoc basis—despite the potential for the operators to be in breach of their current obligations under the Corporations Act and scheme constitution by allowing members to exit the scheme when no such rights exist after the cooling off period has passed.
- 113 However, operators have indicated they will incur additional compliance and administrative costs—in particular, because of changes to PDS content and additional disclosure requirements.
- Note: Operators also indicated that they would incur significant costs as a result of changes to the cooling-off statement under the proposed enhanced cooling-off model. However, we have decided not to progress this proposal at this time.
- 114 Some of the additional costs related to the changes to PDSs will be one-off costs for obtaining legal advice, revising PDSs, revising processes, carrying out further training and printing new materials.

115 Changes to the withdrawal arrangements through the introduction of the formal hardship arrangements will also result in increased administration and compliance costs to operators. These costs relate to:

- (a) implementation, including convening any necessary meetings of members and making any necessary amendments to scheme constitutions; and
- (b) the development and monitoring of processes to manage hardship applications, including legal and compliance costs.

116 To help industry, we will also be providing further guidance on hardship to clarify the hardship circumstances and reduce the cost to operators of making these determinations over time.

117 We anticipate that these additional costs will be passed onto members in the form of higher membership fees or levies.

118 Compliance costs will be reduced because of the reduced frequency of audits of trust accounts.

119 While additional guidance about the existing obligations does not impose additional obligations, operators expect this guidance will result in some additional one-off costs. Despite this, there are benefits for operators in having greater certainty about how we interpret the existing obligations, which may help operators meet their obligations and reduce operational and regulatory risk.

120 We do not anticipate that revised Option 1 will have any impact on competition, given the amount of the estimated compliance costs involved and because the changes to the policy settings will apply to all operators of registered schemes.

Note: We consider that our decision to continue providing cooling-off concessions to ATHOC members will not impact competition because ATHOC membership is open to the time-sharing industry broadly.

Impact on related finance providers

121 Related finance providers are already subject to requirements set out in the National Credit Act and National Credit Code. This includes the requirement to make credit assessments and consumers' right to terminate a related loan if a contract for the sale of good is rescinded. We expect that the guidance in the updated [RG 160](#) about interaction with requirements in the National Credit Act and National Credit Code will help related finance providers understand their obligations.

122 Related finance providers expect the proposed introduction of formal 'subject to finance' arrangements—including the requirement to refund fees, formal hardship arrangements, and modifications to disclosure of fees and costs information—will result in additional costs, with most costs being one-off.

123 Related finance providers expect that there will be cost savings arising from the reduced audit requirements.

124 We would expect any additional costs to be passed on to consumers.

Impact on legacy scheme operators and dealers

125 Legacy scheme operators and dealers will be affected by the changes to the auditing requirements.

126 We do not anticipate that revised Option 1 will cause undue disruption to legacy scheme operators and dealers. We expect that while they may incur some additional compliance and administrative costs, these will be offset to a large extent by savings resulting from changes to trust account audit requirements.

127 We would expect any additional costs to be passed on to members and consumers.

Impact on consumers

Proposals affecting consumers' decision-making processes

128 The following proposals will affect consumers' decision-making processes when deciding whether to purchase an interest in a time-sharing scheme:

- (a) introduction of formal 'subject to finance' rights;
- (b) improved disclosure about key features; and
- (c) guidance for industry on their existing obligations (where this delivers improved industry compliance and ASIC monitoring).

Formal 'subject to finance' rights

129 Consumers who apply for finance to purchase an interest in a time-sharing scheme will benefit from formal 'subject to finance' rights. These rights will allow them to:

- (a) withdraw their application for an interest in the scheme (independent of the cooling-off rights); and
- (b) be refunded finance application fees paid to related finance providers.

130 These 'subject to finance' rights will apply if:

- (a) an offer of finance has not been made before the end of the cooling-off period; or
- (b) the consumer decides not to accept an offer of finance or a loan before the loan is provided.

Improved disclosure about key features

131 Disclosure alone is not sufficient to drive good consumer outcomes, and it is not a complete solution to overcome complexity in time-sharing schemes or harmful practices. However, we consider that consumers will benefit from the enhanced disclosure under this option.

132 These changes will give consumers more prominent disclosure of risks—supplemented with verbal warnings—and more clarity and transparency about the key features of the product. We expect consumers will gain a better understanding of the costs, risks and limitations associated with membership from this disclosure, and be able to see beyond the glossy images and benefits promoted to them during sales presentations. Consumers will be better informed if they need to exercise their cooling-off rights and when they use their membership.

Guidance to industry

133 The guidance on existing obligations will help industry understand and comply with obligations that already apply to them. This will raise standards in the industry and reduce consumer harm, particularly in the way interests in time-sharing schemes are promoted and sold.

Consumer benefits compared to costs

134 To enable better understanding of the consumer benefits of this option, we have compared the costs with the potential savings derived by consumers.

135 Under this option, there will be consumers who do not purchase an interest in a time-sharing scheme because they:

- (a) decide not to attend a sales presentation after the sales representative informs them that it is for a time-sharing scheme—consistent with guidance on the hawking prohibitions;
- (b) decide not to become a member after the sales representative considers the consumer’s best interests and says that membership in a time-sharing scheme is not suitable for them—consistent with the best interests duty;
- (c) are not provided with a loan because the related finance provider decides that it is not appropriate to enter into a loan with the consumer—consistent with the related finance provider’s obligations under the National Credit Act;
- (d) consider the improved disclosure provided about key features and decide that an interest in a time-sharing scheme is not right for them; and/or
- (e) exercise their formal ‘subject to finance’ rights to withdraw their application independent of the cooling-off period.

136 Using the \$23,000 average upfront cost of membership, under revised Option 1 there would be a net consumer benefit even if only 15 consumers

(or 3 consumers in each of the situations outlined in paragraph 135) do not proceed to become members.

137 Although difficult to quantify, we expect that the actual number of consumers who will benefit from these changes will be much greater. This is because:

- (a) ATHOC recorded 1,431 complaints in 2017 and 780 complaints during in 2018—and over half of the complaints in 2017 were about sales (see paragraph 39(c)):
- (b) ATHOC reported to ASIC that of the 199,317 consumers who attended sales presentations in 2019:
 - (i) 20,042 consumers applied for an interest in a time-sharing scheme;
 - (ii) 3,469 consumers exercised their cooling-off rights during the cooling off period;
 - (iii) 1,277 consumers were allowed to exit after the end of the cooling-off period; and
 - (iv) 1,010 consumers did not proceed due to a failure to obtain finance; and
- (c) 10,025 consumers (or 48% of all consumers) applied for finance to purchase the interest during a similar period (see [REP 642](#) at paragraph 34).

