

FEEDBACKS ON GUIDELINES FOR INTEREST SCHEMES

Please be informed that we have received feedbacks from a total of eight (8) Industries towards the said Guidelines : -

1. Association Trust Companies of Malaysia (6 items)
2. DS & SK Development Berhad (15 items)
3. Malaysian Association of Golf & Recreational Club Owners Bhd (16 items)
4. Malaysia Holiday Timeshare Developers' Federation (17 items)
5. Messrs. C. K. Cheong & Seow (12 items)
6. Nirvana Asia Group (15 items)
7. PB Trustee Services Berhad (8 items)
8. Universal Trustee (Malaysia) Berhad (18 items)
9. MAICSA (12 items)

Total feedbacks - 119 items



CHAPTER 1: PRELIMINARY

*Introduction / Interpretation

Item	SSM Proposed Guideline	Industry Feedback
<p>Preamble</p>		<p>MHTDF</p> <ul style="list-style-type: none"> - There should be a separate Guideline for Interest Scheme with monetary benefits and those with the right to use. Risk profile is very different. Management Company structure too.
<p>Interpretation</p>	<p>‘Management Company’ Any company Incorporated under the Companies Act 2016 which issued or proposes to be issued any interests or any deed as assigned under section 2(1) of the Act.</p>	<p>MESSRS C. K. CHEONG & SEOW</p> <ul style="list-style-type: none"> - For all three (3) interpretations, does it deemed to include companies incorporated under the Companies Act 1965?
	<p>‘Premium Scheme’ Scheme offered by a Management Company is a public company limited by shares incorporated under the Companies Act 2016.</p> <p>‘Small scheme’ Scheme offered by a Management Company which is a company limited by shares incorporated under the Companies Act 2016.</p> <p>‘Scheme or Schemes’ Includes Time-Sharing Scheme, Membership / License Scheme, Marina Scheme, Share Farming Scheme, Memorial Park Scheme, Property Scheme, Equipment Sharing Scheme either individually or collectively.</p>	<p>MESSRS C. K. CHEONG & SEOW</p> <ul style="list-style-type: none"> - For all three (3) interpretations, does it deemed to include companies incorporated under the Companies Act 1965?

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Management Company – Capital Requirements

Item	SSM Proposed Guideline	Industry Feedback
8	Criteria / Main Requirements	<p>MAICSA</p> <ul style="list-style-type: none"> - What is the difference between the type of company operating premium scheme and foreign scheme?
9	The capital requirement shall be a minimum of RM500,000 (taking into account the type of scheme and the amount of fund to be raised).	<p>MAICSA</p> <ul style="list-style-type: none"> - Can there be concession if units are only offered to high net worth individuals or corporations of certain level of net asset? <p>NIRVANA</p> <ul style="list-style-type: none"> - Are we caught by this clause and what constitutes fund size? Our interest scheme companies may have to increase their paid up capital to RM5 million. - What purpose does this serve other than increasing the burden on the management company?
10	At least 20% of the paid up capital or a minimum amount of RM100,000 (<u>whichever is higher</u>) must remain in the form of liquidities during the duration of the scheme.	<p>DS & SK</p> <ul style="list-style-type: none"> - In relation to memorial park scheme, we believe that the requirement in this clause is to ensure that the memorial park will be well maintained at all times. In view that we have maintenance funds which will be held by the Trustee throughout the life of the columbarium, we therefore request for an exemption clause to be added into this clause to state that it will not apply to memorial park scheme. <p>MAGRO</p> <ul style="list-style-type: none"> - Suggest that the 20% of the paid up capital or a minimum amount of RM100,000 ("<u>whichever is lower</u>" - instead of 'whichever is higher') must remain in the form of liquidities during the duration of the scheme. <p>MAICSA</p> <ul style="list-style-type: none"> - How are liquidities determined? <p>MHTDF</p> <ul style="list-style-type: none"> - Suggest that the 20% of the paid up capital or a minimum amount of RM100,000 ("<u>whichever is lower</u>" - instead of 'whichever is higher') must remain in the form of liquidities during the duration of the scheme. - Liquidities which are present in the Trust Accounts should be adequate. <p>NIRVANA</p> <ul style="list-style-type: none"> - 20 % of the paid up capital must remain in the form of liquidities – meaning up to RM1 Million sitting in the bank. What purpose does this serve other than increasing the burden on the Management Company?

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Management Company – Capital Requirements / Profit Test

Item	SSM Proposed Guideline	Industry Feedback
11	The Management Company may apply to the Registrar for the release of the requirement under Clause 10 above if the Management Company is able to satisfy the solvency test under the provision of the Companies Act 2016 upon annual review by the Registrar.	NIRVANA <ul style="list-style-type: none">- The requirement is still burdensome, if less so. It still means that the Company MUST be able to pay its debts for a period of 12 months after the solvency test. It still requires the Management Company to hold a large portion of funds as solvency proof.
12	The Management Company must show uninterrupted profit after tax (PAT) track record for a minimum of 4 years preceding the date of application for registration of the scheme. The track record must be based on audited financial statements lodged with the Registrar.	MESSRS C. K. CHEONG & SEOW <ul style="list-style-type: none">- Newly incorporated Management Companies (with no related companies in the interest scheme industry) would not be able to meet that requirement. That means only existing interest scheme companies would be able to start new interest schemes. DS & SK <ul style="list-style-type: none">- This requirement will create monopoly for those who already have such track records and create entry barrier for those who are interested in joining memorial park businesses.- Memorial park industry is still very immature as there are not many players as yet and most existing players only have one development or so. The requirement in this clause that will create entry barrier would be harmful to the public/buyers because lack of competition may result in higher selling price being controlled and decided by the few main players in the industry.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*Profit Test (continues)

Item	SSM Proposed Guideline	Industry Feedback
12-16	The capital requirements shall be a minimum amount set out in table taking into account the type of scheme and the amount of fund to be raised.	<p>DS & SK 16(c)(i) - Propose to widen the scope under Appendix 2 to provide opportunity to potential new player to the relevant industry so as to enable competition in the said industry for the benefit of the public.</p> <p>MAISCA Profit Test and Track Record may not be realistic for certain types of entities like golf clubs.</p> <p>MAGRO Suggestion that this be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns.</p> <p>MHTDF Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns.</p>

