

中国分时度假现状

—从法律角度分析

“分时度假”的概念于二十世纪六十年代最先源于欧洲，是房地产产品和旅游产品的结合。一般认为：分时度假是指将酒店或者度假村等住宿产品分成每年固定次数的使用周期（一般为一年52次），使用的期限可以为10年到40年甚至更长。购买者有权每年在这个分时度假单元住宿一周的权利，也可以通过分时度假交换系统，与处于另外一个地点的分时度假单元交换，也有权将其出租、赠予、捐赠、留给继承人，或者卖出。分时度假产品在二十世纪九十年代首次引进中国，但至今人们仍对分时度假及其性质未有一个统一明确的定义。在中国，分时度假更多被视为一种租赁关系或者会员权利而非物权。

立法情况概述

在中国，分时度假仍处于初始阶段，很多人对其仍感陌生。对于大部分投资者来说，中国的分时度假市场颇有潜力。但到目前为止，中国尚未在分时度假行业出台任何专门的法规，因此法律上的不确定性也是投资者的担忧之一。在此我们介绍几部相关的法律法规以供投资时参考。

《中华人民共和国物权法》

“所有权人对自己的不动产或者动产，依法享有占有、使用、收益和处分的权利。”

分时度假主要有两种形式：物权合同和使用权合同。在前者的情况下，分时度假单元相当于不动产的部分产权（目前中国基本上很难采用这种形式），此时适用《物权法》，对于不动产的物权当然受到法律保护；但在后者的情况下，分时度假则更像是一种租赁的关系，在这种情况下，则适用《合同法》更为妥当。

《中华人民共和国合同法》

相对于转移不动产的所有权，现在分时度假行业的参与者可能更倾向于与所谓的“购买者”签订租赁合同。这种情况下，根据《合同法》租赁期最长不得超过20年。

另外一种做法是采取“会员制”的方式：购买者有权根据合同适用物业，同时不受20年租赁期的限制。当合同到期结束后，物业的所有权利归还其所有权人。根据《合同法》，当事人依法享有自愿订立合同的权利，任何单位和个人不得非法干预。因此，此种会员制合同自然受到法律的保护。

《中华人民共和国消费者权益保护法》

“经营者应当向消费者提供有关商品或者服务的真实信息，不得作引人误解的虚假宣传。”

分时度假行业参与者在对产品进行宣传营销的时候，应注意消费者权益的相关规定以防引起任何不必要的纠纷。

还有其他的相关法律法规：

文件	内容
房地产开发企业资质管理规定	从事房地产开发经营的企业，需取得房地产开发经营资质
物业管理企业资质管理办法	从事物业管理服务的企业，需取得物业管理资质

中华人民共和国城市房地产法	房地产中介服务机构包括房地产咨询机构、房地产价格评估机构、房地产经纪机构等需取得资质
建设部、商务部、国家发展和改革委员会等关于规范房地产市场外资准入和管理的意见	加强对外资进行房地产开发和管理，并且对外商投资企业参与房地产开发和经营设置了不少限制
旅行社条例	此条例规范的是境内旅行社的设立及经营活动，但也不排除实践中分时度假企业被认定为与旅行社业务有关而要求取得相关审批
商品房销售管理办法	商品住宅按套销售，不得分割拆零销售
单用途商业预付卡管理办法（试行）	零售业、住宿和餐饮业、居民服务业的企业法人发行单用途商业预付卡的受此办法管辖，分时度假中的会员卡模式可能受到此办法约束

地方法规和规章

暂时未就分时度假行业出台相关的地方性规定。但有一点可以肯定：地方政府对于分时度假行业还是持一种鼓励的态度。例如三亚市、海南省、广东省等地在其政府政策或者工作计划中都明确鼓励和支持分时度假，只是暂时还没有具体的实施或指导措施。目前，越来越多的人参与到中国的分时度假市场中来，及时出台适当的法规来规范这个行业已经越来越迫切，至少在地方层面，比如在一些旅游大省，可以推行一些试行的规定。我们也相信，法制方面的规范化也将是中国分时度假市场的一个趋势。在这里，我们将简要介绍一下地方立法的相关程序。