Proposals affecting members of time-sharing schemes

138 The proposals to introduce formal hardship arrangements and new requirements for points-based programs will deliver benefits to consumers as members of time-sharing schemes.

139 It is difficult to quantify the benefits of these changes. This is because the nature of the benefits members derive from time-sharing schemes is largely experiential, there are a variety of membership options across the industry, and hardship itself is unpredictable.

140 However, we estimate that there is the potential for a large number of members to benefit from the new formal hardship arrangements. In 2019, 1,967 members exited time-sharing schemes under informal hardship arrangements. These new arrangements will help members suffering hardship exit a scheme when they are unable to use their interests due to financial or medical hardship. These arrangements will also reduce the financial costs that may be recovered from them after their hardship application has been approved, including the average \$800 in ongoing annual fees.

141 We estimate that 107,305 members of points-based programs (being the number of members reported by ATHOC to ASIC for the 2018 calendar year) will benefit from the new requirements targeting the dilution of interests and diminishment of membership experience.

Impact on ASIC and other parts of Government

- 142 We will need to monitor and enforce the proposed regulatory changes, but these costs will reduce as the level of industry compliance increases.
- 143 As we have decided not to progress the enhanced cooling-off model at this time, we will need to conduct further consultation before deciding whether to implement an enhanced cooling-off model or a deferred sales model to address pressure-selling of interests in time-sharing schemes.
- 144 Government administration costs outside ASIC are not likely to change.

Options 2 and 3: Adopt alternative changes to policy settings by introducing an opt-in regime or a deferred commencement date for the cooling-off period

- 145 Both Options 2 and 3 are like revised Option 1, but with the following key differences:
- (a) under Option 2, introducing an opt-in regime to replace the existing cooling-off model, so that consumers must take positive steps to confirm the contract, rather than to cool off (or opt out). This option was considered in response to concerns about the impact that selling practices have on consumers and concerns about the adequacy of cooling-off rights as a consumer protection mechanism;
 - (b) under Option 3, delaying the commencement of the existing cooling-off period for consumers who apply for finance or are on holiday. This was considered in response to concerns about the adequacy of the existing cooling-off model as a consumer protection mechanism; and
 - (c) under Option 2 and 3, requiring enhanced upfront disclosure about costs—whether this is disclosure of the total amount payable over the term of membership or a worked example over a one-year or 10-year period—to provide consumers with a better understanding of the real cost of membership. This was considered in response to concerns that consumers do not understand the real cost of their membership term.

Impact on operators of registered schemes and promoters

- 146 For Option 2, operators and promoters submitted that the introduction of an opt-in regime would be detrimental to the industry and the broader holiday and tourism economy. They anticipated their sales would reduce dramatically, which would impact:
- (a) the operators and promoters;
 - (b) their representatives; and

- (c) existing members of schemes that are reliant on the introduction of new members for the enhancement of their time-sharing scheme experience.

Note: See [ATHOC's submission](#) (PDF 367 KB) on question B6Q7 in CP 272.

- 147 There were also concerns that the introduction of an opt-in regime would increase costs, due to the implementation and monitoring of processes to manage opting in, including legal, information technology (IT), compliance and training costs. These costs would likely be passed on to members.
- 148 For Option 3, operators submitted that the introduction of a change to the commencement of the cooling-off period would create a disproportionate administrative burden for industry and lead to uncertainty, inefficiency or administrative errors in the operation of the cooling-off period. Operators noted costs associated with this option would be similar to those in Option 2, and relate to the implementation and monitoring of processes to manage opting-in—including legal, IT, compliance and training costs. These costs would likely be passed on to members.
- 149 For Option 2 and 3, operators and promoters also submitted that disclosure of fees and costs for the entire term of the product may be misleading and result in non-compliance with the PDS content requirements. This was because fees and costs are subject to change and would need to be forecast for a lengthy period (which may be up to 60 years).

Impact on related finance providers

- 150 Related finance providers identified that proposals to introduce an opt-in or deferred cooling-off regime would result in increased legal, training, management and administration costs—including costs associated with the review of loan documentation—above those expected under revised Option 1.

Impact on legacy scheme operators and dealers

- 151 We do not anticipate that Option 2 or 3 would cause undue disruption to legacy scheme operators and dealers, because they are not permitted to issue new interests. We expect that while they may incur some additional compliance and administrative costs, these will be offset to a large extent by savings resulting from changes to the account audit requirements.

Impact on consumers

Proposals affecting consumers' decision-making processes

- 152 We expect that a consumer's decision-making process before purchasing an interest in a time-sharing scheme will be affected by our proposals:
- (a) in Option 2, to introduce an opt-in regime;

- (b) in Option 3, to introduce a deferred commencement date for the cooling-off period;
- (c) in both Option 2 and 3:
 - (i) to require enhanced upfront disclosure about fees and costs and guidance about ongoing obligations;
 - (ii) to introduce ‘subject to finance’ rights for consumers, without formal rights to the return of application fees paid to related finance providers;
 - (iii) to provide guidance to industry about verbal and written prescribed consumer warnings; and
 - (iv) as with revised Option 1, to provide specific guidance to industry about the existing obligations.

153 The opt-in regime in Option 2 provides a greater benefit to consumers than the opt-out regimes in Options 1, 3 and 4. The purchase of the interest in the registered scheme would only proceed if the consumer takes positive confirmation steps with the benefit of time and resources, free of any pressure selling, to consider the features of the product. While difficult to quantify, this may help consumers who do not wish to proceed with the purchase but who would not have taken the steps to exercise their cooling-off rights under the current opt-out regime. Consumer representatives strongly supported this option.

154 Although the opt-in regime under Option 2 was considered optimal by consumer groups, they also considered that the delay to the commencement of the cooling-off period in Option 3 could benefit consumers as they would have more time to consider the product and its suitability. It would also reduce the possibility that pressure could be applied to the consumer, as they would have time to consider the purchase of the product when they were no longer at the resort or on holiday.

155 Options 2 and 3 also contemplated enhanced upfront disclosure requirements that included setting out the fees and costs of the product for the entire membership term. While consumers may benefit from a greater understanding of the potential cost of the product, we consider that it may result in consumers receiving information that is inaccurate or has the potential to mislead to consumers, given the terms of a time-sharing scheme may be up to 80 years.