*Operating History and Management Capability

Item	SSM Proposed Guideline	Industry Feedback
17	The Management Company must have a minimum of five (5) years of good track record in the same nature of business as the proposed scheme	<p>DS & SK - This requirement will create monopoly for those who already have such track records and create entry barrier for those who are interested in joining memorial park businesses</p> <p>MESSRS C. K. CHEONG & SEOW - Newly incorporated Management Companies (with no related companies in the interest scheme industry) would not be able to meet that requirement. That means only existing interest scheme companies would be able to start new interest schemes.</p>

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*Operating History and Management Capability (continues)

Item	SSM Proposed Guideline	Industry Feedback
17-21	Requirement to have good track record and management capability	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that this is be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns. Alternatively, requirement to have good and experienced management capability in related scheme <p>MHTDF</p> <ul style="list-style-type: none">- These requirements are not practical for Timeshare operators as most Timeshare Operators starts off as hotel developers or service apartment without any timeshare experience. It is more suitable for investment schemes with monetary returns. To maintain the existing guideline.
19	If neither the Management Company nor any of the companies within the Group is able to fulfill the management track record requirement, approval may be considered if at least one (1) of the member/s of the management team, which term refers to a group of two (2) or more persons directly responsible to oversee the management of the scheme, consists of individual(s) having a minimum of five (5) years experiences and demonstrate expertise in managing companies and in-depth knowledge of the related business.	<p>DS & SK</p> <ul style="list-style-type: none">- This requirement shall not be applicable to memorial park scheme.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*Continued from page 1

Item	SSM Proposed Guideline	Industry Feedback
22	The Management Company must comply with the infrastructure requirements	<p>DS & SK</p> <ul style="list-style-type: none"> - It is impractical for memorial park business to adopt/follow this concept/ principle/ requirement. - It is very important for the memorial park business to be able to offer plots to be completed for sale to the potential customers. - For memorial park business, most banks are reluctant to lend. The requirement in this clause will indirectly result in monopoly by those who has such liquidities to develop.
23	The Registrar may consider and give approval for a scheme which contains incomplete infrastructure or infrastructure under construction or development SUBJECT TO conditions	<p>DS & SK</p> <ul style="list-style-type: none"> - It is impractical for memorial park business to adopt/follow this concept/ principle/ requirement. - Propose to review/amend/ and/or delete clause 23.
23 (ii)	There are clear identification and separation of interest units between units of interest that are related to or supported by the completed infrastructure and those which are related to or to be supported by the incomplete infrastructure;	<p>MAICSA</p> <ul style="list-style-type: none"> - How is it applied in practice? For example, for a 36 holes of golf course with only 18 completed and another 18 in the course of construction
24 (b)	<p>Internal control mechanism must be implemented to ensure:-</p> <ul style="list-style-type: none"> (a) The asset and the scheme are protected from any illegal transactions; and (b) The transactions are recorded in line with approved accounting standards. 	<p>MAICSA</p> <ul style="list-style-type: none"> - This should be applicable to all management companies

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* Appointment of Independent Consultant / Main Requirements

Item	SSM Proposed Guideline	Industry Feedback
35 – 37	<p>Retirement and Resignation The CEO shall hold office until his retirement or resignation subject to a minimum period of thirty (30) days' notice in writing to the Management Company of his intention to retire or resign.</p>	<p>MAICSA</p> <ul style="list-style-type: none"> - The initial term shall be for say 2 years. Renewal subject to approval of Registrar / unit holders. Thereafter, hold office until retirement or resignation.
38 & 39	<p>38 Appointment of Independent Consultant The appointment to act as an independent consultant for the scheme must be approved by the Registrar. The Management Company may appoint different independent consultants over the scheme duration.</p> <p>39 Criteria/Main Requirements Upon application, the independent consultant must comply with three (3) or more of the criteria as listed under item 39.</p>	<p>PB TRUSTEE</p> <ol style="list-style-type: none"> 1. Are there any qualified consultants specialized according to the specified field in interest schemes in Malaysia? 2. The trustee would not able to identify or confirm on the qualification of the consultant. 3. Suggestion that SSM to identify the consultant as per the requirement. 4. Hiring the consultant will be costly to the operators and whether the operators can sustain the cost concurrently in the future - needs further study. <p>NIRVANA</p> <ol style="list-style-type: none"> 1. It will be hard to find an independent consultant who meets some of the requirement as listed under item 39 for memorial schemes purposes – requirements that the independent consultant have done work in “related” areas. 2. It is new industry, of which Nirvana is at the forefront, so where would we find an independent consultant qualified to comment on our scheme?

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* Appointment of Independent Consultant (continues)

Item	SSM Proposed Guideline	Industry Feedback
38 – 49	Appointment of Independent Consultant and scope of work	<p>MAGRO</p> <ul style="list-style-type: none"> - Suggestion that this be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns. - To maintain existing guideline requiring Trustee to visit and report in the prospectus in cases where the scheme infrastructure is incomplete or under construction. <p>MHTDF</p> <ul style="list-style-type: none"> - Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns. To maintain the existing guideline. <p>MAICSA</p> <ul style="list-style-type: none"> - Can livestock or plantation business be the kind of business which interest scheme is applicable?
40	<p>The Management Company at its own cost and expense must appoint an independent consultant to provide the relevant reports:</p> <ul style="list-style-type: none"> a) Initial report upon scheme registration; and b) 2 interim reports per year on cases where scheme infrastructure is incomplete / on going 	<p>NIRVANA</p> <ul style="list-style-type: none"> - This will impose an additional burden on the management company, not to mention that we are still not agreeable to the concept of an independent consultant, due to the fact that there are not any independent experts in this field.
50	Marketing and Promotion by Management Company	<p>MAICSA</p> <ul style="list-style-type: none"> - Suggest a cooling off period

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*Promotion and Marketing by the Management Company

