

# Frequently Asked Questions on Ethical Issues



**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**

# Frequently Asked Questions on Ethical Issues



**Ethical Standards Board**  
**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
*New Delhi*

These FAQs have been prepared in compliance with the Code of Ethics but this is not a substitute of the Code of Ethics. FAQs are illustrative only and not exhaustive. Members are advised to consult the relevant provisions of the Code of Ethics and decisions of the Courts/Council published in the Journal from time to time for appropriate understanding of any ethical issue. In no situation, reference to these FAQs will be entertained to absolve any member from the compliance of the Code of Ethics.

Although due care and caution has been taken to avoid any mistakes or omissions while reproducing the provisions of the Chartered Accountants Act, 1949, and its regulations, the Code of Ethics, decisions of the Courts/Council in the FAQs as well as in the Appendices, Members are advised to verify the correctness respectively from the Act, Regulations, Code of Ethics and decisions of the Courts/Council published from time to time.

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## Foreword to the Second Edition

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The profession of Chartered Accountancy has attained a coveted position as a result of constant pursuit for perfection, integrity, skills and knowledge. To maintain this position, it is essential that the expectations of the society are understood and met.

With globalization and increasing business complexity, it is essential that Chartered Accountants equip themselves with the changes occurring and stand out to the expectations of the society.

In matters of innovation and knowledge empowerment, we must be with the flow of the current but in matters of values and principles we should stand like a rock as ultimately, it is the image and the reputation of the profession that would enable us to sustain, grow and excel.

It is really a challenging task to formulate such a Code of Ethics which may stand unchangeable in the time to come. Therefore, the Ethical Standards Boards' objective to examine various issues of professional ethics governing the members' fraternity and to safe guard the independence of Auditors in the present time is appreciable. Increasing ethical challenges arose from the spread of the internet and complex marketing arrangements. To help the members resolve questions on these and other important ethical issues, ICAI issued the publication "Frequently Asked Questions" first time in the year of 2004.

Since, the Code of Ethics applicable on members of the profession has been revised due to the revision in IFAC code of Ethics and in recent times various ethical queries are being received by the Board in an increasing manner, guidance to this effect has become a sine-quo-non to the Chartered Accountants to answer the needs/requirements to the professional duties and responsibilities.

I am sure and confident that the members of the Institute will be benefitted by this timely and sincere effort of revision of FAQs publication by the Ethical Standards Board. This revised booklet will certainly make the members more confident and well equipped to carry out their professional responsibilities in a smooth manner.

Best Wishes

February 1, 2012  
New Delhi

**CA. G. Ramaswamy**  
*President, ICAI*



## Preface to the Second Edition

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Ethics in accountancy profession are invaluable to the members and to those who rely on their services. Stakeholders including clients, governments, taxation authorities, employees, investors, the business and financial community etc perceive them as highly competent, reliable, objective and neutral people. Chartered Accountants therefore, must not only be well qualified but also possess a high degree of professional integrity. Because of these high expectations, ICAI has adopted code of ethics for the members to maintain a level of self-discipline that goes beyond the requirements of laws and regulations.

The global scenario of knowledge and ethical requirements is changing and therefore it has become essential that Chartered Accountants equip themselves with the changes occurring and stand out to the expectation of the society. The increasing numbers of the queries/questions on ethical requirements and conflicting opinions led to the revision of existing "Frequently Asked Questions (FAQs)" by the Ethical Standards Board.

Questions from Part-A of the Code of Ethics have also been incorporated in the revised FAQs to educate the members of the profession in the observance of proper ethical requirements and standards for a better corporate governance in view of the various changing and emerging ethical issues worldwide while performing of their professional duties and responsibilities.

I am confident that the members of the Institute will be benefitted by this sincere effort of revision of FAQs by the Ethical Standards Board. This revised booklet will certainly make the members more confident and well equipped to carry out their professional responsibilities in a smooth manner.

I gratefully acknowledge the inspiration and valuable guidance of our President CA. G. Ramaswamy and Vice-President CA. J. N. Shah. I would also like to place on record my deep appreciation for all my council colleagues for their constant encouragement. I also extend my words of appreciations to the Group Members especially CA. Rajesh Lihala and CA. Jai Narayan Gupta.

I compliment Shri N.P. Singh, Secretary, Ethical Standards Board and his entire team for the efforts and valuable contribution in revising the existing FAQs.

February 1, 2012  
New Delhi

**CA. Subodh Kumar Agrawal**  
*Chairman*



## Foreword to the First Edition

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The objective of the Committee on Ethical Standards & Unjustified Removal of Auditors (CESURA) is to examine various issues of professional ethics governing the members and to safeguard the independence of Auditors.

In the emerging scenario of the globalized world, it is a challenging task to formulate a dynamic contemporary Code of Ethics with the edge of competitiveness, excellence and professionalism.

Since its inception, this Committee in a pro-active manner has deliberated upon various ethical issues concerning the profession and, while appreciating the implications of the emerging socio-economic- legal norms, made various Recommendations to the Council and the Council considered the Recommendations of the Committee. The Committee has also interpreted/clarified various guidelines/directions of the Code of Ethics keeping in view the general interest of the profession and the imperative need to ensure the independence, public interest and integrity of the profession.

The Institute is receiving various queries from members on various issues of Code of Ethics and they have every right to know the position at the earliest. Right to information is an inalienable right of the members. Indeed, it is a pleasure for me to know that the CESURA has brought out an informative booklet on Frequently Asked Questions on Code of Ethics and other related issues.

I am confident that members will be benefitted by this timely and sincere effort of the Committee. This publication will contribute in proper dissemination of information on Code of Ethics amongst the members and members will feel more confident and well-equipped to carry out their jobs.

I would like to place on record my deep appreciation for the efforts put in by Shri Abhijit Bandyopadhyay, Chairman, CESURA, members of the Committee and Dr. Alok Ray, Secretary of the Committee for this commendable job.

10<sup>th</sup> August, 2004  
New Delhi

**CA. Sunil Goyal**  
*President*





## **Preface to the First Edition**

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The Committee on Ethical Standards & Unjustified Removal of Auditors (CESURA) came into existence in September 1988 from a merger of the erstwhile 'Ethical Standards Committee' (constituted in 1975) & 'Committee on Unjustified Removal of Auditors' (constituted in 1981).

The mission statement of the Committee is "To work towards evolving a dynamic and contemporary Code of Ethics and ethical behavior for members while retaining the long cherished ideals of "excellence, independence, integrity" as also to protect the dignity and interest of the members".

While functioning, the Committee felt the imperative need to respond the frequently asked queries/questions immediately. Educating members in the observance of proper ethical standards of conduct is a task of highest priority. To ensure good corporate governance across the globe, the members have to be well conversant with the various emerging ethical issues of the profession.

In this booklet, sincere effort has been made to formulate questions based on the queries raised frequently by the members and questions likely to be posed on various issues involved. To make the booklet exhaustive, we have included relevant extracts of the Chartered Accountants Act, 1949 and format of the Complaint etc. in the Appendix. It is most likely that members may have various other queries and the Committee is inviting such suggestions for improvement of the FAQs.

I gratefully acknowledge the inspiration and guidance of our President, Shri Sunil Goyal, FCA and Vice-President, Shri Kamlesh S. Vikamsey, FCA to accomplish this task. I am grateful for the support and co-operation of Dr. Ashok Haldia, Secretary of the Institute.

I am indebted to Shri P. K. Sharma, FCA, Shri Sunil Talati, FCA, other members of the Committee and my Council colleagues for their valuable suggestions to improve the FAQs.

I appreciate the co-operation rendered by Shri G. D. Khurana, Director, Shri Sanjeev K. Khera, ACA and officials of the Committee Secretariat.

I sincerely compliment and deeply appreciate Dr. Alok Ray, Secretary of this Committee for his efforts and contribution in bringing out this booklet.

