



Office of the Auditor General of Ontario

Value-for-Money Audit: Travel Industry Council of Ontario



December 2023

Travel Industry Council of Ontario

1.0 Summary

The Travel Industry Council of Ontario (TICO) was created by the provincial government in 1997 as a not-for-profit designated administrative authority to regulate travel agents and travel wholesalers in Ontario. TICO is responsible for administering and enforcing the Ontario *Travel Industry Act, 2002* (Act), and its mission is to regulate consumer protection by promoting awareness, education and compliance as part of the efficient and effective regulation of Ontario's travel industry.

TICO is self-funded and overseen by the Ministry of Public and Business Service Delivery (Ministry), which monitors TICO's performance to ensure it is meeting its mandate. In 2019/20, the last fiscal year before the pandemic, TICO reported total revenue of \$5.3 million.

Every travel agent and wholesaler with a physical location in Ontario who sells travel services provided by another party must be registered with TICO. As of February 2023, there were 1,701 travel agents and 295 travel wholesalers registered with TICO (together referred to as "registrants").

To ensure that travel agents and wholesalers comply with legislative requirements, TICO undertakes regulatory activities that include inspections and investigations of registrants, and taking enforcement action against those that breach legislative requirements. TICO also attempts to mediate and resolve complaints it receives from consumers about the actions of its

registrants, and undertakes efforts to improve awareness of consumer rights and available protections when purchasing travel services from a registrant.

The Act also establishes the requirement for the Travel Industry Compensation Fund (Compensation Fund), which is administered and managed by TICO, and financed by registrants. The Fund is used to reimburse eligible customers who purchased travel services through TICO registrants and subsequently suffered financial losses related to travel services paid for but not received due to the bankruptcy or insolvency of a registrant or an end supplier airline or cruise line.

Our value-for-money audit found that while the travel industry has changed significantly since 1997, TICO's structure and responsibilities have remained largely unchanged. We compared TICO to travel regulators with similar regulatory requirements and found that other jurisdictions utilized consumer protection organizations or broader government organizations whose mandate included significantly more than just regulating sellers of travel. We also found that the majority of Canadian provinces and most US states do not have travel regulators or specific travel seller regulations at all. As well, we found that the Australian government repealed the country's travel seller regulations in 2014 because it determined that due to changes in the travel industry and other existing consumer protections, they were no longer necessary.

Our audit also found that TICO's cost to administer the Compensation Fund may outweigh the benefits it provides to consumers. TICO's estimated annual cost to

administer the Fund for 2022/23 of \$1 million is nearly three times more than the average of \$350,000 in compensation paid from the Fund to consumers on average over the last 10 years.

As well, using TICO's own recent estimate for its updated fee model for allocating TICO's expenses to the Compensation Fund, we calculated that since 1997 TICO used an estimated \$31 million from the Fund to cover its own operating costs.

Significant concerns identified in our audit include:

- **TICO could not demonstrate the justification for holding as much as \$2 million in security deposits from registrants.** Under the Act's regulation, TICO is required to collect a \$10,000 security deposit from each new registrant. Once the registrant has filed two consecutive financial statements with TICO, TICO is obligated to repay the security deposit if the Registrar has no concerns regarding the registrant's compliance with the Act or its regulation. As of March 31, 2023, we found that 58% of the registrant deposits TICO was holding, which totalled \$2 million, were from registrants who had filed at least two consecutive financial statements. On average, these deposits had been held by TICO for approximately seven years. We found that TICO did not have a process to regularly assess whether registrants qualify to have their security deposit returned. In our review of a sample of 20 deposits from active registrants who were eligible to have their deposits returned, we found that in 13, or 65%, of the cases no concerns were documented that would justify continuing to hold the deposits.
- **TICO's registrant risk rating system was not used to effectively oversee registrants.** We identified several issues with how TICO assigns, calculates and utilizes its risk rating system to inform registrant oversight activities. For instance, as of March 2023, TICO had not assigned a risk rating to 37% of registrants. In addition, TICO's compliance policy had no established guidelines for how the risk rating should be used to drive compliance and enforcement activities.
- **30% of TICO registrants had not received a compliance inspection in the last 10 years.** As of March 2023, 30% of the 1,684 registered travel agencies and wholesalers had not been inspected by TICO to assess their compliance with requirements in the last 10 years, including 44 registrants who had not received a compliance inspection for more than 20 years. We also found that TICO has not established how frequently registrants should be inspected based on their assigned level of risk. TICO's inspections of registrants often identify non-compliance. Over the last five years, 32% of compliance inspections conducted by TICO identified instances of non-compliance with the Act and its regulation.
- **The Ministry and TICO have not established a disciplinary process for registrants.** We found that TICO and the Ministry have not developed a mandatory code of ethics for registrants and a corresponding discipline committee that could impose fines and require registrants to fund educational courses for employees in response to violations of such a code. We reviewed a sample of complaints and found that many related to issues that were not covered under the Act but could be covered under a code of ethics, including for example failing to demonstrate reasonable knowledge of the travel services being sold, and failing to protect the best interests of clients. In contrast to TICO, we noted that both the Ontario Motor Vehicle Industry Council and the Real Estate Council of Ontario, which are also delegated administrative authorities, have discipline committees that enforce a code of ethics.
- **TICO did not know whether complaints involving violations of the Act were referred for enforcement action.** We found that TICO did not track the outcomes of the complaints it handles in its information system, including whether they were resolved, whether they

potentially violated the Act and its regulation, or whether they were referred for further investigation or enforcement action. We reviewed a sample of 40 complaint files relating to 15 registrants against whom TICO had received the highest number of complaints over the five years from 2017/18 to 2021/22, and found that 13, or 33%, of the 40 complaints involved potential violations of the Act and its regulation by registrants that were not referred for investigation or enforcement action as required by TICO's complaint-handling policy when potential violations are identified.

- **TICO has used an estimated \$31.3 million from the Compensation Fund since 1997 to cover its own operating costs.** TICO has routinely used the Compensation Fund to cover its own operating costs, even though legislative requirements allow only reasonable expenses related to the Fund to be paid from the Fund. We analyzed the Fund's balance, and calculated that from 1997/98 to 2022/23, TICO would have charged the Fund approximately \$19.4 million to cover its costs of administering the Fund. Instead, we found that TICO charged the Fund an additional \$31.3 million that it used to cover TICO's operating expenses.
- **The cost to administer the Compensation Fund may outweigh the benefits it provides consumers.** Over the 10 years from 2013/14 to 2022/23, TICO's registrants booked over \$133 billion in travel services for consumers. Over this same period, we found that, on average, the Fund paid approximately \$350,000 in compensation to consumers annually, or less than 0.003% of annual travel services booked by TICO's registrants. TICO's estimated annual cost for 2022/23 to administer the Fund of \$1 million is nearly three times more than the \$350,000 in compensation paid from the Fund to consumers on average over the last 10 years.
- **TICO had been unable to address gaps in key competencies among Board members.** We noted that TICO developed a Board competency matrix in 2018 consisting of 15 competencies that TICO considers critical to achieving its mandate. TICO has also assessed Board member competencies each year since 2018 to identify areas of weakness. We found that even though the vast majority of TICO's Board members had been replaced since 2018, TICO had been unable to close gaps in four of the 15 key competencies on its matrix: legal, risk management, technology, and human resources.
- **Almost half of Ontarians surveyed who were involved in travel planning for their household were unaware of TICO.** Over the last five years, only 51% of Ontarians that were involved in travel planning indicated that they were either "definitely" or "somewhat" aware of TICO. In addition, only 31% of respondents indicated they were aware of the Compensation Fund. To increase consumer awareness, TICO developed a brochure for consumers with information regarding its regulatory role, registrant requirements, protections available under the Act, and Compensation Fund coverage. However, there is no requirement for registrants to distribute the brochure to consumers. In a survey of registrants conducted by TICO in 2023, only 7% of registrants said they were providing the brochure to all of their customers, and only 13% indicated they were providing the brochure to most customers.
- **The Ministry did not collect sufficient information to monitor and assess TICO's performance in meeting its mandate.** For example, TICO did not have performance indicators and targets that it reported to the Ministry to assess the degree to which it operates on a cost-recovery basis, a requirement under its Administrative Agreement with the Minister. We also found that performance indicators had not been established, or were insufficient, to monitor TICO's operational performance in several key areas where our audit identified operational issues, including in the areas of inspections, security deposits, and complaint-handling.

This report contains 16 recommendations, with 32 action items, to address our audit findings.

Overall Conclusion

Our audit concluded that TICO did not have processes to consistently administer the *Travel Industry Act, 2002* effectively in order to register and regulate travel agents and wholesalers, and to protect consumers when purchasing travel services through a travel agent or wholesaler. TICO, for example, could not demonstrate that it effectively discharged its responsibilities under the Act to mediate and resolve complaints because it does not track the outcomes of the complaints it handles, including whether they were resolved or potentially violated the Act and its regulation, and whether they were referred for further investigation or enforcement action. In addition, we found that TICO's oversight and enforcement activities were not always risk-based. Specifically, TICO had not assigned a risk rating to 37% of its registrants, and it had not established guidelines for how a registrant's risk rating should be used to drive TICO's compliance and enforcement activities.

We also found that TICO was not in alignment with key provisions of the Act and its regulation. The regulator could not demonstrate the justification for holding as much as \$2 million in security deposits from registrants who may be eligible to have their deposits returned. On average, these deposits had been held by TICO for approximately seven years. Under the Act's regulation, once the registrant has filed two consecutive financial statements with TICO, if TICO's Registrar has no concerns regarding the registrant's compliance with the Act or its regulation, TICO is obligated to repay the security deposit to the registrant. Further, although the Act and its regulation allow only reasonable expenses that are related to the Compensation Fund to be paid from the Fund, we estimated that since

1997, TICO used over \$31 million from the Fund to cover its own operating costs.

Our audit also concluded that TICO was not fully effective in publicly reporting on its administration of the Act. For example, TICO does not include detailed compliance and enforcement information relating to registrants on its public directory, such as violations of the Act or details of enforcement action taken by TICO so that consumers can make more informed decisions about the travel agents they do business with.

Finally, our audit concluded that the Ministry's oversight processes to ensure that TICO effectively administers the Act and fulfils its mandate were not fully effective. For example, we found that performance indicators had not been established, or were insufficient, to monitor TICO's operational performance in several key areas where our audit identified operational issues, including in the areas of inspections, security deposits, and complaint-handling. In addition, the Ministry had not reviewed whether TICO's structure and assigned responsibilities as a regulator were an efficient and cost-effective way to administer and enforce the Act.

TICO OVERALL RESPONSE

The Travel Industry Council of Ontario (TICO) appreciates the recommendations of the Office of the Auditor General of Ontario and the insights and opportunities presented for improvement. TICO is also thankful for the collaborative and productive relationship with the Ministry of Public and Business Service Delivery (Ministry).

TICO's Board, management and the entire team remain steadfast to the obligations and responsibilities reflected in the *Travel Industry Act, 2002*. As one of the first Delegated Administrative Authorities created in 1997, TICO strives to evolve into a modern and progressive regulator, facilitating a marketplace where consumers are confident in their

travel purchases, and travel businesses operate within a trusted and level playing field.

Regardless of the type of travel, all consumers should be provided with the information required to make sound travel purchase decisions. TICO also serves a significant role ensuring Ontario's travel retailers and wholesalers are compliant with provincial travel laws.

The Auditor General's report will assist TICO in enhancing its processes across registration, inspections, complaints, and the administration of security deposits.

TICO acknowledges that further work and solutions are necessary to gather relevant data to enhance risk-based processes, reporting, and solutions.

TICO strives to be innovative and acutely focused on its consumer and registrant awareness initiatives. In a large province, TICO must carefully leverage its resources to reach consumers.

TICO also appreciates the recommendations concerning the industry-financed Compensation Fund and the organization's overall consumer protection mandate. TICO remains open to working with the Ministry and other stakeholders to consider the future travel consumer protection framework for Ontario, always in the public interest. These recommendations align with TICO's goal of always providing and evolving its value proposition to stakeholders.

The pandemic represented a devastating period for Ontario's travel industry. With the travel industry recovery accelerating, there is a clear opportunity for TICO to embrace these recommendations and implement strategies in support of a strong travel consumer protection framework that effectively advances the public interest.

MINISTRY OVERALL RESPONSE

The Ministry of Public and Business Service Delivery (Ministry) would like to thank the Auditor General and his staff for their work on the audit and recommendations. The Ministry welcomes feedback on how the Travel Industry Council of Ontario (TICO) is performing and the Auditor General's recommendations on how to strengthen TICO's operations and the Ministry's oversight of TICO.

The Ministry recognizes the importance of TICO fulfilling its responsibilities to administer and enforce the *Travel Industry Act, 2002* (Act) in a manner that protects consumers.

The Ministry notes that the Auditor General has recommended that the Ministry:

- conduct a comprehensive review of the Act and its regulation, and of TICO's existing mandate, structure and responsibilities; and
- based on that review, propose regulatory updates to make Ontario's regulatory framework more efficient and effective.

In response, the Ministry will carefully consider the observations and recommendations made by the Auditor General, which will inform a proposal for government consideration to undertake a review of the Act and TICO. The Ministry will also analyze the results from TICO's fee and Compensation Fund review process, including stakeholder feedback received in fall 2023, as part of this process. The Ministry will develop an implementation plan, including timelines, which considers this key recommendation, as appropriate.

For those recommendations directed to TICO that are not linked to a potential review of the Act or TICO, the Ministry will request that TICO provide an implementation plan that outlines the specific steps that it plans to take to implement each recommendation. The Ministry will closely monitor and track TICO's progress in addressing the recommendations.

2.0 Background

2.1 Overview of the Travel Industry Council of Ontario

In 1997, the government of Ontario created the Travel Industry Council of Ontario (TICO), a not-for-profit administrative authority under the *Safety and Consumer Statutes Administration Act, 1996*, to regulate travel agents and travel wholesalers in Ontario (together referred to as “registrants”). TICO is responsible for administering and enforcing the *Ontario Travel Industry Act, 2002* (Act). Its mission is to regulate consumer protection by promoting awareness, education and compliance as part of the efficient and effective regulation of Ontario’s travel industry.

Every travel agent and wholesaler with a physical location in Ontario that sells travel services provided by another party must be registered with TICO. As of February 2023, there were 1,701 travel agents and 295 travel wholesalers registered with TICO.

TICO primarily funds its operations by collecting registration and other fees from registrants. The organization does not typically receive government funding. However, in response to the COVID-19 pandemic, TICO received temporary operating funding from the Ministry of Public and Business Service Delivery (Ministry) and waived registrant fees from the 2020/21 fiscal year through 2022/23 to provide some relief to registrants. In 2019/20, the last fiscal year before the pandemic, TICO reported total revenue of \$5.3 million.

TICO is accountable to the Ministry, which oversees TICO and monitors its performance to ensure it is meeting its mandate. TICO’s Board of Directors is accountable for TICO’s performance to the Minister of Public and Business Service Delivery (Minister) through the Board Chair.

2.2 Roles and Responsibilities

TICO undertakes a number of activities to administer and enforce the *Travel Industry Act, 2002*, and fulfil its mandate, including:

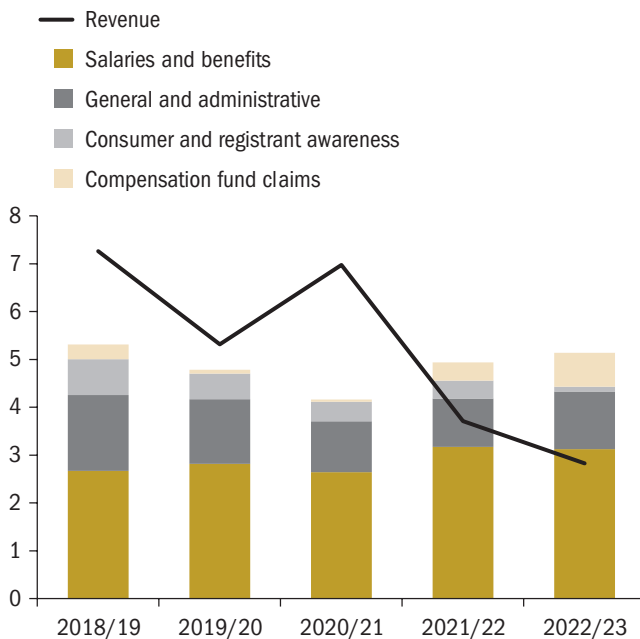
- registration of travel agents and travel wholesalers (see **Section 2.4**);
- conducting inspections of registrants (see **Section 2.5.1**);
- conducting investigations of suspected breaches of the Act (see **Section 2.5.2**);
- taking enforcement action against registrants when complaints, inspections or investigations identify that they have not complied with legislative provisions (see **Section 2.6**);
- resolving complaints from consumers against registrants or TICO, and complaints from registrants against TICO (see **Section 2.7**);
- administering the Travel Industry Compensation Fund (Compensation Fund), which reimburses eligible customers who paid for, but did not receive, travel services because of the bankruptcy or insolvency of a registrant or end-supplier airline or cruise line (see **Section 2.8**); and
- promoting consumer and public awareness of TICO’s mandate and consumer protections available under the Act.