地方性立法

中国规范立法程序的法律主要是《中华人民共和国立法法》以及《中华人民共和国地方各级人民代表大会和地方各级人民政府组织法》，它们不仅规定了国家层面的立法程序，而且赋予了地方人民代表大会及其常务委员会以及地方政府制定地方性法规和地方政府规章的权力。为明确当地的做法，一般不同省份的政府都会制定各自的立法条例。此处我们以河北省为例来说明一个地方性规定（比如：关于分时度假行业的地方性法规或者地方政府规章）制定的过程。

地方法规

除一些特别重大的事项应由人民代表大会决定制定之外，大部分的地方法规都由河北省人民代表大会常务委员会（下称“人大常委会”）制定。河北省有专门的法规来规范地方法规的制定：《河北省地方立法条例》。以下是关于人大常委会制定法规的情形：

- 1、每届人大常委会制定的制订本届五年立法规划每年的立法计划草案（下称“立法计划”）。
- 2、每年10月15日之前，河北省人民政府（下称“省政府”）所属相关部门起草计划内的相关法规并将草案报送省政府的法制部门，法制部门进行筛选汇总之后于12月1日之前将草案报送人大常委会的法制工作委员会。
- 3、人大常委会的法制工作委员会将筛选后的草案报送人大常委会主任委员会，由其决定是否将草案提上人大常委会会议的议程；一旦决定提上议程，主任委员会需将草案报送人大常委会。
- 4、如需要制定的法规不在立法计划内，则可以由省政府或者人大常委会的专门

- 委员会、或者人大常委会五人以上联名，向人大常委会提出法规案。
- 5、法案被提上人大常委会会议议程之后，一般需经过两次常务委员会会议审议之后交付表决，但有时也可能是一次或者三次常务委员会会议之后。
 - 6、地方性法规需上报全国人大常委会以及国务院备案。

地方政府规章

省政府有权自行制定政府规章，一般称为“规定”或“办法”，但不得称为“条例”。

- 1、确有需要制定政府规章的，政府所属工作部门（具体到分时度假，相关的工作部门可能是旅游部门、经济发展部门、或其他部门）向省政府申请制定规章的立项。
- 2、省政府法制机构对制定规章的立项进行汇总并相应制定年度规章制定工作计划。
- 3、省政批准年度规章制定工作计划后，可以确定规章由其一个部门或者几个部门具体负责起草工作，也可以确定由其法制机构起草或者组织起草。
- 4、规章送审稿由法制机构负责统一审查。
- 5、地方政府规章经政府常务会议或者全体会议决定并由省长签署。
- 6、通过的规章需报省人大常委会备案。

较大的市的人民代表大会及其常务委员会以及人民政府同样有权制定当地的法规和政府规章，其程序与省级的类似。

针对分时度假的专门许可

即使缺乏专门的法律法规来规范，仍然有越来越多的分时度假公司或者项目在中国市场上找到了自己的一席之地。RCI公司是世界上最大的分时度假交换公司之一。从RCI的官方网站上可以看到，目前RCI有88个中国的度假村在其分时度假系统之内。多年以前即有不少公司已成为了RCI的授权代理，包括海航酒店控股集团有限公司、上海自由之旅度假服务有限公司等，这些公司都加入了RCI的分时度假交换系统。如何合法地建立分时度假商业？这里我们会从不同的参与者角度，简要介绍一下可能涉及到的针对分时度假的专门许可和审批。

