

沒有準備就難以應付的未來

A future not for the unprepared

本刊記者 Staff reporter

編按：二零一一年十二月，政府宣佈旅遊業的監管體制會徹底改革，所有監管事宜會由新成立的法定機構負責，而議會將不再執行自律監管的工作。今年七月，政府向立法會經濟發展事務委員會提交了一份討論文件，其中首次披露了一些改革的細節。雖然那些細節仍可能變更，但大部份卻可能包含在日後向立法會提交的法例草案之中。為了幫助業者瞭解有關文件，下文綜述了文件的重點。

Editor's note: The Government announced in December 2011 that the regulatory regime of the tourism sector would undergo a complete overhaul, which would see a new statutory body set up to oversee all issues related to regulation and the TIC's self-regulatory duties handed over to the new regulator. In July this year, a discussion paper was submitted by the Government to the Legislative Council's Panel on Economic Development, in which some details of the overhaul were revealed for the first time. Although the details may be subject to change, most of them will likely be incorporated into the bill to be introduced in the Legislative Council some time later. To help traders understand the paper, its main points are summarised here.

約兩年後新監管機構成立之時，業界每一個人都會受到影響。

No one in the industry will be unaffected when the new regulator is in place in about two years.

新監管機構是甚麼？

日後成立的新法定機構名為「旅遊業監管局」，據上述文件最早將於二零一五年底開始運作。旅監局將接掌議會自律監管的職能，以及旅行代理商註冊處的發牌權力，同時發牌給旅行社、領隊、導遊，並實行監管。此外，為保障外遊旅客免受團費損失的「旅遊業賠償基金」，日後也會由旅監局管理。

旅監局將有二十二名成員：一名非業界主席，一名由旅遊事務專員出任的副主席，十二名來自不同專業的非業界成員，以及八名業界代表(其中旅行社代表有六人，領隊代表一人，導遊代表一人)。在旅行社代表中，三人會由政府直接委任，其餘三人則由議會提名，再經政府委任。

長遠而言，旅監局會以自負盈虧的方式運作，意思是監管成本要向業界全數收回。旅監局的收入主要來自三方面：(一)出境團的印花費，(二)旅行社、領隊、導遊的牌照費用，(三)內地入境團的登記費。旅監局成立後不會即時增加印花費及牌照費，但內地入境團的登記費現在為每個四十人團隊港幣二十元，政府認為「過低，並不合理」，因此將增加至每團港幣二百元，即每人港幣五元。

What is the new regulator?

The statutory body to be established is called the Travel Industry Authority (TIA), which, according to the paper mentioned above, will come into operation in late 2015 at the earliest. Taking over the self-regulatory functions of the TIC and the licensing authority of the Travel Agents Registry (TAR), the TIA will be responsible for licensing and regulating travel agents, tour escorts and tourist guides at the same time. Apart from that, the Travel Industry Compensation Fund, set up to protect outbound travellers against tour fare losses, will also be managed by the TIA.

The TIA will have 22 members: one non-trade chairman, one vice-chairman who will be the Tourism Commissioner, 12 non-trade members from different professions, and eight trade members (of whom six will be travel agent representatives, one tour escort representative and one tourist guide representative). Three of the agent representatives will be directly appointed by the Government, and the other three nominated by the TIC and then appointed by the Government.

In the long run, the TIA will operate on a self-financing basis, which means the full cost of regulation will have to be recovered from the industry. Its revenue will mainly come from three sources: (1) the levy charged on outbound tours, (2) the licence fees of travel agents, tour escorts and tourist guides, and (3) the registration fees for inbound tours from mainland China. Whereas the levy and the licence fees will not be increased upon the establishment of the TIA, the registration fee for mainland inbound tours, currently HK\$20 for a tour group of 40 visitors, will be raised to HK\$200 per tour group, or HK\$5 per person, because its existing level is considered "unreasonably low".