Item	SSM Proposed Guideline	Industry Feedback
53 & 54	<p>Management Company to conduct marketing and promotion on its own and should not engage marketing agent. Management Company can apply to Registrar to appoint Marketing Agent one year later upon terms and conditions</p>	<p>DS & SK</p> <ul style="list-style-type: none"> - It is important for a business to have the option to engage the relevant professional to undertake the relevant works i.e. marketing; - For memorial park business, similar to property development, it requires good marketing for it to progress. Therefore, we need to engage marketing agents from the start, not after the company has failed to get 50% sales - Propose to delete clause 53 & 54. <p>MAGRO</p> <ul style="list-style-type: none"> - Suggestion that this be waived for golf / recreational club schemes as it is more suitable for investment schemes with monetary returns <p>MHTDF</p> <ul style="list-style-type: none"> - Suggestion that this be waived for timesharing schemes as it will hinder business potential <p>NIRVANA</p> <ul style="list-style-type: none"> - SSM discourages uses of marketing agent. It seems that SSM is making it as hard as possible for the Management Company to utilize a marketing agent. Why should this be so? The purpose of the Management Company is to manage the scheme; why is it discouraged to leave the selling to a company which is better suited to do so?
55	<p>The appointment of the Marketing Agent must be approved by the Registrar. The application must be accompanied by:</p> <ol style="list-style-type: none"> (i) Sufficient proof about the sale shortfall referred to under Clause 54 above; and (ii) The Management Company shall lodge with the Registrar a proposed modification to the Trust Deed or Contractual Agreement to incorporate a provision that allows for the appointment of a Marketing Agent. 	<p>MESSRS C.K. CHEONG & SEOW</p> <ul style="list-style-type: none"> - Suggestion is to allow the clause on the appointment of the Marketing Agent to be incorporated into the Trust Deed from the beginning, as done previously.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*Promotion and Marketing by the Management Company

Item	SSM Proposed Guideline	Industry Feedback
55	<p>The appointment of the Marketing Agent must be approved by the Registrar. The application must be accompanied by:</p> <p>(i) Sufficient proof about the sale shortfall referred to under Clause 54 above; and</p> <p>(ii) The Management Company shall lodge with the Registrar a proposed modification to the Trust Deed or Contractual Agreement to incorporate a provision that allows for the appointment of a Marketing Agent.</p>	<p>MESSRS C.K. CHEONG & SEOW</p> <ul style="list-style-type: none">- Suggestion is to allow the clause on the appointment of the Marketing Agent to be incorporated into the Trust Deed from the beginning, as done previously.

*Criteria / Main Requirement for Marketing Agent

Item	SSM Proposed Guideline	Industry Feedback
58	<p>The Management Company must ensure that the marketing agent does not publish any advertisement, circular or any other documents that contain any statement with respect to the scheme.</p>	<p>DS & SK</p> <ul style="list-style-type: none">- Marketing agents need full details of the scheme to market the products, failing which buyers will query the capability and ability of the agents. To limit their ability to advertise our scheme would render the appointment and engagement of marketing agents meaningless as their ability to market the products will be limited.- Propose to remove this requirement.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* Main Requirements for Marketing Agent (continues) / The Trustee

Item	SSM Proposed Guideline	Industry Feedback
62	The marketing agent must not delegate its authority to another party to sell the interest on behalf of the Management Company	<p>MAICSA</p> <ul style="list-style-type: none"> - What is “secondary market” in relation to an interest scheme? <p>DS & SK</p> <ul style="list-style-type: none"> - Please clarify “Secondary Market”
63	The marketing agent must not delegate its authority to another party to sell the interest on behalf of the Management Company.	<p>NIRVANA</p> <ul style="list-style-type: none"> - This would seem to ban Nirvana practices of using independent agents; it seems to read that the marketing agent must personally sell the interest. - Note that we would have to show a shortfall in the first place even to appoint a marketing agent. This is very burdensome.
68	<p><u>Any monies to be remitted</u></p> <p>The Trustee must take all <u>reasonable actions</u> to ensure that the Management Company pays any monies payable to the Trustee under the Trust Deed or Contractual Agreement within thirty (30) days upon receipt.</p>	<p>UTMB</p> <ul style="list-style-type: none"> - Monies payable to the Trustee Trust Fund, Sinking Fund should also include the Trustee Fee as it is part of the Trust Deed (Remuneration of Trustee) - As the Trustee is acting for the interest of the Members, then it stands to reason that the monies should also include the Trustee fees and other expenses owed to the Trustee - Reason why we include is to prevent the Management Company from withholding the Trustee Fees and just focus in paying 10% of monies into the Sinking Fund

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
69	<p><u>Interest Holder Protection</u> The Trustee must ensure that the interest of interest holders are preserved and protected at all times.</p>	<p>UTMB</p> <ul style="list-style-type: none"> - The statement to ensure the interest of the interest holder is too wide. A Member can allege anything in his mind as his interest. - The word interest has to be defined properly or else it can be abused and it would lead to a ring-around complaint without any solution. - We suggest to include the following words: “The Trustee must ensure that the interest of the interest holders contained in the Trust Deed of the Scheme, its supplementary deeds and the relevant governing laws are preserved and protected at all times.”
71	<p><u>Insurance Coverage</u> The Trustee must take all reasonable actions to ensure that adequate insurance coverage is obtained by the Management Company on the scheme and that the scheme is adequately covered by insurance for the entire period of the scheme.</p>	<p>UTMB</p> <ul style="list-style-type: none"> - The term “adequate insurance coverage” is vague and general. There are a wide range of insurance coverage for different situations e.g fire, theft and more - We suggest that it is a requirement for the Management Company to provide the list of insurance coverage under the Scheme (Membership / Memorial Park / Timesharing) to the Registrar during the registration of the scheme and the renewal of prospectus. From here, the Trustee would be able to monitor and check on the insurance coverage. - The duty to apply for insurance falls on the Management Company and not the Trustee. The Trustee’s role is to check and revert to SSM and the Management Company if no insurance is purchased. - However, to enable the Trustee to check, there must already be list of coverage provided to SSM and the Trustee to enable the Trustee to refer to. Otherwise, the term “adequate” is redundant as it leads to confusion and more questions.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
72	<p><u>Inspection</u></p> <p>The Trustee must conduct periodical site visits for inspection purposes (as stated in the Trustee Compliance Monitoring Plan) and seek remedial action if the condition is unsatisfactory</p>	<p>UTMB</p> <ul style="list-style-type: none">- The word “periodical” is too uncertain and is subjective as different scheme such as clubs, memorial parks and investment schemes have different infrastructures and different levels of monitoring.- For example memorial parks and clubs are not monetary returns scheme and thus do not justify constant site visits as compared to the scheme that provides monetary returns- We suggest to amend the following: “The Trustee must conduct periodical site visits for inspection purposes at least once a year (as stated in the Trustee Compliance Monitoring Plan) and seek remedial action if the condition is unsatisfactory”- In addition, in relation to the inspection on the facilities of the scheme for example Clubs and Memorial Parks, we suggest that the inspection be done by an independent assessor and the cost of appointing the independent assessor is to be paid from the sinking fund.- The reason is the trustee is now an expert in the interest scheme for example Golf Clubs. The Trustee is not a Golf or golf field expert to determine whether that facility is usable or otherwise. A non-golf player and a seasoned golf player have different interpretation on the condition of golf field.- Furthermore an independent assessor would be able to advice the Trustee on whether it is advisable to pay funds for the sinking fund or otherwise and it is to the benefit of the interest holders.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
73	<p><u>Complaint</u></p> <p>The Trustee must investigate and take appropriate steps to ensure any complaints made by the interest holders are resolved.</p>	<p>MAICSA</p> <ul style="list-style-type: none"> - Needs to be elaborated. How to resolve? <p>UTMB</p> <ul style="list-style-type: none"> - The term “any complaint” is too wide. The complaint must only relate to the facility or interest of the Members stated in the Trust Deeds. - Or else it would open the doors to all form of complaints which is not related to the member’s interest. The complaint which may even extend to interfering with the management of the Club which are not even related to the rights of the interest holders and the Trustee would not be able to resolve nor interfere. <p><u>Suggestion:</u></p> <ol style="list-style-type: none"> 1. The guideline should clearly indicate complaints in relation to the facilities and rights of the Members in the Trust Deed; and 2. The word “resolved” is amended to “attended to”. As Trustee it is only right we attend to the concerns of the interest holders quickly but whether the matter can be resolved is something that is beyond our power.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
74	<p><u>Corporate Governance</u></p> <p>(i) The Trustee must report to the Registrar <u>immediately</u> on any known non-compliance or breach of the Trust Deed or contractual agreement by the Management Company or its agents</p> <p>(ii) The Trustee must ensure that he covenants in the Trust Deed or Contractual Agreement Deed and contents in the Prospectus or Product Disclosure Statement are complied with</p>	<p>UTMB</p> <ul style="list-style-type: none"> - What does it mean by <u>immediately</u>? Does this mean if there are any non-compliance or breach, the Trustee should just report to the Registrar before enquiring or notify the Management Company to resolve the issue? <p><u>Suggestion:</u></p> <ul style="list-style-type: none"> - The Trustee liaise with the Management Company first to resolve the breach where failure to do so, the Trustee shall report to the Registrar or; we can amended the words “immediately” to “as soon as practicable” i.e per below: - The Trustee must report to the Registrar as soon as practicable on any known non-compliance or breach of the Trust Deed or contractual agreement by the Management Company or its agents - Furthermore, the prospectus and the product disclosure statement are marketing materials. We feel that the Trustee should focus on the terms and conditions on the Trust Deed which is signed by the Trustee rather than taking accountability on the marketing tools of the Management Company