As of June 2023, TICO employed 28 full time-equivalent employees, whose responsibilities include processing registration applications, conducting inspections and investigations, resolving complaints, and responding to inquiries from the public and registrants. See **Appendix 1** for an overview of TICO’s organizational structure.

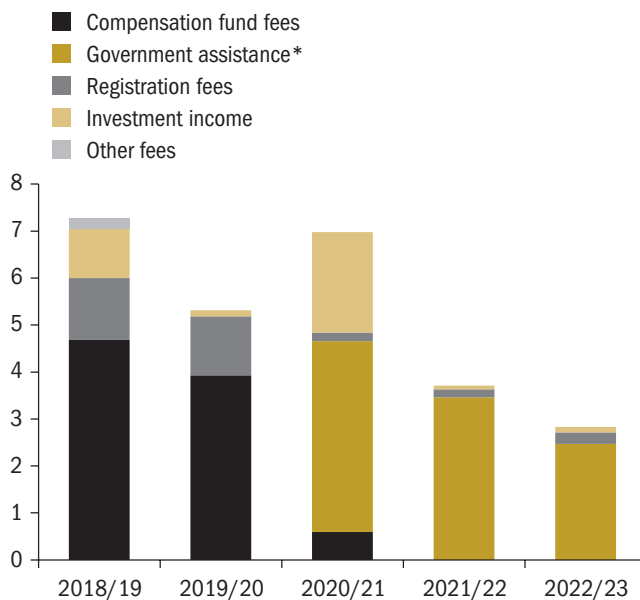
TICO was previously governed by an 11-member Board of Directors comprised of seven industry members appointed or elected by travel industry associations and registrants, and four members appointed by the Minister. **Appendix 2** lists TICO’s 11 Board members and their affiliations as of June 2023. As described in **Section 4.4.1**, in August and September 2023, at the conclusion of our audit work, the composition of TICO’s Board was modified, reducing it to nine members, a maximum of three of which can be representatives of the travel industry and registrants.

Figure 1: TICO Expenses, 2018/19–2022/23 (\$ million)

Source of data: Travel Industry Council of Ontario

**Figure 2: TICO Revenues, 2018/19–2022/23 (\$ million)**

Source of data: Travel Industry Council of Ontario



* In response to the COVID-19 pandemic, TICO received temporary operating funding from the Ministry and waived registrant fees from the 2020/21 fiscal year through 2022/23 to provide some relief to registrants.

2.3 Revenue and Expenditures

Figure 1 shows TICO's key expenditures over the five years from 2018/19 to 2022/23. About 60% of TICO's expenditures over this period related to the salaries and benefits of its employees. During the same period TICO also spent \$2.2 million, or 9%, on consumer and registrant awareness initiatives such as media advertisements.

TICO is a not-for-profit organization that funds its operations by collecting fees from registrants for the services it provides. However, to support the struggling travel and tourism industry during the COVID-19 pandemic, the Ministry provided temporary operating funding to TICO between the 2020/21 and 2022/23 fiscal years so that TICO could continue to operate and fulfil its consumer protection mandate, and waive registration renewal and Compensation Fund fees for registrants. As shown in **Figure 2**, TICO received \$4.1 million, \$3.5 million, and \$2.5 million from the Ministry in 2020/21, 2021/22, and 2022/23, respectively. For 2023/24, TICO returned to a cost-recovery fee structure, as required under the Administrative Agreement between TICO and the Minister.

As shown in **Figure 2**, prior to 2020/21, over 60% of TICO's revenue was generated through fees charged to registrants for the Compensation Fund, and about 20% was from registration fees. As shown in **Figure 3**, TICO charges registrants an initial registration fee based on the number of offices a travel agent or wholesaler has, an annual registration renewal fee based on Ontario gross sales and number of branch offices, and a Compensation Fund fee based on sales made in Ontario.

2.4 Registration of Travel Agents and Wholesalers

Every travel agent and wholesaler with a physical location in Ontario that sells travel services provided by another party must be registered with TICO. Under the Act, travel services are defined as transportation or sleeping accommodation for use by a traveller,

tourist, or sightseer, or other services combined with those transportation or sleeping accommodations.

Figure 4 outlines the process for determining whether registration with TICO is required. **Figure 5** provides a

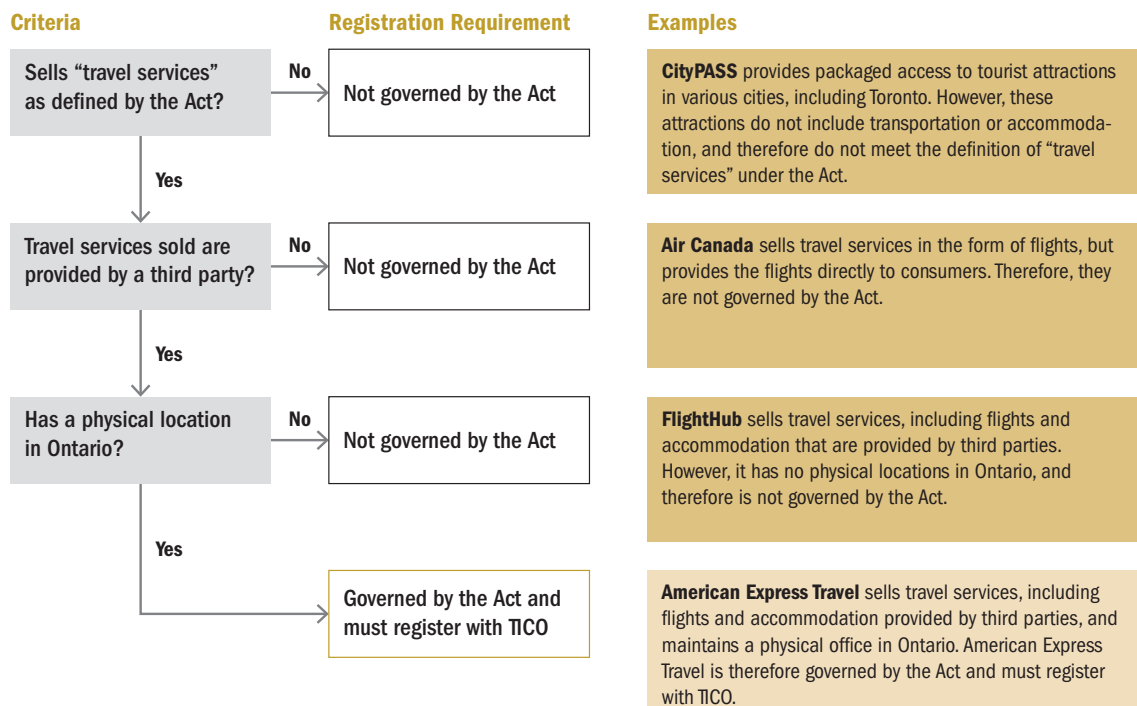
Figure 3: TICO Fee Schedule

Source of data: Travel Industry Council of Ontario

	Fee Charged	Frequency
Initial Registration Fee		
Head office	\$3,000	One-time
Branch office	\$800	One-time
Renewal Fees by Ontario Gross Sales		
< \$2 million	\$300	Annual
\$2–\$5 million	\$600	Annual
\$5–\$10 million	\$900	Annual
\$10–\$50 million	\$1,200	Annual
> \$50 million	\$1,800	Annual
Renewal Fees by Branch		
Branch office (per branch)	\$300	Annual
Compensation Fund		
Compensation fund fee	Greater of \$25, or 25 cents per \$1,000 Ontario gross sales	Semi-annual

Figure 4: Registration Criteria and Examples

Prepared by the Office of the Auditor General of Ontario



description of the two types of registration categories and the related application requirements.

As of February 2023, there were 1,701 registered travel agents (comprised of 1,394 head offices and 307 branch offices) in Ontario and 295 registered

travel wholesalers (comprised of 290 head offices and five branch offices). **Figure 6** shows the percentage of TICO registrants by Ontario gross sales at the time of their most recent registration renewal.

Figure 5: Registration Types and Related Requirements

Source of data: Travel Industry Council of Ontario

Type of Registration	Applicant Requirements for Registration
Travel Agent: A party with a physical location in Ontario that sells travel services to consumers that are provided by another party.	<ul style="list-style-type: none"> • application fee (see Figure 3); • a resumé and letters of reference from previous employers; • a designated supervisor/manager, who must have a minimum of three years of travel industry experience and must hold the TICO supervisor/manager certification (described in Section 2.4); • a commercially zoned business address or, if operating from a dwelling, a letter of approval from the local municipality; • at least one officer or director who is a resident of Canada; • opening pro forma balance sheet or current financial statements indicating a positive working capital; • security deposit of \$10,000; • confirmation of trust accounts (i.e., a letter from a financial institution in Ontario); • disclosures of all particulars regarding any bankruptcies, judgments, and discharges; and • criminal-record check for each owner, officer, director, shareholder and designated manager named on the application.
Wholesaler: A party with a physical location in Ontario that acquires the rights to travel services for the purpose of resale to a travel agent, or that carries on the business of dealing with travel agents or travel wholesalers to sell travel services provided by another party.	<ul style="list-style-type: none"> • all of the same requirements listed for travel agents above; • a business/marketing plan; and • written approval from TICO's Registrar prior to entering into any risk contracts with air carriers (e.g., bulk purchases of airline seats).

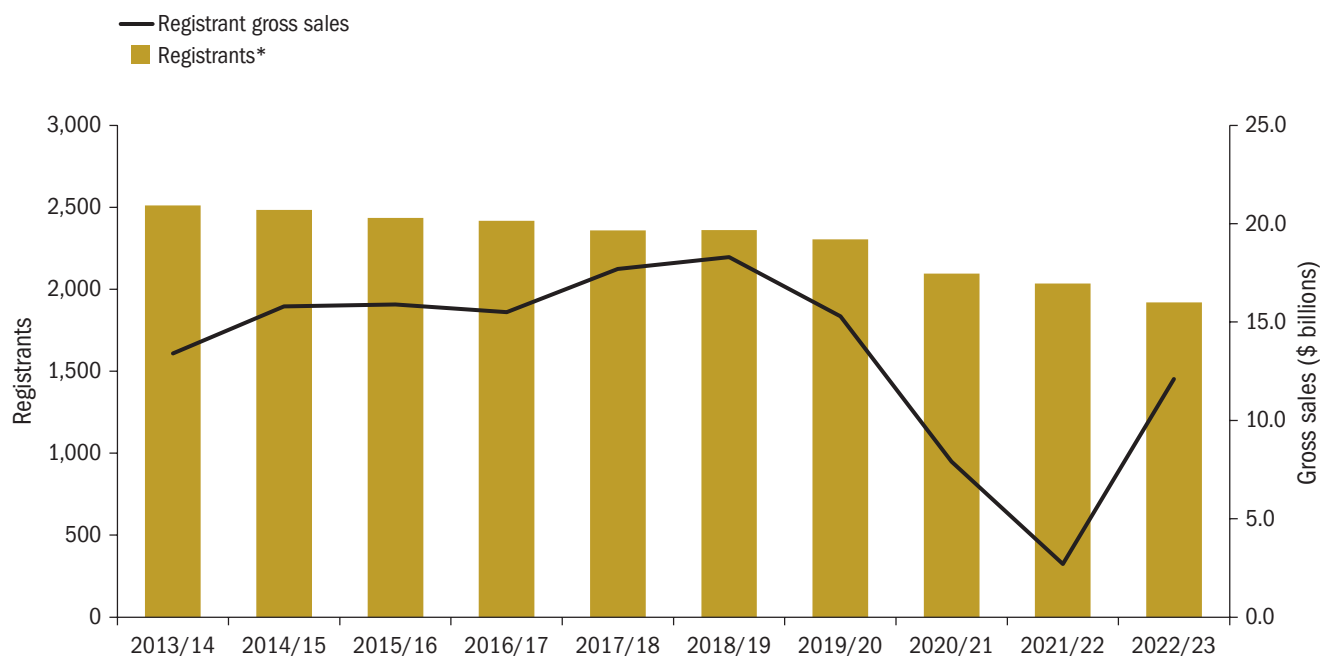
Figure 6: Percentage of Registrants by Ontario Gross Sales at Most Recent Renewal, March 31, 2023

Source of data: Travel Industry Council of Ontario

Ontario Gross Sales	Registrants (%)
< \$2 million	72
\$2-\$5 million	14
\$5-\$10 million	7
\$10-\$50 million	5
> \$50 million	2

Figure 7: Registrant Count and Ontario Gross Sales of Registrants, 2013/14–2022/23

Source of data: Travel Industry Council of Ontario



* Registrant count as of March 31 of each year.

Figure 7 shows the number of registrants and their Ontario gross sales reported to TICO. As the chart illustrates, in the period prior to the COVID-19 pandemic, the number of registrants was in a slow but steady decline, while the gross sales reported by registrants had actually increased significantly from 2013/14 to 2018/19. This is consistent with the increase in travel and tourism seen in Canada and worldwide.

As shown in **Figure 7**, the COVID-19 pandemic, which began near the end of fiscal year 2019/20, has had a significant impact on the industry. From 2013/14 to 2018/19, the number of registrants decreased by 6%, while registrant gross sales increased by 37%. In contrast, between 2018/19 and 2021/22, the number of registrants decreased by 14% while registrant gross sales declined by 85%, from \$18.3 billion to just \$2.7 billion. Registrants saw a significant rebound in sales in 2022/23 as the industry began to recover from the pandemic, reaching \$12.1 billion, or 66%, of sales prior to the pandemic in 2018/19, while the number of registrants continued to decline.

TICO registrants sell a significant portion of the travel services booked by Ontarians. The \$18.3 billion in gross sales reported by registrants in 2018/19 (the last full year before the pandemic) is 48% of the approximately \$38.3 billion that Ontario residents spent while travelling in calendar year 2019, according to Statistics Canada's National Travel Survey.

Registrant Employee Certification Requirements

TICO does not have the authority under the Act to register or regulate individual employees of registrants such as salespeople. However, the regulation under the Act does require that travel agents ensure that any employees or contractors who sell travel services to consumers obtain TICO's Travel Counsellor certification. Every travel agent office is also required to have at least one supervisor/manager who, in addition to holding a Travel Counsellor certification, must obtain TICO's Supervisor/Manager certification. Both certifications are obtained by completing an online self-study program and exam. Details of each certification are outlined in **Figure 8**.

Figure 8: Travel Counsellor and Supervisor/Manager Certification Requirements

Source of data: Travel Industry Council of Ontario

	Travel Counsellor	Supervisor/Manager
Prerequisite	None	Travel Counsellor certification
Exam length	90 minutes	60 minutes
Exam questions	50 multiple choice	30 multiple choice
Average passing score	70%	70%
Self-study program topics	<ul style="list-style-type: none"> • Ontario's <i>Travel Industry Act, 2002</i> • TICO's role in the travel industry • Registrant obligations—before the sale • Registrant obligations—after the sale and before customer travels • Travel Industry Compensation Fund 	<ul style="list-style-type: none"> • Registration requirements • Financial and record-keeping requirements • Complaints • Investigations and offences

2.5 Inspections and Investigations

2.5.1 Inspections of Travel Agents and Wholesalers

TICO conducts inspections of travel agents and wholesalers to ensure its registrants conduct business in accordance with the Act and Ontario Regulation 26/05 (regulation), and remain entitled to registration. TICO's compliance team consists of one manager, five inspectors, and an analyst who report to the Chief Operating Officer. Under the Act, TICO's inspectors have unrestricted access to inspect a registrant's business premises, documents, and records (including financial records, past transactions, and bank statements). TICO also assigns a risk rating of low, medium or high to its registrants based on the outcome of a registrant's on-site inspection. **Figure 9** describes the types and timing of inspections conducted by TICO.

