

**For discussion
on 22 July 2013**

Legislative Council Panel on Economic Development

Latest Progress in Taking Forward the Reform of the New Regulatory Regime for the Tourism Sector in Hong Kong

Purpose

This paper outlines the latest progress in taking forward the reform of the regulatory regime for the tourism sector.

Background

2. Hong Kong's tourism industry has been haunted by a spate of untoward incidents involving coerced shopping and poor receiving arrangements for Mainland inbound tours since mid-2010. Incidents involving misbehaving tourist guides and undesirable business practices of "zero-negative fee tours" have caused serious concern and criticism both in Hong Kong and in the Mainland. Such notorious incidents and the associated widespread reports in the local and Mainland media had tarnished considerably the reputation of Hong Kong's tourism industry as a whole. Many critics also cast doubt on the effectiveness and impartiality of the existing industry self-regulatory regime, under which the Travel Industry Council of Hong Kong (TIC) has been playing a pivotal role.

3. The Government announced its intention to reform the existing regulatory regime for the tourism industry in October 2010. A ten-week public consultation was launched in 2011, which was followed by the Government announcement in December the same year that an independent statutory body, to be called the Travel Industry Authority (TIA), would be set up as the overall regulatory body of the tourism sector. The Government also announced various key parameters for the new regulatory framework and undertook to enter into discussion with the TIC to explore the latter's role in the future regulatory regime, and examine the possibilities of entrusting to it certain non-regulatory public functions.

4. Following the Government announcement in December 2011, we had briefed this Panel, the Board of Directors of the TIC and its eight

association members on the way forward in the following months. We also continued to engage the trade in further discussion concerning the detailed arrangements under the new regulatory regime, and explore with the TIC its future public functions. Our objective is to ensure that the detailed arrangements would be effective in curbing the malpractices for Mainland inbound tours; and the new regulatory regime spearheaded by the TIA would be impartial and effective in protecting the interest of both the travelling public and industry practitioners. The recommended detailed arrangements, taking into account views from the trade, are set out in the ensuing paragraphs.

Detailed Arrangements

Composition of the TIA

5. Under the new regulatory regime, the governing board of the TIA (TIA Board) will comprise both trade and non-trade members to be appointed by the Government. To ensure credibility and impartiality of the TIA, the Chairman of the TIA Board will not come from the travel trade. Furthermore, non-trade members will be drawn from different professions who will form the majority of the TIA Board. Adequate number of trade members will be appointed to the TIA Board to ensure that the TIA possesses the necessary knowledge and expertise in the operation of the trade. Representatives of tourist guides and tour escorts will also be appointed to reflect the interests and concerns of these practitioners. To underline the importance the Government attaches to its co-operation with the TIA and the industry, the Government will enhance its participation in the new regulatory regime, including appointing the Commissioner for Tourism (CT) as the vice-chairman of the TIA Board.

6. Based on the above framework, the TIA Board will comprise a total of 22 members, including a Chairman (non-trade member), a vice-chairman (CT) and 20 other members. Among these 20 members, 12 will be non-trade members from different professions such as legal, accounting, insurance, education, consumer protection, etc., and the other eight will be trade members. Among the eight trade members, one will be drawn from tourist guides and one from tour escorts. The other six trade members will be travel agent representatives. Three of them will be nominated by the TIC to reflect that it can continue to play a leading role in the travel trade under the new regulatory regime. The other three will be directly appointed by the Government having regard to the need to ensure a balanced representation of travel agents of difference sizes and

specialising in different business areas, such as inbound tours, outbound tours, ticketing, etc.

Raising the threshold for setting up travel business

7. One prevailing comment we received during the public consultation exercise and our subsequent consultation with the travel trade has been that the threshold for setting up travel business¹ which has been in place since 1994 is too low, so that travel agents set up in recent years tend to be very small ones. Such agents are less able to handle emergency and crisis situations. To enhance the standard of the trade, we consider it necessary to raise the entry threshold for setting up travel business through a two-pronged approach, whereby travel agents will be required to deposit guarantee money with the TIA and also appoint an “authorised representative” (AR) who is a natural person responsible for overseeing the operation of the travel agent business under the new regulatory regime.

