

Unsolicited communication, claims companies and your personal data

Diamond Resorts (Europe) Limited (“Diamond”) and its associated companies within the Diamond Resorts group have put in place technical and organizational measures to safeguard the security of our members’ data. Nevertheless, a number of our members have advised us that they are receiving unwanted contact about their timeshares.

Of particular concern is the increasing number of calls from “claims companies” who suggest that they are in a position to facilitate the release of the member from their timeshare ownership. Often, these assertions are coupled with promises that they will also secure a refund/partial refund of the purchase price paid by the member for their timeshare.

Inevitably, a (sizeable) upfront fee is required - often to an (untraceable) overseas bank account or payable by cheque/bank transfer only (thereby circumventing the consumer protection that would otherwise be available to the member were payment to be effected by credit card).

Whilst we have received some communications from a number of claims companies purporting to be instructed by our members, generally, we receive standard generic template letters that do not address specific cases. Furthermore, in the event that legal arguments are put forward, the majority are simply unsustainable. In fact, our experience is that they generally do very little of any substance in return for the fees that they have been paid.

That said, these claims companies are very convincing. They use various scare tactics including for example:

- i) casting doubt on the validity of timeshare contracts with Diamond,
- ii) erroneously asserting that the Apollo acquisition will have an adverse impact on our members ,
- iii) erroneously asserting that Diamond will prevent the sale (in 2027- 2029) of accommodations that were placed in trust for the Diamond Resorts Fractional Owners Club,
- iv) erroneously asserting that it is Diamond’s intention to withdraw the surrender/ relinquishment options which have been in place for some time for members in Diamond Resorts European Collection and which are now in place for owners in the Diamond Resorts Fractional Owners Club,
- v) advertising false testimonials from alleged members who they purport to have assisted.

Suffice to say, we recommend that under no circumstances should any member make payment to a claims company if they would like to relinquish their membership prior to contacting us so that we can discuss your options with you. The options we may be able to offer you are likely to be significantly cheaper, quicker and simpler than anything the claims companies purport to be able to offer.

We also strongly recommend that all members refrain from providing any unsolicited caller with personal information or from making any payments without first verifying their identity and company status.

In this regard, a free of charge verification service is available from KwikChex Ltd which leads an initiative called the Timeshare Task Force. For the sake of transparency, this initiative is funded by the Resort Development Organisation - the European trade association for the vacation ownership industry.

KwikChex is responsible for providing assistance and protection to timeshare owners who may have concerns or questions about their timeshare ownership. They work closely with law enforcement bodies, including the police and Trading Standards and are a Corporate Affiliate Member of the Chartered Trading Standards Institute. KwikChex also provides advice and information to Government departments and other official authorities, such as the Competition & Markets Authority, the Ministry of Justice, the Information Commissioner's Office and the Insolvency Service.

Diamond is eager to prevent unsolicited contact from happening, and has been working for some time with the Timeshare Task Force, the police, Trading Standards and the Information Commissioners’ Office to achieve this. Rest assured, we never share data with third-party companies for marketing purposes.

If you wish to report incidents of unsolicited cold calling, please complete the form that can be found on the following link: <http://www.timesharetaskforce.org/cold-calling-data-theft/>

We would also encourage any member who has received unsolicited communication regarding their timeshare ownership to report this to our European Customer Services Team on 0345 359 0010 or by e-mail to AssistanceEurope@DiamondResorts.com. Should you wish to speak to an advisor in a language other than English, alternative telephone numbers can be found in the Annual Member Benefits Directory. In the case of a cold call, we would always recommend that you ask them how they obtained your data, and in the event that the response provided is unlikely you can (if you wish) escalate your enquiry to a formal Subject Access Request (on payment of a fee of £10).

Further information on 'cold callers' and suspect organisations can be found on the following websites:

- Kwikchex – www.timesharebusinesscheck.org
- MindTimeshare – www.mindtimeshare.com
- RDO – Resort Development Organisation - www.rdo.org
- TATOC – Timeshare Association www.tatoc.co.uk

DIAMOND'S RESPONSES

In a recent email to our member and ownership base, we confirmed that we would provide a more detailed factual exposition in order to counter the misinformation that is being propagated.

