
GOVERNMENT REGULATIONS, LICENCES AND PERMITS

TRAVEL AGENCY INDUSTRY IN HONG KONG

Travel Agents Registry

The TAR was established in December 1985. It is responsible for the administration of the TAO. The TAR aims to raise the standard of the trade through regulation of travel agents. The TAR strives to protect the interest of outbound travellers and inbound visitors and enhance the reputation of Hong Kong as a tourist-friendly city.

Travel Agents Ordinance

The TAO provides the legislative framework for the regulation and control of travel agents and for the operation of the TDCF.

Under the TAO, a travel agent can be classified as an outbound travel agent or an inbound travel agent.

Section 4 of the TAO defines an outbound travel agent as a person who carries on the business in Hong Kong of obtaining for another person:

- (a) carriage by any means of conveyance on a journey which is to commence in Hong Kong and which thereafter is to take place mainly outside Hong Kong; or
- (b) accommodation at a place outside Hong Kong for which payment is, or is to be, made to that person by or on behalf of that other person of an amount of the cost of that accommodation,

except where:

- (a) the provider of the carriage is himself the operator of that carriage; or
- (b) the accommodation being provided at any one place is to be occupied by the same person for a period exceeding 14 days.

Section 4A of the TAO defines an inbound travel agent as a person who carries on the business in Hong Kong of obtaining for a visitor to Hong Kong:

- (a) carriage, by any means of conveyance, on a journey which is to commence outside Hong Kong and which either:
 - i. terminates in Hong Kong; or
 - ii. involves the visitor passing through immigration controls before departing from Hong Kong; or

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- (b) accommodation in Hong Kong for which payment is, or is to be, made to that person by or on behalf of the visitor of an amount on account of the cost of that accommodation; or
- (c) one or more of the following prescribed services:
 - i. sightseeing or visits to local places of interest;
 - ii. restaurant meals or other catered meals;
 - iii. shopping trips; and
 - iv. local transport in connection with an activity referred to in item (c)i., (c)ii. or (c)iii. above.

except where:

- (a) the provider of the carriage is himself the operator of that carriage;
- (b) the accommodation being provided is to be occupied by the same person for a period exceeding 14 days; or
- (c) the provider of the prescribed services is himself the owner or operator of the service being provided to the visitor.

Section 9 of the TAO prohibits any person to carry on business as a travel agent:

- (a) without a licence;
- (b) at a place other than that specified in that licence; or
- (c) otherwise than in accordance with the conditions of that licence (which includes membership of TIC).

Section 12 (1) of the TAO empowers the RTA to refuse to grant a licence if it is of the opinion that:

- (a) the applicant or any person in Hong Kong responsible for the management of the business of the travel agent is not a “fit and proper” person to carry on business as a travel agent; or
- (b) the premises to which the application relates or the situation thereof are not suitable for the operation of the travel agent.

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Section 12(2) of the TAO specifies that in determining whether a person is fit and proper, the RTA shall have regard to whether that person:

- (a) has been convicted of an offence involving fraudulent, corrupt or dishonest acts whether in Hong Kong or elsewhere;
- (b) has been convicted of an offence against any provision of the TAO;
- (c) if that person is an undischarged bankrupt;
- (d) in the case of a body corporate, is in liquidation or is the subject of a winding up order; or
- (e) is otherwise not a fit and proper person.

Section 13 of the TAO stipulates that the licence should be in a prescribed form, requires a licensee to pay a prescribed fee, empowers the grant of a licence valid for a period of up to 12 months, and enables the authorisation of the person named in the licence to carry on business as a travel agent at any place specified in that licence.

Section 16 of the TAO stipulates that any change in the ownership or control of a travel agent requires the prior approval of the RTA in writing.

Section 19 of the TAO empowers the RTA to suspend or revoke a licence if:

- (a) a licensee who is an individual becomes a mentally disordered person;
- (b) the licensee has ceased to carry on business as a travel agent;
- (c) upon investigation, the RTA considers that any matter under section 12(1) applies or the travel agent is operating contrary to public interest;
- (d) the licensee has failed to pay any levy or any financial penalty under the provisions of the TAO; or
- (e) the licensee is no longer a member of TIC.