Depending on the severity of the issues found, the inspector, at their discretion, can perform a follow-up inspection to verify if the registrant has corrected the identified compliance violations. In cases where an inspector identifies severe compliance violations, the inspector is required to bring the matter to the Chief Operating Officer for review, and the registrant may face a subsequent investigation (described in **Section 2.5.2**) or be subject to further enforcement action (described in **Section 2.6**), including charges under the Act and/or a proposal to revoke or suspend their registration.

Over the last five years, TICO conducted a total of 1,490 inspections. **Figure 10** shows the number of inspections that TICO has conducted in each of the past five years by inspection type.

In addition to inspections, TICO performs a review of each registrant's financial statements annually for compliance with the Act and its regulation. As deemed necessary, TICO also performs remote reviews of registrant compliance with non-financial requirements of the Act and its regulation, such as whether registrant invoices meet disclosure requirements or whether registrant advertising is misleading.

2.5.2 Investigations of Registrants and Non-Registrants

TICO can investigate individuals who act as travel agents or wholesalers in Ontario but fail to register, as well as registrants who have committed or are alleged to have committed violations of the Act and its regulation. While it is not uncommon for TICO to identify that a registrant has violated the Act or its regulation, TICO can revoke or suspend the registration of registrants with more serious or repeated violations and refer the matter to TICO's investigations team for further inquiry. Such violations include mishandling of consumer deposits, dishonest conduct, misappropriation of assets (such as consumer trust funds) and misleading business practices. Investigations that confirm serious

Figure 9: Registrant Inspection Types

Source of data: Travel Industry Council of Ontario

Type	Timing	Scope
Compliance inspection	When deemed necessary	Compliance inspections are conducted in response to issues such as: <ul style="list-style-type: none"> • concerns identified during registration renewal; • medium or high registrant risk ratings; and • concerns raised through the complaints process.
New registrant inspection	Within six months of registration	The purpose of this inspection is to: <ul style="list-style-type: none"> • educate new registrants about their obligations under the Act; • verify the registrant's location and display of TICO registration; and • review accounting records, with a focus on trust accounts.
Closure inspection	Within 30 days of closure	These inspections are conducted to ensure terminated, lapsed or suspended registrants are no longer operating. Closure inspections include visiting the registrant's location(s) and searching the Web to confirm operations have ceased or have been suspended.

Figure 10: Number of Inspections Conducted by Type, 2018/19–2022/23

Source of data: Travel Industry Council of Ontario

Inspection	2018/19	2019/20	2020/21	2021/22	2022/23	Total
On-site compliance inspections	180	196	10	12	105	503
Remote inspections*	–	8	259	154	59	480
New registrant inspections	88	69	–	–	32	189
Closure inspections	103	111	2	1	101	318
Total	371	384	271	167	297	1,490

* During the COVID-19 pandemic, TICO suspended all on-site inspections. Remote inspections were conducted with a more limited scope. TICO has since resumed conducting full, on-site inspections.

violations of the Act and its regulation can result in enforcement action (described in **Section 2.6**) that can include laying provincial offences charges with penalties of up to two years in prison, and a fine of up to \$50,000 for individuals or \$250,000 for corporations.

TICO has one investigator who is appointed as a Provincial Offences Officer under the *Provincial Offences Act*. Investigations are initiated as a result of information received from various sources, including referrals from internal departments, such as Compliance and the Compensation Fund program. Complaints from a consumer or registrant can also trigger an investigation. TICO's Chief Operating Officer reviews the preliminary information of the allegation and issues

a written order to the Provincial Offences Officer to initiate the investigation. As shown in **Figure 11**, TICO conducted 47 investigations from 2018/19 to 2022/23. Almost two-thirds of these investigations involved investigating whether non-registered entities were actually required to register.

2.6 Enforcement Action

TICO can take various enforcement actions when violations of the Act and its regulation are identified through its inspections and investigations. **Figure 12** lists the type of enforcement action that TICO can take in response to violations.

Figure 11: Investigations Conducted by TICO, 2018/19-2022/23

Source of data: Travel Industry Council of Ontario

Type	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Non-registrant	9	3	1	7	10	30
Registrant	3	5	1	3	5	17
Total	12	8	2	10	15	47

Figure 12: Types of Enforcement Action Available to TICO

Source of data: Travel Industry Council of Ontario

Enforcement Action	Description
Warning letter	TICO sends warning letters to registrants identifying compliance issues, including a deadline date for the registrant to correct the issue.
Inspections Findings Reports	Inspections Findings Reports are issued to registrants at the conclusion of an inspection outlining the compliance violations noted during the inspection. The registrant is required to sign the report and correct the violations.
Conditions on registration	TICO can impose conditions on a travel agency or wholesaler's registration. For example, it can require the registrant to: <ul style="list-style-type: none"> • take TICO education webinars; • provide additional security above the \$10,000 minimum at initial registration; and • provide monthly trust reconciliations to demonstrate compliance with trust requirements.
Notice of Proposal to revoke or suspend registration	In cases involving a registrant with significant violations against the Act and its regulation, the Registrar has the ability to issue a Notice of Proposal to refuse or suspend registration. Registrants have the right to appeal the proposal to the Licence Appeal Tribunal (LAT), an independent quasi-judicial agency in Tribunals Ontario.
Immediate temporary suspension	In rare but serious cases, the Registrar can issue an immediate 15-day suspension of a registrant. This suspension is used to prevent a registrant who has received a notice to revoke or suspend registration from operating during the appeals process to LAT, as appeals must be made in front of LAT within 15 days.
Provincial offence charges	TICO's Investigator, who is also a Provincial Offences Officer, has the authority to lay charges and prosecute offences in Provincial Court against registrants and non-registrants for breaches of the Act and its regulation. The maximum penalty for an individual who is convicted of an offence under the Act is a fine of \$50,000 and/or imprisonment of two years less a day. The maximum fine for a corporation is \$250,000.
Bank freeze orders	To protect consumer deposits, TICO can issue an order to freeze the bank accounts of current or former registrants, or non-registrants who sold travel services.
Order of registrar regarding false advertising	The registrar can issue an order to remove, retract or amend false, misleading or deceptive advertising by a registrant.

Figure 13 shows the number of enforcement actions TICO has taken by type from 2018/19 to 2022/23.

2.7 Complaint-Handling

TICO's legislated responsibilities include addressing complaints it receives about the actions of its registrants. A complaint to TICO can be initiated online, or by email, mail or telephone. Registrants are required to provide information about the complaint if requested

to do so by TICO. The steps TICO takes to address complaints are outlined in **Figure 14**.

When handling a complaint, the Act allows TICO to attempt to mediate or resolve the complaint between the parties. However, TICO does not have the authority to settle a dispute, or to impose a settlement through the complaints process. In the last five years, TICO closed 1,241 complaints against registrants. **Figure 15** shows the number of complaints handled by TICO in each of the last five years.

Figure 13: TICO Enforcement Actions 2018/19–2022/23

Source of data: Travel Industry Council of Ontario

	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Conditions placed on registration	8	2	3	0	23	36
Registration suspensions	1	–	2	1	4	8
Registration revocations	7	10	1	7	17	42
Persons/organizations convicted of provincial offences*	8	7	3	2	4	24

* Trial scheduling was unavailable at provincial offences courts for parts of 2020/21 and 2021/22 due to COVID-19 restrictions, limiting the number of convictions obtained by TICO.

Figure 14: Steps in TICO's Complaints Handling Process

Source of data: Travel Industry Council of Ontario

Step	Description
1. Determine whether the complaint involves possible violation of the <i>Travel Industry Act, 2002</i> and its regulation	Complaints that involve possible violation of the Act and its regulation are referred for review to the Inspections/Compliance team, or potentially to Investigations, depending on evidence and severity. Referrals are handled separately to the complaints process.
2. Encourage the complainant to first contact the registrant in an attempt to reach an equitable resolution	Before accepting a complaint, TICO asks consumers to put their complaint in writing to the registrant, explaining why they are not satisfied and how the matter could be resolved to their satisfaction.
3. If the consumer is unable to resolve their complaint directly with the registrant, open a formal complaint	TICO will send a complaint form to the consumer, which must be completed and returned to TICO with all supporting documentation.
4. Contact the registrant	TICO will provide the registrant with a copy of the complaint, quote the applicable sections of the Act and regulation, and request a written reply about the registrant's position on the matter.
5. Close the complaint file	TICO will close the complaint when either a mutual settlement is reached, or when a mutual settlement cannot be reached. In instances where a settlement cannot be reached, TICO advises consumers that they may wish to seek legal counsel and/or pursue their complaint through the legal system.

Figure 15: Complaints Closed, Restitution Collected, and Average Closure Time, 2018/19–2022/23

Source of data: Travel Industry Council of Ontario

	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Number of complaints closed	154	139	605 ¹	139	204	1,241
Restitution collected from registrants²	\$77,892	\$71,102	\$3,112,251 ¹	\$156,953	\$353,682	\$3,771,880
Average turnaround time for complaints closed (in days)	30	43	55	55	59	

1. TICO experienced a significant increase in the number of complaints it handled as a result of travel restrictions during the COVID-19 pandemic.

2. Restitution includes money returned to consumers, or the dollar value of travel credits received by consumers.

If a complaint alleges more serious violations of the Act and its regulation, TICO may escalate the complaint for enforcement action (described in **Section 2.6**), including laying charges against the registrant, and/or proposing to revoke or suspend their registration. Such violations by the registrant include the following instances:

- false, misleading or deceptive representation of travel services being offered to consumers;
- withholding refunds or travel credits owed to the consumer;
- suspected fraudulent activity by the registrant in a transaction with the consumer;
- charging fees that were not disclosed to the consumer at the time of booking; and
- deducting commissions lost if a trip is cancelled, or charging fees and penalties not disclosed at time of booking from refundable amounts to the consumer.

2.8 The Travel Industry Compensation Fund

Under the Act's regulation, TICO is required to administer, manage and maintain the Travel Industry Compensation Fund (Compensation Fund) to reimburse eligible customers who purchased travel services through a TICO-registered travel agent and subsequently suffered financial losses related to travel services paid for but not received due to the bankruptcy or insolvency of a registrant or an end supplier

airline or cruise line. A claim must be filed with TICO within six months after the registrant or end supplier ceases to carry on business. Consumers can file two types of claims against the Compensation Fund:

- **Standard Claim:** A claim for travel services that were paid for but never received as a result of the failure of a travel agency, travel wholesaler, or an airline or cruise line.
- **Trip Completion Claim:** A claim for reasonable expenses (e.g. the cost of airfare, car hires or other transportation, accommodation and meals) incurred to complete a trip where a customer or another person has begun a trip that cannot be completed because travel services have not been provided as the result of the closure of a TICO registrant.

Consumers are eligible to claim from the Compensation Fund up to a maximum of \$5,000 per person. The maximum payout for claims arising out of an event (e.g., multiple customers involving the same travel agency or airline) is \$5 million for standard claims alone, and \$7 million for standard claims and trip-completion claims combined. The eligible claim amount per person is pro-rated if the total value of claims exceeds these maximums.

The Compensation Fund does not protect consumers who purchase travel services directly from end suppliers (e.g., airlines, hotels, and cruise lines), or from out-of-province travel agents and wholesalers.

Every TICO registrant is required to participate in the Compensation Fund, which is financed in whole by

registered travel agents and wholesalers. Registrants are required to pay the greater of \$25, or 25 cents per \$1,000 of Ontario gross sales, on a semi-annual basis.

TICO's Board is responsible for managing the Compensation Fund, and making decisions on claims for eligibility and claim amounts, as set out by the Act's regulation. The Board meets at least five times a year to review and make decisions on claims. The Board can incur reasonable expenses to administer, maintain and protect the Fund, including fees for legal, actuarial, audit services, and consumer awareness and education expenses related to the Fund.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether the Travel Industry Council of Ontario (TICO) has effective and efficient processes in place to:

- administer the *Travel Industry Act, 2002* (Act) to register and regulate travel agents and wholesalers, and to protect consumers when purchasing travel services through a travel agent or wholesaler; and
- measure and publicly report on the effectiveness of its administration of the Act.

In addition, our audit assessed whether the Ministry of Public and Business Service Delivery (Ministry) has oversight processes in place so that TICO effectively administers the Act, including effectively registering and regulating travel agents and wholesalers.

Before starting our work, we identified the audit criteria we would use to address our audit objectives. These criteria were established based on a review of applicable legislation, policies and procedures. Senior management at TICO and the Ministry reviewed and agreed with our objective and associated audit criteria as listed in **Appendix 3**.

We conducted our audit between January 2023 and September 2023. We obtained written representation

from TICO's management and the Ministry that, effective November 17, 2023 they have provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

Our audit work at TICO was focused on the period covering TICO's previous five fiscal years, from April 1, 2018 to March 31, 2023. However, in some areas we analyzed data going back as far as TICO's inception in 1997. The focus of our audit was on examining TICO's main areas of responsibility:

- registration of travel agents and wholesalers;
- registrant oversight and enforcement;
- managing and administering the Travel Industry Compensation Fund;
- promoting consumer and public awareness of TICO's mandate and consumer protections available under the Act; and
- board governance.

In conducting our work, we interviewed staff at TICO responsible for issuing and renewing registrations to travel agencies and wholesalers, and conducted walkthroughs of the registration process. We also interviewed TICO staff responsible for resolving complaints against registrants, and conducted walkthroughs of the complaint process. We reviewed how they handled complaints, including evidence gathered and restitution secured for complainants.

To aid in our understanding of TICO's enforcement actions, we also interviewed inspectors and the investigator/provincial offences officer, and reviewed past inspection/investigation records on a sample basis. To observe how TICO conducts its inspections, we accompanied TICO inspectors on inspections of registrants between June and September 2023. We obtained access to TICO's information systems to collect and analyze data for registrations, complaints, inspections and investigations.

To evaluate TICO's governance structure, we engaged in discussions with some current members

of TICO's Board of Directors and TICO's Consumer and Industry Advisory Committee. We also reviewed meeting minutes, Board materials, Board member backgrounds, and Board member skills and competencies, including member appointment records.

We engaged in discussions with representatives of the primary stakeholder groups, including the Association of Canadian Travel Agencies (ACTA), the Canadian Association of Tour Operators (CATO), and the Ontario Motor Coach Association (OMCA).

We conducted jurisdictional scans to identify best practices in other jurisdictions including British Columbia, Quebec, the United States, Australia, and the United Kingdom.

The audit also evaluated the Ministry's oversight function of TICO's operations and performance through a review of past communications, evaluations and reports. In addition, we engaged in discussions with key personnel from the Ministry who regularly interact with TICO staff.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies Canadian Standards on Quality Management and, as a result, maintains a comprehensive system of quality management that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Registration of Travel Agents and Wholesalers

4.1.1 TICO Could Not Demonstrate the Justification for Holding as Much as \$2 Million in Security Deposits from Registrants

We found that as of March 31, 2023, the Travel Industry Council of Ontario (TICO) was holding as much as \$2 million in security deposits collected from travel agencies and wholesalers at the time of their initial registration. It could not demonstrate the rationale for doing so based on the requirements in the Act's regulation.

Under the Act's regulation, TICO is required to collect a \$10,000 security deposit from each new registrant. Once the registrant has filed two consecutive financial statements with TICO, the organization is obligated to repay the security deposit to the registrant within a reasonable amount of time if the Registrar has no concerns regarding the registrant's compliance with the Act or its regulation.

TICO's policy states that the Financial Compliance team should determine "on a regular basis" if the registrant qualifies for return of the security deposit. However, we found that TICO's policy did not include a definition of what constitutes a regular basis, and we found that TICO did not regularly assess whether registrants qualify to have their security deposits returned. We also found that TICO does not track in its information system whether the Registrar has concerns about a registrant that would justify continuing to hold their deposit.

We found that as of March 31, 2023, 58% of the \$3.4 million in registrant deposits being held by TICO, or \$2 million, was from 184 registrants who had filed at least two consecutive financial statements, and therefore could potentially have their deposits returned. Our analysis also found that:

- on average, the \$2 million in security deposits had been held for approximately seven years; and
- \$510,000 in security deposits were being held from 48 past registrants who were no longer registered with TICO.