As promised therefore, we have set out below (in bold font) the various allegations and mis-information that our members have advised us that they have been subjected to. Our responses to each allegation are set out immediately below each point.

(1) ALLEGATION: A number of ex-Diamond employees are claiming to have left the employment of Diamond when "it came to their attention that Diamond had mis-sold fractional points", asserting that they can't work for an unethical company. They are now offering a reclaim service, suggesting that they will secure a refund of the purchase price paid for points in Diamond Resorts European Collection Limited (DRECL) and the Diamond Resorts Fractional Owners Club.

Diamond spends a considerable amount of its resources in ensuring that all of its sales representatives are fully trained in order that they can (in turn) provide correct information to potential purchasers. The above employees were no exception. They all know that the Fractional product is legitimate and were perfectly happy to sell it when they worked for Diamond. None of these employees left Diamond's employment because they had "discovered" mis-selling.

It is very concerning that these ex-Diamond employees are now attempting to bring Diamond's reputation into disrepute. Even more disappointing is the fact that a number are cold calling our members, feeding our members with lies and encouraging them to hand over up-front fees on the pretext that they will be able to recover monies for them/ secure a release for them from their Diamond membership.

In a recent matter that was referred to our Legal Department, a member who is 76 years of age was told that it would be very difficult for him to terminate his European Collection membership, but that the Claims Company would be able to secure a release for him on a payment to them of £4,100. Happily, this member did not engage with this company and contacted us. We were able to advise the member that it was open to him to surrender his membership free of charge (in accordance with the exceptional circumstances surrender options, detailed in the response at item (5)).

Naturally, we are also very concerned as to where these claims companies are getting the member data from. A number of our members that we have spoken to are adamant that they have never given their personal data to Diamond employees for the purpose of them using their details to contact them. Nor have they ever "signed up" to receive contact from a claims company. The inevitable conclusion that we are erring towards is very concerning.

**(2) ALLEGATION: Points in Diamond Resorts Fractional Owners Club were mis-sold because:
i) Diamond will not allow the properties to be sold at the end of the 15 year term, and/or**

ii) Diamond will prevent the sale of the fractional properties by setting the sale price too high, thereby locking the member indefinitely into their contract and leaving them liable for on-going management fees, and/or

iii) Diamond Resorts Fractional Owners Club is an owners club and as such the consent of all the members is required in order for the property to be sold. Diamond will prevent a sale by retaining its ownership and withholding its consent to a sale, thereby locking the member indefinitely into their contract and leaving them liable for on-going management fees.

All of the above allegations are untrue. The claims companies making these representations simply have no grounds whatsoever to support these assertions.

In both the Key Information Document and the Diamond Resorts Fractional Owners Club Documentation (all of which was provided to Fractional purchasers at point of sale and which form part of the contractual paperwork) it is expressly stated that the Fractional Properties will be placed on the market for sale between six and nine months before the Proposed Sale Date (this being 31 December 2027, 31 December 2028 or 31st December 2029 depending on the date of purchase by the Owner and (in each case) as stipulated on the Owner's Purchase Agreement).

Full details of the sale process are set out at paragraph 15.3 and 15.4 of the Deed of Trust and also at Rule 9 of the Rules. The contractual (and legally binding) arrangements that will be adhered to for the sale of the Fractional Properties in Diamond Resorts Fractional Owners Club are very clear, and were drafted in such a way as to afford Fractional Owners maximum protection and peace of mind.

In this regard, the freehold interest in the Fractional Properties is held by an independent third party Trustee (First National Trustee Company Ltd). Responsibility for arranging the sale of the Properties in the Fractional Owners Club rests with the Trustee who has a strict fiduciary duty to the beneficiaries (ie the Fractional Owners) whom it represents. A valuation will be carried out on the Trustee's behalf by an independent valuer /sales agent who will then be engaged to secure a sale at the most advantageous price achievable.

