

Travel Industry Compensation Fund Proposals to Enhance Traveller Protection and Facilitate Trade Development



Consultation

- The Travel Industry Compensation Fund Management Board (the Board) is carrying out a consultation with a view to further enhancing the management of the Travel Industry Compensation Fund (the Fund) and its protection to travellers. This is to seek views from the public on four proposals relating to the management and use of the Fund.

Background

- The Fund was established in 1993 in accordance with the Travel Agents Ordinance (TAO) (Chapter 218). As at the end of February 2009, the balance of the Fund stood at \$502 million.
- The Fund is held, managed and applied by the Board. The Fund mainly derives its income from the collection of the Fund levy. According to TAO, travel agents are liable to contribute, by way of levy, 0.15% of every outbound fare received to the Fund as Fund levy. Travel agents are also required to contribute another 0.15% to the Travel Industry Council of Hong Kong (TIC) as Council levy to meet its operational expenses.
- The Fund provides ex gratia payments of up to 90% of the loss suffered by outbound package travellers arising from the default of travel agent. Under the Package Tour Accident Contingency Fund Scheme (the Scheme) introduced in 1996, it also provides ex gratia payments to outbound travellers who die or are injured in accidents while on outbound package tours. The assistance, on a reimbursement basis, is for covering expenses on medical treatment, compassionate visits by relatives and the funeral, cremation or repatriation of the remains of the deceased traveller, of up to \$180,000 in total.
- According to the recommendation of the professional actuarial consultant, the Fund can meet its commitments in ex gratia payments in a worst-case scenario and is generally in a healthy position. There is scope to consider adjusting the Fund levy rate and enhancing protection to travellers.

Proposal 1:

Putting in place a mechanism with triggering thresholds to suspend or resume collection of the Fund levy

- The Board proposes to put in place a mechanism with triggering thresholds for enhancing transparency for the suspension and resumption of the collection of the Fund levy. On the recommendations of a professional actuarial study, the Board proposes to set the prudent level of the Fund at \$400 million and the buffer level at \$500 million.
- When the balance of the Fund reaches \$500 million, the Board will recommend to reduce the levy rate to zero, i.e. to suspend the collection of the Fund levy; and when the balance drops below \$400 million, the Board will recommend to resume the collection of the Fund levy, at a rate to be decided in the light of the balance of the Fund, the turnover of outbound package tours, business environment of travel agents, findings of the actuarial consultant and other relevant factors.
- The Board will continue to conduct regular reviews of the prudent level of the Fund with a view to recommending adjustments to the triggering thresholds as and when necessary. The frequency of the reviews should be no less than once every three years.

Question:

- Do you agree that an adjustment mechanism with triggering thresholds should be put in place for the collection of the Fund levy?*
- If so, do you agree to the proposed prudent and buffer levels of \$400 million and \$500 million respectively; that the Fund levy rate should be reduced to zero should the Fund balance reach the buffer level of \$500 million; and that the collection of the Fund levy should be resumed when the Fund balance drops below the prudent level of \$400 million? If so,*

- do you agree to the factors set out above in setting the rate of the Fund levy?*
- do you agree that when the Fund balance drops below the prudent level of \$400 million, the Fund levy rate should be set at a higher level (say, above 0.15%) to restore the Fund to the prudent level of \$400 million? and*
- should there be a mandatory timeline for restoring the Fund balance to the prudent level of \$400 million?*

Proposal 2:

Reducing the Fund levy rate to zero

- According to the adjustment mechanism for the Fund levy set out in Proposal 1, the Board proposes to suspend the collection of the Fund levy (i.e. by reducing the Fund levy rate to 0%).
- In view of the current economic climate, some travel trade members have suggested to suspend the collection of the Fund levy to help the travel agents ride out the financial crisis. Others prefer to reduce it to a nominal rate so as to provide a steady stream of income for the Fund and maintain a habit of Fund levy contribution by the travel agents and the travelling public.
- Some consumer protection advocates propose to maintain a higher buffer level for the Fund to cater for possible compensation claims until the economy recovers.
- The Board notes that the proposal will benefit the travel trade by reducing their operating costs and the travelling public may enjoy lower package tour fares should the travel agents pass on the reduction in Fund levy to their clients.
- The Board is also mindful that the recent global financial turmoil and its as yet unclear impact on the economy may make it difficult to predict accurately the Fund's future commitments in ex gratia payments.

Question:

Do you agree that the Fund levy rate should be adjusted? If not, why not? If so, do you agree –

- to suspend the Fund levy collection (i.e. reduce the rate to zero); or*
- to reduce the Fund levy rate to a nominal level?*

Proposal 3:

Increasing ex gratia payments to outbound travellers

- The Board proposes to enhance the protection to travellers under the Scheme. It provides ex gratia payments to outbound travellers who die or are injured while on an outbound package tour.
- The Board proposes to increase the maximum amount of ex gratia payments for the following two items:-
 - for expenses incurred in relation to the funeral, cremation or repatriation of the remains of the deceased outbound traveller back to Hong Kong – to increase from \$40,000 to \$100,000; and
 - for compassionate visits by relatives to the place of accident of the injured or deceased travellers – to increase from \$40,000 to \$100,000 and to remove the restriction on the number of relatives currently set at a maximum of two.
- The proposal will enhance the protection for outbound travellers and will not cause a great burden to the Fund.
- The Board recognises that the amount of increase should be set at an appropriate level lest it creates a disincentive for travellers to take out travel insurance. The Board is conscious that the Fund should not be a substitute for travel insurance.

Question:

Do you agree to the above proposal?

Proposal 4:

Advance authorisation by outbound travellers

- The Board proposes to introduce an arrangement whereby travellers can make advance authorisation before departure on outbound package tours to enable their authorised representatives to apply for ex gratia payments under the Scheme, if needed.
- The advance authorisation arrangement is to address situations where the travellers have been hospitalised outside Hong Kong after a travel accident and are not able to give the requisite authorisation to apply for ex gratia payments.
- The Board considers that the new arrangement will facilitate travel agents in assisting the spouse and relatives to visit the injured travellers at the place of accident immediately afterwards or to handle the repatriation and the funeral services of the dead travellers, if the travel agents are pre-authorised as their representatives.
- The new arrangement will be administered on a voluntary basis and widely publicised to enable general travellers to have a better understanding of how it works so that they can make an informed choice.

Question:

Do you agree to the introduction of a new advance authorisation arrangement by enacting subsidiary legislation to enable travellers to give the necessary authorisation to his or her representative before departure on an outbound package tour?

- This pamphlet provides a brief account of the proposals discussed. For details, please refer to the full text of the consultation document which is available at www.ticf.org.hk and in printed copy at the Secretariat of the Board.
- You are most welcome to send your views on the proposals **on or before 30 April 2009** by mail, electronic mail or facsimile to the Secretary of the Board:
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