156 Options 2 and 3 also included proposals to provide guidance on existing obligations.

Consumer benefits compared to costs

157 To enable better understanding of the consumer benefits of the opt-in and deferred sales arrangements under Options 2 and 3, and to assist comparison

with the consumer impact under Option 1, we have set out the benefits from the perspective of consumers who *do not* proceed to apply for membership.

158 Using the \$23,000 average upfront cost of membership, there would be a net consumer benefit from the proposals outlined in paragraph 152:

- (a) under Option 2, if 134 consumers do not opt-in after attending a presentation; and
- (b) under Option 3, if 132 consumers opt-out after attending a presentation.

159 However, we expect the numbers of consumers who will benefit will be much greater: see paragraph 137.

Proposals affecting members of time-sharing schemes

160 Options 2 and 3 also include proposals to introduce formal hardship arrangements and new requirements for points-based programs. We expect 1,967 members in hardship will benefit from the formal hardship arrangements and 107,305 members of points-based programs will benefit from the new requirements for points-based programs see paragraphs 138–141.

161 Despite the likely consumer benefit, it is not clear at this time whether the regulatory benefit outweighs the cost for Options 2 and 3. We formed this view on the basis of the likely risk of additional costs being passed on to existing members. We also considered the probable disruption to industry and, in the case of Option 3, the uncertainty about cooling-off periods this could create for consumers.

162 In addition, it may be premature and inappropriate to adopt Options 2 and 3 before we assess the implementation of the other changes and review how time-sharing sales practices have responded to these reforms in early 2022. If we identify pressure-selling conduct leading to poor consumer outcomes in this review, we can then consider further measures to address this harm.

Impact on ASIC and other parts of Government

163 To implement either Option 2 or 3, we would need to undertake additional work to develop policy settings in consultation with industry and consumer groups. We would need to monitor and enforce the proposed regulatory changes, with a higher burden for ASIC under Option 3 due to the variability of the cooling-off period.

164 Government administration costs outside ASIC would be unlikely to change.

Option 4: Maintain status quo

165 Option 4 was not considered optimal by either industry or consumers, as each
interest group had suggestions to improve the regulation of the time-sharing
industry and to address the impact that the current regulatory settings has on
them.

Impact on industry

166 Since the regulatory framework will not be affected, there would be no
significant impact on operators of registered schemes or legacy schemes, or on
promoters or dealers.

167 Under Option 4, industry would avoid incurring administrative and financial
burdens associated with the changes to the current regulatory settings.

168 However, industry would continue to be required to:

- (a) have their trust accounts audited every six months, instead of every
12 months; and
- (b) comply with the current enhanced fee disclosure requirements, instead of
the tailored fee disclosure requirements.

169 Continued compliance with these current settings would result in costs to the
industry that are ultimately borne by consumers, without any additional
consumer protection.

170 Additionally, in some instances the current regulatory settings would not
reflect the nature of time-sharing schemes. Industry would also not have the
benefit of increased detail about our interpretation of the existing obligations.

Impact on consumers

171 As Option 4 would not change the current position, it would therefore not
address the significant consumer protection issues that have been identified in
our review of the regulatory framework for time-sharing schemes and in the
consumer research outlined in [REP 642](#). This includes the impact on
consumers of industry selling, advice and disclosure, the absence of formal
'subject to finance' rights or inadequacies in exit arrangements.

172 Under Option 4, consumers would also forego the benefits summarised in
paragraph 16, which would be delivered under revised Option 1.

173 Despite our consultation we have not been able to accurately quantify the size
of consumer harm should we maintain the status quo. However, for consumers
who have purchased a membership in a time-sharing scheme and wish to exit,
the costs to the individual are significant. The average upfront cost is \$23,000,
and around half of the consumers purchasing memberships use finance (which

further increases the cost). Our consumer research found that those who looked into selling online discovered the amount they might receive was much lower (a third or less) than they expected. Those who sold their membership on the secondary market reported they had received less than a third of what they had paid: see Table 3 in [REP 642](#). This is a high cost for consumers that they may not be able to recover to exit a product they did not understand or that was simply not right for them.

Impact on ASIC and other parts of Government

174 Government administration costs would be unlikely to change.

F Regulatory Burden and Cost Offset Estimate Table

175 Table 4, Table 5 and Table 6 detail the estimated annual regulatory cost associated with the amendments to the policy settings in revised Option 1 and Options 2 and 3, respectively.

Table 4: Average annual compliance costs (from business as usual)—Revised Option 1

Sector	Total change in costs
Operators	Increase of \$366,000
Related finance providers	Increase of \$15,000
Legacy scheme operators and dealers	Decrease of \$45,000
Total cost	Increase of \$336,000
Is the proposal cost neutral?	No
Is the proposal deregulatory?	No

Table 5: Average annual compliance costs (from business as usual)—Option 2

Sector	Total change in costs
Operators	Increase of \$3.076 million
Related finance providers	Increase of \$0.030 million
Legacy scheme operators and dealers	Decrease of \$0.042 million
Total cost	Increase of \$3.064 million
Is the proposal cost neutral?	No
Is the proposal deregulatory?	No

**Table 6: Average annual compliance costs (from business as usual)—
Option 3**

Sector	Total change in costs
Operators	Increase of \$3.034 million
Related finance providers	Increase of \$0.034 million
Legacy scheme operators and dealers	Decrease of \$0.042 million
Total cost	Increase of \$3.026 million
Is the proposal cost neutral?	No
Is the proposal deregulatory?	No

G Consultation

Release of CP 272 and feedback received

- 176 On 17 November 2016, we published [CP 272](#), seeking feedback on our proposals to:
- (a) remake the following class orders (since superseded) into a single instrument, subject to an additional requirement that the time-sharing scheme is not promoted as a means of generating a financial return (other than by way of a rental pool):
 - (i) Superseded Class Order [SCO 00/2460] *Time-sharing schemes—Property valuations*;
 - (ii) Superseded Class Order [SCO 02/315] *Time-sharing schemes—Use of loose-leaf price list*; and
 - (iii) Superseded Class Order [SCO 03/104] *Relief facilitating the acquisition and sale of forfeited interests in registered time-sharing schemes*;
 - (b) provide transitional relief, grandfathered for existing operators relying on Superseded Class Order [SCO 02/237] *Time-sharing schemes—Operation of rental pool*, with amendments to reduce the frequency of the audit of the trust account from twice a year to once a year;
 - (c) amend the template cooling-off statement for operators of time-sharing schemes;
 - (d) provide for the refund of financing costs when cooling-off rights are exercised;
 - (e) impose additional requirements where verbal financial product advice is provided to a consumer on the purchase of an interest in a time-sharing scheme; and
 - (f) modify the enhanced fee disclosure requirements in Sch 10 to the Corporations Regulations to tailor them to time-sharing schemes.
- 177 As a part of the CP 272 consultation on enhancing cooling-off rights, we also consulted in limited terms about introducing an opt-in regime instead of the cooling-off rights.
- 178 CP 272 also sought additional feedback on existing obligations, including about hawking and sales practices, and whether the cooling-off rights are working effectively.

