

# 保留信託基金有利航空公司與旅行社

## Trust Fund retained for the good of airlines and agents

本刊記者 Staff reporter

**在**理想的環境中，航空公司和旅行社的關係應該是一種共生關係，意思是說雙方都倚賴對方以謀取共同的利益。在一九九三至九五年間，航空公司因為旅行社倒閉而合共損失了約港幣二千六百萬元。議會本着這個共生關係的理念，在一九九五、九六年與航空公司磋商，務求找出一個能夠減低航空公司風險的方法。

### 起始

議會與航空公司經過幾次磋商後，最終同意成立一個信託基金(即後來的「旅遊業信託基金」)，以保障航空公司。那時雙方有一個默契，即旅行社同意把款項放進那個基金，以賠償航空公司因旅行社倒閉而招致的損失，而航空公司則不會要求旅行社提供全面的銀行擔保。

基於上述默契，旅遊業信託基金於一九九七年一月成立。根據基金的條款，旅行社每發出一張機票，就會向基金存入港幣三元。當基金的儲備超過港幣一千萬元時，旅行社所累積的款項會按供款比例退還。假如旅行社無法償還欠款，航空公司可以從基金索取三成無法追回的欠款以作賠償，而航空公司則不要求全面的銀行擔保。

### 爭議

在基金運作的開頭幾年，似乎還能夠達致成立的初衷，即鞏固航空公司與旅行社的共生關係。可是，關係後來開始變壞了。一方面有些旅行社質疑，為甚麼要以自己的款項來為同業向航空公司賠償，並因此堅持航空公司應向欠款旅行社的董事採取法律行動，直至有關董事個人破產為止。另一方面也有些航空公司不滿基金所提供的保障不足，同時索償的時間又過長。

**T**he relationship between airlines and agents should, ideally, be one of symbiosis, which means that they rely on each other in order to attain mutual benefits. That was precisely the rationale behind the negotiations held in 1995 and 1996 between the TIC and the airlines for a solution to reduce the financial risks borne by the latter, which had suffered a total loss of about HK\$26 million from 1993 to 1995 as a result of default by travel agents.

### Beginning

After several rounds of negotiation, the TIC and the airlines finally agreed to set up a trust fund, which was to be known as the Industry Trust Fund (ITF), to protect the airlines on the basis of a mutual understanding between both parties that whereas the agents agreed to pool their money into the fund to compensate airlines for agent defaults, the airlines would refrain from demanding blanket bank guarantees from agents.

Based on such an understanding, the ITF was established in January 1997, with its terms and conditions stipulating that agents would contribute a flat fee of HK\$3 to the ITF for each ticket issued. When its reserves exceeded HK\$10 million, the money accrued by individual agents would be reimbursed to them according to their respective proportions of contributions. If agents default on payments, the airlines would receive 30% of their irrecoverable losses from the ITF as compensation and in return, they would not ask for blanket bank guarantees.

### Argument

In the first few years of its operation, the ITF appeared to have been able to serve its initial purpose of fostering the symbiotic relationship between airlines and agents. Then the relationship began to turn sour. On the one hand, some agents queried why they had to use their own money to compensate airlines for their fellow agents, and therefore insisted that the airlines should take legal action against individual directors of the default agent until they were forced into personal bankruptcy. On the other hand, some

議會票務委員會經過連番討論後，在二零零三年七月三日的會議上一致建議解散基金。議會鑒於有關建議會對航空公司和旅行社的關係造成深遠影響，因此決定諮詢所有國際航空運輸協會審訂旅行社的意見，並邀請它們出席二零零三年九月八日舉行的國際航空運輸協會審訂旅行社大會。有六十九家旅行社出席大會，並通過動議，決定保留基金，同時授權旅行社 / 航空公司執行委員會(執委會)的旅行社代表繼續與航空公司商議，為基金制訂新條款。

## 和解

自那時起，由議會委任的九名執委會旅行社代表一方面修訂基金的條款，一方面與航空公司不停磋商。經過差不多兩年的努力，並參考了旅行社和航空公司的諸多意見後，終於完成了雙方都接受的新條款。在二零零五年七月十九日的執委會會議上，基金的修訂條款獲正式通過。

旅行社 / 航空公司執行委員會的旅行社代表 Agent representatives to the Executive Council	
白嘉民先生	Mr Francis Bagaman
何栢靈先生	Mr Ronnie Ho
韓慕貞女士	Ms Pauline Hon
林柏樂先生	Mr Frankie Lam
利偉強先生	Mr Alcuin Li
陸方寧生女士	Mrs Maria Loh
譚光舜先生	Mr Tommy Tam
韋榮恩先生	Mr Richard Willis
袁家齊先生	Mr Ronnie Yuen

(以姓氏的英文排列 in alphabetic order)

簡單來說，基金的運作模式和以前一樣，即旅行社仍然要為每張機票供款港幣三元，而航空公司依舊只可以就三成無法追回的款項索償，並放棄了向旅行社要求全面銀行擔保的權利。不同之處主要有一點，即航空公司可以要求國際航空運輸協會向欠款旅行社的董事發出律師信，這表示法律行動並不是強制性的。

這幾年來，航空公司和旅行社一度密切的關係開始出現惡化的跡象，希望這次雙方在共同採納了基金的新條款後，今後可以重建較佳的關係。ITC

airlines were dissatisfied that the cover provided by the ITF was insufficient and that the time needed to claim compensation from it was too long.

After repeated discussions, the TIC Ticketing Committee unanimously proposed at a meeting held on 3 July 2003 to dissolve the ITF. Since such a proposal would have far-reaching implications for the long-term relationship between airlines and agents, the TIC decided to solicit the views of all IATA Accredited Agents by inviting them to an IATA Agents Meeting held on 8 September 2003. A total of 69 IATA Accredited Agents attended the meeting, during which the motion to retain the ITF and to authorise the agent representatives to the Executive Council (EC) to negotiate a new set of terms and conditions for the ITF was carried.

## Reconciliation

Since then, the nine EC agent representatives appointed by the TIC were engaged in revising the terms and conditions of the ITF and in negotiating with the airlines. After about two years' efforts and with a great deal of input from both the agents and airlines, a set of terms and conditions acceptable to both sides was finally completed. And at the EC meeting held on 19 July 2005, the revised terms and conditions of the ITF were officially adopted.

Put simply, the ITF will be run in a similar fashion as before, namely that agents are still required to contribute HK\$3 to the ITF for each ticket issued and that airlines are entitled to claim 30% of their irrecoverable losses from the ITF in return for relinquishing the right to demand blanket bank guarantees from agents. There is one major difference: airlines may request IATA to instruct its solicitors to send a letter to the directors of the default agent, which means that legal action is not compulsory.

In recent years, the once cosy relationship between airlines and agents has begun to show signs of deterioration. It is hoped that the new set of terms and conditions of the ITF adopted by both sides will become the foundation of a better relationship for the future. ITC