Section 21 of the TAO empowers the RTA to conduct investigations into the business of a travel agent if he suspects it to be carried on contrary to public interest.

Sections 32A to 32G of the TAO provide for the establishment of the TICF and the Travel Industry Compensation Fund Management Board, set out the Board's composition and the appointment of its chairman and members, and delineate its functions and powers (including the authority to make ex gratia payments from the TICF (section 32E) to outbound travellers and to make rules (section 32G) in respect of such payments).

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Sections 32H and 32I of the TAO provide for contribution by travel agents of levies to the TICF and the TIC.

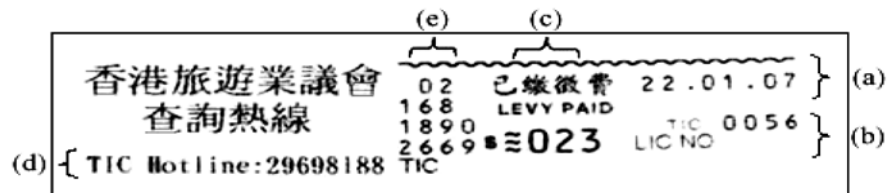
The TICF levy has been suspended with effect from 3 July 2009. Starting from the same day, travel agents are only required to contribute 0.15% of every outbound fare to the TIC as Council levy.

Levy Franking Machine

All licensed travel agents must install a franking machine. All package tour receipts must be franked with a levy received. The Secretary for Commerce and Economic Development must specify the percentage.

All receipts shall be printed/stamped with a levy sentence in both English and Chinese, saying: “All package tour receipts must be franked for your protection” and “旅行團收據應蓋上印花方可獲得保障”.

A sample levy stamp and relevant information is as follows:



- (a) Date — the date of the stamp which should be the date you settle the outbound fare and the date of the issue of receipt.
- (b) Travel agent information — the name, the licence number of the travel agent and the machine number are printed on the stamp automatically.
- (c) Levy paid — the travel agent will calculate the amount of levy to be paid for each transaction and input the amount to the machine for imprinting the frank mark. The actual amount of levy paid with a “\$” sign is shown on the stamp below the space under the heading “已繳徵費 LEVY PAID”.
- (d) Hotline number of the TIC is printed on the stamp. Travellers who have any enquiries about the stamp may call the TIC for clarification.
- (e) Security code — each stamp has a unique security code which will enable TIC to verify its authenticity.

Section 48 of the TAO sets out the offences in contravention of the various provisions of the TAO and the maximum penalties for such offences. For example, any person who contravenes section 9 is liable on conviction upon indictment to a fine of HK\$100,000 and to imprisonment for two years or on summary conviction to a fine of HK\$10,000 and to imprisonment for six months.

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Travel Industry Compensation Fund

The TICF was established in 1993 under section 32C of the TAO. The TICF provides protection to outbound travellers when travel agents default and when they sustain death or injury in accidents during activities provided or organised by travel agents whilst touring abroad in the form of group and package tours. The Travel Industry Compensation Fund Management Board is responsible for the administration of the TICF.

The TICF provides protection to outbound travellers who may claim:

- (a) up to 90% of the outbound fare paid if a licensed travel agent patronised defaults; and
- (b) up to a maximum amount of HK\$300,000 as financial relief in case of death or injury caused by an accident abroad in an activity of an outbound package tour provided or organised by a licensed travel agent under the Package Tour Accident Contingency Fund Scheme, subject to the maximum limit for each item:

Medical expenses incurred in the place of accident outside Hong Kong	up to HK\$100,000
Expenses incurred in the place of accident outside Hong Kong for funeral or return of dead body/ashes to Hong Kong	up to HK\$100,000
Expenses for compassionate visit or handling of residual matters relating to the death by two relatives	up to HK\$100,000 (HK\$25,000 per relative)

Under the TAO, an outbound traveller means a person who has paid to a travel agent at an inclusive price for an outbound travel service comprising any two or all of the following:

- (a) carriage (by land, sea or air transport) from Hong Kong to places outside Hong Kong;
- (b) accommodation outside Hong Kong; and
- (c) arrangements for an activity outside Hong Kong.