Note: For further information about our consultation, see [CP 272](#).

Feedback

- 179 We received eight non-confidential responses to CP 272, including responses from consumer representatives, external dispute resolution schemes and ATHOC on behalf of its members. Respondents generally supported the continuation of the sunset relief.
- 180 There was general support from industry for the continuation of the existing conditional relief granted to registered schemes and transitional relief for existing operators.
- 181 Industry were particularly concerned about:
- (a) proposals to replace the existing cooling-off model with Option 2 (opt-in regime) or Option 3 (deferred commencement date), submitting that these proposals would greatly disrupt their business model and reduce sales;
 - (b) the proposal in original Option 1 to provide formal ‘subject to finance’ rights, requiring the refund of any fees for both the credit contract and the application for an interest in the time-sharing scheme when the contract did not proceed; and
 - (c) the proposed requirement to provide additional disclosure both before sales presentations and in PDSs, on the basis this would provide undue emphasis to the risks at the expense of benefits of the product.
- 182 Industry was generally supportive of the proposed amendments to the cooling-off template, fee disclosure provisions tailored for time-sharing schemes, and to the reduced audit requirements (from twice a year to once a year).
- 183 Consumer groups were generally sceptical of cooling-off rights as a consumer protection mechanism, and preferred:
- (a) the opt-in regime in Option 2 to the deferred commencement date for the cooling-off period in Option 3; and
 - (b) both Options 2 and 3 to the enhanced cooling-off model proposed under original Option 1; however, they preferred the enhanced cooling-off model to the existing cooling-off model under Option 4.
- 184 Respondents largely supported the proposed enhanced cooling-off model in original Option 1. Consumer groups preferred it to the existing cooling-off model (Option 4), and industry preferred it to both the opt-in regime (Option 2) or deferred commencement date (Option 3). However, we have decided not to progress this proposal at this time: for more information, see paragraphs 12–15.
- 185 Consumer groups were generally supportive of any proposal that enhanced consumer protection, including the amendment to the template cooling-off statement, providing for the refund of money at no cost to the consumer, the modification of fee disclosure to make it product specific and additional

disclosure that would focus consumers' attention on specific features of the product.

186 We decided further consultation was required, due to the divergent feedback we received from respondents about a number of our proposals, including the proposed:

- (a) introduction of the prescribed consumer warning;
- (b) new tailored fees and costs disclosure regime;
- (c) guidance on hawking and sales practices, and
- (d) changes to the existing cooling-off model (such as extended timeframes or an opt-in approach).

Note: See [Report 522](#) *Response to submissions on CP 272: Remaking ASIC class orders on time-sharing schemes* (REP 522) for a summary of the feedback we received.

Further consultation on proposals

187 We held a roundtable with industry and consumer group respondents to CP 272 on 19 July 2017 to discuss key issues, including:

- (a) the cooling-off requirements;
- (b) the tailored fees and costs disclosure; and
- (c) the provision of additional prescribed consumer warnings.

188 We subsequently sought additional data and information from respondents to CP 272 on the matters discussed at the roundtable.

189 Following the completion of our internal decision-making process in January and February 2018, we met with industry and consumer groups to outline our proposed changes to the policy settings.

190 We have also directly contacted legacy scheme operators, dealers and the related finance providers to seek their feedback on the impact to them of the updates to the policy settings.

191 Between February 2018 and April 2018, we undertook additional consultation with industry and consumer groups on the implementation of the proposals and sought further information on the regulatory cost estimates of our proposals from every operator across the industry.

192 This consultation involved meetings with representatives of each of the operators, related finance providers, ATHOC and consumer groups. We also exchanged correspondence seeking feedback and comment.

193 During these meetings we discussed our proposals and sought feedback to help us settle our proposals in a manner that considered the impact on industry

and consumers. We discussed the development of our proposed changes in detail, including those more contentious proposals relating to cooling-off rights, fees and costs disclosure, hardship arrangements, and ‘subject to finance’ arrangements.

194 Between August and October 2020, we also consulted with industry on a ‘fatal flaws’ basis about the legislative instrument to implement the proposed policy settings.

195 The consultation was constructive. We incorporated feedback from industry and consumer groups in finalising our proposals. For a summary of the feedback we received, see paragraphs 196–199.

Feedback from industry

196 Industry raised the following key concerns:

- (a) If adopted, an opt-in or deferred cooling-off model would cause significant detriment to industry resulting from reduced sales.
- (b) Consumers exercising cooling-off rights by verbal, fax and SMS notification is problematic, and industry preferred consumers to send cooling-off notices through post, email and website.
- (c) Industry thought the proposed wording for the consumer warnings was inappropriate and had concerns about ensuring compliance with verbal advice requirements.
- (d) Industry preferred medical certificates from specialists, rather than any qualified medical practitioner, for the purposes of medical hardship claims. They were also concerned about the proposed timeframes for handling hardship claims and a lack of discretion.
- (e) Industry was concerned that our proposed guidance on providing financial product advice may not reflect the nature of sales processes for time-sharing schemes.
- (f) The fees and costs disclosure should be in a form that accurately reflects the types of fees and costs charged to members. Industry was also concerned about proposals to require disclosure of the impact of finance on the cost of acquiring an interest in a time-sharing scheme to a consumer.
- (g) Industry was concerned that obligations may attach to private transfers between parties and sought clarification that this would not occur.

197 We also discussed the less contentious proposals to reduce audit requirements, change capital requirements and update compliance arrangements to monitor the issuing of points. Industry was generally supportive of these proposals.

198 We have received cost estimates from each of the operators of active registered schemes. We also received cost estimates from operators of 13 (of the 32) legacy schemes, two (of the six) dealers and two (of the five) related finance providers. These responses indicate the major cost impact will be on the operators of active registered schemes and that there will be minimal cost increases—and, in some cases, cost savings—for other respondents.