A. Requiring the deposit of guarantee money

8. As under the existing regime, all new travel agents licensed under the new regulatory regime will need to fulfill a paid-up capital requirement of \$500,000 for setting up a business² to ensure sufficient funding for the business operation, and in addition, to deposit with the TIA a sum of guarantee money, in the form of cash or bank guarantee, under the new regulatory regime. The guarantee money will be used for covering the payment of any outstanding penalties imposed upon a travel agent for breaching the relevant rules and regulations of the TIA in the event that the travel agent closes down its business without settling such

1. At present, any person in Hong Kong applying for a travel agent’s licence must be a member of the TIC as specified in Schedule 1 to the Travel Agents Ordinance (Cap. 218) (TAO). The TIC requires its members who conduct any travel and tourism business to have a minimum paid-up capital of \$500,000, plus an additional \$250,000 for each branch office. These members must be in the form of limited companies. If any person applies for a travel agent’s licence in the form of a sole proprietorship or partnership, his business is restricted to booking hotel rooms and air tickets, retailing package tours, and other travel related dealings. The TIC requires such members to provide a bank guarantee of \$150,000 in favour of the TIC. These members must be in the form of sole proprietorships or partnerships, and are allowed to operate inbound tours. They are however not allowed to open branches and to organise or operate outbound tours. As at 30 April 2013, 90 out of a total 1677 travel agents in Hong Kong are in the form of sole proprietorships or partnerships.

2. Under the new regulatory regime, new travel agents operating under sole proprietorship or partnership must also have a minimum owner’s or partners’ capital of \$500,000 for setting up a travel business.

penalties. If there is no outstanding payment of penalties at the time when the travel agent closes down its business, the TIA will return the guarantee money to the travel agent in full.

9. As for the amount of guarantee money to be deposited with the TIA, we plan to impose different requirements on travel agents depending on the scope of business carried on by them. Our latest thinking on the detailed arrangements is set out below.

(a) For travel agents not operating Mainland inbound tour group business

10. New travel agents not operating Mainland inbound tour group business will be required to deposit guarantee money of \$500,000 for setting up business under the new regulatory regime. To avoid inadvertently undermining the ability of existing small travel agents to carry on with their business upon the setting up of the TIA, we will put in place a transitional arrangement for existing travel agents which have already obtained a licence, whereby those not operating Mainland inbound tour group business will not be required to immediately deposit any guarantee money upon commencement of the new regulatory regime. Their liability to deposit the guarantee money will depend on their subsequent breach (if any) of the rules and regulations resulting in award of financial penalties against them. Where the amount of accumulated fines imposed by the TIA on any such travel agent has reached a certain level, the travel agent concerned will be required to deposit a specified level of guarantee money with the TIA immediately. To keep the system simple and easy to manage, we will designate two levels of accumulated fines for triggering the guarantee money requirement for existing travel agents. That is, if the accumulated fines for a travel agent have reached the first level, the travel agent will be required to deposit guarantee money of \$250,000 with the TIA. When the second level is reached, the travel agent will have to deposit the guarantee money with the TIA in full, i.e. \$500,000. The TIA will decide on the thresholds (accumulated fines) for triggering the requirement on existing travel agents to deposit the two respective levels of guarantee money having regard to the TIA's financial penalty system for non-compliance with the relevant rules and regulations to be drawn up by the TIA. This requirement to deposit guarantee money upon accumulation of a certain amount of fines will be imposed as a new condition on an existing licence at the time of its first renewal under the new regulatory regime.

