



## **Guidelines on the handling of cases involving members suspected of violating TIC rules by the Compliance Committee**

### **I. Procedures for handling members suspected of violating TIC rules**

1. If the Travel Industry Council of Hong Kong (TIC) has received a complaint or has learnt from other channels that a member is suspected of violating any TIC rules (which include any provision of the Articles of Association or the Codes of Conduct for Members, or any rule, regulation or Directive), it will send a letter to the member in writing by post, fax or email (if a fax number or email address has been supplied), and request the member to submit information and/or written representations within 21 days from the day following the date of the letter from the TIC.
2. If there is evidence that the member is suspected of violating TIC rules, the case will be referred to the Compliance Committee for consideration (if the tourist guide or tour escort concerned is suspected of violating any rule of the TIC, the case will also be referred to the Compliance Committee for concurrent consideration with the case involving the member). The TIC will issue a notification of suspected violation to the member by post, fax or email (if a fax number or email address has been supplied). This document and information on the case will also be sent to the member together with the notification of suspected violation, which will specify that the member may provide mitigating reasons if it admits violation or it may provide explanations if it refuses to admit violation.
3. A member suspected of violating any regulation governing advertisements shall immediately stop publishing the advertisement concerned or make necessary amendments after being notified of the suspected violation by the TIC in writing. If the same advertisement continues to be published, it will be considered to be another suspected violation.
4. The member shall give a written reply to the TIC within 14 days from the day following the date of the notification of suspected violation, in order to either admit violation or dispute the violation alleged.
5. On receipt of the written reply from the member which intends to dispute the violation alleged, the TIC may further follow up the case by such means as requesting it to provide evidence to support its representations within five working days from the day following the date of the notification of request for evidence issued by the TIC. The TIC may also take such steps as it may deem fit to verify the truth or otherwise of the representations provided by the member.
6. If, in the process of following up the case, evidence unfavourable to the



member becomes available to the TIC, the member will be allowed to respond once to the evidence within five working days from the day following the date of the notification of unfavourable evidence issued by the TIC.

7. Information on the case collected by the TIC will be organised and submitted to the Compliance Committee for consideration. All information regarding the identity of the member will be concealed in the documents submitted to the Committee in order to ensure fairness. The Committee will consider all the information and representations submitted by the member and other relevant parties when making a decision.
8. If a member has committed more than one violation in one case, the decision and the penalty relating to each violation will be handled separately.
9. If the Compliance Committee considers that the member has violated the rules, the TIC will issue a notification of intention to impose penalties to the member by post, fax or email (if a fax number or email address has been supplied), stating the penalties which the Committee intends to impose and allowing the member to make representations with regard to the penalties in writing within seven clear days.
10. After the Compliance Committee has considered the member's representations (if any) and made a decision, the TIC will issue a notification of the Committee's decisions to the member by post, fax or email (if a fax number or email address has been supplied), informing it of the decisions of the Committee. The member shall pay the fine (if any) within 14 days (from the day following the date of the notification of the decision from the TIC) or lodge an appeal according to Section VI.

## **II. Compliance Committee**

1. The majority of the members of the Compliance Committee shall be from outside the trade. Its convenor shall be an independent director and one of its two deputy convenors shall be a trade director and the other deputy convenor shall be an independent director.
2. A panel, which consists of all members of the Compliance Committee, tourist guide representatives and tour escort representatives, is set up under the Committee to handle cases of suspected violations.
3. The quorum for panel meetings to handle cases of suspected violations by members is, including the convenor or the deputy convenor of the Committee, five directors present, of whom independent directors shall constitute the majority. Eight members will be invited to each panel meeting on a rotation basis. Among those present at a panel meeting, non-trade members shall constitute the majority.



4. Panel meetings shall be chaired by the convenor of the Committee or, in his/her absence, the deputy convenor who is an independent director.

### **III. Penalties imposable on members found to have violated TIC rules**

1. The Compliance Committee may impose any of the following penalties on a member:
  - (1) terminating its membership; or
  - (2) suspending its membership (for not more than two years); and/or
  - (3) imposing a fine (including a fixed fine) on it; and/or
  - (4) requiring it to undertake to comply with the Articles of Association and the Codes of Conduct for Members; and/or
  - (5) issuing a reprimand to it; and/or
  - (6) issuing a warning to it; and/or
  - (7) imposing demerits (only applicable to members which provide reception services for mainland tours; see Section IV).
2. If a member violates any TIC rules during any two-year period, then the Compliance Committee may fine it up to:
  - (1) HK\$50,000 for its first violation,
  - (2) HK\$100,000 for its second violation, and
  - (3) HK\$200,000 for its third violation and any subsequent violations.
3. When deciding on the penalty to be imposed, the Compliance Committee will consider the following:
  - (1) the severity of the case;
  - (2) the history of violation of the member within the past two years;
  - (3) whether it was an intended violation;
  - (4) in the event the member has admitted violation, whether the member has expressed regret, or adopted remedial measures; and
  - (5) the explanations provided by the member.
4. In cases where a criminal act is involved, they will be referred to the law enforcement authorities such as the police or the Independent Commission Against Corruption for action.