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Financial Position of the TICF

Amount of TICF levy collected (since the establishment of the TICF on 15 October 1993):

Year ⁽²⁾	Levy Collected (HK\$ Million)
1994	10.50
1995	16.76
1996	21.58
1997	23.67 ⁽¹⁾
1998	11.36 ⁽¹⁾
1999	10.40
2000	10.98
2001	12.26
2002	11.66
2003	9.15
2004	11.22
2005	12.10
2006	12.06
2007	14.41
2008	16.29
2009 ⁽³⁾	13.77

TICF current balance:

Balance as at 30 June 2011
HK\$577 million (subject to audit)

Notes:

- (1) The rate of TICF levy was changed from 0.35% to 0.15% on 2 May 1997
- (2) Refers to the financial year ended 30 June
- (3) The suspension of the TICF levy took effect on 3 July 2009

TRAVEL INDUSTRY COUNCIL OF HONG KONG

TIC is a self regulatory body of travel agents. Under section 9 of the TAO, any person carrying on business as a travel agent is required to obtain a licence from the RTA. Licensing requirements include membership of TIC.

TIC has three types of members, namely association member, ordinary member and affiliate member. There are eight association members and about 1,400 travel agents with ordinary and affiliate memberships.

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Each of the eight association members of TIC has unique characteristics and caters for the specific needs of different markets and travel agents. A travel agent shall join one of them prior to joining TIC.

Ordinary members of TIC may conduct any travel and tourism business, and open branch offices. To apply for ordinary membership of TIC, the applicant shall meet the following criteria:

- (a) it is a limited company incorporated or registered in Hong Kong;
- (b) its only business is travel-related and tourism;
- (c) it is a member of one of the association members of TIC;
- (d) it has a minimum paid-up capital of HK\$500,000, plus an additional HK\$250,000 for each branch office;
- (e) it conducts its travel-related and tourism business within separate and independent commercial premises/buildings; and
- (f) it employs at each premises at least one manager who has a minimum of two consecutive years' relevant practical experience within the recent five years and another full-time staff member.

Affiliate members of TIC are not allowed to open branch offices, or to organise or operate an outbound tour. Their business is restricted to booking hotel rooms and air tickets, retailing package tours, and other travel related dealings. To apply for affiliate membership of TIC, the applicant shall meet the following criteria:

- (a) it may be a sole proprietorship or partnership;
- (b) it is a member of one of the eight association members of TIC;
- (c) it shall provide a bank guarantee of HK\$150,000 in favour of TIC;
- (d) it conducts its travel-related and tourism business within separate and independent commercial premises/buildings; and
- (e) it employs at each premises at least a manager who has a minimum of two consecutive years' relevant practical experience within the recent five years and another full-time staff member.

TIC's codes of conduct

Travel agents are required to abide by TIC's code of conduct and directives and are regulated by TIC. The principal TIC's codes of conduct applicable to our Group are the General Code of Conduct for TIC Members, the Code of Advertising Practice for TIC Members and the Code of Business Practice on Outbound Package Tours. The codes set out the minimum standards which a travel agent is required to follow in all business transactions and practice.

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The General Code of Conduct for TIC Members sets out the codes on the conduct between travel agents and the public, the conduct between travel agents and tour operators and requires that all advertising and promotion by a TIC member shall comply with the Code of Advertising Practice for TIC Members and directives issued by the board of TIC from time to time. It is provided in this Code that all TIC members are required to answer questions and all correspondence from TIC concerning their conduct in accordance with the Memorandum and Articles of Association of TIC and any codes of TIC promptly and efficiently. A TIC member is liable to be penalised if its conduct is found to be in contravention of any codes of TIC or otherwise inconsistent with the objectives of TIC.

The Code of Business Practice on Outbound Package Tours requires that all brochures to be used by a travel agent for advertising purposes shall be registered with and approved by TIC two working days in advance before their despatch and the sale of the tours advertised. It also sets out the codes on conditions of tour booking and responsibilities, service charges, surcharges, collection of tour payment, levy franking, cancellation of package tours for reasons beyond control of travel agents, material alterations to package tours for reasons beyond the control of travel agents, cancellation of and alterations to package tours for other reasons and visa charges.