Feedback from consumer groups

199 Consumer groups raised the following key concerns:

- (a) The current cooling-off arrangements were not adequate to deal with mis-selling of timeshare and we should introduce an opt-in regime.
- (b) There should be a single cooling-off period and the cooling-off statement should be very clear about the timeframes and methods by which consumers can exercise their cooling-off rights.
- (c) We should not over rely on disclosure to address consumer issues.
- (d) Consumer warnings should be prominent and clear.
- (e) Hardship criteria should not be too prescriptive and should not be limited to medical hardship. The criteria should also take into account the joint holding nature of membership.
- (f) The fees and costs disclosure should be as targeted as possible.
- (g) Consumer groups were concerned about the difficulty in ensuring verbal advice requirements are not misused in the sales presentation process.

Consumer research

200 In addition to our consultation, we have also:

- (a) commissioned independent research into both consumers' experiences with time-sharing schemes and the financial value of an interest in a time-sharing scheme for consumers; and
- (b) reviewed a sample of financial product advice on time-sharing schemes.

201 A summary of the findings of this work was published in [REP 642](#).

202 Following this work, and for the reasons set out in paragraphs 12–15, we have revised our recommended option and have decided not to progress the enhanced cooling-off model at this time.

H Preferred option

203 Based on the data and information we gathered through our consultations, and the findings from the consumer research (outlined in [REP 642](#)) and recent surveillances, our preferred option is revised Option 1. Although it is difficult to quantify the benefits to consumers under revised Option 1, this option strengthens consumer protections and promotes the confident and informed participation of consumers in the financial system. It provides benefits to consumers and industry through:

- (a) formal ‘subject to finance’ rights that can also be exercised independently of the existing cooling-off rights, to allow consumers to withdraw their application when they are unable to obtain a loan on terms acceptable to them;
- (b) increased potential for consumer understanding of the product through more prominent disclosure and written and verbal warnings about the key features of time-sharing schemes;
- (c) formal hardship arrangements to enable:
 - (i) members suffering hardship to withdraw from the time-sharing scheme without further liability to the scheme; and
 - (ii) operators to allow member withdrawals consistent with the constitution for the scheme and without breaching their obligations to other members of the scheme;
- (d) industry-specific guidance on our expectations for compliance with existing obligations, to raise standards in the time-sharing industry and reduce consumer harm;
- (e) requirements for points based programs to prevent the dilution of interests that can arise through the issue of additional points; and
- (f) updated and tailored guidance for time-sharing schemes that:
 - (i) provides commercial certainty to the time-sharing industry by helping them understand our interpretation of the existing obligations; and
 - (ii) helps ASIC monitor compliance with these obligations on an ongoing basis.

204 Although Option 1 carries an increase in costs for industry, the increase is much less than the costs or impact on the time-sharing industry and existing members associated with Option 2 (opt-in regime) or Option 3 (deferred commencement date). Option 4 (maintaining the status quo) is sub-optimal for consumers and industry, as it does not address harms to consumers or address concerns raised by industry.

205 Maintaining the existing cooling-off model will not increase consumer protection, compared to the enhanced cooling-off model in original Option 1, the opt-in regime in Option 2 or the delayed commencement of the cooling-off period in Option 3. However, we consider it is appropriate to maintain this setting until we consult further on whether we should implement an enhanced cooling-off model or a deferred sales model to address the impact of pressure selling on consumers. We consider the residual proposals in original Option 1—including better disclosure and additional guidance about existing obligations—promote the confident and informed participation of consumers while providing commercial certainty to the time-sharing industry.

I Implementation plan

- 206 The recommended option will be implemented by:
- (a) releasing a revised [RG 160](#) that outlines our updated relief and includes additional guidance on our expectations for compliance by industry;
 - (b) varying [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) to make amendments to relief from specific requirements of the Corporations Act and to the conditions attached to some of this relief;
 - (c) varying [\[CO 13/760\]](#) to amend the definition of ‘special custody assets’; and
 - (d) varying the individual relief instruments granted to legacy scheme operators to reflect relevant policy changes, subject to procedural fairness.
- 207 The transition period will provide promoters and operators of time-sharing schemes time to comply with the new arrangements. We have consulted with industry and agreed on a period that provides sufficient time for them to transition to the new arrangements.
- 208 We will proactively engage with industry and consumer groups before we release the revised settings, during the transition period and after the period finishes, to ensure the revised settings are implemented in practice. We will respond to questions raised by operators, related finance providers and legacy scheme operators about meeting the new requirements.
- 209 We are mindful of the challenges that the COVID-19 pandemic has created for the tourism industry. We have decided to assess the implementation of the reforms and review time-sharing sales practices in early 2022. After this review, we will decide whether further consultation is necessary to address residual consumer harms. We will also prepare a new RIS, if necessary, before implementing any new regulatory settings that result from this process.

J Evaluation plan

- 210 The changes to regulatory settings for time-sharing schemes can be measured against the following objectives:
- (a) Consumers who purchase interests in time-sharing schemes (or enter into loans to purchase interests):
 - (i) have been fully informed about the key features of time-sharing schemes, including the key risks, benefits, costs, terms of membership and their cooling-off rights;
 - (ii) have received financial advice that meets the best interests duty; and
 - (iii) are able to withdraw their application by exercising formal ‘subject to finance’ rights.
 - (b) Operators and their representatives understand our interpretation of the existing obligations.
 - (c) Related finance providers and their representatives understand our interpretation of existing obligations for the provision of credit to purchase an interest in a time-sharing scheme, and consumer rights to terminate a related loan if they exercise cooling off or subject to finance rights.
 - (d) Members suffering hardship are able to apply to withdraw from the time-sharing scheme without further liability to the scheme.
 - (e) Members holding interests in points-based programs have not had their interests diluted by the issue of new interests.
- 211 We will continue to monitor compliance by operators, promoters and related finance providers with their obligations. We will conduct risk-based surveillance of these entities and, where necessary, take appropriate regulatory action.
- 212 We will also monitor the impact of the policy changes for time-sharing schemes and review time-sharing sales practices in early 2022. We will consider whether any further changes to the policy settings should be consulted on following the transitional period and our planned review.

Appendix: Background—Time-sharing schemes

What is a time-sharing scheme?

