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Panel on Economic Development
Meeting on 22 June 2009

Background brief on Travel Industry Compensation Fund

Purpose

This paper provides background information on the Travel Industry Compensation Fund (TICF) and summarizes concerns raised by Members on the subject matter.

Establishment of TICF

2. TICF was set up under section 32C of the Travel Agents Ordinance (Cap. 218) (TAO) in 1993 to provide ex gratia payments for travellers, who have procured outbound tour services arranged by travel agents under the following two scenarios:

- (a) where outbound travellers¹ suffer a loss in the outbound tour fare, including losses caused by default of travel agents; and
- (b) where expenses are incurred by outbound travellers arising from death or injury sustained in activities provided or organized by travel agents whilst travelling abroad, including medical expenses and expenses for paying visits to the place of accidents by their family members.

3. Under sections 32H and 32I of TAO, a travel agent is required to pay a levy at a rate of 0.3% of every outbound fare received, half of which (i.e. 0.15%)² shall

¹ A person who has paid to a travel agent at an inclusive price for an outbound travel service comprising any two or all of the following:

- (a) carriage (by land, sea or air transport) from Hong Kong to places outside Hong Kong;
- (b) accommodation outside Hong Kong; and
- (c) arrangements for an activity outside Hong Kong.

² The rate of TICF levy was changed from 0.35% to 0.15% on 2 May 1997.

be payable to TICF. The balance of TICF as at end of February 2009 is \$502 million.

Ex gratia payment from TICF

4. TICF provides protection to outbound travellers who may claim:
 - (a) up to 90% of the outbound fare paid if a licensed travel agent patronized defaults but the purchase of air/bus tickets alone or hotel accommodation alone is not covered; and
 - (b) up to a maximum amount of \$180,000 as financial relief in case of death or injury caused by an accident abroad in an activity of an outbound package tour provided or organized by a licensed travel agent under the Package Tour Accident Contingency Fund Scheme, subject to the maximum limit for the following items:
 - (i) medical expenses incurred in the place of accident outside Hong Kong (up to HK\$100,000);
 - (ii) expenses incurred in the place of accident outside Hong Kong for funeral or returning of dead body/ashes to Hong Kong (up to HK\$40,000); and
 - (iii) expenses for compassionate visit or handling of residual matters relating to the death by two relatives (up to HK\$20,000 per relative).
5. The Scheme does not cover:
 - (a) medical and hospitalization expenses arising from illness; and
 - (b) accidents occurred in individual stay-behind activities.
6. Ex gratia payment of about \$18 million were paid in the default of 28 travel agents between 1993 and February 2009, whereas ex gratia payment of about \$2 million relating to the Package Tour Accident Contingency Fund Scheme were paid to 52 applications between 1996 and February 2009. Details are set out in **Appendix I**.

TICF Management Board

7. The TICF is held, managed and applied by the Travel Industry Compensation Fund Management Board (the Board) set up under Section 32B of TAO. The Board regularly reviews the reserve level of TICF and the levy rate to ensure that

TICF is able to meet the ex gratia payments. The Board consists of a chairman and nine members. The eight unofficial members are drawn from different sectors of the community, including the banking, legal and accountancy sectors, as well as the Consumer Council (CC) and the travel trade. The Registrar of Travel Agents is an ex officio member and the secretary of the Board. Besides providing ex gratia payment and authorizing the collection of TICF levy, the Board is also responsible for providing professional advice on the investment of TICF, and for making rules in relation to its administration.

8. The Board has conducted a consultation exercise between 13 March and 30 April 2009 on the following proposals relating to the management and use of TICF:

- (a) putting in place a mechanism with triggering thresholds to suspend or resume collection of the Fund levy;
- (b) reducing the fund levy rate to zero;
- (c) increasing ex gratia payments to outbound travellers; and
- (d) advance authorization by outbound travellers.

Details of the proposals are available at <http://www.ticf.org.hk/eng/consultation.htm>.

Previous discussions

9. The former Panel on Economic Services³ discussed the subject matter on 20 February 2002. The Panel exchanged views with the Administration and representatives of Travel Industry Council (TIC)⁴ and Hong Kong Association of China Travel Organization (HKACTO) on measures to enhance the protection of Hong Kong tourists visiting the Mainland. Members noted the trade's concern about the review of the scope⁵ of the Package Tour Accident Contingency Fund Scheme and the proposal to raise the maximum compensation limit to HK\$1 million. A member urged the Administration to consider introducing a mandatory insurance scheme for outbound travellers, and suggested that in view of the time required by the insurance company in processing the claims, TICF could be used to meet the expenses first.

³ The Panel on Economic Services was renamed as the Panel on Economic Development from the 2007-2008 session.

⁴ TIC is entrusted with the responsibility to regulate outbound and inbound travel agents under the Travel Agents (Amendment) Ordinance 1988.

⁵ HKACTO proposed that the Package Tour Accident Contingency Fund Scheme should cover:

- (a) expenses for transporting the injured back to Hong Kong;
- (b) medical expenses incurred in Hong Kong; and
- (c) expenses for handling matters relating to the injured and the accidents by TIC personnel.

10. The Panel discussed ways to protect outbound travellers at the meeting on 22 November 2004. A member considered it necessary for travel agents to take out professional indemnity insurance on a mandatory basis to protect outbound travellers of package tours, and proposed setting up a fund scheme to take out the insurance collectively. However, there was concern that the suggestion might lead to an increase in contribution to TICF.