I am sure that this booklet on FAQs will be of immense help to the members in discharging their onerous responsibilities as well as to ensure independence and compliance of ethical standards, which is so dear to their heart.

10<sup>th</sup> August, 2004  
New Delhi

**CA. Abhijit Bandyopadhyay**  
*Chairman*  
*Committee on Ethical Standards &*  
*Unjustified Removal of Auditors (CESURA)*

## **Composition of Ethical Standards Board 2011-2012**

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<b><i>Name</i></b>	<b><i>Region</i></b>
CA. Subodh K. Agrawal Chairman, ESB	Kolkata
CA. V. Murali Vice-Chairman, ESB	Chennai
CA. G. Ramaswamy President, ICAI	Coimbatore
CA. Jaydeep N. Shah Vice-President, ICAI	Nagpur
CA. Bhavna G. Doshi	Mumbai
CA. P. Rajendra Kumar	Chennai
CA. Manoj Fadnis	Indore
CA. Charanjot Singh Nanda	New Delhi
CA. Rajkumar.S. Adukia	Mumbai
Shri Manoj Kumar	New Delhi
Shri Sidharth Birla	New Delhi
Shri Prithvi Haldia	New Delhi

### **Co-opted Members**

CA. Devinder Kumar Singla	Chandigarh
CA. Ajay Kumar (Alipuria)	Patiala
CA. B. Murugan	Madurai



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# Introduction

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## 1. What is Code of Ethics?

Every profession has its own Code of Ethics.

The Chartered Accountants Act, 1949 has been enacted by the Parliament for the regulation of the profession of Chartered Accountants and for the purpose of carrying out the object of the Act, the Chartered Accountants Regulations, 1988 have been enacted.

The Act has two schedules i.e. First Schedule & Second Schedule.

The First Schedule has four parts:

Part I - Professional misconduct in relation to Chartered Accountants in Practice.

Part II - Professional misconduct in relation to Members of the Institute in Service.

Part III - Professional misconduct in relation to Members of the Institute generally.

Part IV - Other Misconduct in relation to the members of the Institute generally.

The Second Schedule has three parts:

Part I - Professional misconduct in relation to Chartered Accountants in Practice.

Part II - Professional misconduct in relation to Members of the Institute generally.

Part III - Other misconduct in relation to members of the Institute Generally.

These two schedules along with the decisions of the Courts on professional misconducts, decisions, directions, guidelines, statements, clarifications and also interpretations of the Council on the various clauses of these two schedules constitute the Code of Ethics for the accountancy profession.

Part-A of the Code of Ethics, 2009 has been introduced inline with the IFAC Code in compliance of membership obligation of the ICAI. This part of the Code establishes a conceptual framework for all members to ensure compliance with five fundamental principles of professional ethics, namely, integrity, objectivity, professional competency and due



care, confidentiality and professional behavior. Under the framework, all Chartered Accountants are required to identify the threats to these fundamental principles and apply safeguards to ensure that the principles are not compromised. The framework applies to all Chartered Accountants, whether in practice or in service.

**2. What is the professional or other misconduct?**

Section 22 of the Act defines professional or other misconduct as follows :-

“For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

What constitutes ‘misconduct under any other circumstances’ has to be determined on case to case basis keeping in view the facts of the circumstances of each case. Fraud, intention to deceive and committing an act which affects the public or society at large could be in the ambit of such misconduct. Following are few examples of ‘misconduct under any other circumstances’ by a member :-

1. Conviction by a competent Court for an offence involving moral turpitude punishable with imprisonment or for an offence not of a technical nature committed by a member in his professional capacity.
2. Retention of books and documents of the client and failure to return these to the client on request without a reasonable cause.
3. Material misrepresentation e.g. misrepresenting to a firm, while seeking employment as an accountant, that he has worked for three years as a senior assistant with another firm.
4. Publishing an advertisement in a newspaper with malafide intention to malign any person.
5. Using objectionable, derogatory and abusive language or/and making irrelevant, incoherent irresponsible and insane statements in his correspondence with a person.

**3. What is the distinction between the two schedules?**

The two schedules are distinguished on the basis of gravity of misconduct and quantum of punishment for the misconduct, the

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second schedule pertaining to comparably more graver misconduct and higher punishment.

**4. What is the procedure followed against a member for misconduct under disciplinary proceedings of the Institute?**

Relevant steps of disciplinary mechanism of the Institute are shown in the flow-chart as given in Appendix-1 hereto.

**5. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Act?**

The procedure to be followed when a member is accused of misconduct under both schedules is the same which is followed for misconduct under the second schedule.

**6. Can a member in practice render Management Consultancy and other services?**

Yes, however, the areas covered under the Management Consultancy and other services have been summarized by the Council. Please refer Appendix-3 hereto.

**7. Whether a member in practice is permitted to undertake the management of NRI funds?**

No, the member is not permitted to undertake such assignment because the same is not covered under "Management Consultancy and Other Services" permitted to be rendered by the practicing members of the Institute. Please refer to Appendix-3 hereto.

**8. Can a Chartered Accountant provide 'Portfolio Management Services' (PMS) as part of CA practice?**

No, the Explanation to Clause (xix) of the definition of 'Management Consultancy and other Services' as appearing in Appendix-3 hereto expressly bars the activities of broking, underwriting and Portfolio Management.

**9. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?**

No, a Chartered Accountant in practice is not required to obtain any trade licence for practicing as a professional. The certificate of practice issued by the Institute is the only requirement to practice as a Chartered Accountant.

**10. Can a Chartered Accountant in practice work as a 'Collection Agent/Recovery Agent'?**

No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant as provided in clause (xxv) in the Appendix-3 hereto.

**11. Whether a practicing Chartered Accountant can agree to select and recruit personnel, conduct training programmes and work-studies for and on behalf of a client?**

Yes. The expression "Management Consultancy and other Services" defined by the Council includes both personnel recruitment and selection and conducting training programmes and work-studies. Therefore, a Chartered Accountant in practice shall not commit any professional misconduct by rendering such services for and on behalf of the client.

**12. Can a member in practice have a branch office/additional office/temporary office?**

Yes, a member can have a branch office. In terms of Section 27 of the Act, if a Chartered Accountant in practice or a firm of Chartered Accountants has more than one office in India, each one of such offices should be in the separate charge of a member of the Institute. Failure on the part of a member or a firm to have a member in charge of its branch and a separate member in case of each of the branches, where there are more than one, would constitute professional misconduct.

However, exemption has been given to members practicing in hill areas subject to certain conditions. The conditions are:

1. Such members/firm be allowed to open temporary offices in a city in the plains for a limited period not exceeding three months in a year.
2. The regular office need not be closed during this period and all correspondence can continue to be made at the regular office.
3. The name board of the firm in the temporary office should not be displayed at times other than the period such office is permitted to function as above.
4. The temporary office should not be mentioned in the letter-heads, visiting cards or any other documents as a place of business of the member/firm.
5. Before commencement of every winter it shall be obligatory on the member/firm to inform the Institute that he/it is opening the

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temporary office from a particular date and after the office is closed at the expiry of the period of permission, an intimation to that effect should also be sent to the office of the Institute by registered post.

The above conditions apply to any additional office situated at a place beyond 50 km from the municipal limits in which any office is situated.

It is to be noted that the requirement of Section 27 in regard to a member being in charge of an office of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be satisfied only if the member is actively associated with such office. Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year or in such other circumstances as, in the opinion of the Executive Committee, establish such active association.

It is necessary to mention that the Chartered Accountant in charge of the branch of another firm should be associated with him or with the firm either as a partner or as a paid assistant. If he is a paid assistant, he must be in whole time employment with him.

However, a member can be in charge of two offices if they are located in one and the same accommodation.

## **Questions Relating to the First Schedule**

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- 13. Can a Chartered Accountant in practice allow any person to practice in his name as a Chartered Accountant?**

No, Clause (1) of Part-I of the First Schedule to the Act prohibits a Chartered Accountant in practice to allow any person to practice in his name as a Chartered Accountant unless such person is also a Chartered Accountant in practice and is in partnership with or employed by him.

