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1 August 2013

Mr Derek LO
Clerk to Panel on Economic Development
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central

Dear Mr LO,

Panel on Economic Development

**Follow-up to meeting on 22 July 2013
“Latest Progress in Taking Forward the Reform of
the New Regulatory Regime for the Tourism Sector in Hong Kong”**

The Panel required this Bureau at the captioned meeting to provide information on the Travel Industry Compensation Fund and the proposed establishment of the Travel Industry Development Fund. We enclose the relevant information note for Members’ reference.

Yours sincerely,



(Miss Aimaz LEUNG)
for Commissioner for Tourism

Encl

Travel Industry Compensation Fund and Proposed Establishment of Travel Industry Development Fund

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 legislation¹ of the TAO, the TICF provides –

- (i) ex gratia payments for outbound travellers in relation to a loss suffered in respect of an outbound fare; and
- (ii) 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(1) 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 concerned² at an amount ascertained with reference to a percentage of such outbound fare³. The Fund levy is used to meet the expenditure on ex gratia payments mentioned in the preceding paragraph.

3. Apart from the Fund levy, a travel agent is also required under section 32I(1) 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 fare⁴. 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 gazette⁵. Therefore, according to the above sections, both the Fund levy and Council levy are paid by the travel trade.

4. The TICF Management Board (TICFMB) is a statutory body established by the Government under section 32B of the TAO. It is

¹ Sections 2A and 5A of Travel Industry Compensation Fund (Amount of Ex Gratia Payments and Financial Penalty) Rules (Cap 218 subsidiary legislation E).

² Section 32H(2)(a) of TAO.

³ Section 32H(2)(c)(i) of TAO.

⁴ Section 32I(1)(a) of TAO.

⁵ Sections 32H(2)(c)(ii) and 32I(1)(b) of TAO.

responsible for the administration of the TICF, and to hold, manage and apply the TICF in accordance with the provisions of the TAO⁶.

5. 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. In July 2009, the Government decided to set the rate of Fund levy at 0% of every outbound fare received by a travel agent, 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 advised 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.

6. Based on the above consultant's study and taking into account the current balance of the TICF, the TICF would still have a buffer of more than \$170 million even under the worst-case scenario involving the default of two large-scale and a number of small-scale travel agents.

⁶ Section 32D of TAO.

Establishment of the Travel Industry Development Fund (the Fund) in support of development of the travel industry

7. The Government is taking forward the reform for the regulatory regime of the tourism sector and proposes to set up the statutory Travel Industry Authority (TIA). Under the new regulatory regime, the TIA will take over the management of the TICF from the TICFMB. To support the continuous development of the travel trade, we propose to redeploy a specified amount from the balance of the TICF on a one-off basis to set up the Fund upon commencement of the new regulatory regime. Since the TICF is contributed by the travel industry (see paragraph 2 above) and 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 through a one-off redeployment of funds, we see a justifiable case to redeploy part of the balance of the TICF to the Fund to support the long-term development of the travel industry.

8. We plan to expand the scope of the TICF under the new legislation to cover the establishment of the Fund in support of the development of the travel industry. The scope and purposes of the Fund will be specified by the TIA, which may include –

- (i) providing funding support for travel agents to participate in Mainland and overseas trade shows;
- (ii) 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
- (iii) 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.

We plan to specify in the new legislation that the TIA will entrust the TIC with the power to manage the Fund.

9. 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 the TIA considers appropriate.

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