Many of these registrants may be unaware that they may be entitled to have their security deposit returned, or may simply have forgotten, and TICO could not consistently demonstrate it had made efforts to return the funds.

We looked at a sample of 20 deposits from active registrants who had already filed at least two consecutive financial statements and found that in 13, or 65%, of the cases no concerns were documented that justified continuing to hold the deposits.

For approximately three years during the COVID-19 pandemic, TICO made the decision to put a pause on returning registrant security deposits due to concerns that the market would cause many registrants to experience financial difficulties and that, therefore, customer deposits might be lost. However, we noted that the Act's regulation does not appear to allow registrant deposits to be held due to expected changes in market conditions. Instead, the regulation specifically states that deposits are to be returned if the Registrar has no concerns about the registrant's compliance with the Act or its regulation, and therefore holding deposits should be assessed on a case-by-case basis.

RECOMMENDATION 1

So that the Travel Industry Council of Ontario (TICO) complies with the *Travel Industry Act, 2002* (Act) and its regulation, and handles registrant security deposits fairly, we recommend that TICO:

- immediately assess all registrant security deposits held for more than two years, and return all deposits where the Registrar has no concerns over the registrant's compliance with the Act and its regulation;
- establish a reasonable target time frame to review and return registrant security deposits where TICO does not have any concerns about

a registrant's compliance with the Act and its regulation; and

- develop and implement a process for reviewing and returning registrant security deposits within the established target time frame.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation to immediately assess all registrant security deposits held for more than two years. TICO has commenced assessing security deposits for return to registrants, and is in the process of updating its policy to include a reasonable target time frame to review and return registrant security deposits where TICO does not have any concerns about a registrant's compliance with the *Travel Industry Act, 2002* and its regulation. Additionally, TICO has already begun work on developing and implementing systems and process enhancements for reviewing and returning registrant security deposits within the established target time frame, which will also be incorporated in its policy.

4.1.2 TICO Has Not Accurately Measured Application Processing Times, and Applications Were Often Delayed

We found that TICO had only recently started tracking how long it takes to process applications for registration, and that its measurement of processing time ignored several factors under its control that could have impacted how quickly an application was processed. We also found that applications were often delayed because they were submitted without all the required information (discussed in **Section 2.4**), and that TICO had limited controls in place to prevent the submission of incomplete applications.

In its 2022 Business Plan, TICO formalized its target to process applications within 30 days of receiving all required documentation from the applicant, and began measuring this processing time as of July 2022. Prior to this, TICO did not track the date it had

received all required documentation from the applicant. TICO reported in its 2022/23 annual report that between July 2022 and the end of the 2022/23 fiscal year on March 31, 2023, it processed 114 applications for registration in an average of 32 days, with 61% of the applications meeting TICO's 30-day target. However, measuring processing times after the receipt of all required documentation does not capture several factors under TICO's control, including:

- how effective TICO is at ensuring applicants are aware of, and include, all the documentation needed in their initial application;
- how long it takes TICO staff to review applications for completeness after they are received;
- how long it takes TICO staff to notify applicants when additional information is required; and
- how quickly TICO staff respond to applicant questions.

We conducted our own analysis of TICO's application processing times using TICO's data showing when applications were opened and closed. Our analysis showed that over the five years from 2018/19 to 2022/23, TICO processed 294 applications for registration in an average of 46 days, with 51% of the applications taking more than 30 days to process, and 18% taking more than 60 days (see **Figure 16**).

We reviewed a sample of 25 application files that took longer than 30 days to process, and found that due to inconsistencies in when applications were opened in TICO's information systems, the average processing time in **Figure 16** was likely understated. In multiple applications included in our sample, the open date in TICO's system was significantly later than when

the application was actually received—over 10 days longer in multiple instances.

Processing applications for registration on a timely basis is important because delays can be costly to applicants. Travel agent and wholesaler applicants are required to include a \$3,000 registration fee, as well as a \$10,000 security deposit. For smaller travel agencies, such as those that consist of only one individual acting as both the owner and customer-facing agent, this can represent a significant financial investment. Applicants cannot begin selling travel services and recuperating their investment until TICO has approved their application.

Applications for Registration Were Often Sent Incomplete

We reviewed a sample of 25 applications for registration that took longer than 30 days to process, and found that all 25 were initially missing key information or supporting documents required by TICO. Information missing from the sampled applications included financial statements, letters from banks verifying applicants' trust accounts, criminal checks for shareholders, and the names of officers and directors. This resulted in increased time for TICO staff to follow up on and obtain missing information from applicants.

We found that a key reason that applications were incomplete when initially submitted was that the applications are paper-based and could not be submitted electronically. As a result, no controls were in place to prevent an applicant from applying with incomplete information. We also found that TICO's application form did not outline the specific financial information that TICO needs to review and approve an applicant for registration.

Figure 16: TICO New Registrant Application Processing Times, 2018/19-2022/23

Source of data: Travel Industry Council of Ontario

	2018/19	2019/20	2020/21	2021/22	2022/23	5-Year
Number of applications processed	71	62	42	51	68	294
Average processing time (in days)	36	36	94	31	45	46

Note: Excludes branch office applications.

For example, although TICO requires applicants to have positive working capital (where current assets exceed current liabilities), the application form does not specify what is considered a current asset or current liability. There is no requirement for financial statements submitted with the application for registration to be prepared by an accountant, and applicants compiling financial statement information themselves may not be familiar with what is required. Our review of a sample of 25 applications that took longer than 30 days to process identified that in 20, or 80%, of these cases, applicants either did not submit financial statements, or had to resubmit revised financial statements with the information TICO required to evaluate working capital.

In contrast to TICO, Consumer Protection BC, the organization responsible for licensing travel agents and travel wholesalers in British Columbia, provides a detailed breakdown of the information it requires on its licensing application form to ensure complete and accurate documentation is submitted. For example, Consumer Protection BC highlights specific information it requires to be included on the applicants' balance sheet upon application. This includes highlighting the requirement for applicants to provide details regarding their current assets, current liabilities and equity so that working capital can be evaluated.

RECOMMENDATION 2

So that the Travel Industry Council of Ontario (TICO) can process applications for new travel agent and travel wholesaler registration in a timely manner, we recommend that TICO:

- set targets and measure all components of application-processing times, from when the application is received to when it is closed;
- review and revise its application form so that it is clear to applicants what specific information and supporting documents they are required to provide with their application; and
- perform a cost-benefit analysis of implementing an electronic version of the application process with built-in controls to prevent incomplete applications from being submitted.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation. TICO will review its registration application process and establish targets and measures for each milestone to achieve greater processing efficiencies and completion in a more timely manner.

TICO has commenced a comprehensive review of its registration application form and accompanying checklist to simplify and provide more clarity about the required supporting documentation and information.

TICO also agrees with the Auditor General's recommendation to conduct a cost/benefit analysis of implementing an online registration process, including innovative built-in controls to prevent incomplete applications from being submitted. The implementation of such a process would decrease the follow-up time required for incomplete applications, increase productivity and turnaround times, and provide an enhanced experience for applicants.

4.1.3 TICO Did Not Verify the Financial Information Submitted by Applicants That It Used to Make Registration Decisions

Although TICO is required to assess whether applicants for registration can meet their financial responsibilities under the Act, we found that TICO did not require applicants to provide supporting documentation or third party-verification for the key financial information they submitted with their application.

TICO assesses whether applicants registering as travel agents or travel wholesalers have sufficient funding to open and operate their business in order to confirm that they can meet all their financial responsibilities under the Act. To make this assessment, TICO requires applicants to submit an opening pro forma balance sheet or current financial statements to confirm the applicant has positive working capital (more short-term assets than short-term liabilities). However, there is no requirement for financial statements submitted with the application for registration

to be audited or reviewed, or to be prepared by an accountant.

Based on our review of a sample of registration applications, we found that TICO did not request supporting documentation to verify the financial information submitted by applicants. We reviewed a sample of 25 registration applications submitted to TICO from 2017/18 to 2021/22 and found that in all cases the financial statements and financial information submitted were not audited or reviewed, limiting the reliance TICO could place on them without obtaining additional supporting documents.

We also found that in 16, or 64%, of these applications, no documentation was provided by the applicant to support the financial information they submitted, and TICO did not request any. For example, in one application we reviewed, TICO approved the registration of an applicant who indicated that they held \$1.84 million in assets, including \$1.54 million in cash. However, no supporting documentation such as bank statements were provided by the applicant, and no effort was made by TICO to verify these amounts. We noted that in nine, or 36%, of the applications we reviewed, where applicants included additional documentation to support the financial information they submitted, applicants did so voluntarily, without being requested to do so by TICO.

In contrast, we found that the agency responsible for oversight of travel agents in Quebec, the Office de la protection du consommateur, gains assurance over the financial information submitted by applicants by requiring the submission of financial statements—including an opening balance sheet showing working capital of at least \$5,000—which have been:

- prepared by an external accountant who is a member of a professional order of accountants recognized in Canada; and
- audited or reviewed.

Increased scrutiny of financial information submitted by applicants can reduce the financial risk of registrants. We found that almost all enforcement actions taken by TICO against registrants from 2018/19

to 2022/23 were related to concerns, violations or misconduct that were financial in nature. These were discovered through TICO's financial review, inspection, and investigations processes when TICO staff have unrestricted access to financial records and statements. Between 2018/19 and 2022/23, for instance, 38 of 42 of the licences revoked, and 35 out of 36 terms and conditions placed on registrants' licences by TICO, were for financial reasons.

RECOMMENDATION 3

To confirm that applicants seeking to register as travel agents or travel wholesalers can reasonably be expected to be financially responsible in the conduct of their business, as required by the *Travel Industry Act, 2002*, we recommend that the Travel Industry Council of Ontario (TICO) require supporting documentation or third-party verification of key financial information submitted by applicants.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation. TICO will improve its registration application process by strengthening documentation requirements. TICO expects that doing so will provide greater assurance that a new registration applicant is financially viable and has sufficient funds to operate their business.

TICO will ensure that new financial documentation requirements are clearly communicated on its registration application forms and related materials. TICO's Registration Department has already commenced its review of this initiative. In the interim, until a new policy, process and system enhancements are in place, TICO is requesting additional supporting documentation, such as bank statements, on all new registration applications to provide greater assurance.

4.2 Registrant Oversight and Enforcement

4.2.1 TICO's Risk Rating System Was Not Used to Effectively Oversee Registrants

We reviewed TICO's risk rating system for registrants and found that the regulator was not effectively using the ratings to inform its registrant oversight activities. These ratings are an important tool that allow regulators to focus their limited financial and human resources on the oversight of the highest-risk registrants.

TICO implemented a risk rating system in 2012 to assign a risk rating of low, medium or high to each registrant. TICO calculates registrant risk ratings during registrant on-site compliance inspections (described in **Section 2.5.1**). However, we found that as of March 2023, 622 of 1,684 registrants, or 37%, did not have an assigned risk rating. We identified the following significant concerns about how TICO calculates and uses registrant risk ratings:

- One of the factors that TICO staff consider when selecting registrants for compliance inspection is the registrant's risk rating. However, the only time TICO calculates a registrant's risk rating is during such a compliance inspection. As discussed in **Section 4.2.2**, we found that a significant number of registrants have not received a compliance inspection since the risk rating system was implemented in 2012. As a result, registrants who do not have an assigned risk rating are also less likely to be selected for inspection.
- Even when TICO inspected registrants, we found that TICO did not always assign registrants a risk rating. Our analysis identified that 118, or 19%, of the 622 registrants that did not have an assigned risk rating had received a compliance inspection by TICO since the risk rating system was established.

- TICO's compliance policy had no established guidelines detailing how the risk rating should be used to drive compliance and enforcement activities. We found that 30% of registrants assessed as high risk as of March 2023 had not received a compliance inspection in the previous five years.

TICO's Risk Rating System Did Not Consider Key Non-Financial Factors

We found that TICO's risk rating system was overwhelmingly based on financial factors affecting a registrant, such as record-keeping, financial health indicators, financial statement filing and disclosures, and processes for making deposits and reconciling trust accounts. Of the 26 factors TICO's registrant risk rating system considered, 21 were financial in nature. We noted that TICO's risk rating system did not include several key non-financial factors that we would typically expect a regulator to consider, such as a registrant's violations of the Act, and enforcement action taken against a registrant. **Figure 17** lists the five non-financial factors included in the registrant risk rating, and examples of relevant non-financial factors that were not included.

RECOMMENDATION 4

So that the Travel Industry Council of Ontario (TICO) effectively oversees the travel agents and travel wholesalers it registers (registrants), we recommend that TICO:

- review and update its risk rating system for registrants to include an assessment of additional non-financial factors, including the results of past registrant inspections and registrant violations of legislative requirements;
- assign every registrant a risk rating;
- establish a policy for how frequently it should update registrant risk ratings; and
- create guidelines for using registrant risk ratings to guide oversight activities.

Figure 17: Non-Financial Factors Included and Excluded in TICO's Registrant Risk Rating

Source of data: Travel Industry Council of Ontario

Non-Financial Factors Included
<ul style="list-style-type: none"> • Two or more negative trends—such as closure of branches or high management turnover—noted during the most recent inspection • Significant customer complaints • Loss of an important customer or travel counsellor • Business concentration (greater than 50%) in one market or customer segment • No manager on site (does not include normal leave such as vacation)
Examples of Non-Financial Factors Excluded
<ul style="list-style-type: none"> • Recent changes in ownership • Length of time since previous registrant inspection • Previous registrant violations of the Act and/or enforcement action taken by TICO • Employment history or previous misconduct of salespeople or supervisors/managers employed by the registrant • Management-to-staff ratio • Years in operation

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation. TICO will take steps to enhance its risk rating assessment process for registrants. This will include adding additional non-financial factors, such as the results and risk rating of past inspections, previous violations and/or enforcement action, and consider environmental and global risks associated with businesses that specialize in specific types of travel and/or destinations.

TICO will complete a risk assessment and assign a risk rating for all registrants and establish corresponding policies and guidelines as to how frequently a registrant's risk rating should be reviewed.

In addition, with the use of technology, TICO will establish the capability to complete an overall comprehensive risk analysis of its registrants to direct TICO's oversight and enforcement activities including a review of capacity and competencies required in the future.

TICO believes that leveraging technology to proactively analyze and identify risk will be

instrumental in achieving its consumer protection mandate of a trusted marketplace where consumers can be confident in their travel purchases.

4.2.2 30% of TICO Registrants Have Not Had a Compliance Inspection in the Last 10 Years

We found that TICO had not conducted a full, on-site compliance inspection for 30% of registrants in the last 10 years, and that TICO does not have a policy for how often registrants—especially those rated as high risk—should be inspected.

We analyzed TICO's inspection data and found that, as of March 2023, of the 1,684 registered travel agencies and wholesalers:

- 995, or 59%, had not had a compliance inspection by TICO in the last five years;
- of those, 505, or 30%, had not had a compliance inspection in the last 10 years; and
- 44 registrants had not had a compliance inspection for more than 20 years.

TICO's practice is to conduct on-site compliance inspections primarily in response to issues found during annual reviews of registrant financial statements, in reaction to complaints received about

registrants, or based on the registrant's risk rating. However, as described in **Section 4.2.1**, TICO has not assigned a risk rating to 37% of all registrants. We also found that TICO has not established a policy on how frequently they should inspect registrants based on their assigned level of risk. As of March 2023, 30% of the 107 registrants that TICO rated as high risk had not had a compliance inspection in the last five years.

TICO's inspections of registrants often identify non-compliance. Over the last five years, 32% of compliance inspections conducted by TICO identified instances of non-compliance with the Act and its regulation. Some examples of non-compliance include: not depositing customer deposits into the trust account, not always issuing an invoice for sales made to their customers; not following trust accounting requirements and completing a monthly trust reconciliation.

RECOMMENDATION 5

So that the Travel Industry Council of Ontario (TICO) inspects travel agents and travel wholesalers (registrants) based on their risk to consumers and non-compliance with legislative requirements, we recommend that TICO:

- establish a policy on how frequently it should conduct inspections based on each risk rating assigned to registrants (low, medium and high); and
- inspect each registrant in accordance with the registrant's risk rating.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation. TICO will update its policies and guidelines to include the frequency that TICO should conduct risk-based registrant site inspections. With an improved risk analysis and risk rating process and appropriate resources, TICO's site inspections will be performed at a greater frequency and have a stronger focus on those registrants that pose the greatest potential risk to consumers.