开发商

从事房地产开发业务（包括开发和销售）的企业必须首先取得房地产开发资质证书。但如果一个企业只是取得房地产然后再将其转卖出去，则不需要取得该资质证书。在外商投资领域，从事房地产开发和经营的企业还需遵守外商投资领域特别的规定，这些特别的规定都意在限制外商在房地产行业的投资。外商投资房地产企业不仅要取得地方或国家商务部门的批准，而且还需接受国家商务部门的监督检查。另外，审批的时间也会拖得更漫长。

运营商

运营分时度假业务在中国并没有统一的形式，有些是以咨询公司的名义，有些以酒店的名义，还有一些其他的名义。

举上面提到的上海自由之旅度假服务有限公司为例：这是一家在上海成立的服务公司，其营业范围是“分时度假订房咨询、旅游信息咨询服务。分时度假产品营销和代理。分时度假的产品开发和提供售后服务，代理订房订票服务，商务咨询（除中介），投资管理，企业管理咨询。”

目前的法律法规并没有明确提及分时度假，也就是说，开发、经营或者销售分时度假产品的时候并不要求取得专门的许可。但是，这并不是说，每一个运营商都可以像上海自由之旅度假服务有限公司那样幸运，可以将“分时度假”加入到营业执照上。由于缺乏法规指引，当地的工商部门可能并不愿意将“分时度假”加入到营业范围之内（虽然并没有法律法规限制开展分时度假业务）。一些较大的城市如上海、北京、广州，在这方面应该态度更加开放、做的更好。

物业管理公司

如果开发商自行管理不动产，则不需要取得物业管理的资质证书；但如果一个公司为他人拥有的不动产提供物业管理服务，则这个公司需事先从国家住建部或其相应的省级或地方部门取得相应的物业管理资质证书。

消费者权益

我们将以一个与分时度假合同有关的案例来开启这个话题。这个案例也反映了目前中国分时度假的现状和一些问题。

周先生与珠海石景山旅游度假中心（下称“石景山”）签订了一份合同。根据此合同，周先生有权在2000到2045年期间，每年在石景山的酒店的一间双人房免费住宿七天，也可以将这七天的免费住宿与RCI分时度假交换系统下的其他度假地点进行交换。作为对价，周先生须一次性支付人民币67288元以及每年支付一笔管理费用。合同同时规定，周先生制服了人民币67288元以后即成为RCI分时度假交换系统的会员，而且石景山将会向其发放会员卡，周先生可享受到RCI会员的所有利益和权利。

但是周先生支付了这笔款项以后，并没有按期拿到会员卡，于是一纸诉状将石景山告上法庭，要求解除合同。周先生称石景山在宣传分时度假产品的时候对其做了不真实、误导性的宣传，并且石景山也确实没有按照合同规定履行义务。

一审判决盼周先生胜诉，判决撤销合同并判令石景山向周先生退回款项。

二审过程中，石景山提交了一份来自于新加坡RCI亚洲太平洋公司的声明，声明中指出：石景山是RCI的授权代理，周先生已经正式成为RCI交换系统中的一名会员。声明同时还提供了周先生作为会员的RCI系统唯一会员号。法庭最终采纳了这份声明，并认为石景山未发放会员卡的行为并没有影响周先生的合同权利，因此并不构成实质性违约。二审判决推翻了第一审判决，合同继续有效。

以上案例中我们最少可以发现以下几点：

- 1、法院承认了分时度假合同；
- 2、在开展分时度假业务时，会员制的方式很受欢迎；
- 3、由于没有专门的法律法规来规范分时度假行业，在合同履行当中比较容易出现纠纷。