- 14. Can a Chartered Accountant in practice pay to any person any share, commission or brokerage in the fees or profits of his professional business?**

No, Clause (2) of Part-I of the First Schedule to the Act prohibits a Chartered Accountant from paying or allowing any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of the deceased partner or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India;

- 15. Can a Chartered Accountant in practice share his fees with the Government in respect of Government Audit?**

The Institute came across certain Circulars/Orders issued by the Registrar of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Govt. and the auditor has to deposit a percentage of his audit fee in the State Treasury by a prescribed challan within a prescribed time of the receipt of Audit fee.

In view of the above, The Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering the administrative and other expenses incurred in the process, the Council decided that as such there is no bar in the Code of Ethics to accept such assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.

- 16. Can goodwill of a Chartered Accountant firm be purchased?**

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Yes. The Council of the Institute considered the issue whether the goodwill of a proprietary firm of a Chartered Accountant can be sold/transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the Resolution that the sale/transfer of goodwill in the case of a proprietary firm of Chartered Accountants to another eligible member of the Institute, shall be permitted.

**17. Can a Chartered Accountant in practice enter into partnership with a practising Chartered Accountant of a recognized foreign professional body for sharing fee of their partnership within India?**

Yes, Clause (4) of Part-I of First Schedule to the Act permits partnership between members of the Institute and the members of the recognized foreign professional bodies either by the Central Government or the Council of the Institute by virtue of either under Section 29(2) of the Act or under Regulation 53B(2) of the CA Regulations provided they share fees of the partnership business both within India and outside India.

**18. Can a practicing Chartered Accountant secure any professional business through the services of a person who is not his employee or partner?**

No, Clause (5) of Part-I of First Schedule to the Act prohibits a practicing Chartered Accountant from securing any professional business, either through the services of a person who is not an employee of such Chartered Accountants or who is not his partner.

**19. Can a practicing Chartered Accountant solicit clients or professional work by, advertisement?**

No, Clause (6) of Part-I of the First Schedule to the Act prohibits a practicing Chartered Accountant from soliciting clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means.

However, there are following exceptions to it :-

- (i) A member can respond to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence.
- (ii) A member may advertise changes in partnerships or dissolution of a firm, or of any change in the address of practice and

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telephone numbers, the advertisement being limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of newspaper or magazine and number of insertions.

- (iii) A member is permitted to issue a classified advertisement in the Journal/Newspaper of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and e-mail address.

**20. Whether member in practice is permitted to respond to announcement for empanelment for allotment of audit and other professional work and quote fees on enquiries being received?**

It has been clarified by the Council under proviso (ii) to clause (6) of the part-I of the first schedule of the Act that if announcements are made for empanelment by the Government, Corporations, Courts, Co-operative Societies, Banks and other similar institutions, the members may respond to such announcements provided the existence of panel is within their knowledge. The Council has further clarified that the quotations of fees can be sent, if enquiries are received by the members in this regard.

**21. Whether a member in practice is permitted to have his name published in Telephone Directory?**

Yes, a member in practice is permitted to have his name published in the telephone directory subject to certain conditions. Para (c) under Clause (6) of Part I of the First Schedule to the Act, appearing in the Code of Ethics, 2009 provides for publication of Name or Firm Name by Chartered Accountants in the Telephone or other Directories published by Telephone Authorities or Private Bodies.

The Council has held that it would not be proper for a Chartered Accountant to have entries made in a Telephone Directory either by making a special request or by means of an additional payment. The Council has also considered the question of permitting entries in respect of chartered accountants and their firms under specified groups in telephone/trade directories brought out by Government and non-Government agencies. It has decided to permit such entries subject to the following restrictions:

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1. The entry should appear in the section/category of “Chartered Accountants”.
2. The member/firm should belong to the town/city in respect of which the directory is being published.
3. The entry should be in normal type of letters. Entry in bolder type or abnormal type of letters or in a box is not permissible.
4. The order of the entries should be alphabetical and logical.
5. The entry should not appear in a manner giving the impression of publicity/advertisement. Entry should not be given in a manner which gives prominence to it as compared to other entries.
6. The payment, if any, for the entry should not be unreasonable.
7. The entries should not be restricted and should be open to all the chartered accountants/firms of chartered accountants in the particular city/town in respect whereof the directory is published.
8. Subject to the above conditions, the members can also include their names in trade directories which are published and/or otherwise available such as electronic media e.g. Internet, telephone services like “Ask Me Services” etc.

**22. Whether a member in practice can respond to Tenders, Advertisements and Circulars?**

Yes, it is permitted as per proviso (ii) to clause (6) of part-I of the First Schedule to the Act.

**23. Can a member in practice indicate in a book or an article, authored/contributed/published by him, his association with any firm of Chartered Accountants?**

No, as per Para (e) under Clause (6) of Part I of First Schedule to the Act as appearing in the Code of Ethics, 2009 a member is not permitted to indicate in a book or an article, authored/contributed/published by him, the association with any firm of Chartered Accountants.

**24. Whether the word “Chartered Accountants” and name of city after the name of the members of the Institute be mentioned in the articles contributed by such members and published in the Institute’s Journal?**

Yes, under Clause (6) of Part I of the First Schedule to the Act there is



no restriction in the Code of Ethics for mentioning the word “Chartered Accountant” and also the name of city in an article contributed by a member in the Institute's Journal as well as in newspapers and other periodicals.

**25. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?**

No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the Act, of Code of Ethics, 2009).

**26. Can a Chartered Accountant in practice seek professional work from his professional colleagues?**

Yes, in terms of proviso (i) of Clause (6) of Part-I of the First Schedule to the Act, a member is permitted to apply or request for or to invite or to secure professional work from another Chartered Accountant in practice.

The issue of advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever is in violation of Clause (6) of Part I of the First Schedule to the Act. However, classified advertisement in the Journal/Newsletter of the Institute is permissible in this regard. A member is permitted to issue a classified advertisement in the Journal/Newsletter of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and E-mail address.

**27. Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?**

Yes, an individual Chartered Accountant or a firm of Chartered Accountants can institute or sponsor prizes, provided that the designation “Chartered Accountant”, is not appended to the prize and the Clause (6) of the First Schedule regarding advertisement and publicity is complied with.

**28. Can a Chartered Accountants firm give advertisement in relation to Silver, Diamond, Platinum or Centenary celebration of the firm?**

Yes, while considering the implications of Clause (6) & (7) of Part I of the First Schedule of the Act in relation to such advertisements and

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also the need of interpersonal socialization/relationship of the members through such get-together occasions, the advertisement for Silver, Diamond, Platinum and Centenary celebrations of the firms has been permitted to be published in any newspaper or in the newsletters.

**29. A Chartered Accountants firm issued circulars to the non- clients that a Chartered Accountant who was the former partner in-charge of Taxation of one of the largest accounting firms of the world, had joined them as partner. Can they do it? (Case Study)**

No, Clause (6) of Part I of the First Schedule to the Act prohibits solicitation of clients or performing work either directly or indirectly by circular, advertisement, personal communication or interview or by any "other means". The issuance of circular to persons who are not clients but may likely requires services of a chartered accountant would tantamount to advertisement since it is solicitation of professional work by making roving enquiries. As per Clause (7) of Part I of the First Schedule to the Act, the usage of the words "one of the largest accounting firms of the World" and the specification of specialization in "taxation" would also amount to advertisement and, thus, constitute professional misconduct.