- 213 Time-sharing schemes are managed investment schemes and financial products.
- Note: For the definition of ‘time-sharing scheme’ and ‘managed investment scheme’, see s9 of the Corporations Act. For the definition of ‘financial product’, see s764A of the Corporations Act.
- 214 Unlike other managed investment schemes, time-sharing schemes are ‘lifestyle products’—that is, consumers purchase interests or membership in the schemes for ‘recreational’ or ‘lifestyle’ purposes, not to generate a financial return.
- 215 Time-sharing schemes commonly involve property in the form of holiday accommodation (but can also include non-accommodation arrangements such as boating or aircraft syndicates), and are generally structured as:
- (a) points-based programs, where members buy points that they can redeem at certain resorts or holiday accommodation; or
 - (b) title-based arrangements, where members are given the use of a specific property for a given period of time.
- 216 Points-based programs involve complexity in their different levels of membership, entitlement to points, worldwide booking processes and points exchange systems.
- 217 Time-sharing schemes must generally be registered and operated by a responsible entity (or ‘operator’). Some time-sharing schemes are operated as legacy schemes by legacy scheme operators under individual relief provided by ASIC.
- 218 ATHOC is the industry body for the time-sharing sector. Members of ATHOC agree to be bound by a Code of Ethics and a Code of Practice.

Selling, advice and disclosure practices

- 219 Consumers generally become members of time-sharing schemes by purchasing interests in the scheme at sales presentations.
- 220 Consumers are generally offered an incentive to attend a sales presentation, such as discount accommodation, vouchers or gifts.

- 221 Sales presentations generally consist of a group presentation, followed by an individual meeting between the consumer and representative of the operator, and a meeting with the related finance provider (if applicable).
- 222 ‘Today only’, ‘limited availability’, ‘now or never’ and ‘special offer’ deals are endemic, and consumers are generally not provided with adequate opportunity to read the PDS before they purchase an interest in the scheme. As a result, sales to new members are almost exclusively same-day sales, made before the consumer leaves the sales presentation within a high-pressure selling environment, compounded by the commission-based remuneration of representatives.
- 223 The time-sharing industry has relied on a carve-out from the ban on conflicted remuneration to pay these sales-based commissions: see reg 76.7A.12C of the Corporations Regulations. The time-sharing industry remains subject to other Future of Financial Advice (FOFA) reforms, including the best interests duty (which includes the obligation to give priority to consumer’s interest over their own interests).
- 224 Under the Financial Planners and Advisers Code of Ethics 2019 (FASEA Code of Ethics), issued by the Financial Adviser Standards and Ethics Authority Limited (FASEA), operators must not pay commissions to representatives. The FASEA Code of Ethics came into force on 1 January 2020.
- 225 As at the date of this RIS, most operators have ceased marketing interests in their registered schemes. ATHOC and its members are actively lobbying the Australian Government for an exemption from the FASEA Code of Ethics to allow them to continue to pay commissions to their representatives for the sale of interests in time-sharing schemes. Compliance with the FASEA Code of Ethics is an existing obligation under the Corporations Act for the purposes of this RIS. For more information on the FASEA Code of Ethics and our facilitative approach to compliance, see paragraphs 234–236.

Exit arrangements

- 226 There are no withdrawal rights after the end of the cooling-off period and no active secondary market for divesting interests in time-sharing schemes. Members who seek to exit are limited to attempting to sell or forfeit their interest in the scheme, generally at a nominal or nil value. Members will continue to be liable for financial obligations attached to their membership until the date of sale. Members are generally unable to sell ‘special’ non-transferable features purchased with their membership.

ASIC regulation of time-sharing schemes

- 227 In general, ASIC is responsible for regulating the time-sharing industry's compliance with the following obligations:
- (a) Time-sharing schemes must generally be registered and operated in accordance with the managed investment provisions (Ch 5C of the Corporations Act).
 - (b) Operators, promoters and dealers must hold an Australian financial services (AFS) licence and operators must also be a public company (Pts 5C.2 and 7.6 of the Corporations Act).
 - (c) Operators and their representatives must comply with the following existing obligations:
 - (i) the financial services disclosure provisions, including the SOA, FSG and general advice warning requirements (Pt 7.7 of the Corporations Act);
 - (ii) the best interests duty (Pt 7.7A of the Corporations Act)—see paragraphs 231–233;
 - (iii) the FASEA Code of Ethics 2019 (s921U(2)(b) of the Corporations Act);
 - (iv) the hawking prohibitions (Div 8 of Pt 7.8 of the Corporations Act)—see paragraphs 237–238;
 - (v) PDS and ongoing disclosure (Pt 7.9 of the Corporations Act) and the enhanced fee disclosure requirements for disclosing fees and costs in PDSs and periodic statements (Sch 10 of the Corporations Regulations)—see paragraphs 229–230; and
 - (vi) the general consumer protection provisions (Pt 7.10 of the Corporations Act and Div 2 of Pt 2 of the ASIC Act).
 - (d) Related finance providers and their representatives must comply with the obligations in the National Credit Act and National Credit Code (see paragraphs 239–241), and the general consumer protection provisions in Div 2 of Pt 2 the ASIC Act.
- 228 We have provided relief from some of these requirements to legacy schemes.

Disclosure obligations

- 229 Operators must provide consumers with a PDS containing prescribed information, including:
- (a) the significant benefits and risks of the product;
 - (b) the cost of the product; and
 - (c) information about other significant characteristics or features of:

- (i) the product; or
- (ii) the rights, terms, conditions and obligations attaching to the product.

230 The PDS must be provided at the time of or before recommending that the consumer purchase an interest in the registered scheme, to ensure that the consumer makes an informed decision. Operators must also meet the enhanced fees and costs disclosure regulations.

Best interests duty

231 The best interests duty in Div 2 of Pt 7.7A of the Corporations Act was introduced as a result of the FOFA reforms: for guidance on the duty, see Section E of [Regulatory Guide 175 Licensing: Financial product advisers—Conduct and disclosure](#) (RG 175).

232 The best interests duty has applied to representatives of operators who provide personal advice to consumers on time-sharing schemes since 1 July 2013.

Note: Any licensed legacy scheme operators who are authorised to provide personal advice are also subject to the best interests duty.

233 Under the best interests duty, representatives must:

- (a) consider whether it is in the best interests for the consumer to purchase a membership in the registered scheme and advise the consumer accordingly; and
- (b) give priority to the interests of the consumer over their own interests.

Financial Planners and Advisers Code of Ethics 2019

234 Advice providers must comply with the FASEA Code of Ethics. AFS licensees are required to take reasonable steps to ensure that their advice providers comply with the FASEA Code of Ethics.

Note: For information about the reasonable steps that we expect AFS licensees to take to ensure that their financial advisers comply with the FASEA Code of Ethics, see [Media Release \(19-319MR\) ASIC outlines approach to advice licensee obligations for the financial adviser code of ethics](#) (26 November 2019).