旅行社會怎樣受到影響？

任何公司想成為旅行社，經營旅遊業務，現行的規定是先加入議會，然後向旅行代理商註冊處申領牌照。將來旅監局成立後，則可以直接向它申請牌照；換言之，議會的會籍將來不再是申領牌照的先決條件。

目前議會的兩類旅行社會員需要符合一些資本要求：基本會員的最低實收資本額為港幣五十萬元，普通會員則需要向議會提交港幣十五萬元銀行擔保。至於旅行代理商註冊處則沒有對牌照施加資本要求。

除了上述現有的資本要求外，新制度還會加入保證金的要求，用以從中扣除旅行社因結業而欠交的罰款。旅監局成立前已有牌照的旅行社，如果不經營「內地入境旅行團業務」的話，保證金的金額最初會定為零，但累積罰款額達到一定水平後，會增至港幣二十五萬元，罰款額再累積到第二個更高水平後，則會增至港幣五十萬元。這兩個累積罰款額的水平，日後會由旅監局訂定。另一方面，目前持牌的旅行社將來經營內地入境團業務的話，一開始就需要向旅監局交付港幣八十萬元保證金。

在新機制下成立的旅行社，不僅要符合港幣五十萬元的資本要求，即使不經營內地入境團，也要繳付港幣五十萬元保證金；經營的話，保證金更要港幣八十萬元。

根據政府的文件，為兩人或兩人以上一起由內地來港的團隊提供以下一項或多於一項的服務，就是經營「內地入境旅行團業務」：(一)觀光，(二)膳食，(三)購物行程，或(四)與前述活動任何一項相關的本地交通接載。

除上述之外，每家旅行社將來都需要委任一名「授權代表」，使旅監局能確定要為旅行社的運作負責的人。授權代表必須達到一定的學歷或工作經驗要求，不時完成指定課程，並且履行法定職責，包括確保旅行社遵守旅監局發出的所有規則和規例等。

領隊和導遊會怎樣受到影響？

領隊和導遊現在要取得由議會發出的領隊證和導遊證之後，才可以受聘於旅行社擔任領隊和導遊的工作。

How will travel agents be affected?

At present, any company which intends to carry on travel business as a travel agent has to first join the TIC and then obtain the travel agent's licence from the TAR. When the TIA is established, a company may directly apply to the TIA for the licence; in other words, TIC membership will no longer be a prerequisite for the licence.

Some capital requirements are currently imposed by the TIC on its two kinds of member agents: Ordinary Members are required to have a minimum paid-up capital of HK\$500,000 whereas Affiliate Members must provide a bank guarantee of HK\$150,000 in favour of the TIC. The TAR imposes no capital requirement on the licence however.

Apart from the existing capital requirements, a new requirement in the form of a deposit will be introduced to cover any outstanding penalties imposed on a travel agent in case of its closure. For travel agents which are licensed before the establishment of the TIA, the amount of their deposit will be initially set at zero if they do not operate "mainland inbound tour group business". Such an amount, however, will be increased to HK\$250,000 if the total sum of their accumulated fines reaches a certain level, and will be further raised to HK\$500,000 if it reaches a second, higher level. Both levels of accumulated fines will be decided by the TIA. On the other hand, if existing travel agents operate such business, they will be required to deposit HK\$800,000 with the TIA from the very beginning.

As for travel agents to be set up under the new regime, they will have to, on top of fulfilling a capital requirement of HK\$500,000, deposit HK\$500,000 with the TIA if they are not engaged in operating mainland China's inbound tours, or HK\$800,000 if they are engaged.

"Mainland inbound tour group business", according to the Government's paper, is defined as one or more of the following services obtained by a travel agent for two or more visitors travelling from the mainland to Hong Kong as a group: (1) sightseeing visits, (2) meals, (3) shopping trips, or (4) local transport for any one of the activities just mentioned.

Apart from the above, **each travel agent will be required to appoint a person as its "authorised representative" in order for the TIA to ascertain the person to be held responsible for the operation of the agent.** The authorised representative, who must meet some criteria on education or work experience and complete designated courses from time to time, will perform such statutory duties as ensuring the agent observes all the TIA's rules and regulations.

How will escorts and guides be affected?