**30. In a representation submitted to a company under**

**Section 225(3) of the Companies Act, 1956, the auditors of the company included the contribution made by the firm in strengthening the control procedures of the company during their association with the company. Is it misconduct (Case Study)?**

Para (i) under Clause (6) of Part I of the First Schedule to the Act, provides for scope of such representation, which an Auditor is entitled to make under Section 225 (3) of the Companies Act, 1956. Section 225(3) of the Companies Act, 1956 permits a retiring auditor to make a representation in writing (not exceeding a reasonable length) to the company. The proposition of the partner to highlight contributions made by the firm in strengthening the control procedures in the representation should not be included in such representation because the representation letter should not be prepared in a manner so as to seek publicity.

The Code of Ethics issued by the Institute makes it amply clear that the right to make representation does not mean that an auditor has any prescriptive right or a lien on an audit. The wording of his representation should be such that, apart from the opportunity not being abused to secure needless publicity, it does not tantamount

directly or indirectly to canvassing or soliciting for his continuance as an auditor. The letter should merely set out in a dignified manner how he has been acting independently and conscientiously through the term of office and may, in addition, indicate if he so chooses his willingness to continue as auditor if re-appointed by the shareholders. Thus, such action proposed by a firm could not be approved since, it may lead to his being held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Act.

**31. Can a Chartered Accountant in practice accept original professional work emanating from the client introduced to him by another member?**

No, Para (j) under Clause (6) of Part I of the First Schedule to the Act prescribes that a member should not accept the original professional work emanating from a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

**32. Whether a Chartered Accountant in practice can give public interviews and also whether he can furnish details about himself or his firm in such interviews?**

A Chartered Accountant in practice can give public interviews. While doing so, due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments, which may hit clauses (6) & (7) of the First Schedule of the Act.

**33. A Chartered Accountant in practice during a TV interview, handed over a bio-data of his firm to the Chairperson. Such bio-data detailed the standing of the international firm with which the firm was associated. It also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio-data during the interview. Is it a professional misconduct? (Case Study)**

Yes, Clause (6) of Part I of the First Schedule to the Act prohibits solicitation of client or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means since it shall constitute professional misconduct. The Member would be held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Act under the given circumstances.

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**34. Can a Chartered Accountant in practice/firm of Chartered Accountants post the particulars of himself/itself on a website?**

Yes, the Council has approved the detailed guidelines for posting the particulars on Website by Chartered Accountants in practice and firm(s) of Chartered Accountants in practice.

**35. Whether website of any Chartered Accountant can provide a link to the website of ICAI, its Regional Councils and Branches and also to the websites of Govt./Govt. Departments/Regulatory authorities?**

Yes, please refer the relevant pages of the Code of Ethics, 2009.

**36. Whether the information contained in the website of the Chartered Accountants and/or Chartered Accountants' firms can be circulated on their own or through e-mail or by any other mode or technique?**

Sub-para (3) & (4) of Para (m) under Clause (6) of Part I of the First Schedule to the Act prescribes that the Chartered Accountants and/or Chartered Accountants' firms should ensure that none of the information contained in the website be circulated on their own or through e-mail or by any other mode or technique except on a specific "pull" request. The Chartered Accountants and/or Chartered Accountants' Firms would ensure that their Websites are run on a "pull" model and not a "push" model of the technology to ensure that any person who wishes to locate the Chartered Accountants or Chartered Accountants' firms would only have access to the information and the information should be provided only on the basis of specific "pull" request.

**37. Can a member put up his photograph on the website?**

Yes, revised Sub-Para (8) of Para (m) under Clause (6) of Part I of the first schedule to the Act provides that display of passport size photograph is permitted.

**38. Can a Chartered Accountant advertise his professional attainments or services, or can he use any designation or expression other than Chartered Accountants on professional documents, visiting cards, letter heads or sign boards, etc.?**

No, as per Clause (7) of Part I of the First Schedule to the Act, a Chartered Accountant shall be deemed to be guilty of professional misconduct, if he advertises his professional attainments or services, or uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or

sign boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants or of any other institution that has been recognized by the Central Government or may be recognized by the Council.

However, the member in practice may advertise through a write-up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council.

**39. Whether a Chartered Accountant in practice can use expression like Income Tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant?**

No, Council direction under Clause (7) of Part I of the First Schedule to the Act which prescribes that it is improper for a Chartered Accountant to state on his professional documents that he is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant, whereas it is permitted to mention his degrees.

**40. Can a Chartered Accountant in practice give the date of setting up the practice or date of establishment on the letterheads and other professional documents, etc.?**

No, Council direction under Clause (7) of Part I of the First Schedule to the Act prescribes that the date of setting up of the firm on the letterheads and the professional documents, etc. should not be mentioned. However, in the Website, the year of establishment can be given on a specific "pull" request.

**41. Can a Chartered Accountant in practice also practice as an Advocate?**

Yes, Council direction under Clause (7) of Part I of the First Schedule to the Act prescribes that a Chartered Accountant in practice who is otherwise eligible may practice as an Advocate subject to the permission of the Bar Council but in such cases, he should not use designation 'Chartered Accountant' in respect of the matters involving the practice as an Advocate. In respect of other matters he should use the designation 'Chartered Accountant' but he should not use the designation 'Chartered Accountant' and 'Advocate' simultaneously.

**42. Whether a Chartered Accountant in practice can use the designation 'Corporate Lawyer'?**

No, a Chartered Accountant in practice is not permitted to use the designation 'Corporate Lawyer'.

*Frequently Asked Questions On Ethical Issues*

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**43. Can a Chartered Accountant in practice/firm give advertisement in press?**

No, However, the members in practice may advertise the services setting out the services provided by him or his firm, and particulars of his firm, through a 'Write-Up', subject to such guidelines as may be issued by the Council.

**44. Whether a member can appear on television/Radio or give lectures at forums?**

Yes, Council direction under Clause (7) of Part I of the First Schedule to the Act prescribes that a member may appear on television/Radio or give lectures at forums and may give his name and describe himself as chartered accountant. Special qualifications or specialized knowledge directly relevant to the subject matter of the programme may also be given. But no reference should be made, in the case of practicing member to the name and address or services of his firm. What he may say or write must not be promotional of him or his firm but must be an objective professional view of the topic under consideration.

**45. Whether Companies in which Chartered Accountants have been appointed as directors on their Board can publish description about the Chartered Accountant's expertise, specialization and knowledge in any particular field or add appellations or adjectives to their names in the prospectus or public announcements issued by these companies?**

The Council's attention has been drawn to the fact that more and more companies are appointing Chartered Accountants' as directors on their Boards. The prospectus or public announcements issued by these companies often publish descriptions about the Chartered Accountants' expertise, specialization and knowledge in any particular field or add appellations or adjectives to their names. Attention of the members in this context is invited to the provisions of Clause (6) and (7) of Part I of the First Schedule to the Act.

In order that the inclusion of the name of a member of the Institute in the prospectus or public announcements or other public communications issued by the companies in which the member is a director does not contravene the above noted provisions, it is necessary that the members should take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also that such prospectus or public announcements or public

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communications do not directly or indirectly amount to solicitation of clients for professional work by the member. While it may be difficult to lay down a rigid rule in this respect, the members must use their good judgement, depending upon the facts and circumstances of each case to ensure that the above noted provisions are complied with both in letter and spirit.

It is advisable for a member that as soon as he is appointed as a director on the Board of a company, he should specifically invite the attention of the management of the company to the aforesaid provisions and should request that before any such prospectus or public announcements or public communication mentioning the name of the member concerned, is issued, the material pertaining to the member concerned should, as far as practicable be got approved by him.

- 46. If a member is a partner in more than one firm, is it permissible to print the names of all the firms on visiting cards, letter-heads, stationery etc.?**

Yes, there is no violation under Clause (7) of Part I of the First Schedule to the Act.

- 47. Whether a Chartered Accountant/Firm is permitted to use logo on letter-heads, stationery, etc.?**

No, the use of logo/monogram of any kind/form/style/design/colour etc. whatsoever on any display material or media e.g. paper stationery, documents, visiting cards, magnetic devices, internet, signboard by the Chartered Accountant, firm of Chartered Accountants is prohibited. Use/printing of member/firm name in any other manner tantamounting to logo/monogram is also prohibited. However, a common CA logo has been allowed to the members, provided it is used in the correct manner within terms of the Council guidelines.