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
75	If in respect of a scheme, a liaison committee is established or required to be established pursuant to the provision of the Subsidiary Guidelines, the Trustee must conduct <u>regular</u> engagement with members of the liaison committee to obtain feedback on the scheme and the Trustee may determine the appropriate manner of carrying out the engagement including conducting meetings, tele-conferencing or exchanges of written communication	<p>UTMB</p> <ul style="list-style-type: none">- The word regular leads to more question and different interpretation as to how regular as some meeting does not warrant the trustee to attend. It could be an internal matter which does not touch on the breach of the terms of the trust.- Furthermore, we need to look at the logistics factor on the Liaison Committee (LC) and the Trustee i.e if the trustee have the meeting in KL and the LC is in Penang. <p><u>Suggestion:</u></p> <ul style="list-style-type: none">- The regular meeting should be a minimum of at least 1 meeting and any other feedbacks can be communicated via email or other electronic form

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
76	<p>Review Independent Consultant Report</p> <p>(i) The Trustee must review the interim reports by the independent consultant and in appropriate situations, obtain necessary feedback on the operation of the scheme.</p> <p>(i) The Trustee must take all reasonable actions to ensure that the bi-annual interim reports by the independent consultant are sent to the Registrar within fourteen (14) days upon receipt of such report</p>	<p>PB TRUSTEE</p> <ul style="list-style-type: none">- Trustee will not able to confirm or verify the requirement of the consultant and their reports.- The trustee may charge addition fee to the operator in order to verify the reports- Request to be waived- Appointed consultant could be biased towards the operator <p>UTMB</p> <p>(i) It is not practical, as the trustee does not have any speciality nor expertise in that particular Scheme. In principle, the appointment of the Trustee in the first place is to protect the interest of the Members by holding the Trust Funds and ensure the terms of the Trust Deed are not breached. The review on the financial stability of the Management Company and the technical matters of the Scheme is not within the expertise of the Trustee. Any conclusion of the Trustee on the report would lead to more questions as to how the trustee can review the interim report by the Independent Consultant and comment of the operation of the Scheme.</p> <p>(i) The Independent Consultant is appointed and paid by the Management Company. Therefore the duties to forward the interim report to the Registrar shall be borne by the management company and not the trustee since the trustee is not the party paying nor appointing the consultant.</p>

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

* The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
77	<p>Land</p> <p>(i) The Trustee must retain current information relating to the legal status of the land and inform the Registrar and interest holders of the possibility of the land being disposed or foreclosed upon receiving such knowledge e.g. information that the Management Company defaulted on the loan.</p> <p>(ii) In such situation, the Trustee must take all necessary actions to ensure that the rights and interest of the interest holders are protected.</p> <p>(iii) If the land is leased to the Management Company, the Trustee must take all reasonable efforts to ensure that the lease is registered in the name of the Management Company within a reasonable time</p> <p>(iv) The Trustee must update the Registrar on the status of the registration of the land in timely manner.</p>	<p>PB TRUSTEE</p> <ol style="list-style-type: none"> 1. Suggest that SSM only approves schemes with land free from encumbrance and the lands are not to be charged further until the scheme expires. This is to safeguard the interest of the members 2. The operator may ignore to notify the trustee on the subsequent charge which is not within the control of the trustee as consent to charge which is not within the control of the trustee as consent to charge the land is not required. 3. Suggest that a caveat to be created on the operator's property by the trustee to protect the members <p>UTMB</p> <ul style="list-style-type: none"> - The duty should fall on the Management Company should disclose such information to the Trustee and we suggest that such disclosure be done annually. - The Trustee would not be able to check on the lease or know of a default of loan by the Management Company unless the MC update the Trustee. - What sort of necessary action that the trustee must take? Most of the clubs are proprietary clubs. Therefore it is the right of the Management Company to do so. Perhaps, a further detail on the avenues available for the Trustee to take the necessary action.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
77	Land (continues)	<p>ATCM <u>TRUST CAVEAT</u></p> <ul style="list-style-type: none">- There is obligation Scheme Trustee (“IST”) to inform the Registrar on the status of the land. The fact that the IST will not know the Management Company (“MC”) had defaulted in the loan until and unless the MC shall inform IST of such event or IST has been made aware of it from other third party. MC shall undertake/covenant in the Trust Deed not to dispose/foreclose the Land without prior consent of the Trustee and the Interest Holders.- In addition, IST suggest to impose requirement for the MC to allow the IST to enter Trust Caveat on the land for the purpose of monitoring this compliance.- For instance, in the case where the MC shall borrow money from the bank and charge the land (which the club situated) to the bank. When the loan has been defaulted, resulting in the foreclosure of the land, the interest of the investors (ie: interest holders) will be jeopardized.- In relation to investment scheme overseas, the IST should also be allowed to create security over the overseas assets (ie: Collateral Mortgage) to protect the investing public in Malaysia.- To oblige the IST to retain the current information relating to the legal status of the land as stated in the item 78 in the Consultative Documents, the IST should be empowered and be required to retain and keep possession of the information as to the legal status of land(s) where the interest scheme is situated.- IST is also concern with MC allowing creation of land charges over the interest scheme lands as some MCs may “intentionally take advantage” of the situation by defaulting in the repayment of the banking facilities which are secured by the land charges created on the interest scheme land(s).