11. To avoid any possible abuse of the above transitional arrangement for existing travel agents through backdoor trading of existing licences by way of transfer of ownership or shareholding to a new owner where the travel agent is in the form of a partnership or body corporate and hence the new owner may bypass the requirement of guarantee money, a major change in beneficial or shareholding ownership of an existing travel agent (a partnership or body corporate) after first renewal of its licence under the new regulatory regime (say, an accumulated change in ownership or shareholding exceeding 50% from the date when the existing travel agent renews its licence under the new regulatory regime) will be taken as a new business such that the transitional arrangement will no longer apply, and hence the travel agent will be required to deposit \$500,000 with the TIA as guarantee money immediately.

(b) For travel agents operating Mainland inbound tour group business

12. Mainland inbound tour group business operates quite differently from other travel services. Such business involves various parties in Hong Kong and the Mainland, covering different businesses and modes of operations as well as complicated transactions and relationships among the parties concerned. Indeed, it is against such background that the TIC has imposed specific regulations and requirements on such tours and deploys a substantially large proportion of its manpower and resources on related enforcement work. For example, the TIC has implemented ten measures since February 2011 to tighten up the regulation of the Mainland inbound tour group business and to enhance the protection of Mainland travellers' right. Having regard to the spate of problems arising from the operation of Mainland inbound tour groups and the relatively poor track record of many travel agents operating Mainland inbound tour group business, we will introduce a more stringent guarantee money requirement for these travel agents to ensure the effectiveness of the new regime in curbing malpractices in the operation of such business. This also seeks to protect the rights and interests of Mainland travellers, Hong Kong's image as an international, world-class tourist destination as well as the interests of the local tourism industry, relevant retailers and their employees.

13. Taking into account the TIC's experience in regulating the Mainland inbound tour group business in recent years, malpractices of many travel agents receiving Mainland inbound tour groups with shopping itineraries at designated shops, including those revealed in the "3A

Holidays” incident³ earlier this year, a higher level of guarantee money requirement of \$800,000 will be imposed for both existing and new travel agents operating Mainland inbound tour group business under the new regulatory regime. Existing travel agents operating such business however will be required to deposit a guarantee of \$800,000 with the TIA only upon the first renewal of its licence under the new regulatory regime.

14. A summary table on the requirement of guarantee money is at Annex A for Members’ easy reference.

15. As for the definition of “Mainland inbound tour group business”, our latest thinking is that an inbound travel agent would be considered as operating such business if it carries on business of obtaining one or more the following services for two or more visitors as a group, who are on the same journey originating from the Mainland to Hong Kong –

- (i) sightseeing or visits to local places of interest;
- (ii) restaurant meals or other catered meals;
- (iii) shopping trips;
- (iv) local transport in connection with an activity referred to in (i), (ii) or (iii).

16. It may be noted that the definition above covers not only business involving Mainland inbound tour groups with shopping itineraries at designated shops, but also others without such itineraries, such as “Quality and Honest Hong Kong Tours” (QHT) and Meetings, Incentives, Conventions and Exhibitions (MICE) tours, which have not caused serious regulatory problems over the years. According to a survey we conducted earlier, around 20% out of nearly 1 700 licensed travel agents indicated that they are involved in all sorts of Mainland inbound tour group business, including QHT or MICE tours. In other words, some 350 existing travel agents will have to deposit a guarantee money of \$800,000 with the TIA upon the first renewal of their licence under the new regulatory regime if they wish to continue their Mainland inbound tour group business.

3. During the Chinese New Year Holidays this year, the 3A Holidays Company Limited (3A Holidays) was found to have failed to ensure proper accommodation arrangement for its Mainland inbound tour groups concerned in Hong Kong. The incident had led to extensive media coverage again on the malpractices of the Mainland inbound tour group business. Given the seriousness of the case, the TIC suspended the membership of the 3A Holidays and invoked the TIC Board’s special power to conduct an investigation into the case. The Registrar of Travel Agents (RTA) also invoked the power conferred to him under the TAO to summon the controllers of 3A Holidays to an investigation-cum-hearing to ascertain whether the latter had been carrying on business contrary to the public interest. After the hearing, the RTA decided to suspend the licence of 3A Holidays. Having completed the relevant investigation and procedures, the TIC terminated 3A Holidays’ membership on 22 May 2013. According to section 19(2) of the TAO, the RTA revoked its licence on 14 June 2013.