- 48. Can a Chartered Accountant in practice use/fix a monogram of the Institute on any column/wall located inside the office or on professional documents?**

No, in view of the Council directions under Clause (7) of Part I of the First Schedule to the Act, a Chartered Accountant in practice is not permitted to use/fix a monogram of the Institute on any column/wall located inside the office or on any professional documents

- 49. Whether the office of a Chartered Accountant is permitted to go in for ISO 9001: 2000 certification or other similar certifications?**

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Yes, there is no bar for a member to go in for ISO 9001:2000 certification or other similar certifications. However, the member cannot use the expression like "ISO Certified" on his professional documents, visiting cards, letter-heads or sign boards etc.

- 50. If a member has passed any additional course of the ICAI, is he permitted to print such qualification on visiting cards, letter heads and other stationery?**

Yes, under Clause (7) of Part I of the First Schedule to the Act, a member is permitted to print such qualification on the visiting cards, letter heads & other stationery. However, he cannot use the designation 'Information System Auditor' or the like.

- 51. Whether public notice published in the newspaper by a Chartered Accountant individually or jointly with an Advocate in respect of acquisition of land by their client is permitted.**

Yes, in terms of the Council Guidelines under Clause (7) of Part I of the First Schedule to the Act, the public notice published in the newspaper in respect of acquirement of land by their client is permissible.

- 52. Whether a Chartered Accountant in practice can accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing?**

No, a Chartered Accountant in practice cannot accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing. It will be in violation of Clause (8) of Part I of First Schedule to the Act.

- 53. Whether a Chartered Accountant in practice can accept audit in case the audit fee of the previous auditor remains unpaid.**

No, in case the undisputed audit fees for carrying out the statutory audit under the Companies Act, 1956 or various other statutes have not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.

The Council has taken the view that the provisions of audit fee made in accounts signed by both the auditor and the auditee shall be considered as 'undisputed' audit fees. In this connection, attention of members is invited to the Council General Guidelines, 2008 dated 08.08.2008



**54. Whether posting of a letter under “Certificate of Posting” is sufficient to establish communication with retiring auditor?**

No, a mere posting of a letter “Under Certificate of Posting” is not sufficient to establish effective communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. Communication by a letter sent “Registered Acknowledgement due” or by hand against a written acknowledgement would in the normal course provide such evidence.

**55. Whether a Chartered Accountant who is appointed as tax auditor for conducting special audit under the Income-tax Act by the IT Authorities is required to communicate with statutory auditor?**

Yes, Council direction under Clause (8) of Part I of First Schedule to the Act, prescribes that it would be a healthy practice if a tax auditor appointed for conducting special audit under the Income-tax Act, communicates with the members who has conducted the statutory/tax audit.

**56. Whether it is obligatory for the auditor appointed to conduct a special Audit under Section 233A of the Companies Act, 1956 to communicate with the previous auditor who has conducted the regular audit for the period covered by the Special Audit.**

No, Council direction under Clause (8) of Part I of the First Schedule to the Act prescribes that it is not obligatory for the auditor appointed to conduct a special Audit under Section 233A of Companies Act, 1956 to communicate with the previous auditor who has conducted the regular audit for the period covered by the Special Audit.

**57. Whether communication with previous auditor is necessary in case of appointment as statutory auditor by nationalized and other Banks?**

Yes, Clause (8) of Part I of the First Schedule to the Act is equally applicable in case of nationalized and other Banks and also to Government agencies.

**58. Whether communication by the Incoming auditor is mandatory with the previous auditor in respect of various audit assignments, like the concurrent audit, revenue audit, tax audit and special audits etc.?**

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Yes, the requirement for communicating with the previous auditor would apply to all types of audits viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit. The Council has laid down detailed guidelines in this regard and the same are appearing in the Code of Ethics, 2009 edition.

**59. Whether a Chartered Accountant will be deemed to be guilty of professional misconduct if he accepts his appointment as an auditor immediately after intimating his appointment over the phone to the previous auditor?**

Yes, the member would be held guilty of professional misconduct for the following reasons:

- (a) That he had failed to communicate with the retiring auditor in writing; and
- (b) That he did not wait for a reasonable length of time for a reply to be received from him.

**60. Whether a Chartered Accountant can accept an appointment as auditor of a company without first ascertaining from it whether the requirement of Section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with?**

No, as per Clause (9) of Part I of the First Schedule to the Act, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with. In this regard, the Council has laid down detailed guidelines that are appearing in the Code of Ethics, 2009 Edition.

**61. Whether a statutory auditor can be appointed in the adjourned meeting in place of existing statutory auditor where no special notice for removal or replacement of the retiring auditor is received at the time of the original meeting?**

No, if any annual general meeting is adjourned without appointing an auditor, no special notice for removal or replacement of the retiring auditor received after the adjournment can be taken note of and acted upon by the company, since in terms of Section 190(1) of the Companies Act, 1956, special notice should be given to the Company at least fourteen clear days before the meeting in which the subject matter of the notice is to be considered, the meeting contemplated in Section 190(1) undoubtedly is the original meeting.

**62. Whether a Chartered Accountant or a firm of Chartered Accountants can charge or offer to charge professional fees based on a percentage of turnovers?**

No, in terms of Clause (10) of Part I of First Schedule to the Act, it is not permitted to a Chartered Accountant or a firm of Chartered Accountant to charge fees on a percentage of turnover, except in the circumstances provided under Regulation 192 of the CA Regulations, 1988.

“192. Restriction on fees

No Chartered Accountant in practice shall charge or offer to charge, accept or offer to accept, in respect of any professional work, fees which are based on a percentage of profits, or which are contingent upon the findings, or results of such work:

Provided that:

- (a) in the case of a receiver or a liquidator, the fees may be based on a percentage of the realization or disbursement of the assets;
- (b) in the case of an auditor or a co-operative society, the fees may be based on a percentage of the paid up capital or the working capital or the gross or net income or profits; and
- (c) in the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued.”

**63. Whether a Chartered Accountant in practice can engage in any business or occupation other than the profession of Chartered Accountancy?**

No, in terms of Clause (11) of Part I of First Schedule to the Act in general a Chartered Accountant in practice is not permitted to engage himself in any business or occupation other than the profession of Chartered Accountants.

However, there are following exceptions to it :-

- (i) A Chartered Accountant can be a Director of a Company (not being a Managing Director or Whole-Time Director), unless he or any of his partners is interested in such company as an auditor. [Proviso to Clause (11)]
- (ii) A Chartered Accountant in practice may engage in any business or occupation with the permission granted in accordance with a Resolution of the Council. (Regulation 190A) Appendix-9 of the CA Regulations contains the above

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resolutions under two heads (A) permission granted generally and (B) permission to be granted specifically. (Please refer Appendix-2 hereto)

**64. Whether a member in practice is allowed to become whole-time director of a company?**

No, Members are not allowed to become whole-time Director of a company generally. However, a member in practice may become a Managing Director or a whole-time Director of a body corporate within the meaning of the Companies Act, 1956 subject to the Council Guidelines of Corporate Form of practice (refer Appendix-3 hereto).

**65. Whether a member in practice can be a director of a company?**

Yes, a member in practice is permitted generally to be a Director Simplicitor in a company provided he is not a Managing Director or Wholetime Director and is required only in the Board Meetings of the company and not paid any remuneration except for attending such meetings.

**66. Whether a Chartered Accountant in practice is entitled to accept teaching assignment?**

Yes, a Chartered Accountant in practice is allowed to accept teaching assignment in university, affiliated colleges, educational institution, coaching organization, private tutorship, provided the direct teaching hours devoted to such activities taken together do not exceed 25 hours a week with effect from 1.4.2005.