The Code of Advertising Practice for TIC Members sets out the codes in relation to the content of advertisements and the information that should be contained in the package tour brochures and pamphlets.

TIC's directives

The currently effective directives issued by TIC are categorised by TIC as follows:

Categories of TIC directives

General		13, 24, 76, 142, 149, 154, 171, 178, 197, 205
Membership		6, 175, 176
Outbound	Package Tour	54, 77, 79, 98, 106, 107, 126, 129, 135, 150, *151, 153, 161, 169, 177, 189, 203, *204 (*partly related to advertising)
	Ticketing	64, 67, 69, 75, 88B, 112, 140, 157, 190
	Advertising	45, 57, 62, 70, 81, 82, 90, 95, 101, 102, 110, 120, 128, 130, 138, 141, 148, 151, 173, 204
	Levy	16, 18, 34, 59
	Others	166
Inbound		123, 137, 146, 152, 158, 181, 182, 183, 184, 185, 188, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202

In relation to the air-plus-hotel packages provided by us, TIC Directive No. 166 provides that:

TIC members shall specify the following on the receipt of air-plus-hotel packages:

1. whether the package is “confirmed” or “subject to confirmation”; or

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2. any other words which can accurately and clearly convey the same meaning of “confirmed” or “subject to confirmation” if TIC members choose to use words other than “confirmed” or “subject to confirmation”.

Rules governing air-plus-hotel packages which are “subject to confirmation”:

1. TIC members shall work out a confirmation date which is agreed by their customers;
2. TIC members shall specify such a date on the receipt;
3. if TIC members are unable to provide such packages at the originally agreed price and by the confirmation date, they shall refund the money paid by their customers within three working days without having to pay any compensation; and
4. TIC members shall handle such packages in accordance with the above rules irrespective of whether the date on which their customers make a booking or the confirmation date mentioned above falls within seven days prior to departure.

Rules governing air-plus-hotel packages which are “confirmed”:

1. If TIC members are unable to provide such packages on which they have merely collected deposits, they shall notify their customers as such at least seven days prior to departure (excluding the day of departure) in accordance with the existing rules governing cancellation of package tours. Otherwise, they shall offer to pay within three working days each customer 15% of the price of the relevant package but not exceeding HK\$1,000 as compensation. This rule also applies to bookings made by customers which fall within seven days prior to departure.
2. If TIC members are unable to provide such packages for which they have collected full payment, they shall handle such situations in accordance with the existing rules governing cancellation of package tours guaranteed to depart:
 - a. according to Directive No. 135, which is about cancellation of package tours guaranteed to depart, TIC members shall offer to pay within three working days each customer 15% of the price of the relevant package but not exceeding HK\$1,000 as compensation for failure to fulfill their guarantee;
 - b. if TIC members notify their customers of their failure to provide the package less than seven days prior to departure, TIC members shall offer to pay within three working days each customer another 15% of the price of the relevant package but not exceeding HK\$1,000 as compensation. In other words, a total of 30% of the price of the relevant package but not exceeding HK\$2,000 shall be offered; this rule also applies to bookings made by customers which fall within seven days prior to departure;

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- c. if such packages are cancelled because of reasons beyond their control, TIC members need not pay their customers any compensation; and
- d. the term “reasons beyond control” means hostilities, political unrest, terror attacks, natural disasters, pestilences, bad weather, technical problems to transport, changes to the frequency/timetable of any means of conveyance by its operator without advance notice, strikes, industrial action, travel advisories (warnings) issued by governments of the destinations/the World Health Organisation, red/black outbound travel alerts issued by the Hong Kong SAR Government, and any other situations of which the industry has no control and which are unfavourable to outbound trips of travellers.

On the service fees or commission chargeable by a travel agent in relation to the ticketing services provided, set out below are the relevant TIC directives.

TIC’s Directive No. 190 issued on 15 October 2010 introduced various recommended service fees as set out below.