Clause 15.3 of the Deed of Trust of the Fractional Owners Club expressly specifies that each Fractional Property will be sold on or as soon as reasonably practicable after the Proposed Sale Date save that (a) the sale of the Property may be postponed by the unanimous written consent of the Owners to whom a Fractional Share in the Property has been attributed, and such postponement shall continue for such period as is agreed in such consent and (b) the Trustee may postpone the sale of the Property if it reasonably believes it to be in the best interests of the Owners to whom a Fractional Share in the said Property has been attributed.

To be clear Diamond has no ability whatsoever to prevent the sale.

(3)ALLEGATION: The Fractional product was sold as an investment in contravention of the Timeshare Regulations 2010/ Fractional owners will receive nothing back at the end of the Fractional term.

Diamond has always made it clear that Fractional Ownership should NOT be purchased as an investment (other than as an investment in future holidays) and this point is expressly stated in the Purchase Agreement. Furthermore, in the Deed of Trust (at clause 15.4.2) it was made clear that no representation or warranty could be given as to the ultimate sales price that would be achieved and, (at clause 15.4.9), that the sale price achieved could be less than the price paid by the Owner for their Fractional Points.

That said, following the sale of a Fractional Property, the Net Sale Proceeds (as defined in clause 15.4.3 and 15.4.5 of the Deed of Trust) will be distributed by the Trustee amongst the Fractional Owners who have a notional interest in that specific Fractional Property. For every Fractional Owner, the Property in which they have a notional interest is expressly detailed on their Purchase Agreement. This being the case, every Fractional Owner will receive some level of monetary return at the end of their membership.

At the time that the Fractional product was being sold by Diamond, Diamond made it clear that it was unable to predict the likely sale value of the Fractional Properties in 2027-2029. Even if Diamond had WANTED to give an estimate (which it did not), it would have been unable to do so. In fairness, it is unlikely that an estate agent would be able to predict the sale price of a property in 15 years' time with any degree of confidence.

With that said, we are (inexplicably) encountering criticism regarding certain aspects of the Fractional product offering. In light of the criticism, we shall endeavour to clarify the position. In so doing, we have relied upon factual information currently within our knowledge. To be clear however, Diamond would not have expected our sales representatives to touch upon valuations.

Over the course of the last 6 years, Diamond has sold a number of apartments at the Royal Oasis Club at Benal Beach in Benalmadena, Costa Del Sol, a resort that was removed from the European Collection resort portfolio. Please note that the units sold were from Diamond's points' ownership and did not impact members' availability. To stay at Benal Beach in a 1-bedroom apartment in peak season for one week would have required the redemption of 5,000 points (a relatively modest number of points, but deemed appropriate for a property of this standard and in this location).

In 2010, the average sale price achieved for a 1-bedroomed apartment at Benal Beach was €122,558.82. In 2016, the average sale price had increased to €145,666.67. Diamond obviously has no control over potential increases in the value of real estate in Spain. However the figures MAY provide an indication of sales prices that could be achieved on a touristic complex in the Costa del Sol. They may also provide an indication of the amount by which property prices MAY increase over a 15 year period (in this specific example - almost 19% over the course of a period of 6 years).

Furthermore, whilst it is generally recognised that in 2008, Spanish property prices fell significantly, there is now some general optimism in that, at the end of 2015, the Spanish property market gave indications that it was returning to growth.

The process that the Trustee will embark upon when the Fractional Properties are to be sold will be very similar to the process that we followed when selling the apartments at Benal Beach.

As regards the price paid by our members to upgrade from points in Diamond Resorts European Collection ("DRECL") to Fractional points, we have taken an average price over four randomly selected contracts where existing DRECL members upgraded their points to Fractional Ownership. To be clear, this analysis excludes the trade-in credit given for the member's DRECL points.