17. We are mindful that most malpractices in the Mainland inbound market are in fact associated with Mainland inbound tour groups with shopping itineraries at designated shops. Nevertheless, we consider it inappropriate to adopt a narrow definition as travel agents may easily circumvent it in order to avoid paying any guarantee money.

18. While adopting a broader definition of “Mainland inbound tour group business” as set out in paragraph 15 above is considered necessary from the perspective of enforcement, we have not lost sight of the need to minimise the impact of such requirement on the travel trade. In this respect, it should be noted that due provision will be made such that an inbound travel agent will not be considered as operating Mainland inbound tour group business under the new regulatory regime and not be required to deposit guarantee money of \$800,000 if it only provides the following services to Mainland inbound travellers –

- (i) purchase of tickets for carriages (land, air or sea);
- (ii) booking of accommodation;
- (iii) purchase or booking of (i) and (ii) above; and
- (iv) transport arrangements for those in transit in Hong Kong.

19. In our discussions with the trade, some travel agents did express considerable concern about the above definition. Some considered it too broad, catching small to medium-sized travel agents that only very occasionally receive a limited number of MICE tours from the Mainland. Some others considered the level of guarantee deposit of \$800,000 too high. We indicated clearly to the trade that we welcome any concrete and practicable counter-proposals from them on the matter. We will continue to discuss this with the travel trade and keep an open mind on any possible alternatives which can help address these concerns and/or minimise the impact on the trade while at the same time would not compromise the effectiveness of the new regulatory regime.

B. Requiring the appointment of an AR for each travel agent

20. To provide greater certainty in identifying the person to be held responsible for all matters pertaining to the operation of the travel agent, especially in the case of a body-corporate licensee, and hence to assist in the enforcement control over the travel agents by the TIA, each travel agent will be required to appoint a natural person to be an AR who will be under a statutory duty to ensure that the operation of the travel business

will comply with the licence conditions, the TIA's rules and regulations, etc. under the new regulatory regime. This requirement will be imposed as a new condition on an existing licence upon its first licence renewal under the new regulatory regime. This requirement will also help upgrade the professionalism of the tourism industry.

21. Each eligible person can only be an AR of one travel agent at a time. An AR will have to meet certain criteria as specified by the TIA from time to time, including –

- (a) education attainment equivalent to Form 5 under the old academic structure or Senior Secondary 3 under the new academic structure⁴ and a minimum of five years of management experience in the tourism industry; or
- (b) at least ten years of management experience in the tourism industry if the AR does not meet the above requirement in respect of education attainment; and
- (c) completion of designated courses⁵ as required by the TIA from time to time.

22. We will specify in the legislation the statutory duties of the AR, which include –

- (a) ensuring adequate supervision of the operation, management and control of the travel agent for protecting the interest and safety of the travelling public; and
- (b) ensuring that the operation of the travel agent is in full compliance with all licensing conditions, one of which will be to observe all the rules and regulations as promulgated by the TIA from time to time.

4. The travel agent or the AR will be responsible to prove, to the satisfaction of the TIA, their education attainment if their qualifications are obtained outside Hong Kong. These applicants will have to seek advice from the Hong Kong Council for Accreditation of Academic and Vocational Qualifications as necessary.

5. Designated courses, with content covering the rules and regulations as promulgated by the TIA, statutory duties and liabilities of an AR, etc., will be organised from time to time under the new regulatory regime. The duration and details of these courses will be worked out in detail at a later stage. No examination will be required. During the initial period of one/two years upon the establishment of the TIA, a person meeting the criteria as specified in paragraph 21(a) or (b) will be deemed to have qualified as an AR and be required to complete a designated course required by the TIA within a specified period.

