

# 議會會章的第五修訂案

## Fifth Amendment to the TIC's M&A

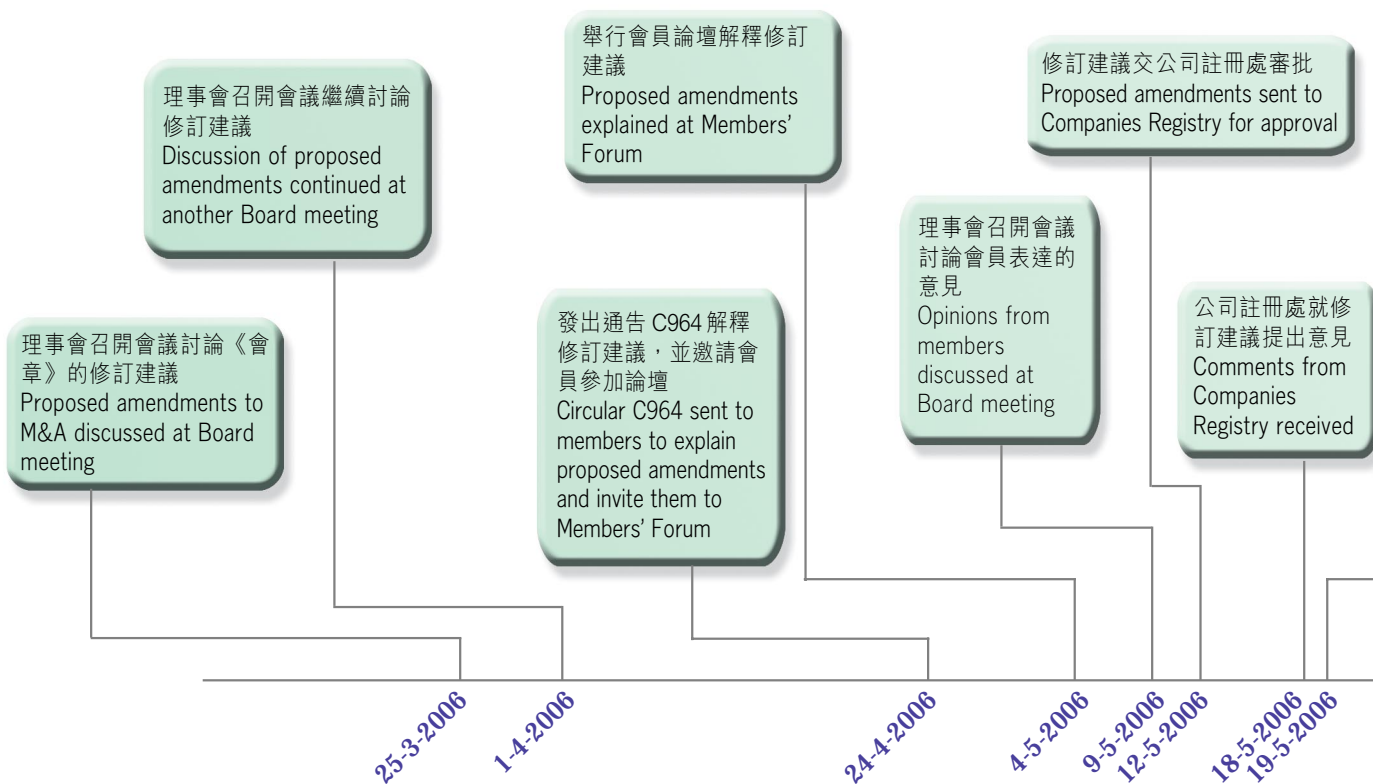
本刊記者 Staff reporter

**當**議會於一九八八年成立為有限公司時，議會的《會章》也同時生效。《會章》其後在一九九四年、一九九六年、一九九七年、二零零二年合共修訂了四次，以反映業界不住變遷的環境和會員各種各樣的訴求。修章委員會於二零零四年中受命徹底檢討《會章》，首要目標是鼓勵會員參與議會的管治，以及提高業界的水平。經過為時逾一年半的艱辛工作後，委員會於二零零六年三月完成任務，並把一份包含多項修訂建議的文件提交理事會審批。

理事會於是召開了兩次會議，詳細研究那份修訂建議，並且在採納建議後，決定向全體會員解釋提出修訂的理據，以及徵詢他們對修訂的意見。議會於是在二零零六年四月二十四日發出通告(C964)，並隨通告附上一份說明文件、一份標上修改地方的修訂草稿給會員閱覽。議會並於二零

**W**hen the TIC was incorporated in 1988, its Memorandum and Articles of Association (M&A) also took effect concurrently. Later, the M&A was amended four times in 1994, 1996, 1997 and 2002 to reflect the ever-changing environment of the industry and the various aspirations of members. In mid-2004, the Constitution/By-law Committee was tasked with overhauling the M&A, with the primary aim of encouraging members' participation in the governance of Council affairs and raising the standard of the industry. After intense work lasting more than a year and a half, the Committee completed its task in March 2006 and presented a set of proposed amendments to the Board for consideration and approval.