11. Members also raised questions relating to TICF at the Council meetings. On 9 March 2005, Members expressed concern whether consideration would be given to suspending or reducing TICF levy when the surplus of TICF had accumulated to a certain level. The Administration responded that according to the professional actuarial consultant commissioned by the Board in 2002-2003, TICF could meet its commitments in ex gratia payments and was generally in a healthy position. The Board decided to conduct a professional assessment on the reserve level of TICF and the levy rate every five years.

12. As regards the suggestion of utilizing TICF to take out indemnity insurance collectively on behalf of travel agents, the Administration responded at the Council meeting on 14 March 2007 that as the suggestion would change TICF's intended purpose of protecting outbound travellers of package tours, various issues including the impact on the risks to TICF and current levy rate had to be considered. While travel agents had the responsibility to adopt effective risk management measures, TIC had commissioned a consultancy study on the trade's operational risks and related management. The Government and the Board will carefully consider the findings of the study and TIC's proposal, including whether it is necessary to use TICF to improve the risk management of the trade and to enhance the protection for outbound package tour travellers.

13. In the light of the challenges faced by the trade under the financial tsunami and the huge reserve of TICF, some Members suggested at the Council meeting on 25 February 2009 that the Administration should suspend the collection of the Fund levy from travel agents, and extend the scope of the Fund to cover those travellers who purchased only air tickets from travel agents so that they would use the service with ease. On the coverage of TICF, the Administration explained that this would affect the operating cost of the trade as well as the financial position and levy rate of TICF. To protect the travellers, TIC has, since April 2007, put in place an arrangement requiring travel agents who are wholesalers of air tickets to honour tickets issued by their ticket retailing agents when the latter default. Therefore, TIC considers that there is no need to expand the scope of TICF at this stage.

Latest development

14. The Board will take into account views collected during the consultation and finalize its proposals for consideration by the Administration. The Administration will consult the Panel on the proposed way forward at the meeting

on 22 June 2009.

References

15. A list of the relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
16 June 2009

**Travel Industry Compensation Fund
Application for Ex Gratia Payment
(as at 28 February 2009)**

(A) Travel Agents Default

– Ex gratia payment of about \$18 million were paid in the default of 28 travel agents between 1993 and February 2009

Year	No. of Default	No. of application approved
1993	-	-
1994	-	-
1995	1	3
1996	2	489
1997	-	-
1998	2	23
1999	4	827
2000	1	2
2001	1	25
2002	-	-
2003	4	128
2004	-	-
2005	5	174
2006	3	124
2007	3	215
2008	2	34
2009	-	-
Total	28	2,044

(B) Package Tour Accident Contingency Fund Scheme

– Ex gratia payment of about \$2 million were paid to 52 applications between 1996 and February 2009

List of relevant papers

Committee	Paper	LC Paper No.
Meeting of the Panel on Economic Services on 20 February 2002	<p>Administration's paper on "Protection of Hong Kong tourists visiting the Mainland"</p> <p>Minutes of meeting (paragraphs 1 to 41)</p> <p>Supplementary information on "Extending the scope of the Travel Industry Compensation Fund to cover medical evacuation for outbound travel accidents" provided by the Administration</p>	<p>CB(1)883/01-02(05) http://www.legco.gov.hk/yr01-02/english/panels/es/papers/es0128cb1-883-5e.pdf</p> <p>CB(1)1711/01-02 http://www.legco.gov.hk/yr01-02/english/panels/es/minutes/es02020.pdf</p> <p>CB(1)2285/01-02(01) http://www.legco.gov.hk/yr01-02/english/panels/es/papers/es0220cb1-2285-1e.pdf</p>
Meeting of the Panel on Economic Services on 22 November 2004	<p>Administration's paper on "Protection of outbound travellers"</p> <p>Minutes of meeting (paragraphs 43 to 59)</p>	<p>CB(1)230/04-05(06) http://www.legco.gov.hk/yr04-05/english/panels/es/papers/es1122cb1-230-6e.pdf</p> <p>CB(1)497/04-05 http://www.legco.gov.hk/yr04-05/english/panels/es/minutes/es041122.pdf</p>
Council Meeting on 9 March 2005	Hon Howard YOUNG raised an oral question on "Travel Industry Compensation Fund"	Hansard (Pages 97to 98) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0309ti-translate-e.pdf
Council Meeting on 14 March 2007	Hon Fred LI raised an oral question on "Travel Industry Compensation Fund"	Hansard (Pages 68 to 70) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0314-translate-e.pdf
Council Meeting on 25 February 2009	Hon Paul TSE raised an oral question on "Measures to assist travel industry"	<p>Hansard (Pages 24to 26) http://www.legco.gov.hk/yr08-09/chinese/counmtg/floor/cm0225-confirm-ec.pdf</p> <p>Press release</p>

Committee	Paper	LC Paper No.
		http://www.info.gov.hk/gia/general/200902/25/P200902250150.htm
--	Public consultation document on Proposals to enhance traveller protection and facilitate trade development released by the Travel Industry Compensation Fund Management Board	http://www.ticf.org.hk/doc/Consultation_Document_Eng.pdf