The average payment made for 4 Fractional shares in a 1-bedroom apartment at Los Amigos Beach Club was £8,866.67. Taking the average sale price of the Benal Beach 1-bedroom apartments in 2016 (€145,666.67), this equates to a gross sale price (we accept PRIOR to deduction of expenses such as the Trustee and estate agent's fees) of €11,205.06. At the current exchange rate of €1.10/£, this equates to £10,186.42.

Based on the above analysis, it is not unforeseeable that a Fractional Owner could receive a positive return on the amount paid by them for their Fractional Ownership. No guarantees have been given of course (and nor will any guarantees be given).

Due (amongst other things) to limited inventory suitable for incorporation in the Fractional Owners Club, Diamond stopped selling Fractional Ownership in November 2015.

(4) ALLEGATION: None of the surrender/ relinquishment options are available to Owners in Diamond Resorts Fractional Owners Club.

It is fair to say that when the Fractional product was initially launched, surrender options were not made available to purchasers as a contractual right. Indeed, Diamond did not anticipate that surrender options would be required by Fractional Owners (bearing in mind the shorter term of the membership and the allocation of the sale proceeds in 2027- 2029). However the exceptional circumstances surrender options and the Non-Qualified Relinquishment options are now available to Fractional Owners should they wish to invoke them.

Please see response (5) for further details of these options.

(5) ALLEGATION: The surrender options that are currently available to members of Diamond Resorts European Collection are about to be withdrawn (because of the Apollo takeover).

Diamond (and indeed companies within the Apollo Global Management Group) have no intention of changing the "exceptional circumstances" surrender options available to members of the European Collection.

The policy (which was effectively implemented following a change to the Articles at the AGM of June 1999) could be changed in the future, but ONLY if the change was approved by the members by a 75% majority.

In February 2015, Diamond also introduced the Non-Qualified Relinquishment option (which amendment was introduced as a contractual and irrevocable right for European Collection members).

However, with effect from 13th October 2016, Diamond elected to make the exceptional circumstances and the Non-Qualified relinquishment options available to Diamond Fractional Owners too. The Non-Qualified relinquishment amendment represents an indefinite and irrevocable option that is offered by Diamond to Fractional Owners and will remain in place for as long as Diamond (or a company within the Diamond Group) remains the Founder Member.

The “exceptional circumstances” surrender options and the “Non-Qualified Relinquishment” options are detailed below for your information and retention.

Exceptional Circumstances

From time to time, serious changes to personal circumstances can occur, and Diamond therefore have the discretion (in exceptional circumstances) to consider whether a surrender of ownership is appropriate.

Exceptional circumstances that Diamond will consider are:

- Death of either member – either the original or a certified copy of the death certificate will be required (if sending in an original this will be returned to you).
- Bankruptcy or CAB/solicitor's involvement to resolve serious debt issues – specific documentary evidence detailing income, outgoings, assets and liabilities will be required.
- Over 75 years old – either the original or a certified copy of birth certificate will be required.
- Medical problems/terminal illness necessitating reduced travel and/or decrease in financial resources to maintain membership – medical evidence will be required.

Please note for the above, Diamond will only consider waiving the current year's management charges. All previous year's fees must have been paid in full. If any of the above criteria apply, the required documentation as quoted above must be provided to substantiate your request.

If you feel that any of the exceptional circumstances criteria apply to you and you would like us to consider the surrender of your timeshare membership, please forward the required documentation to us.

Non –Qualified Relinquishment Option

A further option is now available to you in the event that you do not meet the exceptional circumstance criteria or do not wish to utilise any of the other options available. This option (referred to for ease as “the Non-Qualified Relinquishment Option”) enables you to relinquish your timeshare on payment of a relinquishment fee equivalent to two years' maintenance fees.