4.2.3 The Ministry and TICO Have Not Established a Disciplinary Process for Registrants

We found that TICO does not have the authority to take disciplinary action against a registrant when there is a clear case of ethical misconduct by a registrant, unless the registrant has violated the Act.

We noted that there are tools available under the Act that if implemented would permit TICO to discipline registrants for ethical violations. Specifically, the Act states:

- the Minister may establish a code of ethics for registrants;
- TICO's Board may establish a discipline committee to determine whether registrants have failed to comply with the code of ethics established by the Minister; and
- the discipline committee may, if it finds the code of ethics has been violated, order disciplinary action including requiring the registrant to fund educational courses for employees, or impose fines of as much as \$25,000.

However, TICO and the Ministry have not pursued the development of a mandatory code of ethics and a corresponding discipline committee.

In contrast to TICO, we noted that two provincial delegated administrative authorities—the Ontario Motor Vehicle Industry Council (OMVIC), which regulates motor vehicle dealers and salespersons, and the Real Estate Council of Ontario (RECO), which regulates real estate brokerages, brokers and salespersons—both had discipline committees that enforce a code of ethics. In cases where OMVIC and RECO's discipline committees find that registrants have violated their code of ethics, they can issue fines and order registrants to take educational courses.

We noted that OMVIC and RECO also publicly posted a summary of registrant disciplinary hearings and their outcomes on their respective websites. The codes of ethics enforced by both OMVIC and RECO include requirements relating to fairness, honesty and integrity in conducting business, disclosure of information, and demonstrating reasonable knowledge, skill,

judgment and competence of registrants in providing services.

Ethical misconduct can be identified through a variety of methods, including inspections, investigations, and the complaints process. However, we noted TICO's inspection, investigation, and complaint data did not contain sufficient detail to identify how often registrants were committing misconduct that could be regulated by a code of ethics. In a review of a sample of complaints, we found many complaints related to issues that were not covered under the Act could be covered under a code of ethics, such as failing to provide courteous and responsive service, failing to demonstrate reasonable knowledge of the travel services being sold, and failing to protect the best interests of clients.

RECOMMENDATION 6

So that the Travel Industry Council of Ontario (TICO) can take disciplinary action against registrants for misconduct that falls outside of the current scope of the *Travel Industry Act, 2002*, we recommend TICO work with the Ministry of Public and Business Service Delivery to:

- create a mandatory code of ethics for registrants; and
- establish a discipline committee and related processes for conducting hearings to determine when registrants have violated the code of ethics, and take disciplinary action when warranted.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation that a Code of Ethics and Discipline Committee process for registrants may be beneficial for misconduct that falls outside the *Travel Industry Act, 2002*.

TICO believes a similar framework for individual travel salespersons is a strong way to drive positive consumer protection behavior. A system, processes, and structure that includes hearings, policies and procedures that embrace greater education and

awareness, and fines, when necessary, for either registrants or travel salespersons will enhance overall consumer protection. TICO will support the Ministry of Public and Business Service Delivery as it considers whether to move forward with this recommendation, and any related regulatory changes. Independently, TICO will review available tools to address any deficiencies.

MINISTRY RESPONSE

The Ministry of Public and Business Service Delivery (Ministry) thanks the Auditor General for this recommendation.

This recommendation would require regulatory changes under the *Travel Industry Act, 2002* (Act).

Following a proposal for government consideration to undertake a review of the Act and the Travel Industry Council of Ontario (TICO) in response to the Auditor General's **Recommendation 16**, this recommendation and any potential regulatory proposals would be assessed for consideration and decision-making, as appropriate.

4.2.4 TICO Did Not Track Whether Complaints Involving Violations of the Act Were Referred for Investigation or Enforcement Action

We found that TICO did not track the outcomes of the complaints it handles in its information system, including data about whether complaints were resolved, whether they potentially violated the Act and its regulation, and whether they were referred for further investigation or enforcement action. TICO therefore could not evaluate how effective its complaint-handling process was at resolving consumer complaints, obtaining restitution for consumers when warranted, and enforcing the Act and its regulation.

In the five years from 2018/19 to 2022/23, TICO handled 1,241 complaints against its registrants, including instances involving possible violations of the Act and its regulation. After a TICO Complaints Officer has processed a complaint that may involve a potential violation of the Act, they can refer the complaint to the compliance department, investigations, or the

Registrar. However, we found that TICO did not track the outcomes of the complaints it handled in its information system.

We reviewed a sample of 40 complaint files relating to 15 registrants with the highest number of complaints over the five years from 2017/18 to 2021/22. We found that 13 of the 40 complaints, or 33%, involved potential violations of the Act and its regulation and were not referred for investigation or enforcement action as required by TICO's complaint-handling policy when potential violations are identified. Examples of these potential violations include:

- A consumer complained that a registrant failed to advise them that a visa was required to enter their destination country. As a result, the consumer was denied boarding on their booked flight. The Act's regulation states that before entering into an agreement with a customer for travel services, registrants must advise the customer about typical information and travel documents such as passports, visas and affidavits that will be needed for each person for whom travel services are being purchased.
- A consumer complained that a registrant failed to verify that the name on the reservation matched the consumer's passport information, resulting in the consumer being unable to board their flight. The Act's regulation states that a travel agent shall, on receiving a ticket, voucher, itinerary or other document that relates to travel services, ensure that the information contained in it is correct.
- A consumer who purchased a travel package from a registrant found after arriving at the airport that no flight reservation had been made for them, and had to purchase new tickets. In this case, the registrant potentially did not meet the requirements of the Act's regulation to either reimburse the customer, provide comparable alternate travel services that are acceptable to the customer, or provide the customer with a voucher, certificate, coupon or similar document that is acceptable to the customer for future redemption toward travel services.

We also found TICO kept poor records of the complaints it handled in its document management system. All 15 registrants in our sample had instances where complaint information was either incomplete or missing from the file altogether. For example, for two registrants that had received 110 combined complaints in the five years from 2017/18 to 2021/22, TICO did not have any records related to the complaints in its system. For another registrant, about which TICO had received 23 complaints over this same period, TICO had records for only two of these complaints in its document management system.

RECOMMENDATION 7

So that complaints against travel agents and travel wholesalers that warrant further investigation or enforcement action are consistently escalated for such action, we recommend that the Travel Industry Council of Ontario (TICO):

- record the outcome of each complaint in TICO's information system, including whether it was referred for investigation and enforcement action, and the results of the action;
- monitor complaint outcomes and referrals to assess whether they are handled appropriately and in accordance with TICO's complaint-handling policy; and
- create a policy outlining the documentation TICO expects its complaint handlers to record in its document management system, and the timeframe in which it expects all such information to be recorded.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation to enhance its data and information systems to record and track complaint handling outcomes, specific contraventions identified and referrals to TICO's compliance or investigations departments.

TICO will make system enhancements to track enforcement activities and outcomes against each registrant's record that will allow it to monitor

trends. This will also provide the data intelligence necessary for an enhanced risk analysis and risk rating system. Additional enhancements to data and information systems will include new reporting capabilities to monitor complaint handling processes and referrals to ensure complaint handling policies are followed to achieve appropriate outcomes.

TICO also agrees with the Auditor General's recommendation to update its current policies and procedures to include required online storage of supporting documentation and information obtained during its complaint handling process. The updated policy will clarify supporting documentation needed to preserve and establish timelines for Complaints Officers to store information in TICO's document management system.

4.2.5 TICO Does Not Have the Authority to Regulate Individual Travel Salespeople

We found that individual salespeople employed by travel agents and wholesalers who violated the Act could continue to work in the industry because TICO does not have the authority under the Act to regulate these individuals.

As described in **Section 2.4**, the regulation under the Act requires that travel agents ensure that their employees or contractors obtain TICO's Travel Counsellor certification before they can begin selling travel services to consumers. However, under the Act, because TICO's authority is limited to the regulation of registrants, it does not have the authority to regulate the employees and independent contractors of its registrants. In the five years from 2018/19 to 2022/23, over 18,300 people obtained the Travel Counsellor certification from TICO. But because it does not regulate Travel Counsellors, TICO does not track which registrants are employing them.

We reviewed TICO's complaints and identified instances over the last few years where individual travel salespeople caused significant harm to consumers:

- In 2017/18, consumers complained to TICO about a salesperson employed with a TICO

registrant who was accepting cash payments and e-transfers for travel bookings. Instead of depositing the funds into the registrant's trust account (to pay for the bookings), the salesperson kept the cash and used credit cards from different unrelated customers to pay for the bookings.

- Similar to the example above, between 2016/17 and 2018/19, registrants reported to TICO a salesperson that had kept cash payments from customers and paid for the bookings using credit cards from unrelated customers. Although the salesperson was caught and terminated by the registrant who employed them, the salesperson was able to find employment at a different registrant and commit the same offence again. Three separate registrants notified TICO that the salesperson had committed this same offence while employed for them during this time period.

In both examples, TICO had no authority to take enforcement action against the individual, and instead only advised the complainants and registrants to contact the police. Upon learning about these matters, we noted that TICO also referred the cases to police, and made efforts to notify TICO registrants about the conduct of these individuals. However, because they do not track where TICO-certified travel counsellors are employed, TICO could not be sure these individuals were not employed by another registrant.

For similar reasons, TICO cannot prevent former owners, officers, directors, or managers of registrants with a history of serious violations of the Act—including those who had their registration revoked—from working as a salesperson for another registrant. For example, TICO revoked the registration of a travel agency for numerous violations of the Act, including:

- consistently misrepresenting travel services to consumers;
- failing to inform consumers of service charges before selling travel services to them; and
- failing to maintain appropriate trust accounting of all monies received from consumers.

TICO subsequently identified through consumer complaints that the owner of the travel agency was

working as a salesperson for another registered travel agency. We also reviewed multiple examples provided by TICO of individuals who later found employment with a registrant after they were convicted in court for selling travel services to consumers without being registered with TICO as required.

The *Strengthening Protection for Ontario Consumers Act, 2017*, which has received Royal Assent, includes amendments to the *Travel Industry Act, 2002*, including giving TICO the authority to register and regulate individual travel salespersons. However, the amendments to the Act are not yet in force, as required changes to the regulation have not yet been made. In December 2019, the government committed to consulting stakeholders on proposed changes to the regulation to support the amendments. However, the Ministry advised us that this work was paused as a result of the COVID-19 pandemic and focus was placed on the impact to the industry and its recovery. As the industry recovers, the Ministry advised us that it is reassessing potential regulatory changes that were being considered prior to the pandemic.

RECOMMENDATION 8

So that Ontario consumers are protected from travel salespersons with a history of misconduct, we recommend the Travel Industry Council of Ontario (TICO) work with the Ministry of Public and Business Service Delivery to advance amendments to the *Travel Industry Act, 2002*—made under the *Strengthening Protection for Ontario Consumers Act, 2017*, but not yet in force—that would give TICO the authority to register and regulate individual travel salespersons.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) appreciates the Auditor General's timely recommendation. Individual registration of travel salespersons received Royal Assent in December 2017, with the

Strengthening Protection for Ontario Consumers Act, 2017. Further work on the supporting regulation was delayed primarily due to the devastation of the travel sector during the pandemic. TICO believes that consumer protection will be enhanced if this legislation comes into force. TICO looks forward to working with the Ministry of Public and Business Service Delivery if it moves forward with this recommendation.

MINISTRY RESPONSE

The Ministry of Public and Business Service Delivery (Ministry) thanks the Auditor General for this recommendation.

This recommendation would require regulatory changes under the *Travel Industry Act, 2002* (Act) to be developed before the legislative amendments could be proclaimed.

In December 2019, the government committed to consulting on proposed changes to the regulation under the Act in 2020, including the regulation of individual travel salespersons.

This work was paused due to the COVID-19 impacts on the travel agent and wholesaler sector. In response to the pandemic, the Ministry focused on implementing regulatory changes that helped reduce the burden on registrants and assisted certain travellers, and provided temporary financial support to relieve registrants' fees and support the Travel Industry Council of Ontario (TICO). As a result of these measures, TICO was able to waive registrants' fees and payments for three consecutive years providing much needed relief to the travel sector as it recovers from the impact of the pandemic.

Following a proposal for government consideration to undertake a review of the Act and TICO in response to the Auditor General's **Recommendation 16**, this recommendation and any potential regulatory proposals would be assessed for consideration and decision-making, as appropriate.

4.3 Travel Industry Compensation Fund

4.3.1 TICO Has Used an Estimated \$31 Million from the Compensation Fund Since 1997 to Cover Its Own Operating Costs

We found that since its inception in 1997, TICO has routinely used funds from the Travel Industry Compensation Fund (Compensation Fund) to cover operating costs that cannot reasonably be attributed to the Fund. The regulation under the Act permits payments from the Fund only for reasonable expenses related to its administration, maintenance, and promotion of public awareness of the Fund.

The regulation under the Act states that the Compensation Fund is financed through payments required of all registrants, and investment income earned on the balance. The regulation permits TICO to use the Fund to pay for a reasonable allocation of expenses relating to administering and maintaining the Fund, such as wages, Board expenses, accounting fees, expert advisors, and educational and promotional expenses. The regulation requires the remaining money in the Fund to be held by TICO in trust for the benefit of claimants.

However, we found that TICO has used Compensation Fund fees from registrants and investment income to finance its operations. TICO performed a costing analysis in early 2023 for use in the development of a new fee model that indicated that a reasonable allocation of TICO's overhead costs to administer the Fund was 22% of TICO's annual operating expenses for 2022/23. The estimate considered employee and Board time spent administering the Fund, and an allocation for overhead such as rent, IT resources and consumer awareness spending.

Using TICO's 22% allocation rate, we analyzed the Compensation Fund's balance since TICO's inception, and calculated that between 1997/98 and 2022/23 TICO would have charged the Fund approximately \$19.4 million to cover the costs of administering the Fund. Instead, we found that TICO charged the Fund

an additional \$31.3 million that it used to cover TICO's operating expenses. **Figure 18** provides this calculation.

As discussed in **Section 2.3**, the fees TICO charges registrants include fees for registration and registration renewal. TICO's Administrative Agreement with the Minister requires TICO to set fees on a cost-recovery basis. However, we reviewed TICO's financial history and identified that since its inception in 1997, TICO has never generated sufficient revenue from registrants to cover its operating costs and has relied on funds from the Compensation Fund (which registrants pay into) to make up the shortfall. We found that in some years, TICO used money from the Fund to pay for over 60% of TICO's operating expenses.

We noted that TICO's Administrative Agreement with the Minister allows TICO to adjust its fees so that it can operate on a cost-recovery basis. However, we found that despite consistently failing to generate sufficient revenue from registrants, TICO has not adjusted its registration and registration renewal fees since 2011.

Figure 18: Calculation of Restricted Compensation Fund Money Used for TICO Operations

Source of data: Travel Industry Council of Ontario

Compensation Fund Balance as of April 1, 1997	\$4,475,140	
Compensation Fund Activity, 1997/98–2022/23		
Fees collected	\$61,963,156	
Investment income	\$22,398,738	
Claims paid and direct expenses	(\$15,309,205)	
Overhead allocation – 22% of operating expenses	(\$19,432,564)	
Calculated Fund Balance as of March 31, 2023	\$54,095,265	A
Actual Fund Balance as of March 31, 2023	\$22,786,930	B
Compensation Fund Money Spent on Operations	\$31,308,335	A – B

We noted that TICO has acknowledged that its fee structure needs updating. In April 2023, TICO received a report from a third-party consultant it engaged that reviewed its current funding model. TICO informed us that it would be using this report to pursue changes to its fees and fee structure.

RECOMMENDATION 9

So that fees paid by registrants to the Travel Industry Compensation Fund (Compensation Fund) are used to compensate consumers who have suffered a financial loss, we recommend that the Travel Industry Council of Ontario (TICO):

- pay from the Compensation Fund only expenses that can reasonably be attributed to the administration, management, maintenance, and protection of the Fund; and
- revise its fee structure to ensure operating costs are sufficiently funded through registration and other fees charged to registrants.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation to re-align its funding framework so that operating expenses are funded primarily through registration and other regulatory fees paid by registrants.