	Recommended service fee under TIC’s Directive No. 190 (effective 1 November 2010)
1. Provision of ticketing services	HK\$250 per ticket or transaction (whichever is applicable)
a. Re-routing or re-issuing of air tickets	
b. Revalidation of air tickets involving a change in ticket number	
c. Processing and handling of partial ticket refunds	
d. Issuing of zero-commission or low-cost-carrier air tickets	
e. Passenger name amendment in the Passenger Name Record	
f. Other ticketing-related services	
2. Processing of free ticket or upgrade redemption for airline frequent flyer programmes	HK\$500 per ticket
3. Handling of missing mileage credit application for airline frequent flyer programmes	HK\$250 per transaction
4. Booking of hotels where clients’ own corporate agreement exists (no commission paid to agent)	HK\$150 per hotel location
5. Processing and handling of visa applications	HK\$200 per visa
6. Processing and handling of urgent visa applications or provision of other passport-related services (passport renewal, student/employment passes, etc.)	HK\$400 per visa

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	Recommended service fee under TIC's Directive No. 190 (effective 1 November 2010)
7. Handling of purchase and delivery of non-air tickets (e.g. train or ferry tickets etc)	HK\$200 per ticket (Group handling charge to be negotiated)
8. Emergency delivery of travel documents after office hours	HK\$300 per transaction
9. Processing and handling of online check-in, Form of Indemnity or Unaccompanied Minor applications	HK\$250 per transaction

The above charges do not include service fees imposed by individual airlines.

According to TIC's Directive No. 140 (issued on 16 September 2005), effective from 1 October 2005, TIC members are allowed to charge a service fee of no less than HK\$30 per air ticket for collecting surcharges, taxes or other charges on behalf of airlines or the government. TIC members should notify their customers of the above service fee when quoting the price of air tickets.

Based on TIC's Directive No. 112 (issued on 10 October 2002), effective from 16 October 2002, TIC members are allowed to charge 7% commission on all published air fares which are on zero-commission basis from and within the US (including Puerto Rico and the U.S. Virgin Islands) and Canada.

In order to avoid disputes between travellers and travel agents over the service fee charged by travel agents for providing ticket refund service, TIC's Directive No. 75 (issued on 14 April 1999), effective from 14 April 1999, stipulates a service fee of not more than HK\$300 for refund of each totally unused ticket. This service fee may be charged on each refund ticket after deduction of the handling fee of HK\$250 (as filed with the Civil Aviation Department) and the penalty charges imposed by the relevant airline. Violation of this directive may result in the imposition of a penalty on the relevant travel agent.

TRAVEL INSURANCE

The Hong Kong Federation of Insurers

The HKFI, a self-regulatory body of insurers, was established on 8 August 1988 to advance and promote the development of the insurance business in Hong Kong.

Insurance Companies Ordinance

The insurance industry in Hong Kong enjoys a high degree of self-regulation. The self-regulatory system for insurance intermediaries, i.e. insurance agents and brokers, is supported by legislation which is contained in Part X of the ICO.

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Under section 65 of the ICO, a person is prohibited from holding himself out as an insurance agent or an insurance broker unless he/it is properly appointed or authorised. It is an offence for a person who holds himself/itself out to be an insurance agent of an insurer who is not an appointed insurance agent of the insurer under section 77 of the ICO.

Registration of Insurance Agents

To act as an insurance agent, a person is required to be appointed by an insurer and registered with the IARB set up by the HKFI. An appointed insurance agent shall not represent more than four insurers, of whom no more than two shall be long term business insurers.

Under section 66 of the ICO, an insurer is required to keep a register of appointed insurance agents and to make it available for public inspection at its registered office or at a place approved by the IA. For this purpose, the IA has approved the registered office of the HKFI as the place where the register should be maintained and made available for public inspection.

An insurer is required to give the IA details of the registration and removal of its appointed insurance agents within seven days of such registration or removal. Alternatively, the insurer may provide such details to the IARB, and in so doing the insurer concerned is considered as having complied with this requirement. Upon receipt of such notification by the insurer, the IARB shall update the register and notify the IA accordingly.

Administration of Insurance Agents

An insurer is required under section 67 of the ICO to comply with the IA Code of Practice which is issued by the HKFI and endorsed by the IA. The IA Code of Practice governs the administration of insurance agents by insurers. Section 68 of the ICO specifies that an insurer shall be responsible for the actions of its appointed insurance agents in their dealings with clients in respect of the issue of insurance contracts and related insurance business.