23. The TIA will be empowered to disqualify any AR if it is of the opinion that he fails to carry out his statutory duties and/or the TIA has serious doubt on his “fit and properness”. Such disqualification may have the following effect –

- (a) the TIA may not accept the appointment of the same person as the AR for any travel agent for a specified period; and
- (b) any application for a travel agent licence associated with the disqualified AR (i.e. either with the same person as the AR or one of the persons associated with the business, etc.) may not be approved.

24. If the travel agent fails to replace the disqualified AR by a qualified one within a reasonable time, the travel agent licence may be suspended until such time a qualified AR is appointed or the licence may be revoked.

Licensing of Tourist Guides and Tour Escorts

25. The new licensing system for tourist guides and tour escorts under the TIA will be modelled on the arrangements under the accreditation system currently undertaken by the TIC, with refinements made to individual aspects taking into account present circumstances and the objectives of enhancing the service quality and standard of trade practitioners in the long run.

26. Applicants for Tourist Guide or Tour Escort Licence will be required to complete the compulsory pre-examination training courses before they can sit for a licensing examination under the new regulatory regime. Holders of current Tour Escort and Tourist Guide Passes will continue to be recognised until their existing Passes expire⁶. When they apply for licences under the new regime, they will be required to either pass the new licensing examination or take a licensing course tailor-made for them. Reference to the existing Continuing Professional Development (CPD) courses provided by the TIC for tourist guides will be made in designing the transitional licensing course.

27. In addition, tourist guides and tour escorts will be required to complete designated CPD courses for renewal of licences under the new

6. Currently, a Tour Escort or Tourist Guide Pass is valid for three years.

regime. We will set out such a requirement in the new legislation.

Non-regulatory Public Functions of the TIC

28. Further to the Government announcement in December 2011, we have been in discussion with the TIC on its future role under the new regime. The proposals developed so far in respect of the non-regulatory public functions to be entrusted to the TIC under the new regulatory regime are set out below.

A. Conciliating disputes that do not involve disciplinary matters

29. Under the existing regulatory system, non-disciplinary complaints concerning service/ commercial disputes between consumers and travel agents are handled by the Executive Office of the TIC and its Consumer Relations Committee (CRC) if necessary. The CRC's decisions are binding on travel agents under the terms of their TIC membership. Travel agents aggrieved by the decisions of the CRC may lodge an appeal to the TIC Appeal Board. On the other hand, if consumers are dissatisfied with the CRC's decisions, they may pursue their claims through other channels such as the Small Claims Tribunal or taking other legal actions.

30. Given that most non-disciplinary complaints from consumers in the travel industry involve small claims of only a few hundred dollars, conciliation remains the most cost-effective way to settle such disputes. With the experience and expertise accumulated under the existing regulatory regime, the TIC is best placed to be entrusted with the power to conciliate these disputes so that a simple and inexpensive route will continue to be available to consumers for resolving minor disputes with travel agents.

31. Under the new regulatory regime, any complaints or claims filed by consumers relating to travel agents and/or their employees will first be directed to the TIA as the regulatory body for initial screening. Complaints suspected to be disciplinary in nature will be processed by the TIA. Non-disciplinary complaints involving only commercial disputes between consumers and travel agents will be referred to the TIC for conciliation upon the consumers' consent. It will be a compulsory requirement for all travel agents as licence holders to cooperate with the TIC in the process by providing information as required by the TIC within

the specified timing for the purpose of conciliation. To facilitate the conciliation process, a panel comprising a majority of non-trade or independent members appointed by the TIC may be formed to conciliate the matter and give advice to both parties with a view to settling the dispute. That said, the final settlement of any dispute through conciliation will require the mutual agreement of both parties. In the event that the consumer refuses to conciliate or that conciliation has been attempted but no settlement could be reached, consumers can still pursue their claims through other channels such as the Small Claims Tribunal or taking other legal actions.

32. The TIC will be required to regularly report to the TIA on the status of disputes referred to it and the outcome of the relevant dispute resolution. In conciliating disputes, the TIC should refer those cases which are found to have involved disciplinary matters back to the TIA for further action.