TICO has begun the development of a clear and fair allocation methodology between the Compensation Fund and other regulatory activities aligned with the regulation. TICO is nearing completion of a review of its fee structure with the travel sector and is committed to ensuring it generates sufficient operating revenues to fund regulatory operations. TICO will also review its accounting for the Compensation Fund to ensure future revenues and expenses are tracked and reported consistent with the regulation and in a manner that promotes fairness and enhanced transparency for all stakeholders.

4.3.2 The Cost to Administer the Compensation Fund May Outweigh the Benefits it Provides Consumers

Based on our review of the Compensation Fund, we found that on average over the last 10 years, the Fund cost approximately three times more to administer than the amount it has paid out to compensate consumers.

The Compensation Fund was established in 1975. At that time, the majority of travel services purchased by Ontarians were paid for with cash or cheque from a travel agent operating out of a store front. The travel agent would then provide these payments to end suppliers of travel services, such as hotels and airlines, on behalf of the consumer. The handling and holding of significant amounts of customer cash created a risk to consumers that they could lose their payments entirely if a travel agency declared bankruptcy.

The Internet has transformed the way Ontarians book and purchase travel services since 1975. According to TICO's 2018 consumer awareness survey (the most recent year this information was captured), up to 80% of travel bookings were being made online, continuing an upward trend.

In addition, according to a 2017 consumer research study, 93% of travel bookings in Ontario were being made using a credit card. Since the vast majority of travel bookings are being made using a credit card, the risk to consumers if a travel agency declares bankruptcy has been reduced for the following reasons:

- Credit card companies typically have policies offering a "chargeback" feature, which reverses a transaction in the event the cardholder has been wronged and the seller will not provide a refund. Consumers who purchase travel through a credit card may be eligible to receive a chargeback in the event that their travel services are not provided due to failure of a travel agent or end supplier.
- When using a credit card, consumers' payments often flow directly to the end supplier, such as a hotel or airline, bypassing the travel agent, so that the agent is never actually in possession of the funds.

Travel agencies are required to hold any money received from customers in a trust account until the end supplier, such as an airline, is paid.

Few Ontarians Benefit from the Compensation Fund

In the 10 years from 2013/14 to 2022/23, the Compensation Fund paid a total of about \$3.5 million in compensation relating to 685 claims, or an average of approximately \$350,000 in compensation relating to 69 claims per year.

The 685 approved claims represented a success rate for claimants of just 44% relative to the 1,558 claims filed during the 10 years. One reason for the low value of total compensation provided to claimants, and the

low success rate of claims, is that the Compensation Fund was intended to be a payor of last resort. A claimant must meet very specific criteria in order to receive compensation from the Fund. **Figure 19** outlines examples of such criteria.

For instance, TICO requires that consumers exhaust all other possible remedies for reimbursement as part of TICO's claims process, and prove they have not received a reimbursement from another party that may be liable to do so. These conditions have meant many claims have been abandoned. Of the 56% of claims that were not approved from 2013/14 to 2022/23, 49% were abandoned or withdrawn by the applicant, while 7% were denied by TICO.

Figure 19: Eligibility Criteria for Compensation Fund Claims

Source of data: Travel Industry Council of Ontario

Conditions That Must Be Met	Criteria Notes
Consumers must have purchased the travel services from a registered Ontario travel agency.	<ul style="list-style-type: none"> Purchases made through travel agencies with no physical location in Ontario are not eligible. Purchases made directly through end suppliers, such as airlines, are not eligible. In the case of cessation of an airline or cruise line, consumers are only eligible if they made the booking through a TICO registrant. They are not eligible if they booked directly with the airline or cruise line.
Travel services purchased were not provided.	Consumers who are dissatisfied with travel services are not eligible for compensation, even if they receive different travel services than the ones they booked.
A bankruptcy or insolvency of an Ontario registered travel agent, travel wholesaler or cessation of an airline or cruise line led to the travel services not being provided.	Consumers who paid for but did not receive travel services for any other reason are not eligible—for example, due to weather, a strike, mechanical problems, or other unexpected event.
Travel services were paid for with cash or by cheque, credit card or other similar payment method.	Purchases made using credit card points or travel rewards are not eligible.
If a consumer has travel insurance, they must prove it will not cover their claim.	<ul style="list-style-type: none"> TICO directs claimants to contact their insurance company to request a reimbursement. If no refund is provided, a letter from the insurance company confirming that a refund will not be provided must be submitted to TICO with the claim against the Compensation Fund.
If travel services were purchased with credit card, consumers must prove the credit card company will not provide a chargeback.	<ul style="list-style-type: none"> TICO requires claimants who paid by credit card for the travel services that were not provided to contact their credit card company to dispute the charges and request a chargeback (credit / reversal of the charge on their account). If the credit card company refuses a chargeback, TICO requires claimants to obtain a letter from the credit card company stating that a credit refund will not be provided.

The Cost for TICO to Administer the Fund Has Been Significant

While the Fund has paid \$3.5 million in compensation to consumers over the 10 years from 2013/14 to 2022/23, TICO registrants booked over \$133 billion in travel services for consumers. We found that the Fund's average annual payout to claimants of \$350,000 over the last 10 years was significantly less than it cost to administer the Fund. As described in **Section 4.3.1**, TICO estimated in 2023 that the overhead cost to administer the Fund was 22% of TICO's operating expenses, or approximately \$1 million in 2022/23. Based on the 22% estimate, the Compensation Fund costs almost three times more to administer than the amount of compensation that it is paying to consumers.

The Ministry and TICO have undertaken several recent reviews that included examining the scope and benefit of the Fund to consumers, and whether it should be maintained or eliminated, including:

- A review of the *Travel Industry Act, 2002* conducted by the Ministry in 2017 concluded that there was a strong consumer rationale for maintaining the Compensation Fund to help claimants when travel insurance or credit card chargebacks were not available, or when credit cards were not used to pay for travel services, among other things.
- A third-party consultant hired by TICO to review its funding and the Compensation Fund produced a report in April 2023 that recommended maintaining the Fund on the basis that consumer protection is core to TICO's mandate, and that they did not find a compelling case to eliminate the Fund.

We noted that neither of these reviews attempted to quantify the cost of administering the Compensation Fund relative to the value of the actual claims being paid. We noted that Australia discontinued a similar travel compensation fund in 2014 after a review commissioned by the Australian Department of the Treasury found that:

- consumers were increasingly purchasing travel services online and directly from end suppliers;

- the administration of the Australian fund was significantly more expensive than the average value of the claims paid;
- Australian consumers were largely unaware of the fund or the protection it offered; and
- consumers could also rely on credit card chargebacks or travel insurance to receive reimbursement.

We noted that just two Canadian provinces, Quebec and British Columbia, operate similar travel compensation funds. Our review of the United States, Australia and the United Kingdom found that the UK operated a similar fund for travel agents who sell air travel, and it appeared California was the only US state operating a similar fund.

RECOMMENDATION 10

So that the Travel Industry Compensation Fund (Compensation Fund) is providing value-for-money for the travel industry and consumers, we recommend the Travel Industry Council of Ontario work with the Ministry of Public and Business Service Delivery (Ministry) to study and determine whether significant risk to consumers still exists to justify the cost of maintaining and administering the Compensation Fund, and whether the Fund can provide a positive net benefit.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) appreciates the Auditor General's timely recommendation. The Compensation Fund is at the foundation of TICO's consumer protection framework and has assisted tens of thousands of consumers.

Ontario is a diverse province and marketplace and not all consumers purchase travel via credit cards or have access to other remedies. The Fund represents a final opportunity for consumers to seek reimbursement of travel services not provided under certain conditions when these other remedies are not available or fail.

Notwithstanding that some jurisdictions do not have a similar fund, or have decommissioned a fund previously in existence, many countries have similar funds. TICO has undertaken a significant review of its funding model and fee structure, within the current legislative framework, including the Compensation Fund. Should the Ministry commence a future review, TICO is committed to working with the Ministry and determining the net benefit of the Compensation Fund to consumers.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

The Ministry notes that this recommendation will be addressed with the Auditor General's **Recommendation 16**, which recommends a comprehensive review of the *Travel Industry Act, 2002* (Act) and the Travel Industry Council of Ontario (TICO).

Following a proposal for government consideration to undertake a review of the Act and TICO, any potential regulatory proposals would be assessed for consideration and decision-making, as appropriate.

4.4 TICO's Operations

4.4.1 Although TICO's Role Is to Protect Consumers, Its Board Has Been Dominated by Travel Industry Representatives

Although TICO was established by the Ontario government to administer the Act with the purpose of protecting the public interest, we found that prior to the changes made to the Board's composition in August and September 2023, the vast majority of TICO's Board members were individuals who represented registrants in the travel industry. Because the Board was dominated by industry appointees, we found that TICO also had difficulty filling gaps in Board skills and competency.

At the time of our audit, the TICO bylaw that addressed the composition of the Board prescribed that seven of the 11 directors were to be industry members appointed by industry associations or elected by registrants, as follows:

- two directors appointed by the Association of Canadian Travel Agencies (ACTA);
- two directors appointed by the Canadian Association of Tour Operators (CATO);
- one director appointed by the Ontario Motor Coach Association (OMCA); and
- two directors elected by TICO's registrant members.

The remaining four director positions were to be appointed by the Minister of Public and Business Service Delivery (Minister), who may include representatives of consumer groups, business, government organizations, or such other interest as the Minister determines. As of June 2023, one of the four ministerial appointees was also a travel industry representative. Before that date, eight of TICO's 11 Board members, or 73%, were industry representatives. In addition, TICO's Board Chair, also a ministerial appointee, while not an industry representative at the time they joined the Board, had over 30 years of previous experience in the travel industry, including 18 years of prior experience as a registrant of TICO.

Regulators in Ontario have recently been shifting from industry-dominated boards to boards that focus on required skills, competencies and diverse perspectives:

- Tarion Corporation, a delegated administrative authority which has a mandate to administer the *Ontario New Home Warranties Plan Act*, is governed by a 12-member board that can have no more than four members who are industry representatives.
- In April 2023, the Minister provided orders to the Chair of the Ontario Motor Vehicle Industry Council (OMVIC), the delegated administrative authority that regulates motor vehicle dealers and salespersons, that included that OMVIC ensure that all its board members possess a

positive orientation for proactive consumer protection initiatives, and that no more than 34% of the board members are drawn from the industry.

- The Bereavement Authority of Ontario, a delegated administrative authority that regulates bereavement service providers, has 10 members on its board, four of whom are elected and can have no direct interest in the bereavement sector, and only three of whom must be industry representatives.

On July 25, 2023, after our audit work was substantially complete, TICO's Governance and Human Resources Committee recommended to the Board to adjust the Board's composition. The Board subsequently approved changes that included reducing the number of Board members from 11 to nine, that only three members will be from the travel agent and wholesaler industry, and that industry representatives will no longer be appointed by industry associations but instead will be selected by a Board nominations committee and voted on by registrants.

On August 11, 2023, the Chair of TICO's Board received a letter from the Minister outlining orders to change the composition of TICO's Board. The orders aligned with the motion that the Board passed on July 25, 2023. TICO's revised bylaw reflecting the Board motion and Minister's orders were approved by a vote of its members (registrants) at its Annual General Meeting on September 26, 2023. The revised bylaw establishes TICO's Board composition as follows:

- a maximum of four members appointed by the Minister of Public and Business Service Delivery who may not constitute a majority of the Board;
- a maximum of three members from industry selected by the Board nominations committee and voted on by registrants; and
- the remaining, non-industry members, selected by the Board nominations committee from the general public and voted on by registrants.

At the conclusion of our audit work, the Board's nominations committee had selected both industry and non-industry candidates who were voted on by TICO's registrants to bring TICO's Board composition into alignment with the revised bylaw. As of October

2023, the Board consisted of three members appointed by the Minister, three industry members elected by registrants, and three members from the general public elected by registrants.

Industry Associations Withdrew Board Appointees When Demands Made to the Minister Were Not Met

On July 25, 2023, following a review of TICO's funding model, TICO's Board approved a proposal to change TICO's fee structure aimed at making TICO's operations more sustainable. Anticipating that the Board would approve changes to TICO's fees, ACTA and CATO took the unprecedented action of withdrawing their four combined appointees from TICO's Board. In a joint media release on July 25, 2023, the two industry associations stated they were withdrawing their appointees until they were given the opportunity to meet with the Minister to express their concerns regarding the changes and any potential impacts to registrants.

TICO advised ACTA and CATO that they would have the opportunity to provide feedback on the proposed fee changes during registrant and stakeholder consultations, which are required by the Administrative Agreement between TICO and the Minister. Despite this, ACTA and CATO made the decision to withdraw their appointed Board members, stating they opposed the process and wished to provide input to the Minister before the decision to proceed.

Board members have a fiduciary responsibility to always act in the best interest of TICO. More specifically, members have a Duty of Loyalty, which requires them to place the interests of TICO ahead of all competing interests. Withdrawing appointees until demands are met calls into question whether ACTA- and CATO-appointed Board members could be perceived as acting in the best interests of TICO.

TICO Has Been Unable to Address Gaps in Key Competencies Among Board Members

In 2018, TICO developed and introduced a board competency matrix, and amended its corporate bylaw to include the requirement that all Board members possess at least some of the competencies outlined in the matrix. The matrix consists of 15 competencies

(listed and described in **Appendix 4**) that TICO considers critical to achieving its mandate. Members complete competency self-assessments, and the results of those assessments are analyzed to determine if there are any gaps.

Since the introduction of the board competency matrix in January 2018, TICO Board members have completed five self-assessments evaluating their competency against the matrix. **Figure 20** summarizes the competency gaps identified by TICO based on these self-assessments.

We noted that, as of June 2023, all 11 members of the Board had participated in the most recent self-assessment of Board competency (in September 2022), and that nine Board members were appointed or elected to the Board after the initial self-assessment of Board competency was completed in 2018. Despite identifying gaps in competencies in the Board in 2018, and the fact that the vast majority of the Board is made up of individuals appointed or elected after the initial

identification of these gaps, TICO has been unable to appoint directors with four of the missing competencies identified: legal, risk management, technology, and human resources. In addition, after the most recent appointments to the Board, two additional gaps in board experience and financial literacy were identified in the September 2022 assessment.

We noted that TICO's management, as well as the Board Chair, were active in sharing the results of the Board competency assessments, and informing both the Ministry and the three industry associations who appointed Board members (ACTA, CATO and OMCA) of the need to address long-standing gaps in legal, risk management, organizational behaviour, technology, and human resources competencies. In addition, we noted that TICO's Board Chair was active in advising the Ministry that non-industry representatives with diverse backgrounds and a consumer focus were needed from the four ministerial appointments since the remaining seven Board members were appointed

Figure 20: Board Members Identified Competency Gaps Through Self-Assessments

Source of data: Travel Industry Council of Ontario

Competency	Gaps in Competency Identified				
	Jan 2018	Mar 2019	Sep 2019	Jun 2021	Sep 2022
1 Industry knowledge and experience					
2 Consumer knowledge	x				
3 Board experience					x
4 Financial literacy					x
5 Legal	x	x	x	x	x
6 Strategy	x				
7 Risk management	x	x	x	x	x
8 Change management	x				
9 Organizational behaviour			x	x	x
10 Technology	x	x	x	x	x
11 Communications					
12 Human resources	x	x	x	x	x
13 Operations					
14 Marketing/public relations					
15 Government knowledge	x				
# of Gaps Identified	8	4	5	5	7

or elected by industry. Despite these requests, in April 2022, the Minister chose to use an open ministerial appointment to reappoint an industry representative. In addition, we noted Ministry briefing notes prepared for the Minister in February 2022 for two candidates who would go on to be appointed to TICO's Board by the Minister made no reference to Board competency gaps identified by TICO, or whether the skills and experience of the proposed candidates might fill those gaps.

RECOMMENDATION 11

So that the Board of Directors of the Travel Industry Council of Ontario (TICO) effectively executes its responsibilities to oversee the travel industry and protect consumers, we recommend that:

- TICO utilize its board competency matrix and assessments to inform nominations to TICO's Board; and
- the Ministry of Public and Business Service Delivery use advice from the Chair of TICO's Board regarding the suggested skills required by the Board to inform the appointment process, which is done at the discretion and pleasure of the Minister.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) agrees with the Auditor General's recommendation that TICO utilize its Board competency matrix and assessments to enhance and inform nominations to TICO's Board. This will better enable the Board of Directors to effectively execute its responsibilities to oversee the travel industry and protect consumers.