鉴于以上问题，我们有以下建议，希望对市场参与者有所帮助：

- 1、考虑到客户的投诉，特别是与关于夸大事实的宣传或者误导性表述有关的。开发商或运营商进行分时度假产品的市场营销时，确保做出的营销活动是适当的。
- 2、引入“冷静期”。如果客户有购买产品的意向，允许给予其一段冷静期，如5天，这样就能确保所签署的合同是双方当事人100%的真实意思表示。这并不单纯是对于客户的一种让步；相反，这可能会让销售方将来免于纠纷困扰。
- 3、聘请优质的酒店或旅游管理公司，打造良好的品牌形象以及保证公司运营顺畅。这些管理公司的费用可能比较昂贵但却值得，运营商将从其中受益。
- 4、采取银行担保或者其他的但包方式。有些时候客户难免对于销售方的履约能力感到担忧，这也是可以理解的，毕竟客户是一次性支付了全额款项，但相对应

的使用权却是未来20年或者40年的。这种情况下，双方可以协商引入第三担保方；当然，采用担保的条件双方可以进一步再磋商，直至双方都觉得安全且满意。

5、聘请顾问负责交易的审核。开发商或运营商在与客户、政府或其他参与方打交道时，可以聘请有经验的律师事务所等作为顾问，负责设计交易，或者审核相关的合同，以此保证所有的事项合法并能够将风险降至最低。

我们希望将来能够有全国或地方的分时度假法律法规出台。尽管目前中国市场对分时度假仍有一些限制或产生一些问题，但分时度假还是给各方参与者展现出巨大的商机。通过同行人士或者专业人士的协助，我们相信投资者定能在分时度假市场上有所作为，并对分时度假行业今后的法律环境产生深远影响。

Current Status of Timeshare in China

- From Legal Perspective

The notion a “timeshare” was originally created in Europe in the 1960s. It is a combination of real estate product and tourism product. A commonly accepted concept of timeshare involves a division of a unit of a lodging property, usually a hotel, or a resort villa, into specified usage times (typically 52 usage times) every year for a period of 10 to 40 years or even more. Buyers have rights to use the timeshare unit for one week or two weeks per year or exchange internally or externally through an exchange network for another timeshare unit’s usage time in other hotels or resorts, or rent it out, give it as a gift, donate it, leave it to their heirs, or sell it. Since it was first introduced to China in 1990s, people still yet to have a common understanding on the definition and nature of timeshare. For most of the cases in China, timeshare is more related to leasehold or membership rather than a real property right.

An Overview of Legislation Status

In China, timeshare is a new concept to many people and is just at its infancy stage. To many investors, China is one of the most promising potential markets of timeshare. Up to now, however, no specific legislation has been enacted to govern the industry of timeshare, and the uncertainty in legal aspect becomes one of the investors’ concerns. Here a brief overview is provided concerning the existing Chinese laws and regulations that investors want to keep in mind when making investment in timeshare industry in China.

Property Law of the People's Republic of China

Based on the Property Law, the owner of a real property or movable property has the rights to possess, use, seek profits from and dispose of the real property or movable property.

Two main different types of timeshare are in the form of real right contract and right to use contract. With the former, timeshare units are sold as fractional ownership and are real property (this is rarely the case in nowadays China), but with the latter, timeshare is more like leasehold rather than real property ownership. When timeshare is carried out in the form of the first type, the legal rights to the property can be protected throughout the Property Law; but for the second type, we’d better refer to the Contract Law rather than Property Law.

Contract Law of the People's Republic of China

Compared with transferring the legal title of the real property to buyers, nowadays participants in timeshare industry much more like to enter into a lease contract with “buyers”. In that case, the lease term may not exceed 20 years according to the Contract Law.

Alternative to a lease contract, timeshare often takes the form of “club membership”, where the buyers have the right to use the property in accordance

with the contract, yet not subject to the limitation of 20 years. When the contract ends, all rights revert to the owner of the property. According to the Contract Law, people have the right to lawfully enter into a contract of their own free will. Thus such “club membership contract” is naturally protected by the law.

Law of the People's Republic of China on Protection of Consumer Rights and Interests

Business operators shall provide consumers with authentic information concerning their commodities or services, and may not make any false and misleading propaganda.

Participants in timeshare industry shall keep this in mind when making promotion of timeshare products, to avoid any disputes with consumers.

