

Australian Securities and Investments Commission
Corporations Act 2001— Paragraphs 601QA(1)(a), 741(1)(a) 911A(2)(l), and
1020F(1)(a) — Revocation and Exemption

Under paragraphs 601QA(1)(a) and 741(1)(a) of the *Corporations Act 2001* (“the Act”) the Australian Securities and Investments Commission (“ASIC”) hereby revokes Class Order [01/179].

First Exemption — Rental pools operated by operators of time-sharing schemes that are exempt from the managed investment provisions

1. Under paragraphs 601QA(1)(a), 911A(2)(l) and 1020F(1)(a) of the Act ASIC hereby exempts each person (“Operator”) that operates a rental pool from:
 - (a) section 601ED and Division 3 of Part 7.9 of the Act in relation to the operation of that rental pool if the Operator is exempted from section 601ED of the Act in operating a time-sharing scheme to which the rental pool relates by another ASIC instrument (whether dated before or after the date of this instrument) which specifically names the Operator (the “Relevant Exemption Instrument”); and
 - (b) the requirement to hold an Australian financial services licence for the provision of financial services in relation to interests in the rental pool, for as long as and on condition that:
 - (c) the Operator complies with each condition set out in the Relevant Exemption Instrument;
 - (d) the Operator maintains an account designated as a trust account into which all gross income of the rental pool is paid to be held on trust for members of the rental pool and money is disbursed from that account only in accordance with the terms of the contractual agreement which governs each member’s participation in the rental pool;
 - (e) the Operator ensures that the trust account is audited at least once every six months by a registered company auditor;
 - (f) the Operator ensures that a copy of the auditor’s report is given to all members of the rental pool within 3 months after each audit;
 - (g) the Operator complies with section 1017D of the Act as if an interest in the scheme were a managed investment product;
 - (h) the Operator keeps for at least 7 years at the address of the registered office or the principal place of business in this jurisdiction of the Operator a copy of each agreement referred to in subparagraph 1(d) and provides ASIC with a copy of any such agreement on request; and
 - (j) if, and for so long as, the new product disclosure provisions (as defined in subsection 1438(2) of the Act) do not apply to the scheme:

- (i) before a person becomes a member of the rental pool, the Operator gives to the person, or ensures that the person has been given, a document containing the information that a typical member of the scheme would need in order to assess the merits and risks of participating in the rental pool (including but not limited to disclosure of all fees and other outlays that are payable or may be payable by the member as a result of their participation in the rental pool); and
 - (ii) the Operator keeps for at least 7 years at the address of the registered office or the principal place of business in this jurisdiction of the Operator a copy of each document referred to in subparagraph (j)(i), and provides ASIC with a copy of any such document on request.
- 2. Under paragraph 911A(2)(1) of the Act ASIC hereby exempts all other persons from the requirement to hold an Australian financial services licence for the provision of financial services in relation to interests in a rental pool of the kind referred to in paragraph 1 which appears to be operated on a basis which complies with the conditions in paragraph 1 except where the person is aware, or ought reasonably to be aware, that those requirements have not been met.

Second Exemption — Disclosure relief for rental pools forming part of registered time-sharing schemes

Under paragraph 1020F(1)(a) of the Act ASIC hereby exempts each person (“Operator”) that operates a rental pool that is related to a registered time-sharing scheme for which there is no current disclosure document or Product Disclosure Statement from Parts 6D.2 and 6D.3 and Division 3 of Part 7.9 of the Act (except section 1017D) in the case of an offer of interests in and the operation of that rental pool for as long as and on condition that:

- (a) the Operator maintains an account designated as a trust account into which all gross income of the rental pool is paid to be held on trust for members of the rental pool and money is disbursed from that account only in accordance with the terms of the contractual agreement which governs each member’s participation in the rental pool;
- (b) the Operator ensures that the trust account is audited at least once every six months by a registered company auditor;
- (c) the Operator ensures that a copy of the auditor’s report is given to all members of the rental pool within 3 months after each audit;
- (d) the Operator keeps for at least 7 years at the address of the registered office or the principal place of business in this jurisdiction of the Operator a copy of each agreement referred to in paragraph (a) of this Second Exemption; and
- (e) if, and for as long as, the new product disclosure provisions (as defined in subsection 1438(2) of the Act) do not apply to the scheme:

- (i) before a person becomes a member of the rental pool, the Operator gives to the person, or ensures that the person has been given, a document containing the information that a typical member of the scheme would need in order to assess the merits and risks of participating in the rental pool (including but not limited to disclosure of all fees and other outlays that are payable or may be payable by the member as a result of their participation in the rental pool); and
- (ii) the Operator keeps for at least 7 years at the address of the registered office or the principal place of business in this jurisdiction of the Operator a copy of each document referred to in subparagraph (e)(i), and provides ASIC with a copy of any such document on request.

Note: In this instrument, “this jurisdiction” means Australia: Act, ss 5 and 9 (definition of “this jurisdiction”).

Interpretation

In this instrument “rental pool” means any arrangement conducted by the Operator (including by an agent engaged by the Operator) whereby owners of interests in a time-sharing scheme authorise the Operator or its agent to manage and rent to third parties the rights of use of owners under the scheme and to pool the rental income received for pro-rata distribution to each owner.

Commencement

This instrument takes effect on the commencement of Schedule 1 to the *Financial Services Reform Act 2001*.

Dated the 27th day of February 2002

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments Commission