B. Accreditation of training courses and administration of licensing examinations for tourist guides and tour escorts

33. The TIC is familiar with the operation of the trade and understands well the trade requirements. It has accumulated years of experience in designing course requirements and assessing course proposals from other training institutions and has also been running qualifying examinations for Tourist Guide and Tour Escort Passes. Therefore, entrusting the TIC with the power to carry out similar functions will therefore help ensure a smooth implementation of the new licensing system for tourist guides and tour escorts under the new regulatory regime.

34. As elaborated in paragraph 26 above, applicants for Tourist Guide or Tour Escort Licences will be required to complete the compulsory pre-examination training courses before they sit for a licensing examination under the new regulatory regime. On this, the TIC will be entrusted with the power to accredit these pre-examination courses according to some pre-determined standards and requirements set by the TIA. Training institutions interested in running such courses will be required to apply to the TIC for accreditation of their courses. Being the accreditation authority, the TIC will not run the courses itself. All courses accredited by the TIC will be included in the “List of Accredited Training Courses for Tourist Guide/ Tour Escort Licensing Examinations” for enrolment by applicants for tourist guide or tour escort licences according to their own preference. The TIC will also be responsible for

quality control of these courses.

35. As for licensing examinations, the TIC will be entrusted with the power to design and administer the running of regular examinations, including recruitment of examiners, etc. Examination results may be directly forwarded to the TIA (with the consent of the applicants) for consideration of the granting of licences. The TIC may collect accreditation fees from training institutions and examination fees from candidates.

C. Handling of emergencies involving inbound or outbound tours

36. The TIC will assist the TIA to coordinate the trade's effort in dealing with emergency incidents involving outbound and inbound tours, offer necessary assistance to travel agents and tourists as well as release relevant information about the incidents.

D. Management of a newly established "Travel Industry Development Fund" in support of development of the travel industry

37. Under the new regulatory regime, the TIA will take over the management of the Travel Industry Compensation Fund⁷ (TICF) from the Travel Industry Compensation Fund Management Board which will be dissolved upon commencement of the new regulatory regime. To support the continuous development of the travel trade, we will transfer or redeploy a specified amount from the balance of the TICF on a one-off basis to a new fund, tentatively called "The Travel Industry Development Fund" (the Fund), which will be set up for such purpose upon commencement of the new regulatory regime.

38. The TICF is contributed by the travel industry (relevant information of the TICF is at [Annex B](#)). Provided that the original purposes of the TICF and the possible pay-out of the related ex gratia payments will not be affected by the establishment of the Fund, we see a good case to redeploy part of the balance of the TICF to the Fund to support the long-term development of the travel industry.

[Annex B](#)

7. Under existing regulatory regime, as stipulated in section 32E and in the subsidiary legislation of the TAO, the TICF provides ex gratia payments for outbound travellers in relation to a loss suffered in respect of an outbound fare; and also a loss suffered in respect of an accident which arises out of and in the course of an outbound travel service and which results in the death of, or personal injury sustained by an outbound traveller.

39. Under the new regulatory regime, the TIC will assume the role of being the leading representative body of travel agents and for promoting travel trade development through research, arranging seminars, exchanges with Mainland and overseas travel organisations and practitioners, etc. In line with its future role, the TIC will be entrusted by the TIA with the power to manage the Fund (such arrangements will be provided for by law). The scope and purposes of the Fund will be specified by the TIA, which may include –

- (a) providing funding support for travel agents to participate in Mainland and overseas trade shows;
- (b) strengthening the existing training efforts of the trade, e.g. providing funding support for travel agents to enroll in certain training courses and making use of the Fund to organise more seminars on tourism trends and business operations for the trade, and for exchange activities with Mainland and overseas tourism organisations; and
- (c) providing funding support for new initiatives for the development and upgrading of the professionalism of the travel industry, including promoting the financial well-being of travel agents in the industry.