TICO's recently formed Governance and Nominations Committee prioritized the Board competency matrix as a key focus of its application and vetting process for the elected industry and public director positions.

In the recent industry and public director election process in September and October 2023, TICO has been able to reduce gaps in the Board experience, financial literacy, risk management, organizational behavior, technology, and human

resources competencies. TICO aims to further enhance its director recruitment and selection processes and welcomes the opportunity to work with the Ministry of Public and Business Service Delivery to ensure that Board members possess the skills necessary to effectively execute their responsibilities.

MINISTRY RESPONSE

The Ministry of Public and Business Service Delivery (Ministry) agrees with the Auditor General's recommendation. The Ministry recognizes the importance of good governance practices.

On August 11, 2023, Minister's orders were issued to the Travel Industry Council of Ontario (TICO) to facilitate a more efficient and effective governance model that places a stronger focus on TICO's consumer protection mandate.

The Ministry will work with TICO to monitor the impact of these governance changes and will have regard to TICO's Board competency matrix when making appointments to TICO's Board.

4.4.2 Half of Ontarians Surveyed Who Were Involved in Travel Planning for Their Household Were Unaware of TICO

Over the last five years, only 51% of Ontarians who were involved in travel planning for their household were aware of TICO, according to TICO surveys.

We reviewed TICO's annual consumer-awareness surveys conducted from 2019 to 2023. To be included in the surveys, respondents needed to answer "Yes" to the opening qualifying question, "Are you someone who leads or shares the travel planning process for your household?" Despite this requirement, only 23% of respondents during this five-year period indicated they were "definitely aware" of TICO, while 28% said they were "somewhat aware" of TICO. Only 31% of respondents indicated they were aware of the Compensation Fund (described in **Section 2.8**). **Figure 21** shows the results of TICO's consumer-awareness surveys over the last five years, as well as TICO's expenditures relating to consumer awareness.

Figure 21: Results of TICO Consumer Awareness Survey and Consumer Awareness Expenditures, 2019–2023 (%)

Source of data: Travel Industry Council of Ontario

	2019	2020	2021	2022	2023	Total
Survey Responses						
Definitely aware of TICO	34	23	26	29	16	23
Somewhat aware of TICO	22	26	32	31	25	28
Total Aware of TICO	56	49	58	60	41	51
Aware of Compensation Fund	34	n/a*	30	n/a*	31	31
TICO Expenditures on Consumer Awareness Initiatives (as of March 31)	\$725,813	\$517,958	\$391,253	\$360,618	\$90,644	\$2,086,286

* Awareness of the Compensation Fund was not included in the 2020 and 2022 surveys.

As shown in **Figure 21**, TICO's external expenditures on consumer awareness, such as advertising and payments to marketing agencies, have declined by 87%, from nearly \$726,000 in 2018/19 to less than \$91,000 in 2022/23. The most significant year-over-year decline in external expenditures occurred in 2022/23, when TICO made the decision to stop using a third-party marketing agency and bring marketing activities in-house. As a result, TICO reduced spending on consumer-awareness initiatives in 2022/23 by 75% from the previous year. Offsetting this reduced spending somewhat was TICO's application and approval for Google ad grants for non-profits, from which they received \$110,000 US worth of advertising on Google websites at no cost. Nevertheless, as shown in **Figure 21**, we found that the sharp decline in expenditures in 2022/23 coincided with a five-year low of just 16% of survey respondents indicating they were "definitely aware" of TICO.

Registrants Are Not Required to Provide Information About TICO to Consumers

A low-cost direct method of making consumers aware of TICO's role as a regulator would be to provide information to consumers at the time they purchase travel services from registrants. As part of its consumer awareness efforts, TICO developed a brochure for consumers with information regarding its regulatory role, registrant requirements, protections available under the Act, and Compensation Fund coverage. While TICO

encouraged registrants to provide this information to customers, there was no requirement for them to do so. In a survey of registrants conducted by TICO in 2023, only 7% of registrants said they were providing the brochure to all of their customers, and only 13% indicated they were providing the brochure to most customers.

In comparison, the Tarion Warranty Corporation, the delegated administrative authority that backstops builder warranties on new construction homes, reaches homebuyers directly by requiring all licensed builders to provide homebuyers with an information package that details a builder's warranty obligations, and the protections available if the builder does not honour their warranty at the time the purchase and sale agreement is signed. Tarion also asks homeowners if they were provided with the information package by their builder when they register online with Tarion.

RECOMMENDATION 12

So that consumers purchasing travel services through registered travel agents are aware of the Travel Industry Council of Ontario's (TICO's) role, and the protections available under the *Travel Industry Act, 2002*, we recommend that TICO work with the Ministry of Public and Business Service Delivery (Ministry) to require that, at the time of purchase, registrants provide purchasers of travel services with information brochures that outline TICO's regulatory role and consumer protections available.

TICO RESPONSE

The Travel Industry Council of Ontario (TICO) appreciates the Auditor General's recommendation to ensure consumers are properly informed when making a travel purchase.

Should the Ministry support an amendment to the regulation under the *Travel Industry Act, 2002*, TICO would be pleased to work with the Ministry toward requiring that registrants provide purchasers of travel services with information brochures that outline TICO's regulatory role and consumer protections available at the time of purchase.

MINISTRY RESPONSE

The Ministry thanks the Auditor General for this recommendation.

This recommendation would require regulatory changes under the *Travel Industry Act, 2002* (Act).

Following a proposal for government consideration to undertake a review of the Act and the Travel Industry Council of Ontario (TICO) in response to the Auditor General's **Recommendation 16**, this recommendation and any potential regulatory proposals would be assessed for consideration and decision-making, as appropriate.

4.4.3 TICO Did Not Publish Detailed Compliance and Enforcement History of Registrants

We found that TICO did not include detailed compliance and enforcement information relating to registrants on its public directory, such as violations of the Act or details of enforcement action taken by TICO, so that consumers could make more informed decisions.

TICO has authority under the Act to disclose information about registrants to the public. TICO maintains a public directory on its website that allows consumers to search for information about a registered travel agency or wholesaler. The public directory includes

the name of the registrant, contact information, links to their public website, associated trade names, and branch offices.

We noted that TICO provides limited information about registrant non-compliance with the Act and its regulation on its website. TICO only provides a summary of any pending charges or prior convictions for registrants, and decisions by the Licence Appeal Tribunal, a quasi-judicial agency in Tribunals Ontario. This information is provided on a separate page from the directory, with nothing linking consumers to this information from the registrants' directory listing. TICO's website also lists the names of past registrants who had their registration revoked or suspended for non-compliance.

TICO does not include any information about enforcement action taken against current registrants on its public directory. For example, TICO has issued 36 terms and conditions on registrants' registration over the five years from 2018/19 to 2022/23 for violations that include: working capital deficiencies; failure to file financial statements; and trust accounting issues. However, consumers cannot see whether a registrant has had terms and conditions placed on their registration on TICO's public directory so they can use that information to decide if they wish to do business with the registrant.

In contrast, Consumer Protection BC, the agency responsible for oversight of travel agents and travel wholesalers in British Columbia, publishes detailed compliance and enforcement information for all licensees on its website, including:

- all licensing and enforcement decisions, such as licence suspensions, compliance orders and notices of administrative penalties taken against its licensees; and
- full written reasons for enforcement decisions that detail:
 - sections of the Act and/or regulation that have been violated;
 - a detailed chronological order of events related to the violation;

- individuals involved in the violation; and
- reference to any pertinent evidence relied on by the regulator in making the decision.

RECOMMENDATION 13

So that consumers can make more informed decisions about which travel agents they may choose to purchase travel services from, we recommend that the Travel Industry Council of Ontario (TICO) provide detailed compliance and enforcement information about all registrants on its public directory.

TICO RESPONSE

TICO agrees with the Auditor General's recommendation to provide greater transparency to consumers by including detailed compliance and enforcement information about registrants on its online public registrant directory. TICO is committed to enhancing the information and details regarding its compliance and enforcement activities about its registrants on its online public directory.

TICO believes that greater transparency and disclosure to consumers will allow consumers to make better informed decisions when purchasing travel services. This will also provide greater confidence when purchasing travel services from TICO-registered travel agencies and tour operators.

4.4.4 TICO Has Not Used Data Effectively to Inform and Carry Out Its Regulatory Responsibilities

We found that TICO has not consistently collected, reviewed and analyzed available industry-wide travel data to identify trends and inform its regulatory work. We also found that TICO did not collect some key data relating to several of its regulatory functions to enable it to better inform and evaluate the effectiveness of its regulatory functions. Prominent examples include:

- **Registrant Security Deposits:** As described in **Section 4.1.1**, TICO does not track in its information system whether the Registrar has concerns about a registrant that would justify

continuing to hold their \$10,000 security deposit after the registrant has filed two consecutive financial statements. TICO therefore cannot easily assess which registrant deposits should be reviewed and potentially returned.

- **Applications:** As described in **Section 4.1.2**, TICO does not track in its information system the date of key milestones in the application process, including the date the application was received, when it was assessed for completeness, or when TICO staff notified the applicant that additional information is required. These limitations prevent TICO from accurately evaluating its performance in processing applications on time.
- **Complaints:** As described in **Section 4.2.4**, TICO does not track the outcomes of the complaints it handles in its information system, including whether they were resolved, whether they potentially violated the Act and its regulation, and whether they were referred for further action. TICO therefore cannot evaluate how effective its complaint-handling process is at resolving consumer complaints, obtaining restitution for consumers where warranted, and enforcing the Act and its regulation.
- **Travel Counsellors:** As described in **Section 4.2.5**, TICO does not track where certified Travel Counsellors work. Tracking this information would allow TICO to monitor whether registrants are employing individuals who have a history of misconduct. TICO could use this information to both inform its regulation of registrants, and to alert registrants about individuals they are employing with a history of misconduct in the industry.
- **Market Statistics:** We noted that TICO does not review or analyze available industry-wide statistics related to travel on a consistent basis to identify trends and inform its regulatory oversight. For example, Statistics Canada conducts the National Travel Survey, which collects domestic and international travel information about Canadian residents. The survey includes

information such as trip counts and spending by category of travel—such as commercial travel, accommodation, and vehicle rentals—that can be filtered by province of residence. We found that TICO has not used this type of information to estimate what portion of the Ontario travel market its registrants represent to better understand the reach and scope of its regulatory activities relating to travel in Ontario.

RECOMMENDATION 14

So that it can better inform its regulatory efforts to protect consumers, we recommend the Travel Industry Council of Ontario (TICO):

- conduct a review of data collection across all core regulatory functions to identify areas where additional data would help improve its regulatory efforts;
- update its information systems to capture data identified by this review; and
- obtain and analyze relevant travel market statistics on a regular basis.

TICO RESPONSE

TICO agrees with the Auditor General's recommendation. TICO will enhance its overall data management requirements and capabilities. TICO collects and stores a large dataset from consumers and registrants and is committed to using this data to help improve its regulatory efforts. While TICO does review certain data from various external travel sources, it is not always systematically maintained nor analyzed. TICO is committed to reviewing its data collection, systems, and processes to ensure it collects data it needs, to identify future data requirements, and to eliminate any redundant data. TICO will also explore third-party data sources, including market statistics, in support of its mandate.

4.5 Ministry Oversight

4.5.1 The Ministry Did Not Collect Sufficient Information to Monitor and Assess TICO's Performance in Meeting Its Mandate

We found that the Ministry did not collect sufficient performance information from TICO to effectively monitor whether TICO was meeting its mandate to protect consumers and regulate travel agents.

Under the Administrative Agreement between the Minister and TICO, the Ministry must agree upon performance indicators with TICO. TICO must provide the Minister with performance targets and results for the performance measures approved by the Minister on an annual basis and upon request by the Minister. However, we found that until 2022/23, measurable targets had not been established for many of the performance indicators in place, limiting the Ministry's ability to assess TICO's performance.

In 2022/23, for example, TICO established a target to process all registration applications within 30 days of receiving all required documentation. Similarly, TICO developed a target to handle and resolve all complaints within 30 days of receiving all required information and supporting documentation. TICO also developed a performance indicator for its inspection processes, and set a target to conduct a financial inspection for a minimum of 10% of registrants during the year.

We found, however, that many key aspects of TICO's operations were not covered by performance indicators. For example, there were no performance indicators and targets in place to assess the degree to which TICO operates on a cost-recovery basis, a requirement under the Administrative Agreement. As indicated in **Section 4.3.1**, our audit found that TICO has never generated sufficient revenue from registrants to cover its operating costs, and has used money from the Compensation Fund to finance its operations. Without performance indicators and targets in this area, the Ministry does not have sufficient information to assess the reasonableness of how much of the Compensation Fund money TICO is using to fund its

operational expenses. As described in **Section 4.3.1**, we found that between 1997/98 and 2022/23, TICO charged the Fund an additional \$31.3 million to cover its operating expenses above the rate that its recent costing analysis deemed reasonable.

We also found that performance indicators had not been established, or were insufficient, to monitor TICO's operational performance in several other key areas where our audit identified operational issues. For example, indicators were not in place to monitor whether:

- TICO inspects registered travel agents at least once within a specified period, and assigns a risk rating to them accordingly;
- TICO conducts follow-up inspections within a targeted timeframe after non-compliance is identified;
- security deposits collected by TICO are returned to registrants on a timely basis after two consecutive years with no compliance concerns; and
- consumer complaints were handled correctly or resulted in appropriate outcomes.

RECOMMENDATION 15

So that the Ministry of Public and Business Service Delivery (Ministry) can effectively monitor and assess the Travel Industry Council of Ontario's (TICO's) performance in protecting consumers and regulating travel agents and wholesalers, we recommend that the Ministry work with TICO to revise the performance indicators the Ministry uses to include indicators that more closely monitor TICO's operations, including in the areas of inspections, security deposits, complaint-handling and the Travel Industry Compensation Fund.

MINISTRY RESPONSE

The Ministry thanks the Auditor General for this recommendation. The Ministry takes its oversight of TICO seriously, including effectively monitoring and assessing TICO's performance.

The Ministry will work with TICO to revise the indicators, as needed, informed by the Auditor General's recommendation.

TICO RESPONSE

TICO agrees with the recommendation and will work with the Ministry to enhance the performance indicators it reports to the Ministry, so that the Ministry can more effectively monitor TICO's operations.

4.5.2 The Ministry Has Not Reviewed TICO's Structure and Assigned Regulatory Responsibilities

Although the Ministry conducted a review in 2017 of the *Travel Industry Act, 2002*, we found that the Ministry did not consider whether TICO's structure and assigned responsibilities as a regulator were set up in the most efficient way to administer and enforce the Act. We compared TICO to organizations that regulate sellers of travel services outside of Ontario and found that other jurisdictions utilized consumer protection organizations or broader government organizations whose mandate included significantly more than just regulating sellers of travel services. We also found that many jurisdictions did not have specific travel regulations at all. Australia, for instance, repealed the country's travel seller regulations in 2014 because the government determined that the regulations had become outdated due to changes in the travel industry and other consumer-protection programs.

TICO's Mandate to Solely Regulate Third-Party Sellers of Travel Is Unique

We performed a jurisdictional scan of other Canadian Provinces, Australia, the United Kingdom, and the United States and found that among that group TICO was the only organization dedicated solely to the regulation of travel agents and wholesalers. **Figure 22**

summarizes the regulatory responsibilities of the jurisdictions we found with travel seller regulatory regimes that are most similar to TICO—including providing a compensation fund.

As **Figure 22** shows, regulators in British Columbia, Quebec, California and the UK oversee multiple industries or have significant additional responsibilities beyond regulating third-party sellers of travel. We also found that some US states, such as Florida and Hawaii, required travel sellers to register with broader government organizations (the Florida Department of Agriculture and Consumer Services, and Hawaii's Department of Commerce and Consumer Affairs, respectively). However, these states did not maintain a compensation fund.

The requirements under the Act and its regulation that TICO enforces, as well as the regulation of travel sellers in other jurisdictions, tend to focus on financial requirements and financial risk factors, as well as general business practices and consumer protections that are also relevant to other industries. Therefore, there may be an opportunity to improve efficiency and obtain economies of scale by having a regulator that oversees more industries than just travel agents and wholesalers, as other jurisdictions have chosen to do.