**67. Can a Chartered Accountant working in a CA firm hold CoP?**

Yes, a Chartered Accountant working in a C.A. firm can hold CoP. However, w.e.f.1.4.2005, he is not entitled to do any attest function.

**68. Can a practicing Chartered Accountant accept a position as auditor previously held by some other Chartered Accountant in such conditions as to constitute undercutting?**

Yes, a Chartered Accountant in practice can accepts a position as auditor previously held by some other Chartered Accountant in such conditions as to constitute undercutting.

**69. Can a Chartered Accountant in Service accepts or agrees to accept any part of fees, profits or gains from a lawyer, a Chartered Accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification?**

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No, Clause (b) of Part II of First Schedule to the Act, prohibits a member in service from accepting or agreeing to accept any part of fees, profits or gains from a lawyer, a Chartered Accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification.

- 70. Whether a Member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council any particulars knowing to be false?**

Yes, as per Clause (3) of Part III of the First Schedule to the Act, a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false.

- 71. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not comply with the requirements asked for, by the Institute?**

Yes, a member of the Institute shall be deemed to be guilty of professional misconduct if he does not supply the information called for, or does not comply with the requirements asked for by the Institute. (As per clause 2 of part-III of the First Schedule to the Act)

## Questions relating to the Second Schedule

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- 72. Can a Chartered Accountant in practice disclose information acquired in the course of his professional engagement?**

No, as per Clause (1) of Part I of Second Schedule to the Act, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client or otherwise than as required by any law for the time being in force.

- 73. Whether an auditor is required to provide to the client or to main auditor of the Head Office of the same enterprise access to his audit working papers?**

No, working papers are the property of an auditor. An auditor is not required to provide the client access to his audit working papers. The main auditors of an enterprise do not have right of access to the audit working papers of the branch auditors, except in case it is required by the Regulatory norms.

- 74. Whether Joint Auditors can demand the working papers of one another?**

No, the working papers are the property of an auditor. Therefore, no Joint Auditor can demand the working papers of the other auditor.

- 75. Whether a joint auditor will be responsible for the work done by other joint auditor?**

Council direction under Clause (2) of Part I of the Second Schedule to the Act prescribes that in respect of audit work divided among the joint auditors, each joint auditor is responsible only for the work allocated to him, whether or not he has prepared a separate report on the work performed by him. However, on the other hand, all the joint auditors are jointly and severally responsible for the work which is not *inter-se* divided among the auditors.

- 76. Whether the member in practice can permit his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast?**

No, under clause 3 of part-I of the Second Schedule of the Act, a

member in practice cannot permit his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transaction in a manner which may lead to the belief that he vouches for the accuracy of the forecast. However, the Council has decided that a Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the sources of information, the basis of forecasts and also the major assumptions made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts.

**77. Can a member in practice express his opinion on financial statements of any business or enterprises in which he, his relative, his firm or a partner in his firm has a substantial interest?**

No, as per Clause (4) of Part I of the Second Schedule to the Act, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he expresses his opinion on financial statements of any business or any enterprise in which he, his relative, his firm or a partner in his firm has substantial interest.

However, in case of a company, under Section 226(3)(e), he cannot do so even if he holds a single share.

The meaning of the word 'substantial interest' shall be the same as are contained in the resolution passed by the Council in pursuance to Regulation 190A of the CA Regulations. (See Appendix-2 hereto)

**78. Whether the Chartered Accountant who is appointed as a liquidator of a company can do the audit of that company?**

No, Clause (4) of Part I of the Second Schedule to the Act and Regulations framed there under may be referred.

**79. Whether the Chartered Accountant will be guilty of professional misconduct, if he:**

- (i) **accept the auditorship of a college, if he is working as a part-time lecturer in the college.**
- (ii) **accept the auditorship of a trust where his partner is either an employee or a trustee of the trust.**

Yes, the Chartered Accountant will be guilty of professional misconduct in both the above referred circumstances.

**80. Can a member audit an enterprise/concern where he is a director?**

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No, in cases where the member is a director of a company the financial statements of which are to be audited and/or opinion is to be expressed, he should not undertake such job and/or express opinion on the financial statements of that company.

**81. Whether a member can audit an enterprise/concern where a partner or relative of the member is a director in the company who has a substantial interest?**

No, for the reason as not to compromise with the independence of mind, the member may desist from undertaking the audit of financial statements and/or expression of opinion thereon.

**82. Can an auditor write the books of accounts of the auditee?**

No, Council directions under Clause (4) of Part I of the Second Schedule to the Act prescribes that an auditor is not permitted to write the books of accounts of his auditee clients.

**83. Whether a member who is carrying out statutory audit and also rendering management consultancy services to his auditee clients can receive fees for such other services, which are in excess of the audit fees.**

Yes. However, in exercise of the powers conferred by clause (1) of Part II of the Second Schedule to the Act, the Council of the Institute has issued Guidelines which specify that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crore or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/Company(ies) on a remuneration which in aggregate exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restriction(s), the same shall apply instead of conditions/restrictions specified under the Guidelines.

*Explanation :*

1. The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s), payable to the statutory auditors and their associate concern(s) put together;



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2. For the above purpose;
  - (I) The term “other work(s)” or “service(s)” or “assignment(s)” shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Act, but shall not include :-
    - (i) audit under any other statute;
    - (ii) certification work required to be done by the statutory auditors; and
    - (iii) any representation before an authority.
  - (II) The term “associate concern” means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their “relative(s)” is/are Director/s or partner/s and/or jointly or severally hold “substantial interest” in the said corporate body or partnership;
  - (III) The terms “relative” and “substantial interest” shall have the same meaning as are assigned under Appendix (10) to the CA Regulations;
3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor(s) together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

**84. Whether a statutory auditor can accept the system audit of same entity?**

Yes, the statutory auditor can accept the assignment of a system audit of the same entity, provided it did not involve any scrutiny/review of financial data and information.

- 85. Whether a statutory auditor is eligible for appointment under Section 217(6) of the Companies Act with the duty of seeing that the provisions of sub-sections (1) to (3) of Section 217 are complied with, particularly with regard to “Directors’ Responsibility Statement”?**

No, the Companies Act, 1956 requires the Directors to prepare the Directors’ Responsibility statement regarding fulfillment of their responsibilities to prepare financial statements of the company in accordance with the applicable accounting standards and other generally accepted accounting policies and principles. The auditors’ responsibility is to express opinion on financial statements, based on their audit. In view of the above, the question of asking the statutory auditor to certify the Directors’ Responsibility Statement does not arise.

No, a member in practice is not qualified to be appointed as statutory auditor of one subsidiary company when he is the internal auditor of another subsidiary of the same holding company.

In this regard, attention is drawn to the following directions as appearing in the Code of Ethics, 2009 edition.

“Public conscience is expected to be ahead of the law. Members, therefore, are expected to interpret the requirement as regards independence much more strictly than what the law requires and should not place themselves in positions which would either compromise or jeopardize their independence.”

- 86. Whether a Chartered Accountant is qualified to be appointed as statutory auditor of one subsidiary company when he is the internal auditor of another subsidiary of the same holding company**

No, a member in practice is not qualified to be appointed as statutory auditor of one subsidiary company when he is the internal auditor of another subsidiary of the same holding company.

In this regard, attention is drawn to the following directions as appearing in the Code of Ethics, 2009 edition.

“Public conscience is expected to be ahead of the law. Members, therefore, are expected to interpret the requirement as regards independence much more strictly than what the law requires and should not place themselves in positions which would either compromise or jeopardize their independence.”

- 87. Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?**

Yes, as per Clause (5) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.

- 88. Whether a member in practice will be liable if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity**

Yes, as per Clause (6) of Part I of Second Schedule to the Act, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.