The Board held two meetings to scrutinise the proposed amendments and, after granting its approval, decided to explain to all members the rationale behind the amendments and also to solicit their views on them. A circular (C964) was sent out on 24 April 2006, in which an explanatory document and a marked up version of the draft amendments were enclosed.



零六年五月四日舉行會員論壇，以便和會員面對面地討論修訂建議。稍後於二零零六年五月十九日，議會再發出通告(C968)，當中詳細列出理事會對論壇上所提意見的種種考慮。二零零六年六月十五日，議會發出第三份通告(C973)，再次解釋修訂建議對《會章》的重大改善之處，並呼籲會員支持。以下是修訂建議的一些重點。

## 由會員提名理事候選人

根據《會章》現行的規定，會員要參加理事選舉的話，必須得到八個屬會中最少一個的提名，或者獲得議會理事會的提名。由於有些會員可能覺得向其他會員直接爭取支持會更容易，所以修訂建議提出新增一個提名渠道，即任何基本會員的負責人，只要得到其他三十名會員的提名，而又符合《會章》的有關規定，就可以成為候選人。至於理事會提名候選人的權利，由於從來沒有行使過，所以建議取消。

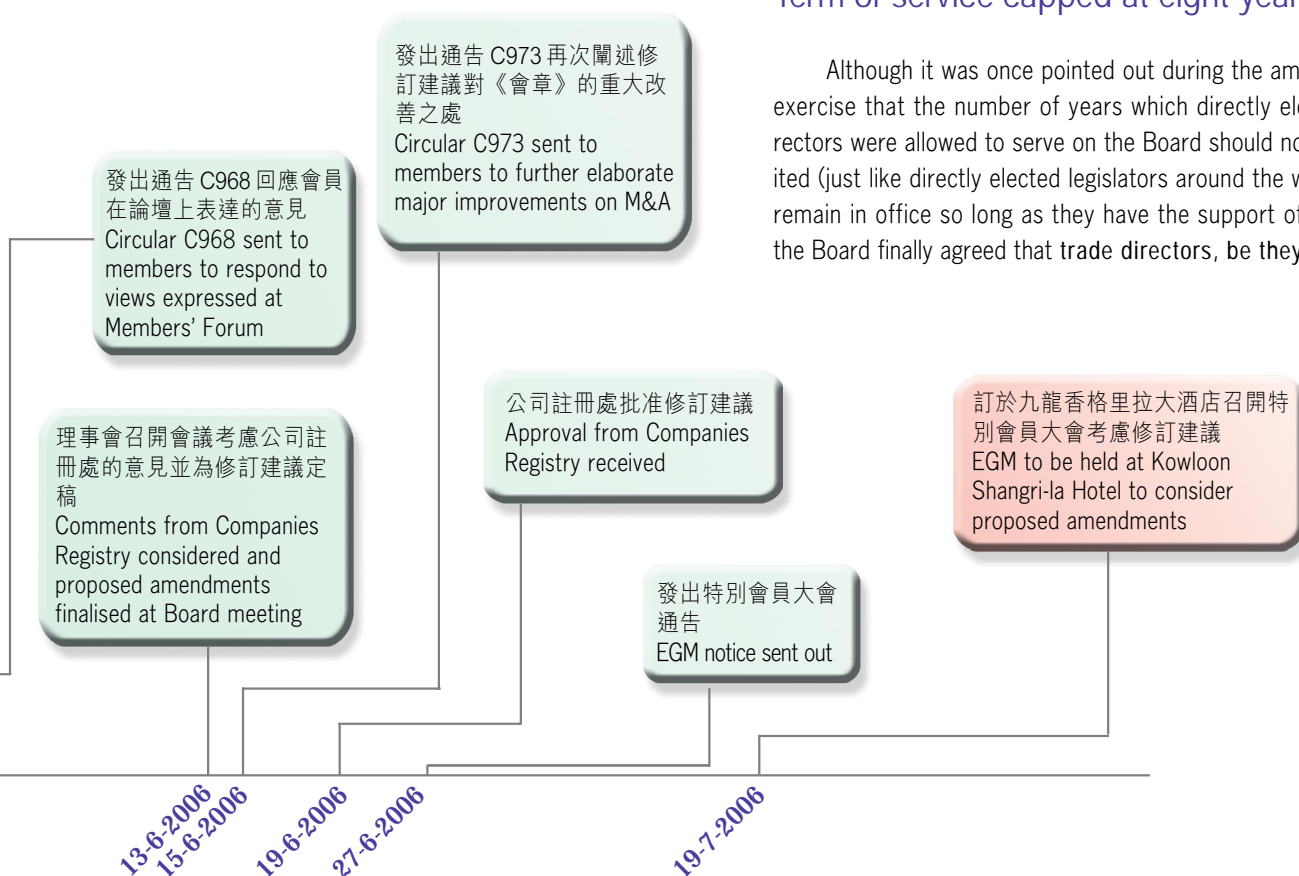
A Members' Forum was held on 4 May 2006 so that face-to-face discussion between the TIC and its members about the amendments was possible. Another circular (C968) was issued on 19 May 2006, detailing the Board's deliberations on the opinions voiced by members at the Forum. A third circular (C973) was sent to members on 15 June 2006 to further elaborate the major improvements on the M&A made possible by the proposed amendments and to urge members to support them. The following are some highlights of the proposed amendments.