In order to for you to invoke the “Non-Qualified” Relinquishment option you must:

1. Submit a written request to relinquish some or all of your Points (as you so wish) to the Communications Department of Diamond Resorts (Europe) Ltd (“Diamond”) at Citrus House, Caton Road, Lancaster, Lancashire England, LA1 3UA by no earlier than **1st January** and no later than **1st September** of the Use Year in which you wish your relinquishment request to be processed. A form shall be provided for this purpose for your assistance although its use is not mandatory. If you wish to relinquish only part of your Points holding, the partial relinquishment must be per Points certificate held. For example, if you own 20,000 Points across two Points certificates of 10,000 Points each, you can elect to relinquish 20,000 Points (both Points certificates) or 10,000 Points (one Points certificate).
2. You must be current in the payment of your maintenance fees on your Points at the time of submitting your written request to relinquish.
3. You will be required to pay a relinquishment fee for future loss of maintenance fee income equivalent to **TWO** years' maintenance fees on the Points that you wish to relinquish. The fee shall be based on the rate in force in the year that your relinquishment request is submitted. In respect of a partial relinquishment of your Points, the fee shall be calculated on a percentage basis as compared with the maintenance fees on your entire Points holding.
4. The relinquishment fee must be paid by you in cleared funds by no later than **1st November** of the Use Year that your relinquishment request is submitted.
5. It is a condition of invoking the relinquishment option that any consumer credit loan taken out by you to fund the purchase of the Points being relinquished must be discharged in full prior to the submission of your request to relinquish. You will be required to provide with your relinquishment request:
 - (i) confirmation as to whether a credit facility was taken out by you to fund the purchase of these Points,
 - (ii) if a credit facility was taken out, the name of the credit supplier, the consumer credit agreement reference number and the date (exact or estimated) on which the loan was discharged, and
 - (iii) EITHER a copy letter from the credit supplier confirming that the credit facility has been discharged in full OR (in the absence of such documentary evidence) a signed authority permitting a Diamond team member to contact the credit provider to verify the information so

provided. The signed authority should include the contact details of the credit provider in the form of an email address, telephone number or postal address.

6. Subject to strict compliance with conditions 1 to 5 above, 21 days after the relinquishment fee has been received, the Points being relinquished will be removed from your Points holding and, if the entire Points holding is being relinquished, your membership will also be terminated. In either case, you will have no further usage rights (or obligations) in respect of your relinquished Points, SAVE THAT;

(i) if (in respect of Points that you wish to relinquish) you have not used all of your Points in that Use Year and, within 14 days of the date on which your relinquishment request is submitted, you make a reservation (or reservations) using your unused Points for a stay (or stays) during that Use Year, your reservation/s will be honoured, and

(ii) if you have elected to save some or all of the Points that you wish to relinquish to the following Use Year in accordance with the Points saving procedures and deadlines and, within 14 days of the date on which your relinquishment request is submitted, you make a reservation (or reservations) at a Diamond managed or affiliate resort (i.e. Interval International reservations excluded) using your saved Points, your reservation/s for the following Use Year will be honoured.

7. For the avoidance of doubt:

(i) with the exception of the saved Points, no Points will be allocated to you for use in the following Use Year, and saved Points cannot be carried forward again to a subsequent year,

(ii) if you have borrowed Points from the following Use Year, you will not be in a position to invoke the "Non-Qualified" relinquishment option until the following Use Year, and only then if the maintenance fees on those borrowed Points has been paid in full at the time of submitting the relinquishment request,

(iii) you must be cognisant of the fact that a partial reduction in your Points holding could impact on your Loyalty Tier status and Member Benefits redemption entitlements,

(iv) if the submission of the relinquishment request AND payment of the relinquishment fee are not made on or before the deadlines referenced in conditions 1 and 4 above, the ability to relinquish in that Use Year will be lost (although it will of course be open to you to invoke the relinquishment option the following year if you wish to do so).

(6) ALLEGATION: In the event of the death of a member, their children will be required to inherit their parent's timeshare (irrespective of whether they want it or not).

This is not true. In the event of the death of a member where the membership is jointly owned, the membership will automatically transfer to the sole surviving member (who will be able to invoke the exceptional circumstances surrender options detailed at response (5) above if they so wish.

In the event of the death of a sole member, the personal representatives of the member's estate are entitled to request the transfer of the timeshare interest to a beneficiary. Alternatively, they can take steps to sell the timeshare (in which case, any proceeds of sale will be paid to the member's estate).