40. The TIA will monitor the situation of the Fund and the need of the travel trade from time to time. Further transfer of funds from the TICF to the Fund in the future will be at the sole discretion of the TIA as and when such need arises or whenever it considers appropriate.

Funding support for carrying out the non-regulatory public functions and regular reporting by the TIC

41. Funding in the form of an annual lump sum grant calculated on the basis of the annual expected expenses to carry out the public functions will be provided to the TIC by the TIA from the TIA's sources of funding. Mechanism will be built in to require the TIC to submit its annual plan and budget as well as report its work and financial position in respect of its public functions to the TIA and the Government annually.

Funding arrangements for the TIA

42. The TIA would operate on a self-financing basis in the long run. To achieve this, full cost would have to be recovered from the travel industry. The major sources of funding of the TIA would include the levy charged on outbound tours, licence fees of travel agents, tourist guides and tour escorts, and registration fees for inbound tours from the Mainland. It would be difficult for the TIA to be financially self-sufficient based on the current charging level. Therefore, the fee(s) charged would have to be raised. To reduce the impact on the industry, we do not propose any increase to the existing licensing fees and levy immediately upon the establishment of the TIA when the new regulatory regime commences, except for the registration fee for inbound tours from the Mainland, as the current fee at \$20 per tour is unreasonably low⁸. We also do not envisage any need to substantially increase the existing fees and levy during the initial operation of the TIA, except for the registration fee for Mainland inbound tours. That said, the TIA would review the fee level of various charging items from time to time and consider whether suitable adjustments would have to be made.

43. We propose increasing the registration fee for Mainland inbound tours currently charged by the TIC substantially to \$200 per tour (i.e. about \$5 per person for a group of 40 persons) immediately upon the establishment of the TIA. We consider the increase in registration fee justifiable as, based on the TIC's experience, substantial resources have been deployed to carry out inspection checks on and handle complaints relating to Mainland inbound tours. The proposed increase in registration fee will also bring the per-person fee payable by a member of the Mainland inbound tour to a level more or less the same as that by an outbound traveller⁹.

44. To bridge the remaining funding gap at the initial stage of operation of the TIA, the Government will provide a one-off capital grant to the TIA as seed money for meeting the set-up cost and part of the

8. Under the existing regulatory regime, the TIC requires its members to register the Mainland inbound tour groups for which they will provide services before the tours arrive in Hong Kong. The registration fee for each tour of 40 travellers is \$20.

9. At present, the registration fee for Mainland inbound tour group is \$20 per tour, i.e. about \$0.5 per person for a group of 40 travellers. As for outbound tours, a travel agent is liable under the TAO to pay to the TIC, as Council Levy, 0.15% of every outbound fare received by such travel agent. Taking an outbound tour at an average fare of \$3,330 per person as the basis, the Council Levy is about \$5 per person (i.e. \$3,330 x 0.15%). By the same scale, if the registration fee for Mainland inbound tour groups is increased to \$200 per tour, the registration fee would be \$5 per person for a group of 40 travellers.

operating expenses at its initial stage of operation, and as contingency reserve in events of extremely poor market conditions which will reduce its annual income.

Next Steps

45. We are setting in hand the drafting work for the new legislation based on the broad parameters for the new regulatory regime developed so far. We will continue to discuss further with the travel trade with a view to refining some of the detailed arrangements and addressing their concerns. At this stage, we expect that the draft new legislation could be introduced into the Legislative Council within 2014 and the TIA could come into operation in late 2015 the earliest.