## Members to nominate director candidates

Under the stipulations in the current M&A, members who want to stand for director elections have to be nominated by at least one of the eight Association Members or by the Board of the TIC. Since some members may find it easier to secure support directly from their fellow members, it is proposed that a new nomination channel should be created so that the authorised person of any Ordinary Member who is nominated by 30 other members will be qualified as a candidate if other relevant requirements are also met. The Board's right to nominate candidates, however, will be relinquished for it has never been exercised in the past.

## Term of service capped at eight years

Although it was once pointed out during the amendment exercise that the number of years which directly elected directors were allowed to serve on the Board should not be limited (just like directly elected legislators around the world can remain in office so long as they have the support of voters), the Board finally agreed that trade directors, be they directly



## 理事任期最長八年

在這次修訂《會章》的過程中，有意見認為直選理事的任期不應受到限制，正如各國立法議會的直選議員，只要贏得選民的支持，就可以一直連任一樣。儘管如此，理事會為了有更多新思維以資採納，最終還是決定**所有業界理事，不管是由直選產生還是經屬會委任者，都不得擔任理事超過八年**。今後業界理事只要連續擔任了八年理事，就必須卸任整整一年，然後才可以再擔任理事。

## 提高會籍要求

在現行規定下，普通會員可以是以獨資或合夥形式經營的無限公司，條件是必須向議會提交港幣十五萬元銀行擔保；也可以是有限公司，條件是實收資本不得少於港幣十五萬元。理事會雖然決定維持議會目前的三種會員類別，即屬會、基本會員、普通會員，但為了提升業界的素質，因此建議**所有屬於有限公司的普通會員，必須在兩年內把實收資本增至港幣五十萬元，並成為基本會員；又或者在兩年內由有限公司改為以獨資或合夥形式經營的無限公司。**

## 增加登記公司代表的彈性

要代表會員在會員大會上投票，現時共有兩類符合資格的人：(1)已向議會登記的負責人，(2)在會員大會前三個月向議會登記為公司代表的人。為了鼓勵會員出席會員大會，現在**建議把會員大會前三個月登記投票代表的規定，縮短為在會員大會前三十天登記。**

## 應否規定會員必須加入屬會？

打一開始，旅行社就必須加入最少一個屬會，然後才可以申請成為議會的普通會員或基本會員。這次研究《會章》的修訂時，應不應讓會員自行決定是否加入屬會的問題，成為會員關注的焦點。**理事會經過反覆討論後，決定保留這項規定，但會在五年後全面檢討議會的整個會籍架構，理由如下：**(1)八個屬會中的六個是創立議會的會員；

elected or appointed by Association Members, are not allowed to serve on the Board for more than eight years in the hope that new ideas will be more readily available. Trade directors who have served eight consecutive years will have to step down for at least one full year before they are eligible for directorship again.

## Upgrade in membership requirements

Currently, an Affiliate Member may be a sole proprietorship or a partnership which has lodged a bank guarantee of HK\$150,000 with the TIC, or a limited company which has a paid-up capital of HK\$150,000. Although it has been decided that the three classes of members, namely Association, Ordinary and Affiliate Members, will not be changed, it is proposed that Affiliate Members which are limited companies should either raise their paid-up capital to HK\$500,000 and become Ordinary Members, or change their form of operation to sole proprietorships or partnerships within two years in order to raise the standard of the industry.

## More flexible in registering representatives

Under the existing rules, there are two kinds of people who can represent a member to vote at general meetings: (1) its authorised person registered with the TIC, and (2) the people registered with the TIC three months before any general meeting as its representatives. With a view to encouraging a large turnout at general meetings, it is proposed that members should be allowed to register their representatives 30 days, instead of three months, before any general meeting in order to exercise their voting right.