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*The Trustee (continues)

Item	SSM Proposed Guideline	Industry Feedback
77	Land	<p>ATCM (continues)</p> <ul style="list-style-type: none">- Also, in the event the MC should go into liquidation, the members of the interest scheme would be left with zero interest and no remedies and consequently defeating the purpose of investment in totality. This would put the IST in a disadvantaged position as it would not have any recourse to protect and safeguard the members' rights and interest in the investment.- ATCM would therefore recommend that IST's be allowed to enter trust caveats as it would provide some measure of protection and safeguards to prevent unscrupulous MCs from implementing unreasonable increment of fees, including that of memorial park <p><u>REAL PROPERTY GAINS TAX & QUIT RENT</u></p> <ul style="list-style-type: none">- On the issue relating to the real property gain tax ("RPGT"), whether the transfer of title of lands to IST would attract RPGT or cause RPGT to be imposed on the IST if these lands were or are required to be subsequently disposed by the IST.- For ISTs appointed for memorial parks schemes, ATCM proposes the following:-<ul style="list-style-type: none">(i) The title of the lands on which the memorial park schemes are operating on should be transferred to the IST and the licensees of such schemes who purchased the rights to use the burial plots/columbarium should be liable for payment of their respective portion of the Quit Rent to ensure long term sustainability of the scheme; AND/OR(ii) the IST should be empowered to apply for waiver from the Government for payment of RPGT and/or Quit Rent.- <u>Note:</u> ATCM Interest Scheme Sub-Committee resolved that ISTs should be allowed to lodge Trust Caveats on lands and such caveats would only be required in the situation where the title of land had not been transferred to the IST. It was also resolved that the Trust Caveats may be removed upon the transfer of the title of lands to the ISTs if such transfers are required under the scheme.

CHAPTER 2 : REGISTRATION REQUIREMENT (QUANTITATIVE)

*The Trustee (continues)

Item`	SSM Proposed Guideline	Industry Feedback
78 & 79	<p>78. Compliance Monitoring Plan The Trustee must produce a Compliance Monitoring Plan to ensure that the interest of the holder is protected prior to appointment with the Registrar.</p> <p>79. Scope of Compliance Monitoring Plan Includes the following:</p> <ul style="list-style-type: none"> (i) Schedule based inspection at reasonable interval corresponding to the risk profile of the scheme; (ii) Timeline and procedures for event based inspection; (iii) Such other proactive measures to properly monitor the operation of the scheme in accordance with the Trust Deed or Contractual Agreement or to avoid money laundering. 	<p>PB TRUSTEE</p> <ul style="list-style-type: none"> - Suggest SSM to come out with standard monitoring plan which is to adhered by all the trustees - Frequent visiting and inspection will be a cost to the operator <p>ATCM</p> <ul style="list-style-type: none"> - In respect to the Anti Money Laundering Act, ISTs enquired on the compliance requirements as proposed by the SSM. ATCM
80	<p>Maintenance of Record Must ensure that the register of interest holders is properly kept and maintained.</p>	<p>UTMB</p> <ul style="list-style-type: none"> - It should be more specific as the Register of Members are being kept by the MC. The trustee should only be able to ensure that the Register are being kept in the MC Office at all time

CHAPTER 3 : REGISTRATION REQUIREMENT (QUALITATIVE)

*Business & Industry – Report by the Independent Consultant

Item	SSM Proposed Guideline	Industry Feedback
81 – 86	Report by the Independent Consultant	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that this criteria be waived for golf / recreational club schemes as it is more suitable for investment schemes with monetary returns <p>MAICSA</p> <ul style="list-style-type: none">- Is there a contradiction between Clause 40 and 81? <p>MHDTF</p> <ul style="list-style-type: none">- Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Other requirements – Threshold on Fund to be Raised & Consolidate

Item	SSM Proposed Guideline	Industry Feedback
87	SSM provides guidance on the threshold of fund size in respect of the scheme(s) type and category	<p>DS & SK</p> <ul style="list-style-type: none">- This clause needs more clarification such as definition of “fund” in relation to memorial park scheme. <p>MESSRS C. K. CHEONG & SEOW</p> <ul style="list-style-type: none">- Maximum cap of RM50 million for an investment scheme is too low.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Other Requirements – Threshold on Fund to be Raised & Restriction to Consolidate (continues)

Item	SSM Proposed Guideline	Industry Feedback
88	For purpose of consolidation, scheme(s) operating at different locations may be consolidated provided the scheme(s) are similar in nature, tenure and all rights attaching with the scheme currently applied for registration	<p>MESSRS C. K. CHEONG & SEOW</p> <ul style="list-style-type: none">- Can one single scheme's fund size be higher than RM150 million?- The purchase price for Timeshare memberships are quite high. As such, capping the fund size at RM150 million may be too low for a timeshare scheme.- Does this guideline affect current schemes which may want to increase their inventory? <p>NIRVANA</p> <ul style="list-style-type: none">- Restriction on consolidating under one scheme numerous schemes operating in various locations except where collective fund size is below RM150 million- This seems to be targeting our existing Nirvana Memorial Park Scheme. For future schemes, we have no issue because we register individual schemes for individual parks now.- However, would it affect our existing NMP Scheme? Would we be required to make changes to our existing scheme, which consolidates schemes operating in various locations?