The IA Code of Practice specifies, among others, the rules and procedures governing the registration and de-registration of insurance agents, the power of the IARB to handle complaints and require the insurers to take disciplinary actions against their insurance agents, the fit and proper criteria of insurance agents and the minimum requirements of the agency agreement.

In particular, the IA Code of Practice provides for the following:

- (a) Register of appointed insurance agents, their responsible officers and technical representatives - A register of appointed insurance agents and a sub-register of insurance agents' responsible officers and technical representatives shall be kept and maintained for public inspection.
- (b) Registration with the IARB - An insurer must ensure that its agents are registered with the IARB whereas an insurance agent must ensure that its responsible officer and technical representatives are registered with the IARB.

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- (c) Representation of principals - An insurance agent is prohibited from representing more than four insurers, of which no more than two shall be long term insurers.
- (d) Representation of agents - A responsible officer or technical representative of an insurance agent is prohibited from being a responsible officer or technical representative of another insurance agent.
- (e) Disciplinary procedures - The IARB has disciplinary powers against insurance agents, their responsible officers or technical representatives registered with it. Disciplinary actions may include:
 - issue a reprimand to an insurance agent, its responsible officer or technical representatives;
 - suspend or terminate the appointment of an insurance agent, its responsible officer or technical representatives; or
 - such other actions as the IARB thinks fit.

The IARB issues guidelines from time to time as to how it intends to exercise its powers and fulfil its responsibilities under the IA Code of Practice.

The guidelines issued by the IARB include the following:

Guidelines on misconduct

These guidelines set out certain guidance which if followed provide comfort to all concerned that all possible steps are being taken to conduct business in good faith and with integrity:

- on no account will insurance agents ask customers to sign blank or incomplete forms and any alterations to forms must be initialled by the customers;
- an insurance agent selling a life assurance policy will ensure that the prescribed customer protection declaration form is completed; and
- insurers must establish control procedures to monitor insurance agents' compliance with the IA Code of Practice.

Guidelines on handling of premiums

These guidelines set out recommended payment methods by customers:

- cheque should be written in favour of the insurer; or
- credit card/direct deposit/bank should be transferred from the customer's account to the insurer.

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Any other method of payment or credit facilities extended to an agent should be subject to clear rules set out by the insurer designed to avoid the mixing of customers' money with agents' personal funds.

Guidelines on the effective date of registration of insurance agents, responsible officers and technical representatives

These guidelines aim to ensure that no prospective or current insurance agents, their responsible officers or technical representatives shall hold themselves out as engaging in the insurance agency business relating to an insurer before the IARB confirms their relevant registrations in writing by way of a notice of confirmation of registration.

Insurance Intermediaries Quality Assurance Scheme (“IIQAS”)

Under the IIQAS, all insurance intermediaries, their chief executives/responsible officers and technical representatives are required to pass the insurance intermediaries qualifying examination conducted by the PEAK Examination Centre of the Vocational Training Council as one of the requirements for entry to the profession (unless otherwise exempted), and to comply with the requirements of the continuing professional development programme thereafter.

REGULATORY OVERVIEW OF TRAVEL INDUSTRY IN THE PRC

Company Law and the Wholly Foreign-owned Enterprise Law

According to the Company Law promulgated by the Standing Committee of the National People's Congress on 29 December 1993, which became effective as of 1 July 1994 and was subsequently amended on 25 December 1999, 28 August 2004 and 27 October 2005, corporate entities established in Mainland China are classified into two types: (i) limited liability companies; and (ii) joint stock limited companies. The establishment, operation and management of corporate entities are governed by the Company Law. Unless the laws and regulations on foreign investment otherwise require, the Company Law applies to both domestic-invested companies and foreign-invested companies.

The establishment procedures, verification and approval procedures, registered capital requirement, and foreign exchange restriction of wholly foreign-owned enterprises are governed by the Wholly Foreign-Owned Enterprise Law of the PRC (中華人民共和國外資企業法), which was promulgated on 12 April 1986 and amended on 31 October 2000, and the Implementation Rules for the Wholly Foreign-Owned Enterprise Law (中華人民共和國外資企業法實施細則), which was promulgated on 12 December 1990 and amended on 12 April 2001.