Below are some other related laws and regulations:

Document	Contents
Provisions on the Administration of Qualification for Real Estate Development Enterprises	Enterprises engaged in real estate development and operation are required to obtain qualification certificate.
Measures for the Administration of Qualifications of Realty Management Enterprises	Enterprises providing property management service are required to obtain qualification certificate.
Law of the People's Republic of China on Urban Real Estate Administration	The real estate intermediate service agencies including real estate consultants, real estate evaluation agencies and real estate brokerages shall obtain qualification certificate.
Opinions of the Ministry of Construction, the Ministry of Commerce, the National Development and Reform Commission, the People's Bank of China, the State Administration for Industry and Commerce, and the State Administration of Foreign Exchange for Regulating the Access by and Administration on Foreign Investment in the Real Estate Market	Administration on the real estate development and operation conducted by foreign-invested enterprises is to be strengthened and some restrictions on foreign-invested enterprises have been imposed.
Regulations on Travel Agencies	Such regulations govern the establishment and business activities of travel agencies within the PRC; it is not impossible that in the practice a timeshare company is deemed as a business related to travel agency and thus is subject to special license.
Administrative Measures for the Sale of Commodity Houses	Commercial buildings shall be sold by suite rather than segment.

The Administrative Measures on Single-Purpose Commercial Pre-paid Cards (Trial)	Business entities engaged in wholesale and retailing, lodging and catering industries, and resident service issuing single-purpose commercial pre-paid cards are governed by such Measures. It is possible timeshare business in the form of membership card is bond by such Measures as well.
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Local Regulations and Rules

No specific local by-law has been enacted to govern the timeshare industry. However, there is no doubt that local governments hold an encouraging attitude towards timeshare industry. For example, in the government policies or working plans of Sanya Municipality, Hainan Province, and Guangdong Province, private investment in timeshare industry is expressly encouraged, only that there is no specified provision guiding and governing the operation. Given the background that more and more market participants are involved in China's timeshare industry, it is urgent that appropriate timeshare regulations need to be enacted at least locally (for trial purpose) in due course, for example, in some tourism-featured provinces. It is also believe that the legislation on timeshare industry of Chinese market is a trend; and here we would like to briefly introduce the procedures for the formation of local by-laws.

Formulation of Local By-laws

In China, the laws governing the law making procedures are the Legislation Law of the People's Republic of China and the Organic Law of the Local People's Congresses and Local People's Governments of the People's Republic of China. These two laws not only specify the legislation procedures at national level, but also grant the local People's Congress and its Standing Committee (to make regulations) and local People's Government (to make rules) the power of making local by-laws and regulations. Generally different provinces have different regulations for the purpose of further elaborate the local practices. Here we would like to take Hebei Province as an example to explain how a local by-law (say, a regulation or a rule governing the timeshare industry) is formulated.

Regulation

Except for the especially major issues that are formulated by the People's Congress, the formulation of most of the local regulations falls into the power of Standing Committee of Hebei Provincial People's Congress (hereinafter referred to as "Standing Committee"). A specific regulation called Regulations on Local Legislation of Heibe Province. Below is about the procedures for formulation of local regulation approved by Standing Committee.

1. Standing Committee makes a 5-year legislative plan for its tenure, as well as the legislative plans for each year (hereinafter referred to as "Plan").
2. The subordinate working departments of the Hebei People's Government (hereinafter referred to as "Provincial Government"), prior to 15 October of a

- year, draft the regulation under the Plan and submit the draft to Legislation Office of Provincial Government, who consequently select and submit the draft to the Legislative Affairs Committee of Standing Committee before 1 December.
3. The Legislative Affairs Committee then submits the draft to Chairman Committee of Standing Committee to let the latter decide whether to put it on the agenda of a meeting of Standing Committee. Once decided, the draft will be submitted to Standing Committee.
 4. In case the regulation on timeshare industry is not within the Plan, Provincial Government or relevant special committee of Standing Committee may submit, or otherwise five or more members of Standing Committee may jointly submit a bill for the regulation to Standing Committee.
 5. After being placed on the agenda of a meeting of Standing Committee, the bill may be put to vote after deliberation at two meetings of the Standing Committee, sometimes only at one meeting and sometimes three meeting. If the bill is not put to vote in 2 years, usually for the reasons of no consensus being reached, the legislative procedures for this bill will be terminated.
 6. The local regulations shall be reported to the Standing Committee of the National People's Congress and the State Council for record.