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Other requirements – Pricing, Fund Size & Fund Raising Objectives

Item	SSM Proposed Guideline	Industry Feedback
90	Pricing, Fund Size and Fund Raising Objectives	MESSRS C. K. CHEONG & SEOW <ul style="list-style-type: none">- This is not practical, as interest schemes like timeshare schemes usually start the scheme with a lower number of inventory and would add inventory over the course of the tenure of the scheme.- The reason the timeshare operator adds in inventory progressively is because if they put in too much inventory from the beginning and they fail to sell all of it, they would not be able to remove the inventory from the scheme.- The cost for the acquisition of the properties and for maintaining a large inventory would be too exorbitant and a financial burden for the operator. This would be financially unsustainable for the operator.
94	Public Offer Ratio	MESSRS C. K. CHEONG & SEOW <ul style="list-style-type: none">- Is this amount to be maintained in the Trust Account throughout the duration of the scheme or just for a limited time? If it is for the whole duration of the scheme, the funds would effectively be tied up.

*Fund Management – Trust Account

Item	SSM Proposed Guideline	Industry Feedback
100	Monies collected during cooling off period to be deposited into trust account immediately	MAGRO & MHTDF <p>Suggestion that monies collected during cooling off period to be deposited into trust account within 30 days.</p>

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Fund Management – Sinking Fund

Item	SSM Proposed Guideline	Industry Feedback
103	The Management Company must establish a Sinking Fund under a separate trust account in the name of the appointed Trustee with a licensed bank.	UTMB <ul style="list-style-type: none">- We suggest for further clarity on the ownership of the Sinking Fund by rewording the statement to "... establish a Sinking Fund under a separate trust account to be held and operated by the appointed Trustee with a licensed bank or financial institution.
104	Monies collected during cooling off period to be deposited into trust account immediately	ATMB <ul style="list-style-type: none">- Sinking Fund can be utilised by Club/Timeshare only for the purpose of major repairs and replacements of the facilities which occur periodically. However, for Memorial Park, ACTM is of the view that the normal maintenance landscaping to the Memorial Park be allowable because Memorial Park facilities, unlike Club/Timeshare, are not prone to damage within short period of time.- In view of the difference in managing Memorial Parks, SSM should consider issuing Guidelines which are specifically for Memorial Parks to prescribe the procedures for utilisation of the Sinking Fund/Reserve Fund to ensure a more correct utilisation.- Further, ACTM would wish for SSM to consider allowing accumulation of invoices for the same project to maintain the facilities of the interest scheme. The new procedures/requirement would then allow for claims from the Sinking Fund for maintenance projects as the current minimum claim limits of RM10,000/RM25,000 can be an inadequate criteria. PB TRUSTEE <ul style="list-style-type: none">- To delete the "of any repairs" as it is very subjective as the operator may misuse this clause. It would be better to specify in detail (previously only the facilities) as members have already querying the trustee on the items that can be claimed.- We have received feedbacks from the members that the fund in the Sinking Fund account belongs to them as they are paying for it.- It did not mention on the quantum amount (minimum and maximum) that can be claimed at one claim

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Fund Management – Sinking Fund (continues)

Item	SSM Proposed Guideline	Industry Feedback
104	Monies collected during cooling off period to be deposited into trust account immediately	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that the section be re-worded as follows:-- Purpose of fund is to cover costs of reasonable claims in respect of repairs and replacements of the property of the scheme which will be hinged on the threshold value of RM25,000 or above for golf and recreational clubs. The Sinking Fund shall not be used for normal maintenance or minor repairs and replacements. <p>MHTDF</p> <ul style="list-style-type: none">- Suggestion that the section be re-worded as follows:-- Purpose of fund is to cover costs of reasonable claims in respect of repairs and replacements of the property of the scheme which will be hinged on the threshold value of RM10,000 or above for timesharing schemes. The Sinking Fund shall not be used for normal maintenance or minor repairs and replacements. <p>UTMB</p> <ul style="list-style-type: none">- This guideline is too vague. What is normal in one scheme may not be normal in another or a reasonable claim may also be part of a normal claim or minor repair which could have an impact to some of the facility as a whole.- There are no specific amount on the threshold to use the sinking fund. This will open to the club to abuse the sinking fund ie: day to day maintenance.- We suggest for rewording or more clarity is provided.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Fund Management – Sinking Fund (continues)

Item	SSM Proposed Guideline	Industry Feedback
105	The Management Company shall deposit a sum of not less than 10% of interest holders fee received into the fund within thirty (30) days after receiving such fee.	<p>ATMB</p> <ul style="list-style-type: none">- <u>Suggestion</u>: the sum deposited into the Sinking Fund to be more than 10% (ie: 15%) of the membership fees/subscription fees. The reason for this is that the monthly amounts collected generally are not sufficient to bear the cost of major repair and replacement and the build up can take too long sometimes. A two tier system can be adopted if a flat rate of higher percentage is considered prohibitive (ie the higher rate is applicable until the Sinking Fund monies shall exceed some threshold at which point can revert back to the current rate of 10%).- <u>Other justification</u>: For Memorial Parks Schemes, ATCM would suggest to increase the contribution to 15% on the basis that it is only a one-time payment taken from the license fee where the Sinking Fund has been incorporated in the purchase consideration. The slightly increased rate would ensure sufficient fund will be accumulated more quickly to cater for the routine maintenance of the garden landscape.

Chapter 4 : Additional Registration Requirement

*Fund Management – Retention Fund

Item	SSM Proposed Guideline	Industry Feedback
107	Registrar to determine the creation of Retention Fund to protect interest of interest holders	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that this criteria be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns. Previously, clubs have advance license fees amortized over the license life. From Year 2016 onwards, this would not be practical anymore with IRB wanting to tax whole license fees upon receipt or receivable in the year of receipt.- Furthermore, potential interest holders are expected to make decisions based on a valid prospectus made available. If there is a misrepresentation at the time of sale, interest holders may pursue their case in a court of law. <p>MHTDF</p> <ul style="list-style-type: none">- Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Additional Safeguard for Investor – Cooling-off Period

Item	SSM Proposed Guideline	Industry Feedback
113	Monies collected during cooling off period to be deposited with the Trustee immediately	MAGRO & MHDTF <ul style="list-style-type: none">- Suggest that monies collected during the cooling off period to be deposited into Trustee Account within 30 days
114	Monies paid by Interest Holder during cooling off period to be returned upon request within 14 days from date of receipt of Withdrawal Notice.	MAGRO & MHDTF <ul style="list-style-type: none">- Suggest that the monies paid by Interest Holders during cooling off period be returned upon request within 30 days from date of Receipt of Withdrawal Notice