The ability of a member to transfer their timeshare to a beneficiary enables their loved ones to continue to enjoy holidays with Diamond after their death. Of course, if the beneficiary does not wish to inherit the timeshare, they are under NO obligation to do so. They can simply disclaim the gift, in which case, the membership will terminate with no further rights or obligations.

(7) ALLEGATION: The Apollo acquisition will render any existing contracts with Diamond invalid.

As you are aware, in September 2016, an affiliate of Apollo Global Management LLC ("Apollo") acquired the shares in Diamond Resorts International Inc. However existing contracts with Diamond will not (cannot) be affected in any way by the Apollo acquisition. To suggest that they will be rendered invalid is total nonsense and a clear misunderstanding (intentional or negligent) of the legal position.

(8) ALLEGATION: The Apollo acquisition will lead to management fee increases.

Apollo does not set or influence the management fees for the resorts, the European Collection or the Fractional Owners Club. The fees are based on the running costs of the resorts, the European Collection and the Fractional Owners Club (as applicable), the impact of exchange rates, resort refurbishments and upgrade plans.

(9) ALLEGATION: Apollo is not a timeshare company - it is an asset stripper. This being the case, it is likely that Diamond will sell off all of the assets.

Apollo has every intention to support the management team to ensure that Diamond continues to flourish. Apollo is a leading global alternative investment manager and values the culture of hospitality and legacy of service that Diamond has instilled throughout the business. Apollo is not involved in the day to day operation of the business, and availability and resort offerings will not be affected by this acquisition.

For completeness, we should advise that the sale of Garden Lago and the proposal to sell Broome Park was made prior to any involvement by Apollo.

(10) ALLEGATION: The taking of a deposit on a credit card is in breach of the Consumer Credit Act 1974.

In compliance with both the Consumer Credit Act 1974 and the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 (and previously with the Timeshare Act 1992 (as amended)), Diamond does not take payment for its timeshare regulated products until the 14-day cooling-off period has expired.

Some members may provide details of the debit/credit card that they wish their initial payment to be taken from once the cooling off period has expired. These details are securely input onto our IT systems using encryption technology (pursuant to which only the last 4 digits of the card are readable) and the card information is then destroyed immediately. Members may of course contact us to change their intended payment method during the cooling off period if they so wish.

(11) ALLEGATION: There is no benefit to be derived from being a Diamond member because Diamond accommodation can be easily sourced on third party websites at reduced rates.

A certain proportion of the weeks at Diamond managed resorts together with all of the unsold points in Diamond Resorts European Collection Limited are owned by Diamond in its capacity as the Developer. This accommodation is, and always has been, used for marketing and promotional purposes including making apartments available for non-members to book through a variety of rental channels. This accommodation is used to introduce potential new members to Diamond's resorts, which in turn helps to maintain the membership of the club, thereby keeping the club financially healthy.

Whilst accommodation may be made available to non-members for rental purposes, it is not necessarily available in all resorts or at all times of year. Rental bookings are often subject to last minute availability and are certainly not guaranteed. Conversely, the amount of accommodation available for Diamond members to book using their points is carefully monitored both by Diamond and also independently by the Trustee (First National Trustee Company Ltd), thereby ensuring that there is always sufficient inventory available for use by the individual Members.

Further to this, our members are prioritised over rental guests for the allocation of the best possible accommodation. In respect of any specific requests, accommodation will be allocated as a priority to Club members. Rental bookings may also have restrictions as to the facilities and services that they can use without further charge.

In addition, points' members may redeem their points for various associated benefits such as flights. All points have an equivalent value in terms of accommodation within the European Collection. If points are redeemed for a member benefit, the Developer is responsible for paying for the cost of that benefit. In order to recoup some or all of those costs, accommodation usage rights (equivalent to the number of points redeemed for the benefit) are transferred back to the Developer. This inventory is then used by the Developer. In addition to offering rentals to existing members, accommodation could very well be rented via external suppliers as well.