Rules

Provincial Government has its own power to formulate rules, which are normally titled "provisions" or "measures", but they may not be titled "regulations".

1. The relevant subordinate working departments (in timeshare case, they may be tourism department, economic development department, or other department) apply to Provincial Government for formulating the rules, if there is a need to formulate such rules.
2. The legislation office of Provincial Government will make a summary of the approved application and accordingly a rules-making plan for a year.
3. After the plan is approved by Provincial Government, Provincial Government may assign one or several of its departments to draft rules, or assign its Legislation Office to conduct or organize such drafting.
4. The draft will be reviewed and examined by the Legislation Office.
5. The rules shall be decided at the executive meetings or the plenary meetings of Provincial Government and signed by the provincial governor.
6. The passed rules shall be reported to Standing Committee for record.

People's Congress and its Standing Committee and People's Government of comparatively large cities are also empowered to make their own local regulations and rules, and the procedures are similar to those at provincial level.

Special License for Timeshare

Regardless of lack of specific governing laws and regulations, more and more timeshare companies or projects have found their places in China's market. Resorts and Condominiums International (RCI) is one of the world's largest timeshare agents. Currently from the RCI's website, we can find 88 resorts in China on the timeshare projects. A group of companies including HNA Hotel Holdings Group Limited,

Shanghai Free-Travelling Tourism Service Co., Ltd., and many others have been authorized to join the exchange network of RCI since from several years ago. How to legally establish a timeshare business in China? Here we would like to give a brief introduction on the possible special license for a timeshare project from the perspective of different participants.

Developers

A company engaged in real estate development (means to develop and sell real estate) must obtain the qualification grade certificate for real estate development; however, if a company only acquires a real property and re-sells it, such certificate is not required. In the foreign investment field, a company to be engaged in real estate development and operation has to comply with the additional regulations and rules, which are meant to restrict foreign investment in Chinese real estate. Foreign investment in China real estate is not only subject to the approval from local/national commercial department, but to the governmental scrutiny at the national level. Further more, a longer approval timeline is usually not avoidable.

Operators

There is no definite form for the participants operating timeshare business. Some are carrying out timeshare business in the form of consulting company, some are in the form of hotel, and some are in other forms.

Let's take the above-mentioned Shanghai Free-Travelling Tourism Service Co., Ltd. as an example. This is a service company incorporated in Shanghai, with its approved business scope of "consulting service on room reservation for timeshare, consulting service on tourism information; marketing and agency for timeshare agency; timeshare products' development and after-sale service; room and ticket reservation agency; commercial consulting (except for intermediary); investment management; consulting on enterprise management".

Currently timeshare is not mentioned in the existing laws and regulations, and is not required to obtain any special license for developing, operating or marketing timeshare products. However, it does not mean that every operator is as lucky as Shanghai Free-Travelling Tourism Service Co., Ltd., who manages to add "timeshare" to its business license. Due to the lack of specific regulations, many local AICs are reluctant to add "timeshare" to the business scope (though no law or regulation objects to market participants running timeshare activities). Some big cities such as Shanghai, Beijing, or Guangzhou are hopefully doing better and opener in this aspect.

Property Management Company

If the developer itself manages the real estate, no special license for such management is required. However, if a company is to provide property management service for real property owned by others, such company must obtain qualification certificate for property management from Ministry of Housing and Urban-Rural Development or its subordinate at provincial or municipal level.