235 In October 2019, FASEA issued [FG002 Financial Planners and Advisers Code of Ethics 2019 guidance](#), which outlines how it interprets the code.

236 After consulting with FASEA, on 26 November 2019 we announced that we would take a facilitative approach to compliance with Standards 3 and 7 of the FASEA Code of Ethics until the new single disciplinary body for financial advisers (as recommended by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry) is operational. FASEA consulted on an updated version of [FG002](#) in November and December 2019, and on 20 December 2019 it released a Preliminary Response

on Submissions. As at the date of this RIS, FASEA continues to consult on the guidance for the code.

Note: For more information about ASIC's facilitative approach to compliance with the code, see [19-319MR](#).

Hawking prohibitions

- 237 The hawking prohibitions were introduced into the Corporations Act in 2007.
- 238 Under the hawking prohibitions, representatives are prohibited from offering an interest in a time-sharing scheme during, or because of, an unsolicited meeting or telephone call with a retail client. An offer of an inducement to participate in a survey on holiday destinations or to hear information about holidays without mention that this will be a presentation for a time-sharing scheme is an example of hawking.

Obligations on related finance providers

- 239 The National Credit Act and National Credit Code were made in 2010. The National Credit Act includes obligations for persons who engage in credit activities to be licensed, and for credit licensees to meet a range of 'responsible lending' requirements, including disclosure requirements and provisions to prevent entry into unsuitable loans.
- 240 The Government has recently announced proposed reforms to replace some of the existing responsible lending obligations, which relate to assessment of whether a loan is unsuitable for the consumer, with new obligations based on prudential standards for sound credit assessment.
- 241 Under the National Credit Code, consumers who have purchased an interest in a time-sharing scheme using a loan from a related finance provider may also have additional rights to terminate the loan if they exercise their cooling off rights: see s135 of the National Credit Code.

ASIC relief

- 242 Since 2000, we have granted conditional technical relief through:
- (a) a series of class orders to operators of registered schemes (see [SCO 00/2460], [SCO 02/315] and [SCO 03/104]); and
 - (b) individual pro forma and novel relief to legacy schemes operators (individual pro forma relief based on PF 205, PF 206 and PF 207, since withdrawn).

Existing cooling-off model a condition of purchase price relief

243 We have given relief to operators of registered schemes in [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) to relieve them from the:

- (a) requirements in the Corporations Act to specify the price to purchase an interest in the scheme's constitution and have scheme property valued at regular intervals (this relief is subject to conditions); and
- (b) restrictions in the Corporations Act around acquiring and holding forfeited interests in the scheme.

244 To reduce the consumer harm arising from same-day sales, it is a condition of the purchase price relief that operators of registered schemes must:

- (a) enable consumers to withdraw their application to purchase membership (or cool off) during the 7-day cooling-off period for registered schemes operated by ATHOC members or 14-day cooling-off period for registered schemes that are not ATHOC members;

Note: Four of the five operators of active registered schemes are currently ATHOC members.

- (b) make disclosure about the cooling-off rights in a cooling-off statement and PDS; and
- (c) return all money paid by the consumer to purchase an interest if the consumer exercises their cooling-off rights during the cooling-off period.

245 We currently provide cooling-off concessions to ATHOC members to encourage ATHOC membership. Membership is open to the time-sharing industry, and all ATHOC members are subject to co-regulatory oversight and ATHOC's Code of Ethics and Code of Practice.

246 While there are no withdrawal rights after the end of the applicable cooling-off period, some operators provide informal 'subject to finance' arrangements.

ASIC guidance

247 [RG 160](#) sets out our guidance on time-sharing schemes but does not currently provide specific guidance to the time-sharing industry about the existing obligations.

ASIC licensing

248 We have imposed specific licence conditions, tailored to time-sharing schemes, on operators, promoters and dealers who require a licence to operate or deal in interests in a registered scheme. Some of these conditions also apply to exempt operators as conditions of relying on technical relief.

ASIC review of policy settings

249 We last substantively reviewed the policy settings for time-sharing schemes in February 2009.

250 In November 2016, we issued [CP 272](#), seeking feedback on:

- (a) our proposals to remake the three class orders that were due to expire or sunset in April and October 2017; and
- (b) proposed amendments to our policy settings for time-sharing schemes.

251 We published [REP 522](#), setting out the feedback we received, in April 2017. We received divergent feedback about these proposed amendments from industry and consumer representatives. Given the looming sunset date, we remade the relief in the form of [ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#) and continued to engage in further consultation with industry and consumer representatives about the proposed amendments.

252 Legacy schemes continue to operate under their respective instruments of individual relief; however, we revoked PF 205, PF 206 and PF 207, the pro formas on which this individual relief is based.

253 This RIS was submitted to the Office of Best Practice Regulation (OBPR) for assessment before a decision was sought on the revised regulatory settings.

Key terms

Term	Meaning in this document
ADI	An authorised deposit-taking institution—a corporation that is authorised under the <i>Banking Act 1959</i> . ADIs include: <ul style="list-style-type: none"> • banks; • building societies; and • credit unions
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ATHOC	The Australian Timeshare and Holiday Ownership Council
best interests duty	The duty to act in the best interests of the client when giving personal advice to a client as set out in s961B(1) of the Corporations Act
Ch 5C	A chapter of the Corporations Act (in this example numbered 5C), unless otherwise specified
[CO 13/760] (for example)	An ASIC class order (in this example numbered 13/760) Note: Legislative instruments made from 2015 are referred to as ASIC instruments.
consumer	In the context of: <ul style="list-style-type: none"> • a <i>credit product</i>—means a natural person or strata corporations (see s5 of the National Credit Act); and • a <i>financial product</i>—means a retail client (see s761G of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations)

Term	Meaning in this document
consumer protection provisions	Provisions in the Corporations Act and ASIC Act that prohibit certain conduct, including: <ul style="list-style-type: none"> • hawking (s992AA of the Corporations Act); • misleading or deceptive conduct (s1041E–1041H of the Corporations Act and s12DA–12DB of the ASIC Act); • unconscionable conduct (s991A of the Corporations Act and s12CA–12CC of the ASIC Act); and • harassment or coercion (s12DJ of the ASIC Act).
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
cooling-off rights	A consumer's right to return an interest in a time-sharing scheme during the specified cooling-off period and have the money they paid for the interest repaid.
cooling-off statement	A statement in a prescribed form about the cooling-off rights that must be provided to a consumer
credit contract	Has the meaning given in s4 of the National Credit Code
credit provider	Has the meaning given in s5 of the National Credit Act
Div 2	A division of the Corporations Act (in this example numbered 2), unless otherwise specified
dealer	An AFS licensee authorised to resell interests in time-sharing schemes
existing obligations	The obligations set out at paragraph 60
FASEA	Financial Adviser Standards and Ethics Authority
FASEA Code of Ethics	Financial Planners and Advisers Code of Ethics 2019
financial product	A facility through which, or through the acquisition of which, a person does one or more of the following: <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) <p>Note: This is a definition contained in s763A of the Corporations Act: see also s763B–765A.</p>