## Must members join Association Members?

From day one, travel agents have been required to join at least one Association Member in order to be qualified for Ordinary or Affiliate Membership of the TIC. During the amendment exercise, the issue of letting members decide whether to join any Association Member or not was brought into the limelight. After much discussion, the Board has resolved that this requirement will be retained but a comprehensive review of the entire membership structure of the TIC will be conducted in five years for the following reasons: (1) six of the eight Association Members are founder members of the TIC, (2) their different functions and focuses can better serve different kinds of members, even for those in the minority, and (3) any drastic change to such a requirement will most likely

(2)屬會各有不同功能與不同側重點，那樣就可以使不同類型的會員都得到較佳照顧，而即使是只佔少數的會員也不會被忽略；(3)假如一下子改動這規定，那麼無論是對於屬會還是對於議會的運作來說，都難免會帶來巨大影響。

## 主席應否直選？

還有一個議題同樣經過深入探討的，那就是主席應不應該以直選方式選出。有一些會員宣稱，選出領導的最民主方式，無過於直選。可是，他們似乎忽視了議會眾多職能中的一個重要方面，即保障外遊和來港旅客。自從政府於一九八八年把監管旅行社的重任交託議會以來，議會就必須同時兼顧旅客和旅行社的利益。理事會之所以有八名獨立理事，那八名獨立理事之所以有權選出他們認為最恰當的理事擔任主席，正是為了提高議會的公信力，並且防止議會的政策向業界利益傾斜。業者當然希望選出時刻惦記他們利益的人來當主席。可是，當業者的利益與旅客的利益並不一致，也就是說與公眾利益相悖的時候，那八名獨立理事，以及一個懂得怎樣平衡上述兩種利益的主席，就會成為理事會內一個必不可少的聲音。旅客和業者的利益其實不一定會有衝突，因為旅客只有在他們的利益得到充份保障的情況下，才會經常光顧旅行社，那樣旅行社才會蓬勃發展。鑒於這個問題異常複雜，理事會決定目前還不宜推行主席直選。

過去多年以來，《會章》已經修訂了好幾次。倘若現時提出的修訂得以通過，那麼《會章》就會在十八年內修訂了五次，平均每三點六年修訂一次。這個修訂頻率相當高，足以證明理事會考慮到會員的需要和業界的變化。現時提出的多項重要修訂，儘管是全面研究整份《會章》後的成果，但這並不表示那些修訂是永久而不可更動的，因為將來必然會有將來的需要，也必然會有切合將來需要的修訂。因此，會員應當明白，要在一次修訂中把《會章》修改得盡善盡美，那和希冀羅馬在一天內建成沒有甚麼分別。一個務實而合理的態度，是看看目前的修訂是不是真的對《會章》有所改善，而如果有改善的話，那就不妨出席特別會員大會，然後投下支持的一票。✎

have a significant impact on the Association Members as well as on the operation of the TIC.

## Should Chairman be directly elected?

Another issue which has been explored in great detail is whether the Chairman should be chosen by direct election. Some members who have trumpeted direct election as the most democratic way to choose their leader apparently fail to grasp an important aspect of the duties of the TIC: the protection of travellers, outbound and inbound alike. Ever since the Government entrusted the TIC to regulate travel agents in 1988, the TIC has had to protect both the interests of travellers and travel agents. That is why there are eight independent directors on the Board and why they can elect one of the trade directors they believe to be most suitable to be the Chairman, namely to enhance the credibility of the TIC and to prevent its policies from becoming biased towards trade interests. Traders of course want to elect a person who always keeps their interests in mind. If, however, such interests do not accord with the interests of travellers, and hence not in the interests of the public, the eight independent directors and a Chairman who understands the importance of striking a delicate balance between the two kinds of interests will become an inevitable voice in the Board. In fact, the interests of travellers and traders need not be in conflict since travellers will only buy from travel agents frequently if they are well protected, which means that travel agents will thrive as a result. Given the extraordinarily complex nature of the issue, the Board has decided that now is not the right time to introduce direct election of the Chairman.

Over the years, the M&A has been amended a number of times. If the proposed changes to the M&A are adopted, it will be amended five times in 18 years, or one amendment exercise in 3.6 years on average, which is a rather high frequency and thus a good testimony to the willingness of the Board to take account of the needs of members and the changes in the industry. Although the many significant amendments currently proposed are the outcome of a careful examination of the entire M&A, they are neither final nor permanent, for future needs will certainly occur, thereby necessitating future amendments to satisfy such needs. As such, to expect an immaculate M&A to emerge out of a single amendment exercise would be close to wishing to see Rome built in one day. A pragmatic and reasonable attitude is to consider if the proposed changes are indeed improvements, and then vote for them at the Extraordinary General Meeting if they really are. ✎