Tour escorts and tourist guides now need to obtain Tour Escort and Tourist Guide Passes issued by the TIC in order to be eligible for employment as escorts and guides by travel agents. And in order to be eligible for the Passes, they have to take designated courses and pass qualifying examinations. Continuing Professional Development (CPD) requirements also need to be met by Tourist Guide Pass holders if they

而取得相關證件的資格，是修讀指定的課程並通過資格考試。導遊證持有人要續證的話，還要符合「持續專業進修」的要求。

旅監局將來實施的領隊和導遊發牌制度會仿照議會的核證制度，並會承認議會發出的證件直至有效期屆滿為止。持證人其後要按新制度申請牌照的話，需要通過新的發牌考試，或修讀專為他們而設的課程。

至於今後有意投身領隊和導遊行業的人，將要按新制度申請牌照，並完成必修的「考前訓練課程」，才可以參加發牌考試。將來領隊和導遊都需要符合「持續專業進修」的要求，才可以續牌。

議會將怎樣受到影響？

正如上文所述，議會將來不再是自律監管機構，因此申請牌照將不再需要議會的會籍。對日後的議會來說，最明顯的影響是會員數目難免萎縮，而且收入也勢必劇減，因為現在徵收的外遊印花費及內地入境團登記費將來會變成旅監局的收入。

為了使議會將來能夠繼續「領導業界的地位」，政府與議會磋商後，提出在新制度下，可以把非監管性質的公共職能交由議會負責，並給予撥款。這些公共職能涉及四方面。

第一，旅行社及其僱員與出入境旅客發生糾紛的話，只要糾紛不涉紀律事宜，將交由議會調停。第二，領隊和導遊參加發牌考試前，需要報讀由培訓機構開辦的必修課程，這些課程將由議會評審，議會並會設計和舉辦發牌考試。第三，議會將繼續處理涉及出入境旅行團的突發事故。第四，為了支持旅行社行業不斷發展，政府將成立一個發展基金，並由議會代旅監局管理。

議會將來除了上述公共職能外，還會加強一直為業界提供的種種服務，例如舉辦更多講座、論壇等來提升業界水平，以及舉辦「郵輪假期博覽」(見「特稿」)等大型活動，藉以為業界拓展新商機。

一九三二年諾貝爾文學獎得主約翰·高爾斯華綏(John Galsworthy)，在《天鵝之歌》裡說過：「你要是不思索將來，就不可能有將來。」業界的每一個人現在都應該開始思索將來了。🔗

wish to renew their Passes.

In the future, a licensing system modelled on the TIC's accreditation systems will be put in place by the TIA for tour escorts and tourist guides, under which the TIC's Passes will be recognised until they expire. If, then, Pass holders wish to apply for licences under the new regime, they will need to pass a new licensing examination or take a course tailor-made for them.

As for prospective escorts and guides who wish to apply to the TIA for licences, they will need to complete compulsory "pre-examination training courses" before sitting the licensing examination. In the future, both tour escorts and tourist guides will be required to meet CPD requirements in order to renew their licences.

How will the TIC be affected?

As is said above, the TIC will no longer be a self-regulatory body and therefore its membership will not be necessary for applying for the licence. The most obvious implications for the future TIC will be a dwindling membership and much reduced revenue because the outbound levy and the registration fees for mainland inbound tours, now collected by the TIC, will become the TIA's income.

In order that the TIC can continue to play "a leading role in the travel trade" in the future, the Government, after discussion with the TIC, suggested that non-regulatory public functions should be entrusted to the TIC, with public funding provided, under the new regulatory regime. These public functions concern four aspects.

First, the TIC will be tasked with conciliating non-disciplinary disputes between travel agents and their employees on the one hand, and outbound travellers and inbound visitors on the other. Second, the compulsory training courses to be organised by training institutions for tour escorts and tourist guides before they take the licensing examination will need to be accredited by the TIC, which will also design and administer the examination. Third, the TIC will continue to handle emergencies involving outbound and inbound tour groups. Fourth, the TIC will manage on the TIA's behalf a development fund to be set up by the Government for the continuous development of the travel agent industry.

Apart from these public functions, the TIC will strive to enhance its various services which have all along been provided for the industry by, for example, holding more seminars, forums, etc to raise the standard of the industry, and organising large-scale events, such as the Cruise Holiday Expo (see "Feature"), to explore new business opportunities for the industry.

As John Galsworthy, who won the Nobel Prize in Literature in 1932, remarks in his *Swan Song*, "If you do not think about the future, you cannot have one." It is time that everyone in the industry began to think about their future. 🔗