Consumers' Legal Rights

In order to begin with this topic, we would like to introduce a case concerning a contract of timeshare, which reflects some of the problems and current status of timeshare in China.

Mr. Zhou signed a contract with Zhuhai Shijingshan Resort Centre (hereinafter referred to as "shijingshan"). According to the contract, Mr. Zhou was entitled to stay in a two-bedded room of Shingjingshan hotel for one week per year from the year of 2000 to 2045, and he also has the right to exchange his 7-day stay in Shijingshan for a same period's stay in other resorts under RCI's exchange system. As the consideration, Mr. Zhou has to pay once to Shijingshan the amount of RMB67288 and another amount for the management fee every year. The contract also said that after Mr. Zhou paid RMB67288, he became a member of RCI timeshare exchange network and would get a membership card from Shijingshan, and was to be entitled all the rights and benefits under RCI's timeshare system.

However, after Mr. Zhou made the payment, he did not get the membership card as expected, so he brought a lawsuit against Shijingshan, asking for cancellation of the contract. Mr. Zhou claimed that Shijingshan had made untrue and misleading propaganda to him when it was making promotion for timeshare products, and Shijingshan did not perform its obligation in due course.

The first instance court made a judgment in favor of Mr. Zhou, ordering both parties to cancel the contract and Shijingshan to return the payment to Mr. Zhou.

At the appellate proceeding, Shijingshan submitted a statement from manager of RCI Asia Pacific (incorporated in Singapore), saying that Shijingshan was an authorized agent of RCI and that Mr. Zhou was admitted as a member of RCI exchange system. The statement also provided the unique membership number of Mr. Zhou. The court eventually admitted this statement and ruled that the fact that Shijingshan did not give membership card to Mr. Zhou did not affect Mr. Zhou's contractual rights, thus did not constitute substantive breach of the contract. The first instance judgment was overruled and the contract went on effective.

From this case, we can at least see the following points:

1. A timeshare contract was recognized by the court.
2. Club membership is a very popular form to carry out timeshare activities.
3. Since there is no specific laws or regulations governing timeshare industry, disputes can easily occur during the performance of contract.

Seeing the above, we would like to give the following humble suggestions, hoping they will be of help to the market participants:

1. Consider the complaints from consumers especially concerning the exaggerate promotion or misleading presentation. When timeshare developers or operators market for the timeshare products, make sure that the promotion and marketing activities are appropriate.

2. Introduce the “cooling-off period”. If a consumer intends to buy the products, allow a cooling off period, say, 5 days, for the consumer, so to make the contract to be signed 100% the real intention of both parties to the contract. It is not a compromise by the seller; instead, such period may save the seller from many potential disputes in the future.
3. Employ a very good hotel/tourism management companies to build the brand image and make the operation in good order. Though such management companies are expensive, the benefits herefrom will prove its worthiness.
4. Apply bank guaranty or other kinds of guarantee. It is understandable that consumers are sometimes worried about the performance of the contract by the seller, because they have paid once the full amount for the use right for the future 20 or 40 years. In this case, both parties can make an agreement to let a third party in as the guaranty party, and the conditions for such can be further discussed by both parties till both parties feel safe as well as satisfactory.
5. Appoint consultants to review the transactions. When the developers or operators are dealing with consumers, governments, or other participants, consultants such as experienced law firms can be appointed to design the transactions or review the relevant documents to make sure that everything is in compliance with the laws and regulations, and that the risks have been controlled to the lowest possibility.

Hopefully appropriate timeshare laws and regulations will be enacted either at the national level or local level in the future. Regardless of any restrictions or problems occurring in the Chinese market, timeshare presents many opportunities for all parties involved. With help from professional advisers and other industry counterparts, investors in the timeshare industry can achieve their success and at the same time can help shape the legal frame for the timeshare industry.