Term	Meaning in this document
financial product advice	<p>A recommendation or a statement of opinion, or a report of either of these things, that:</p> <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or • could reasonably be regarded as being intended to have such an influence. <p>This does not include anything in an exempt document or statement</p> <p>Note: This is the definition contained in s766B of the Corporations Act.</p>
FOFA	Future of Financial Advice
formal hardship arrangements	The arrangements set out in paragraph 87
formal 'subject to finance' rights	<p>The right of consumers to withdraw their application for membership if they notify the operator that they have:</p> <ul style="list-style-type: none"> • failed to obtain finance; • decided not to proceed with the application for finance; or • rejected an offer of finance
FSG	<p>A Financial Services Guide—a document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 of the Corporations Act</p> <p>Note: This is a definition contained in s761A.</p>
hardship	<p>Includes:</p> <ul style="list-style-type: none"> • 'severe financial hardship' (where a member or a member's dependant is suffering, or will likely suffer, severe long-term or permanent financial hardship); • 'compassionate grounds' (where a member or a member's dependant is suffering a life-threatening illness or injury, chronic pain, or a severe, long-term chronic mental disturbance); and • 'permanent incapacity' (where a member has ceased gainful employment by reason of mental or physical ill-health). <p>As a result of the hardship, the member must be unlikely to use their membership in the long term.</p>
informal hardship arrangements	Where operators exercise their discretion on an ad-hoc basis to excuse members suffering hardship from repaying any shortfall or further payments on forfeiture

Term	Meaning in this document
informal 'subject to finance' arrangements	Where operators exercise their discretion to extend the cooling-off period or permit consumers to withdraw their application for membership where the consumer's application for finance is pending or refused
key features	The information set out in Table 3
legacy schemes	State-exempt time-sharing schemes, title-based time-sharing scheme and member-controlled club that still rely on the individual relief based on PF 205, PF 206 and PF 207
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 to the National Credit Act
operator	The responsible entity of a registered scheme
PDS	A Product Disclosure Statement—a document that must be given to a retail client for the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
PF 209 (for example)	An ASIC pro forma (in this example numbered 209)
points	A unit of measurement for the amount payable for the use of the time-sharing scheme property
points-based program	Where members of a time-sharing scheme exchange points for the right to use the time-sharing scheme property. It includes allocation-points programs and pay-as-you-go (PAYG) points-based programs
prescribed consumer warning	The information in ASIC Corporations (Time-sharing Schemes) Instrument 2017/272
promoter	A licensed associate of an operator authorised to promote sales of interests in the operator's registered schemes
Pt 7.7 (for example)	A part of the Corporations Act (in this example numbered 7.7), unless otherwise specified
registered scheme	A time-sharing scheme registered in accordance with s601ED of the Corporations Act
related finance provider	A finance provider that is an associate of the operator
responsible entity	A responsible entity of a registered scheme as defined in s9 of the Corporations

Term	Meaning in this document
responsible lending obligations	The obligations under Ch 3 of the National Credit Act Note: The Australian Government has announced proposed reforms that will replace the current responsible lending obligations.
retail client	A retail client as defined in s761G and 761GA of the Corporations Act
RG 160 (for example)	An ASIC regulatory guide (in this example numbered 160)
RIS	Regulatory Impact Statement
s601FB (for example)	A section of the Corporations Act (in this example numbered 601FB), unless otherwise specified
Sch 10 (for example)	A schedule to the Corporations Regulations (in this example numbered 10), unless otherwise specified
[SCO 02/237] (for example)	A superseded ASIC class order (in this example numbered 02/237)
SOA	A Statement of Advice—a document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act Note: See s761A for the exact definition.
special custody assets	Has the meaning given in [CO 13/760] , but also includes: <ul style="list-style-type: none"> land and other real property of a time-sharing scheme; and levies of a time-sharing scheme that are held in an account with an Australian ADI, styled as a trust account
time-sharing scheme	A scheme, undertaking or enterprise, whether in Australia or elsewhere: <ul style="list-style-type: none"> where participants are or may become entitled to use, occupy or possess property of the scheme, undertaking or enterprise for two or more periods; and that is to operate for no less than three years Note: See s9 of the Corporations Act for the exact definition.

Related information

Regulatory guides

[RG 160](#) *Time-sharing schemes*

[RG 175](#) *Licensing: Financial product advisers—Conduct and disclosure*

Consultation papers and reports

[CP 272](#) *Remaking ASIC class orders on time-sharing schemes*

[REP 522](#) *Response to submissions on CP 272: Remaking ASIC class orders on time-sharing schemes*

[REP 642](#) *Timeshare: Consumers' experiences*

Legislative instruments and pro formas

[ASIC Corporations \(Time-sharing Schemes\) Instrument 2017/272](#)

[\[CO 13/760\]](#) *Financial requirements for responsible entities and operators of investor directed portfolio service*

[SCO 00/2460] *Time-sharing schemes—Property valuations*

[SCO 02/237] *Time-sharing schemes—Operation of rental pool*

[SCO 02/315] *Time-sharing schemes—Use of loose-leaf price list*

[SCO 03/104] *Relief facilitating the acquisition and sale of forfeited interests in registered time-sharing schemes*

PF 205 *Time-sharing schemes formerly exempt under state laws*

PF 206 *Time-sharing schemes—Chapter 5C relief*

PF 207 *Title-based time-sharing schemes*

[PF 208](#) *Time-sharing schemes: Cooling-off statement*

Legislation

ASIC Act, Pt 2 Div 2

Corporations Act, Ch 5C; Pts 5C.2, 7.6, 7.7, 7.7A, 7.8 Div 8, 7.9, 7.10; s9, 601FB(1), 601FC(1)(b)–(d), 601FC(1)(k), 761G, 761GA, 764A, 921U(2)(b)

Corporations Regulations, Sch 10

National Credit Act, Ch 3, s6; National Credit Code, s135