The Catalogue for the Guidance of Foreign Investment Industries

The Catalogue has been promulgated and revised from time to time to provide guidance for the industries of foreign investment in the PRC. According to the Catalogue, industries are classified into

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four categories: (i) encouraged; (ii) permitted; (iii) restricted; and (iv) prohibited. According to the Catalogue jointly promulgated by the National Development and Reform Commission and the Ministry of Commerce on 31 October 2007 and becoming effective as of 1 December 2007, travel agencies fall into the category of permitted foreign invested industries.

The Regulation on Travel Agencies and the relevant provisions

According to the Regulation on Travel Agencies (旅行社條例) promulgated by the State Council on 20 February 2009 and implemented on 1 May 2009 and the Implementation Rules for the Regulations on Travel Agencies (旅行社條例實施細則) formulated by the NTA and implemented on 3 May 2009, travel agencies may be engaged in the businesses of soliciting, organising and receiving tourists, and providing the relevant tourism services. An application for the establishment of travel agencies should meet the following conditions, among other things: (i) permanent operation premises; (ii) necessary operation facilities; and (iii) registered capital of no less than RMB300,000. A travel agency shall place a security deposit for quality (in the case of travel agencies which are engaged in the domestic tourism business and inbound tourism business, the security deposit of RMB200,000) with a designated bank within three business days from the date on which it obtains the operation licence. In addition, the Regulation on Travel Agencies also makes provision for: (i) the establishment of the branch agency; (ii) tourism contracts; (iii) the protection of tourists' interest; (iv) the engagement of tour guides; (v) tourism insurance; and (vi) government surveillance.

According to the Measures on the Examination and Approval of the Applications for Establishment of Travel Agencies in Guangdong Province by Hong Kong and Macau Service Suppliers (香港和澳門服務提供者在廣東省設立旅行社申請審批辦法) jointly promulgated by the NTA and the Ministry of Commerce on 25 December 2008 and implemented on 1 January 2009, if Hong Kong investors meet the conditions set out in CEPA, their application for the establishment of travel agencies in Guangdong province may be directly examined and approved by the Guangdong Provincial Tourism Administration and the Department of Foreign Trade and Economic Cooperation of Guangdong Province, instead of reporting to the NTA and the Ministry of Commerce.

Article 23 of the Regulation on Travel Agencies provides that foreign invested travel agencies shall not operate outbound tourism business for mainland Chinese residents and the business of visiting Hong Kong, Macau and Taiwan, unless the State Council determines otherwise or the CEPA provides otherwise. According to the Pilot Notice, formulated by the NTA and implemented on 13 April 2007, Hong Kong or Macau invested travel agencies registered in Guangdong province may apply for pilot operation of the Guangdong's registered residents' package tours to Hong Kong and Macau. According to Article 2 of the Pilot Notice, application requirements include: (i) the applicant obtained international travel agency qualification for not less than one year; (ii) the applicant has good track record of inbound tourism business operation among its peers; and (iii) there has been no material breach of laws and material service quality issues during its past operations. The application may be approved by the NTA and the approved applicant shall place a bond deposit of RMB1 million with the NTA.

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The term “international travel agency” in Article 2 of the Pilot Notice refers to a travel agency operating inbound tourism business, outbound tourism business and domestic tourism business, whereas a domestic travel agency operates only domestic tourism business under the Regulation on Travel Agencies Administration (旅行社管理條例) which was implemented on 16 October 1996 and abolished on 1 May 2009 by the State Council. The Regulation on Travel Agencies abolished the definition of international travel agency and did not classify travel agencies into international travel agencies and domestic agencies. Under the Regulation on Travel Agencies, a travel agency’s business scope is classified into domestic tourism business, inbound tourism business and outbound tourism business. Pursuant to Article 3 of the Implementation Rules on Travel Agencies, “inbound tourism businesses” refers to the business of soliciting, organising and receiving: (i) foreign tourists as well as Hong Kong, Macao and Taiwan tourists to the PRC; and (ii) foreigners as well as Hong Kong residents, Macau residents and Taiwanese in the PRC to travel within the mainland of China.