*Property of the Scheme - Lease

Item	SSM Proposed Guideline	Industry Feedback
118	Leased properties/land will only be allowed if they are leased from a related company that has common controlling shareholders with the Management Company	NIRVANA <ul style="list-style-type: none">- Does this affect leasehold land from the government?- We would propose for leasehold land to be excluded from clause 118-122
122	The lease period must be at least two (2) years longer than the duration/tenure of the scheme.	MESSRS C. K. CHEONG & SEOW <ul style="list-style-type: none">- This buffer period of two years is too long. Upon the expiry of the scheme, if the management company has to continue leasing the properties in the inventory (when there would not be anymore usage as the scheme would no longer be operating), it would be an unnecessary financial burden to the company.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Accounts – Separation of Account for Scheme

Item	SSM Proposed Guideline	Industry Feedback
127	The Management Company and every director and manager of Management Company to keep accounting and other records to explain the transactions and financial position of every scheme separately and enable other financial documents to be attached so as to enable them to be properly audited.	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that this criteria be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns. <p>MHDTF</p> <ul style="list-style-type: none">- Suggestion that there be clarification regarding accounting records relating to the Management Company and that relating to the scheme. Accounting information relating to the Management Company are only accessible to shareholders of the Management Company while interest holders are accessible to the financial information relating to the scheme only.

*Advertisement

Item	SSM Proposed Guideline	Industry Feedback
134	The validity period of the prospectus must be included in the advertisement and the advertisement artworks must be checked by the Trustee.	<p>NIRVANA</p> <ul style="list-style-type: none">- We are strongly opposed to this, as it is counter-productive. If anything, the tenure of the scheme would make more sense, as it runs for perpetuity.- What is the point of telling customers that the prospectus will expire in 1 month? We will definitely renew the prospectus and this will only serve to worry customers without giving any benefit.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Disclosure of Prices

Item	SSM Proposed Guideline	Industry Feedback
138	<p>Price of Interest Unit</p> <p>The computation method of the price of an interest unit must be stated in the Trust Deed or Contractual Agreement and Prospectus or Product Disclosure Statement.</p>	<p>DS & SK</p> <p>Propose to delete this requirement due to the following reasoning:</p> <ul style="list-style-type: none">- Willing buyer willing seller;- Trade secret;- Pricing depends a lot on feng shui, a study which has no scientific value; and- Pricing should be determined by the businesses which will result in good competition in the industry
140	<p>Monthly or Yearly Expenses</p> <p>Any increase in the aggregate for each calendar year by more than 5% at any one time in respect of the monthly or yearly expenses must be approved by the Trustee and the interest holders must be notified of any increase.</p>	<p>PB TRUSTEE</p> <ul style="list-style-type: none">- To delete the approval from the trustee is required if there's any increase of the expenses above 5% as it very subjective burden to members and only limit an increase up the 5% per calendar year- We note that some of the operators trying to recover the expenses incurred for the enhancements or modification made to beautify the club's appearance from the members by increasing the expenses above 5% whereby the existing facilities as stated in the prospectus or trust deed as it remains the same.

CHAPTER 4 : ADDITIONAL REGISTRATION REQUIREMENT

*Mediation and Arbitration

Item	SSM Proposed Guideline	Industry Feedback
144 - 145	Any dispute between the parties to the Trust Deed arising out of the Trust Deed to be referred to mediator and if the mediation fails to apply for appointment of arbitrator for final solution	<p>MAGRO</p> <ul style="list-style-type: none">- Suggestion that this criteria be waived for golf/recreational club schemes as it is more suitable for investment schemes with monetary returns <p>MHTDF</p> <ul style="list-style-type: none">- Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns <p>NIRVANA</p> <ul style="list-style-type: none">- This method totally excludes the court- Being allowed to choose between the courts or arbitrators would be preferable, as arbitration is expensive and is it not much more convenient for any party than the courts

CHAPTER 6 : STATUTORY DOCUMENTS TO BE LODGED WITH THE REGISTRAR

*Trust Deed and Contractual Agreement

Item	SSM Proposed Guideline	Industry Feedback
154 - 155	<p>Material Change in Circumstances</p> <p>Trust Deed or Contractual Agreement to incorporate provision that in the event of material changes, Trustee will make determination of materiality and take action in the best interest of interest holders</p>	<p>MAGRO</p> <p>These actions are already practiced by golf/recreational club industry together with Trustee and MAGRO suggests that it is not necessary to spell actions in such detail</p> <p>MHTDF</p> <p>These actions are already practiced by Timeshare Operators together with Trustee and MHTDF suggests that it is not necessary to spell actions in such detail.</p>

CHAPTER 6 : STATUTORY DOCUMENTS TO BE LODGED WITH THE REGISTRAR

*Trust Deed and Contractual Agreement

Item	SSM Proposed Guideline	Industry Feedback
150	<p>Covenants to the Management Company</p> <p>A Trust Deed or Contractual Agreement must contain the duties of the Management Company which are prescribed under the Act, First Schedule of the Act and this Guidelines. The Trust Deed or Contractual Agreement must include and disclose, but not limited to, the following covenants —</p>	<p>MESSRS C. K. CHEONG & SEOW</p> <ul style="list-style-type: none">- Should specify that this is only applicable to investment schemes.
150(iv)	<p>Formula for computation of financial returns</p>	<p>NIRVANA</p> <ul style="list-style-type: none">- Should not apply to memorial parks, as our scheme does not provide monetary return
150(x)	<p>With reference to Item 1(h)(iv) of First Schedule of the Act, the Trust Deed or Contractual Agreement must contain a method of calculating the purchase price of the interest.</p>	<p>NIRVANA</p> <ul style="list-style-type: none">- Our purchase prices are based on land prices – how do we calculate that?- Can our “method” say “based on current land prices”? Not to mention that no company likes to disclose their method of computation of price or their profit margin to customer

CHAPTER 6 : STATUTORY DOCUMENTS TO BE LODGED WITH THE REGISTRAR

*Trust Deed and Contractual Agreement (continues)