### **IV. Giving of demerits for having violated “Applicable rules under the Demerit System”**

1. The Demerit System for Mainland Tour Reception Services: Members has been established in accordance with Directive No. 199 to regulate members which provide reception services for inbound tours organised in mainland China. If a member is found by the Compliance Committee to have violated those rules of the TIC subsumed under the Demerit System, then demerits will be given to, and penalties imposed on, the member according to the



grade of the violation (the number of demerits which can be given includes: 0, 5, 10, 15 and 20). If the number of accumulated demerits reaches 30 within two years, the membership of the member concerned will be suspended or terminated.

2. Those rules of the TIC subsumed under the Demerit System are listed in “Applicable rules under the Demerit System”, the latest version of which is available at the TIC website ([www.tichk.org](http://www.tichk.org) → “Codes and Regulations” → “Demerit System for Members”).

#### **V. Notification of decisions of the Compliance Committee and retention of violation records**

1. If the Compliance Committee decides to penalise the member which is found to have violated any TIC rules, the TIC will notify it in writing by post, fax or email (if a fax number or email address has been supplied) of the Committee’s decision and grounds, its right to appeal against the decision and the appeal procedures. If, apart from penalising the member, the Committee decides to give it demerits for the violation, it will also be notified of the number of demerits given for the violation in the case and the total number of demerits accumulated within the past two years (if any).
2. All violation records will be kept in the file of the member concerned. However, when deciding on the penalty to be imposed on the member, the Compliance Committee will only make reference to its violation record for two preceding years.
3. If the Compliance Committee decides that the member has not violated any TIC rules, the TIC will also notify it in writing of the decision.

#### **VI. Appeals against decisions of the Compliance Committee**

1. Any member desirous of appealing against the Compliance Committee’s decision shall within 14 days (from the day following the date of the notification of the decision from the TIC) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC. The notice of appeal shall be given with an appeal fee of HK\$1,000. Even if the notice of appeal is given by the member, the fine (if any) shall be paid within 14 days (from the day following the date of the giving of the appeal notice). The notice of appeal or application for extension of the appeal period shall be addressed to “TIC Executive Director”. The Appeal Board will decide whether the appeal fee paid by the appellant is to be forfeited, or repaid to the appellant wholly or in part.
2. Details of the appeal procedures are available from the TIC website ([www.tichk.org](http://www.tichk.org) → “The Council” → “Composition” → “Appeal Board”) or the TIC.



## VII. Announcement of violation cases by members

1. Any member penalised by the Compliance Committee will have its name and the rule(s) violated posted on the TIC website, the details of which are stipulated in paragraphs 2 to 4 below. However, the names of members having only been imposed a fixed fine will not be so posted and published. For any member penalised and given demerits by the Committee in accordance with the Demerit System for Mainland Tour Reception Services: Members, the details of announcing its penalty and number of demerits are stipulated in paragraphs 5 and 6 below.
2. If the Compliance Committee decides that the membership of a member is to be terminated or suspended **immediately** (namely that the membership will remain invalid pending an appeal), then the disciplinary action taken against the member will be posted on the TIC website immediately. If the member files an appeal, the fact that an appeal has been filed will also be posted on the TIC website. If the membership is terminated, the disciplinary action will be posted on the TIC website for one month; if it is suspended, the disciplinary action will be posted on the TIC website until the suspension period ends.
3. If the Compliance Committee decides that the membership of a member is to be terminated or suspended (namely that the membership will still be valid pending an appeal), and the member does not within 14 days (from the day following the date of the notification of the decision from the TIC) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC, then the disciplinary action taken against it will be posted on the TIC website after the appeal period ends. If the member files an appeal, the disciplinary action taken against it will be posted on the TIC website after the Appeal Board also decides to terminate or suspend the membership. If the membership is terminated, the disciplinary action will be posted on the TIC website for one month; if it is suspended, the disciplinary action will be posted on the TIC website until the suspension period ends.
4. If the Compliance Committee decides that a member is to be penalised by methods other than terminating or suspending its membership, and the member does not within 14 days (from the day following the date of the notification of the decision from the TIC) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC, then its name and the rule(s) violated will be posted on the TIC website for one month after the appeal period ends. If the member files an appeal, its name and the rule(s) violated will be posted on the TIC website for one month after the Appeal Board also decides to impose a penalty.
5. For those members which have been given demerits for having violated



such rules as listed in “Applicable rules under the Demerit System”, their names, the number of demerits given, the rules violated and the reasons of violations will be announced on the TIC website.

6. If the violations are considered minor or not serious, such information will be posted on the TIC website for one month; and if the violations are considered serious, very serious or extremely serious, such information will be posted for one year.

*April 2020*