- 89. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?**

Yes, as per Clause (7) of Part I of Second Schedule to the Act, a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

- 90. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report**

Yes, the action of the Chartered Accountant in signing two Balance Sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Act, which states that a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

- 91. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?**

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Yes, as per Clause (8) of Part I of Second Schedule to the Act, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

- 92. Whether a member in practice will be liable if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances?**

Yes, as per Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

- 93. Whether a member in practice will be held liable for failing to keep moneys of his client in a separate banking account or to use such moneys for purposes other than they are intended for?**

Yes, as per Clause (10) of Part I of Second Schedule to the Act, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended for.

- 94. Can a Chartered Accountant receive his professional fees in advance partly or in full?**

Yes, as such there is no bar in the Act or in the CA Regulations as well as Code of Ethics in taking the fees in advance.

- 95. Whether a member of the Institute will be liable, if he contravenes any of the provision of the Act or the Regulations or the Guidelines issued by the Council?**

Yes, as per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of Chartered Accountants Act or the Regulations made under or any Guidelines issued by the Council.

- 96. Whether a member of the Institute shall be guilty of professional misconduct, if he accepts appointment as cost auditor of company under section 233B of the Companies Act, 1956 while he is an auditor of the company appointed under section 224 of the Companies Act, 1956?**

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Yes, please refer the Code of Ethics, 2009 (Chapter-3 of the Council General Guidelines, 2008 issued under Clause-1 of part-II of the Second Schedule).

- 97. Whether a member of the Institute shall be guilty of professional misconduct, if he accept appointment as auditor of company under section 224 of the Companies Act, 1956 while he is an employee of the cost auditor of the company appointed under section 233B of the Companies Act, 1956?**

Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Act, the Council of the Institute has issued Council General Guidelines, 2008 which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as auditor of a company under Section 224 of the Companies Act, 1956, while he is an employee of the cost auditor of the Company appointed under Section 233B of the Companies Act, 1956.

- 98. Whether a member of the Institute in practice is required to maintain books of accounts?**

Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Act, the Council of the Institute has issued a Council General Guidelines, 2008 which specified that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he or the firm of Chartered Accountants of which he is a partner fails to maintain and keep in respect of his/its professional practice, irrespective of the volume of transaction, proper books of account including the following:

- (i) a Cash Book;
- (ii) a Ledger

- 99. Is there any ceiling on the number of tax audit assignment that can be taken up by a member in practice?**

Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Act, the Council of the Institute has issued Council General Guidelines, 2008 which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961. The number specified for tax audit is 45.

*Frequently Asked Questions On Ethical Issues*

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**100. Whether the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified no. of tax audit assignments?**

No. Please refer the Code of Ethics, 2009 (Chapter-6 of the Council General Guidelines, 2008 issued under clause (1) of Part II of the Second Schedule).

**101. Whether a Chartered Accountant is permitted to accept appointment as auditor of a concern while he is indebted to the firm or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern?**

Yes, in exercise of the powers conferred by Clause (1) of Part-II of the Second Schedule to the Act, the Council of the Institute has issued Council General Guidelines, 2008 which specify that a member of the Institute shall be deemed to be guilty of professional misconduct if he accepts appointment as auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs 10,000.

**102. Whether the statutory auditors consisting of ten or more members can conduct the branch audits of the same company?**

The Council has prescribed certain self-regulatory measures in order to ensure a healthy growth of the profession and an equitable flow of professional work among the members. One of the recommendations of this nature is that the branch audits of a company should not be conducted by its statutory auditors consisting of ten or more members, but should be conducted by the local firms of auditors consisting of less than ten members. This should not be understood to mean any restriction on the right of the statutory auditors to have access over branch accounts conferred under the Companies Act, 1956. This restriction may not apply in the following cases:

- (i) where the accounting records of the branches are maintained at the head office of the respective companies; and
- (ii) where significant operations of an undertaking or a company are carried out at its branch office.

**103. Is there any ceiling on the fees to be accepted from one company?**

To ensure that the professional independence of a member in full-time or part-time practice does not appear to be jeopardized he should, as far as possible, take care to see that the professional fees for audit and other services received by the firm in which he is a partner, by him and his partners individually and by firm or firms in which he or his partner are partners from one or more clients or companies under the same management does not exceed 40% of the gross annual fees of the firm, firms and partners referred to above. 'Companies under the same management' here would refer to the definition of this expression as provided in section 370(1-B) of the Companies Act, 1956.

Provided that no such ceiling on the gross annual professional fees of a member would be applicable where such fees do not exceed two lakhs of rupees in respect of a member or firm including fees received by the member or firm for other services rendered through the medium of a different firm or firms in which such member or firm may be a partner or proprietor.

Provided further that no such ceiling on the gross annual professional fees of a member would be applicable in the case of audit of government companies, public undertakings, nationalized banks, public financial institutions or where appointments of auditors are made by the Government.

**104. Is there any recommended scale of fees chargeable for the work done by the members of the Institute?**

The Council of the Institute recommends from time to time scale of fees chargeable for the work done by the members of the Institute. Such fees were last revised by the Council at its meeting held in January, 2006. The revised recommended scale of fees is effective from 12<sup>th</sup> May, 2006.

**105. Whether a member of the Institute in practice is liable for professional misconduct, if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors?**

Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Act, the Council of the Institute issued Council General Guidelines, 2008 which specify that a member of the Institute

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in practice shall be deemed to be guilty of professional misconduct, if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors.

**106. Can the auditor revise his Audit Report?**

Yes, the Council has issued a Guidance Note on Revision of the Audit Report in Book Form. The Auditor can revise his audit report in the situations and circumstances mentioned therein.

**107. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing to be false?**

Yes, as per Clause (3) of Part-II of the Second Schedule to the Act, a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the above authorities any particulars knowing them to be false.



## Miscellaneous Issues

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**108. What is the status of a Chartered Accountant who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants?**

An associate or a fellow of the Institute who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articulated assistants. He may hold Certificate of Practice but he is not entitled to do attest functions w.e.f. 1.4.2005.

**109. Which are the categories of occupation where prior permission is required?**

For permissible occupations, please refer to Appendix-2 hereto.

**110. Can a member in practice be Promoter/Promoter Director of the Company?**

Yes, there is no bar for a member to be a promoter/signatory to the Memorandum and Articles of Association of any company. There is also no bar for such a promoter/signatory to be a Director *Simplicitor* of that company irrespective of whether the objects of the company include areas, which fall within the scope of the profession of chartered accountants. Therefore members are not required to obtain specific permission of the Council in such cases. There is also no bar on holding any number/percentage of shares in the company

**111. Can a member in practice be a sleeping partner in family business concern?**

Yes, a member in practice can be a sleeping partner in a family business concern provided he takes specific permission from the Council in terms of Regulation 190A of Chartered Accountants Regulations, 1988.

**112. Can a member who is in part-time/full time employment apply for Certificate of Practice and do attest functions?**

Yes, he can apply for Certificate of Practice but cannot do attest function. Please refer Regulation 190A of the CA Regulations.

**113. What should be the size of signboard for the office?**

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With regard to the size of the signboard for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste. The size of the signboard should be reasonable. Use of glow signs or lights on large-sized boards as is used by traders or shopkeepers would not be proper. A member can have a name board at the place of his residence with the designation of a Chartered Accountant, provided it is a name plate or name board of an individual member and not of the firm.

**114. Can a member share profits with the widow of his deceased partner?**

Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for the specified period.

**115. Can there be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm?**

No, there could not be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the Sole proprietor of the firm. Payment of goodwill to the widow is permissible in such cases only for the goodwill of the firm and to enable such payments to be made in installments provided the agreement of the sale of goodwill contains such a provision. These payments even if they are spread over the specified period should not be linked up with participation in the earnings of the firm.