(12) ALLEGATION: Recent Spanish Supreme court rulings mean that contracts for any Diamond timeshare that has a term in excess of 50 years in duration are voidable.

For members of Diamond Resorts European Collection Ltd:

We have received several Spanish Court of Appeal decisions in Diamond's favour which have confirmed that Spanish law 42/98 does NOT apply to the sale of points in Diamond Resorts European Collection. This being the case, the Supreme court rulings being cited are not in fact applicable, and our points contracts are not therefore void or voidable.

In any event, in respect of English consumers, English law (rather than Spanish law) is always stated to apply. Indeed the previous UK legislation (the Timeshare Act 1992) required Diamond to apply English law where a sale was being made to a UK consumer.

Finally, we would clarify that pursuant to the Articles of the European Collection, the Final Year of the European Collection is 2054 following which the European Collection will be wound up. The European Collection therefore has a remaining term of less than 50 years in any event.

Of the 20 cases that have appeared before the Spanish courts where the above argument has been run, Diamond has won 19. The one case that Diamond lost arose due to a filing oversight by the local lawyer instructed.

We would be very concerned if we were to find that members were still being advised that they had any prospect of successfully winning such a claim in the Spanish court. The lawyers handling these claims must now appreciate that success against Diamond is highly improbable and that they are in fact exposing their clients to costs orders which are (invariably) made by the Spanish court against their clients when they lose.

Diamond Resorts Fractional Owners Club:

With regards to the Diamond Resorts Fractional Owners Club, the term of the membership is 15 years (subject to sale of the Fractional Property). Under no circumstances will the term be anywhere near to exceeding 50 years. As such, the Supreme Court rulings are inapplicable to Diamond's Fractional product.

(13) Consumers were sold additional (unnecessary) points in Diamond Resorts European Collection Ltd in order for them to have the minimum number of points to be able to upgrade to Diamond Resorts Fractional Owners Club

All Fractional points in the Fractional Owners Club are notionally backed by specific inventory at one of Diamond's European resorts (each Fraction representing 1 week in a Fractional Property) and the weekly points' value of the said Property equates to the number of points required to own one Fraction. In light of this, Fractional points could only be sold in accordance with the weekly points' value (or multiples thereof). By definition, it would be impossible for an Owner to own part of a Fraction. In the event that a member wished to upgrade their European Collection points to Fractional Ownership but had a points holding that didn't equate to the points value of the Fractions that they wished to purchase, it was necessary for them to purchase additional Fractional points in order to bring their points holding to the requisite level.

(14) It has been insinuated that points should not have been sold by Diamond Resorts (or approved for finance) where the purchasing consumer was in their 60's / 70's.

Whilst Diamond is fully cognisant of its responsible lending obligations under the Consumer Credit Act, it would be discriminatory for Diamond to refuse to sell a product to someone simply due to their age. Indeed, the Financial Conduct Authority has provided guidance on this very point.

(15) The Diamond Resorts Fractional Owners Club is not a timeshare product but instead is a long term holiday product (for which different cancellation rights apply)

We do not agree. Long-Term Holiday Products are defined in Regulation 8 of the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 as products "*the main effect of which is that the consumer, for consideration, acquires the right to obtain discounts or other benefits in respect of accommodation*". This definition does not apply to Fractional points, which quite clearly fall under the definition of Timeshare Contracts as detailed at Regulation 7, being those "*under which the consumer, for consideration, acquires the right to use overnight accommodation for more than one period of occupation, and [...] which has a duration of more than one year*".

The Regulations even go so far as to clarify that timeshare contracts include accommodation rights within a pool of accommodation. Fractional points are by definition a flexible timeshare product backed by specific inventory, as detailed on the member's purchase agreement.

(16) Points in Diamond Resorts Fractional Owners Club are an investment and Diamond Resorts has failed to comply with the Collective Investment Regulations.

This assertion is denied. Regulation 3 and paragraph 13 of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 (SI 2001 No. 1062) expressly stipulates that "Arrangements do not amount to a collective investment scheme if the rights or interests of the participants are timeshare rights."