**Tourism Commission
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
July 2013**

Requirement of Guarantee Money Imposed on Travel Agents under the New Regulatory Regime

	Level of guarantee money required	
	Travel agents <u>not</u> operating Mainland inbound tour group business	Travel agents operating Mainland inbound tour group business
Travel agents which have already obtained a licence before the establishment of the Travel Industry Authority (TIA)	\$0 (Their liability to deposit the guarantee money with the TIA will depend on their subsequent breach (if any) of the rules and regulations governing their travel business resulting in award of financial penalties against them by the TIA.)	\$800,000 (These travel agents will be required to deposit the guarantee money with the TIA upon first renewal of their licence under the new regulatory regime if they wish to continue their Mainland inbound tour group business.)
New travel agents which obtain a licence after the establishment of the TIA	\$500,000	\$800,000

**Tourism Commission
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
July 2013**

Background Information on the Travel Industry Compensation Fund (TICF)

The TICF was established in 1993 under section 32C of the Travel Agents Ordinance (Cap 218) (TAO). As stipulated in section 32E and in the subsidiary legislation of the TAO, the TICF provides ex gratia payments for outbound travellers in relation to a loss suffered in respect of an outbound fare; and an accident which arises out of and in the course of an outbound travel service and which results in the death of, or personal injury sustained by an outbound traveller.

2. Under section 32H of the TAO, a travel agent is liable to contribute to the TICF by way of levy namely the Fund levy, which is payable in respect of every outbound fare received by the travel agent concerned at an amount ascertained with reference to a percentage of such outbound fare. The Fund levy is used to meet the expenditure on ex gratia payments mentioned in the preceding paragraph. Apart from the Fund levy, a travel agent is also required under section 32I of the TAO to pay to the Travel Industry Council of Hong Kong (TIC) a levy called the Council levy in respect of every outbound fare received by such travel agent to help finance the daily operation of the TIC. Same as the Fund levy, the amount of the Council levy is ascertained with reference to a percentage of such outbound fare. The rates for both the Fund levy and Council levy are specified by the Secretary for Commerce and Economic Development (SCED) and are published in gazette.

3. The TICF Management Board (TICFMB) is responsible for the administration of the TICF. It is a statutory body established under section 32B of the TAO to hold, manage and apply the TICF in accordance with the provisions of the TAO.

4. As at 30 June 2012, the balance of the TICF was \$578 million. Since its inception, the total pay-out from the TICF up to March 2013 is about \$22.43 million. The rate of Fund levy has been set at 0% of every outbound fare received by a travel agent since July 2009. The decision to reduce the Fund levy to 0% was made having regard to the recommendations of the professional actuarial consultant's study completed in 2008 and the outcomes of a public consultation conducted in 2009. The consultant recommended to the TICFMB that the prudent level of the TICF should be

set at a level whereby the TICF would be able to meet the ex gratia payments in a worst-case scenario involving the default of two large-scale and a number of small-scale travel agents. Taking into account the annual turnover of the outbound package tours in 1996 to early 2007 (about \$8 billion on average), ex gratia payment claim history and investment return, etc., the consultant recommended that a prudent level of \$400 million should be set for normal-turnover years and the upper buffer level at \$500 million. According to the views collected during the public consultation in 2009, the TICFMB then put in place an adjustment mechanism with triggering thresholds to suspend or resume collection of the Fund levy. In accordance with the mechanism, when the TICF balance reaches the buffer level of \$500 million, the TICFMB would recommend to SCED to reduce the levy rate to zero, i.e. to suspend the collection of Fund levy, to help travel agents to reduce their operating cost and to ride out the financial crisis. According to professional actuarial consultant's study, the suspension would not affect the TICFMB's ability to meet its statutory responsibility in paying ex gratia payments even in the worst-case scenario. The travelling public would also benefit when travel agents pass on the reduction in the Fund levy to their clients. On the other hand, when the balance of the TICF drops below \$400 million, the TICFMB would recommend to SCED to resume the collection of Fund levy, at a rate to be considered in the light of the balance of the TICF, turnover of outbound package tours, business environment of travel agents, findings of the actuarial consultant and any other relevant factor.

5. Based on the above consultant's study, assuming that the worst-case scenario involving the default of two large-scale and a number of small-scale travel agents, the TICF would still have a buffer of more than \$170 million.

**Tourism Commission
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
July 2013**