Many Jurisdictions Do Not Specifically Regulate Sellers of Travel

The majority of jurisdictions we reviewed did not have specific legislation, regulations or regulators dedicated to third-party sellers of travel services. Instead, travel agents and wholesalers in these jurisdictions are subject to broader business and consumer protection laws.

Our jurisdictional scan found that other than Ontario, BC, and Quebec, the remaining Canadian provinces did not have specific legislation for the regulation of travel sellers. Based on our review, we also found that few US states required registration/licensing of travel agents and wholesalers. For instance, of the 10 most populous US states, only California and Florida registered or licensed travel agents.

In 2014, the Australian government repealed the country's travel seller regulations and the *Travel Agents Act*. As a result, travel agents in Australia are no longer

required to hold a licence, and the Travel Compensation Fund, Australia's parallel to the Travel Industry Compensation Fund, is no longer operational. The repeal of travel seller regulations in Australia was informed by a review commissioned by the Department of the Treasury that—in addition to the findings regarding Australia's Travel Compensation Fund discussed in **Section 4.3.2**—found:

- The travel industry had undergone major changes in its operation. Information and choices available to consumers had improved, while vulnerability to consumer protection issues historically present in the market had been reduced.
- Australia's travel agent licensing framework provided little consumer benefit while imposing regulatory cost on business.
- Australia's travel agent licensing framework was administered and enforced at the state level, which did not reflect the national nature of the travel market.
- For the most part, competitive markets underpinned by generic consumer protection rules, some voluntary accreditation and some private measures provided an adequate and appropriate level of consumer protection in the travel industry.
- There was no longer sufficient justification for industry-specific consumer protection regulation in the sector.

Travel Industry Regulation in Ontario Could Benefit from a Comprehensive Review

As noted in **Section 4.3.2**, the travel industry and the way consumers purchase travel services have changed significantly since TICO was established in 1997. The Internet has opened the travel market for Ontarians so that they can easily book directly with travel suppliers or out-of-province travel agents and wholesalers not regulated by TICO. The risk to consumers purchasing travel services through travel agents also has changed. Travel agents are now in possession of less consumer cash, with up to 80% of travel bookings in Ontario being made online, and 93% of travel bookings are

Figure 22: Responsibilities of Comparable Regulators in Other Jurisdictions

Prepared by the Office of the Auditor General of Ontario

Jurisdiction	Regulator	Compensation Fund	Responsibilities
Ontario	Travel Industry Council of Ontario	Yes	Regulation of Travel Agents and Wholesalers
British Columbia	Consumer Protection BC	Yes	Regulates: <ul style="list-style-type: none"> • Travel Agents • Motion Picture Theatres, Distributors and Retailers • Telemarketing • Payday Lending • Home Inspectors • Cemetery and Funeral Services • Debt Collection and Bailiffs • Debt Repayment • High Cost Credit Granting
Quebec	Office de la protection du consommateur	Yes	Regulates, for example: <ul style="list-style-type: none"> • Travel Agents • Motor Vehicle Sales and Recycling • Motor Vehicle Extended Warranties • Money Lenders • Debt Collection • Debt Settlement • Health Studios
California	California Department of Justice – Office of the Attorney General	Yes*	<p>The Office of the Attorney General of California is responsible for California's Seller of Travel Program. More broadly, the Attorney General of California has a range of duties and responsibilities including those related to:</p> <ul style="list-style-type: none"> • Public Safety and Law Enforcement • Legal Opinions • Research • Civil Rights • Consumer Protection • Environment and Public Health
United Kingdom	Civil Aviation Authority	Yes	<p>The United Kingdom's Civil Aviation Authority oversees the Air Travel Organisers' Licensing program, which protects consumers against the insolvency of UK travel businesses who sell air travel for holiday travel. The Civil Aviation Authority's responsibilities also include the regulation of all UK airports, airport security, and airlines, as well as making decisions on changes to UK airspace.</p>

* California's Travel Consumer Restitution Fund is managed by the Travel Consumer Restitution Corporation.

being made using a credit card, with payments often flowing directly to end suppliers.

The Ministry's last detailed review of the Act, in 2017, specifically considered whether there was still a need for specific travel seller regulation in Ontario. It concluded "there remains a strong consumer protection rationale for maintaining travel-industry specific regulatory requirements."

We found, however, that the 2017 review did not consider whether TICO's structure and assigned responsibilities as a regulator were an efficient and cost-effective way to administer and enforce the Act. We also found that the Ministry's review did not include a comparison of TICO's structure and assigned responsibilities to regulators in other jurisdictions.

Our jurisdictional scan of travel seller regulatory regimes identified the following four broad categories for the structure and mandate of regulators (described in more detail above):

1. No specific regulation of travel sellers (Australia and the majority of Canadian provinces and US States).
2. A standalone organization dedicated solely to the regulation of travel agents and wholesalers (Ontario).
3. A standalone broader consumer protection organization with significant additional responsibilities beyond regulating third-party sellers of travel (BC and Quebec).
4. Regulating travel sellers as a responsibility of a broader government organization with significant additional responsibilities (California, UK, Florida, and Hawaii).

We noted that the Ministry had previously committed to developing a plan for another comprehensive review of the Act and consideration of the role of TICO more broadly.

RECOMMENDATION 16

So that the regulatory framework of the travel industry in Ontario is better aligned with the changing industry landscape and associated industry risks to consumers, we recommend that the Ministry of Public and Business Service Delivery (Ministry):

- conduct a comprehensive review that includes a detailed comparison of the *Travel Industry Act, 2002* and its regulation to similar laws in other jurisdictions, as well as a review of the existing mandate, structure and responsibilities of the Travel Industry Council of Ontario (TICO); and
- based on that review, propose regulatory updates to make Ontario's regulatory framework more efficient and effective.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

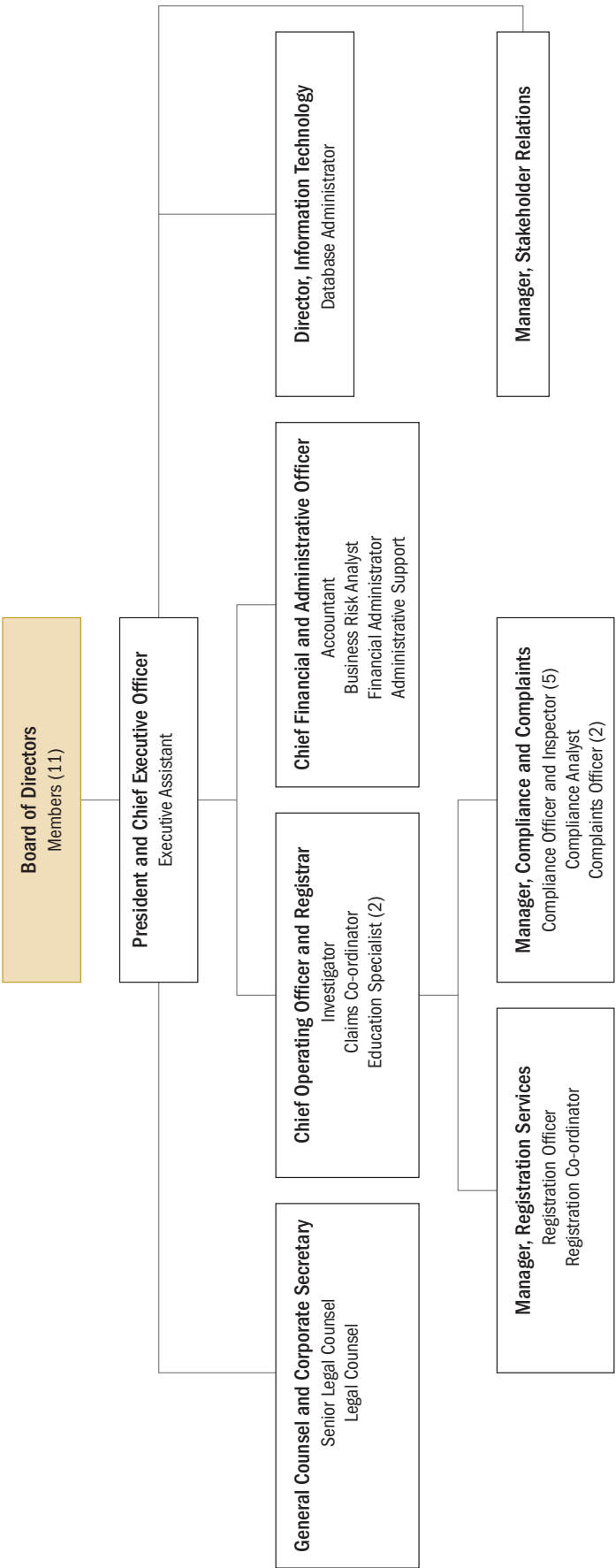
The Ministry will carefully consider the observations and recommendations made by the Auditor General in this report to inform a proposal for government consideration to undertake a review of the *Travel Industry Act, 2002* (Act) and the TICO.

The Ministry will also analyze the results from TICO's fee and Compensation Fund review process, including stakeholder feedback received in fall 2023, as part of this process.

The Ministry's proposal for government consideration will take into account this recommendation to enable an effective and efficient approach to the regulation of the travel industry in Ontario.

Appendix 1: TICO Organizational Structure, as of June 2023

Source of data: Travel Industry Council of Ontario



Appendix 2: Members of the Board of Directors, June 2023

Source of data: Travel Industry Council of Ontario

Members of the Board of Directors		
Michael Levinson – Chair YouNeedaStrategy.com Toronto Appointed by the Minister	Scott Stewart – Vice Chair Blowes & Stewart Travel Group Peterborough Appointed by the Minister	Angella Blanas Toronto Appointed by the Minister
Zaid Lama Evolv Capital Partners Oakville Appointed by the Minister	Ted Goldenberg Chapman Cultural Tours Ltd. Richmond Hill Appointed by the Ontario Motor Coach Association	Mike Foster Nexion Travel Group London Appointed by the Association of Canadian Travel Agencies
Monica Johnstone Uniglobe Travel Innovations Mississauga Appointed by the Association of Canadian Travel Agencies	Nicole Bursey Transat Tours Canada Toronto Appointed by the Canadian Association of Tour Operators	Joanne Dhue Sunwing Toronto Appointed by the Canadian Association of Tour Operators
Douglas Ellison Ellison Travel & Tours Exeter Elected by Registrants	Robert Townshend Total Advantage Travel & Tours Toronto Elected by Registrants	

Note: In August and September 2023, at the conclusion of our audit work, the composition of TICO's Board was modified, reducing it to nine members. As of October 2023, the Board consisted of three members appointed by the Minister, three industry members elected by registrants, and three members from the general public elected by registrants.

Appendix 3: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Effective processes are in place to address complaints on a timely basis, and compliance or enforcement action is taken where appropriate against registered travel agents and wholesalers, and those required to be registered in accordance with the *Travel Industry Act, 2002* (Act) and its regulation.
2. Timely and effective processes are in place so that travel agents and wholesalers meet their registration and other requirements under the Act and its regulation.
3. Effective and timely inspection and investigation processes are in place to support the Travel Industry Council of Ontario's (TICO's) compliance and enforcement functions so that travel agents and wholesalers comply with the Act and its regulation.
4. Processes are in place to effectively manage human and financial resources to fulfill TICO's mandated responsibilities.
5. Effective processes are in place to administer eligible claims to the Ontario Travel Industry Compensation Fund in accordance with the Act and its regulation and on a timely basis.
6. Systems and processes permit the collection and use of timely and complete information to allow TICO to carry out and publicly report on its mandated responsibilities.
7. An effective governance structure and processes are in place to oversee TICO so that it fulfills its mandated responsibilities.
8. The Ministry has effective processes to oversee TICO, and monitor and address TICO's performance in protecting consumers and regulating travel agents and wholesalers.

Appendix 4: TICO Board Competency Matrix

Source of data: Travel Industry Council of Ontario

Competency	Definition
Industry knowledge and experience	The member has experience with or can demonstrate knowledge or expertise of the travel industry. This may include an understanding of trends, challenges and opportunities, or unique dynamics within the sector that are relevant to TICO.
Consumer knowledge	The member has knowledge of and/or experience with consumer protection frameworks and is dedicated to promoting and protecting the interests of consumers. The member has a good understanding of the drivers behind consumer behaviour and has an appreciation of the insights from behavioural sciences regarding how humans actually behave and make decisions. Understanding consumer behaviours and underlying drivers enables the member to contribute to the enhancement of consumer protection initiatives. In TICO's context, insights into how consumers and registrants behave, including purchase decisions, can assist the organization in making informed decisions that protect the public, promote industry compliance and inform more effective and representative policy decisions for the organization.
Board experience	The member has experience with, or can demonstrate knowledge or expertise in, board matters. The member has a clear understanding of the distinction between the role of the board versus the role of management. Governance experience could be acquired through prior board or committee service or reporting to/or working with a board as an employee, or through an accredited organization (e.g., Institute of Corporate Directors).
Financial literacy	The member has the ability to comprehend TICO's internal and external financial statements, including familiarity with financial reporting requirements for registrants. The member has an understanding of generally accepted accounting principles (GAAP), knowledge and/or equivalent experience with financial planning, budgets and analysis, including an underlying appreciation for financial key performance indicators, risk management and investment portfolio concepts. The member has an understanding of internal controls and general controls within an information technology environment.
Legal	The member has experience in law and compliance and/or experience providing legal/regulatory advice and guidance within a regulatory organization.
Strategy	The member has the ability to generate and apply strategic thinking in regard to the unique business insights and opportunities of relevance to TICO, as well as the ability to support, promote, and ensure alignment with the organization's vision and values. The member has the ability to understand how an organization must evolve considering internal and external trends and influences.
Risk management	The member has knowledge and experience in enterprise risk management with a practical understanding of operational, environmental and reputational risks. The member has an understanding of the Board's role in the oversight of risk management principles and practices in the context of good corporate governance.
Change management	The member has sound knowledge of and/or experience with change management principles and frameworks. The member has either led major change within a business environment or has provided strategic insight to management to facilitate a significant transition. The member has demonstrated the capacity to adjust and balance priorities to effect change and to provide leadership in adapting goals, plans, systems and processes to respond effectively to business transformations. The member is a change leader and has assisted management in planning, implementing and evaluating transformation strategies to improve organizational performance while respecting existing business culture.

Competency	Definition
Organizational behaviour	The member has the ability to understand a business' internal culture and how that culture may facilitate or hinder productivity in the achievement of organizational goals. Organizational behaviour is the study of human behaviour in organizational settings. It investigates the impact that individuals, groups, and structure have on behaviour within organizations for the purpose of applying such knowledge toward improving an organization's effectiveness.
Technology	The member has information technology experience, with knowledge of current and emerging technologies, current risk and regulatory requirements as they would specifically apply to TICO's strategic, regulatory and operating environment; including information security risk. The member has experience and knowledge in leading or significantly influencing technology infrastructure and/or applications with a solid understanding of emerging technologies, including social networking, artificial intelligence, blockchain, cloud and data analytics.
Communications	The member has the ability to both listen effectively and articulate ideas, opinions, rationales, and comments in a clear, concise manner. This includes accepting accountability for engaging in frank, open and honest discussions, valuing a diversity of opinions and perspectives, with a view to making well-informed decisions and seeking to achieve in-group consensus in the best interest of TICO. The member is comfortable using online communications technology (email, online meetings, conference calls, Web portal, etc.). The member has the ability to listen and communicate effectively—the ability to articulate, be succinct, set the right tone, etc.
Human resources	The member has experience with human resource issues in a corporate environment with relevant knowledge of regulatory requirements, performance management, leadership, development/talent management, succession planning and compensation decision-making, including ensuring alignment between compensation plans and corporate strategy.
Operations	The member has experience with—or is able to demonstrate knowledge or expertise in—sound management and operational business processes and practices. This competency may include an understanding of topics such as managing complex projects, leveraging information technology, planning and measuring performance, and allocating resources to achieve outcomes.
Marketing/public relations	The member has experience with, or can demonstrate knowledge or expertise in, communications, public relations or interacting with the media. This may include knowledge of effective advocacy and public-engagement strategies, developing key messages, crisis communications, or social media and viral marketing.
Government knowledge	The member has an understanding of government structure, mechanics and decision-making processes and/or experience with or knowledge of the delegated administrative authority model. The member has an understanding of the strategic priorities of government and the relationship between those priorities and the work of TICO. The member has knowledge of the political environment and public policy, including how to promote effective government relations.



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