Item	SSM Proposed Guideline	Industry Feedback
151 151(ii)	<p>The Trust Deed or Contractual Agreement must include and disclose, but not limited to, the following covenants</p> <p>Make regular visit to inspect the condition of the Scheme and its facilities and seek remedial actions in the event of any matter not to his satisfaction</p>	<p>UTMB</p> <ul style="list-style-type: none"> - This is already mentioned in Clause 72 - We strongly believe that this clause is more related towards an investment scheme - To be safe, the duties to seek remedial does not fall to the Trustee as we are not the expert in the scheme
151 (v)	<p>Hold meetings with members of the Liaison Committee to get feedback on the management of the scheme and its facilities</p>	<p>UTMB</p> <ul style="list-style-type: none"> - We suggest to change the spelling “meetings” to “meeting” - This is to ensure clarity that there must at least be one meeting to be held with the Liaison Committee - Also kindly look at our comments in Clause 75 above
151 (vi)	<p>Investigate into Complaints of Interest Holders</p>	<p>UTMB</p> <ul style="list-style-type: none"> - We suggest that the guideline should clearly indicate complaints in relation to the facilities and rights of the Members in the Trust Deed.
156 156(h)	<p>In addition to the requirements specified under Second Schedule of the Act and this Guidelines, the Prospectus or Product Disclosure Statement must also disclose the following information:-</p> <p>(h) Method of calculation of pricing</p>	<p>NIRVANA</p> <ul style="list-style-type: none"> - How do we disclose a method that is based on current land prices

CHAPTER 6 : STATUTORY DOCUMENTS TO BE LODGED WITH THE REGISTRAR

*Prospectus of Product Disclosure Statement

Item	SSM Proposed Guideline	Industry Feedback
157 - 159	To develop mechanism that potential investor should not over invest	<p>DS & SK</p> <ul style="list-style-type: none"> - This would not be applicable to memorial park scheme - Propose to amend this clause to specify inapplicability of the clause to memorial park scheme. <p>MHTDF</p> <ul style="list-style-type: none"> - Suggestion that this be waived for timesharing schemes as it is more suitable for investment schemes with monetary returns <p>MAGRO</p> <ul style="list-style-type: none"> - Suggestion that this requirement be waived for golf/recreational club schemes as it is more suitable for investment schemes with financial returns <p>NIRVANA</p> <ul style="list-style-type: none"> - This requirement is too burdensome. The banks or stock market or unit trust are not subject to this requirement, why should the burden of protecting investors fall only on us - Not to mention that we are a memorial park scheme – what kind of investor overinvests on burial plots? This requirement should not apply to memorial park schemes
160	Management Company to provide and disclose policies and procedures to avoid money laundering activities	<p>MAGRO</p> <ul style="list-style-type: none"> - Suggestion that this requirement be waived for golf/recreational club schemes as this industry is not a financial industry <p>MHTDF</p> <ul style="list-style-type: none"> - Suggestion that this requirement be waived for Timeshare operators as this industry is not a financial industry

OTHER ISSUES / COMMENTS

Industry Feedback

ATCM

1. TABLING THE STATEMENTS OF ACCOUNTS WITH THE REPORT OF AUDITOR WITHIN 2 MONTH AFTER THE FINANCIAL YEAR END TO THE MEMBERS

- pursuant to section 88 (1) (c) (iv) of Companies Act 1965
- The new Interest Scheme Act 2016 is more comprehensive as compared to the provision in the repealed Companies Act 1965. ATCM is very concern with the tight timelines for submission/tabling of the Statement of the Accounts with the report of the Auditors for the ISTs to the interest scheme members within 2 months of the end of each financial year. The timeframe set for submitting the Statement of Accounts with the report of the Auditors for the ISTs, is much shorter when compared to companies limited by shares (ie both public company and private company) which are allowed to prepare and table its Audited Financial Statements for the financial year to its members within 6 months from the close of its financial year end.

2. MANAGEMENT TO APPOINT AN INDEPENDENT CONSULTANT TO PROVIDE INITIAL REPORT UPON APPLICATION OF NEW SCHEME

- ATCM is of the view that the independent consultant should preferably be a corporate entity instead of an individual person. This will thus allow for reasonable assurance of the professional/expert views provided by the independent consultant and to provide greater level of accountability.
- The above recommendation is based on ISTs' experience and observation that MCs have encounter difficulty in identifying and engaging qualified and accredited experts/consultants in the relevant industries/fields.
- Moreover, ATCM is of the view that ISTs generally also lack clarification on the type and quality of information required to be included in the independent consultancy report and also the adequacy of qualification of the independent consultant for each scheme type and/or industries ATCM is of the view that there should be standard criteria set for each scheme type and proposes that "Best Practice Rule" should be deployed as the guideline for ascertaining what the standard criteria should be.

OTHER ISSUES / COMMENTS

Industry Feedback

ATCM

MEMORIAL PARKS

1. Sabah & Sarawak Land Code (Memorial Parks) Main Point:

- Compulsory regulatory provision to convert the land to burial plots which is not applicable in the state of Sabah & Sarawak. SSM to advise therefore whether the search requirement is exempted for MCs operating in Sabah & Sarawak.

2. Memorial Park – Meeting of License Holders

- There is no election of Liaison Committee ('LC') and to convene an Annual General Meeting ('AGM') for member's provision. ATCM would therefore advise to apply the same LC requirement in Memorial Parks as for Golf/Timesharing schemes. ATCM also proposes that the meeting of Memorial Park Licensees be convened only for :-

- (i) Removal of trustee
- (ii) Purpose of amendment / modification to the Deed

3. Memorial Park - Property transfer & Quit Rents

- ATCM is of the view that once the lands are transferred to the IST as the trustee owner, IST should be empowered to pay the quit rent (including any increase) out from the Maintenance Fund after the lands are converted to Memorial Park Lands.

OTHER ISSUES / COMMENTS

Industry Feedback

(continues)

4. Memorial Park – Completion of Project & Maintenance

ATCM note that MCs for Memorial Park schemes generally develop the facilities & amenities in stages. ACTM is of the view that prior to completion of the development, the MCs should be made to bear all the cost for any major claims to ensure that they actually finish the development. And once completed they are then to 'hand over' and rely on the ISTs to take over the maintenance of the Memorial Park. This will allow time for the accumulation of monies in the Sinking Fund necessary and required by the ISTs to maintain the facilities for the remaining duration of the scheme. Any unutilised maintenance fees must then also be transfer to the ISTs.

DS & SK

1. Ideally, SSM to impose separate guidelines on Memorial Park Scheme because a lot of the contents in the Consultative Document would be impractical for Memorial Park business and will create entry barrier to new industry player.
2. SSM to be lenient and flexible during this transitional period because the Act does not contain provisions on registration of new scheme pending finalization of guidelines to be issued by SSM and the delay in allowing new player to register new scheme according to the latest legal requirements would be unfair to the businesses.



Thank You