**116. Can the goodwill of a proprietary firm of Chartered Accountant, after his death be sold/transferred to another eligible member of the Institute?**

Yes, the Council of the Institute considered the issue whether the goodwill of a proprietary firm of Chartered Accountant can be sold/transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the following resolution

### ***Ethical Standards Board***

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with a view to mitigate the hardship generally faced by the families after the death of such proprietors, subject to following conditions :

- (a) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998.

Provided such a sale is completed/effectuated in all respects and the Institute's permission to practice in deceased's proprietary firm name is sought within a year of the death of such proprietor concerned. In respect of these cases, the name of the proprietary firm concerned would be kept in abeyance (i.e. not removed on receipt of information about the death of the proprietor as is being done at present) only up to a period of one year from the death of proprietor concerned as aforesaid.

- (b) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998 and there existed a dispute as to the legal heir of the deceased proprietor.

Provided the information as to the existence of the dispute is received by the Institute within a year of the death of the proprietor concerned. In respect of these cases, the name of proprietary firm concerned shall be kept in abeyance till one year from the date of settlement of dispute.

- (c) in respect of cases where the death of the proprietor concerned had occurred on or before 29th August, 1998 (irrespective of the time lag between the date of death of the proprietor concerned and the date of sale/transfer of goodwill completed/to be completed). Provided such a sale/transfer is completed/effectuated and the Institute's permission to practice in the deceased's proprietary firm name is sought for by 28th August, 1999 and also further provided that the firm name concerned is still available with the Institute."

**117. Can a member publish a change in partnership or change in the address of practice and telephone numbers?**

Yes, a member can publish a change in partnership or change in the address of practice and telephone numbers. Such announcements should be limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of the newspaper or magazine and number of insertions.

**118. What is the meantime of communicating with the retiring auditor?**

Where a new auditor is appointed, the incoming auditor has an

### ***Frequently Asked Questions On Ethical Issues***

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obligation to communicate the fact of his appointment to the retiring auditor and make enquiry as to whether there are any professional or other reasons why he should not accept the appointment.

This intended not only as a mark of Professional courtesy but also to know the reasons for the change in order to be able to safeguard member's own interest, the legitimate interest of the public and the independence of the existing accountant. The provision is not intended, in any way, to prevent or obstruct the change.

The incoming auditor may not accept the audit in following cases:-

- (i) Non-compliance of the provisions of Sections 224 and 225 of the Companies Act as mentioned in Clause (9);
- (ii) Non-payment of undisputed audit fees by auditee's other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes; and
- (iii) Issuance of a qualified report.

**119. Can a member act as an Insurance Surveyor?**

As per Appendix (9) of CA Regulations, a member of the Institute in practice is generally permitted to act as a Surveyor and Loss Assessor under the Insurance Act, 1938 provided they are otherwise eligible and can perform attest functions.

**120. Whether the members are required to intimate his website address to the Institute?**

No, members are not required to intimate the Website address to the Institute. However, the Website has to comply with the Guidelines issued by the Institute in this regard.

**121. Can a member act as a Tax Auditor and Internal Auditor of an entity?**

No, the Council has decided that Tax Auditor cannot as an Internal Auditor or vice-versa for the same financial year.

**122. Can a Concurrent Auditor of a Bank also undertake the assignment of quarterly review of the same bank?**

No, the Concurrent audit and the Assignment of quarterly review of the same entity cannot be taken simultaneously as the concurrent audit is a kind of internal audit and the quarterly review is a kind of statutory audit. It is prohibited in terms of the 'Guidance Note of Independence of Auditors'.

**123. Can a member act as a Insurance Agent and arrange business for Insurance company?**

No, members are permitted to render Insurance Financial Advisory services. It is not permissible to the members to do any kind of marketing and business procurement for any insurance company. There services should remain limited to professional services in the form of advisory and consultancy services.

**124. Can a member or firm advertise his/its services?**

Yes, in a restricted manner within the provisions of the Advertisement Guidelines issued by the Council on 14<sup>th</sup> May, 2008.

**125. Can a member holding Certificate o Practice is entitled to own Agricultural land and continue agricultural activity?**

Yes, member holding Certificate of Practice can own and hold agricultural land and continue agricultural activity.

## **Questions Relating to Part-A of the Code of Ethics**

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**126. What are the Fundamental Principles which a Professional Accountant is required to comply?**

A professional accountant is required to comply with the following fundamental principles:

- (a) Integrity
- (b) Objectivity
- (c) Professional Competence and Due Care
- (d) Confidentiality
- (e) Professional Behaviour

**127. What is the Conceptual Framework Approach?**

It is a framework that requires a professional accountant to identify, evaluate and address threats to compliance with the fundamental principles, rather than merely comply with a set of specific rules. Professional accountants are required to apply this conceptual framework to identify threats to compliance with the fundamental principles, to evaluate their significance and, if such threats are other than clearly insignificant than to apply safeguards to eliminate them or reduce them to an acceptable level such that compliance with the fundamental principles is not compromised.

**128. What are the threats involved while complying with the fundamental principles?**

Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances. Many threats fall into the following categories :

- (a) Self-interest threats
- (b) Self-review threats;
- (c) Advocacy threats;
- (d) Familiarity threats;
- (e) Intimidation threats.

**129. What are the available safeguards that may eliminate or reduce the threats at an acceptable level?**

Safeguards that may eliminate or reduce such threats to an acceptable level fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

**130. What is Ethical Conflict Resolution?**

Ethical conflict resolution means to resolve a conflict in the application of fundamental principles while evaluating compliance with the fundamental principles.

**131. What is a Client Acceptance, Engagement Acceptance and Changes in Professional Appointment?**

Section 210 of Part - A of Code of Ethics deals with Professional Appointment:

- (a) Client Acceptance – Under this a professional accountant in public practice should consider, before accepting a new client relationship, whether acceptance would create any threats to compliance with the fundamental principles.
- (b) Engagement Acceptance - A professional accountant in public practice should agree to provide only those services that the professional accountant in public practice is competent to perform.
- (c) Changes in Professional Appointment - A professional accountant in public practice who is asked to replace another professional accountant should determine whether there are any reasons, professional or other, for not accepting the engagement, such as circumstances that threaten compliance with the fundamental principles. It shall require direct communication with the existing accountant to establish the facts and circumstances behind the proposed change so that the professional accountant in public practice can decide whether it would be appropriate to accept the engagement.

Under all the 3 circumstances, the significance of any threats should be evaluated. If identified threats are other than clearly insignificant, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level. Where it is not

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possible to reduce the threats to an acceptable level, a professional accountant in public practice should decline to enter into the client relationship.

**132. What are the measures available to Professional Accountants in case conflict of interest arises?**

A professional accountant in public practice should take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may give rise to threats to compliance with the fundamental principles.

A Professional Accountant should evaluate the significance of any threats. Depending upon the circumstances giving rise to the conflict, safeguards should ordinarily notify the client / all known relevant parties.

The additional safeguards e.g. the use of separate engagement teams, Clear guidelines for members of the engagement team on issues of security and confidentiality, Regular review of the application of safeguards by a senior individual not involved with relevant client engagements should also be considered.

**133. What is required to be done by a Professional Accountant in Public Practice when he is asked to provide a second opinion on the application of accounting, auditing, reporting or other standards etc?**

Where a professional accountant in public practice is asked to provide a second opinion on the application of accounting, auditing, reporting or other standards or principles to specific circumstances or transactions by or on behalf of a company or an entity that is not an existing client.

Such safeguards may include seeking client permission to contact the existing accountant, if the company or entity seeking the opinion will not permit communication with the existing accountant; a professional accountant in public practice should consider whether, taking all the circumstances into account, it is appropriate to provide the opinion sought.

**134. Whether a Professional Accountant in Public Practice may pay or receive a referral fees or commission?**

A professional accountant in public practice may receive a referral fee or commission relating to a client and may pay a referral fee to obtain a client. A professional accountant in public practice should not pay or



receive a referral fee or commission, unless the professional accountant in public practice has established safeguards to eliminate the threats or reduce them to an acceptable level.

**135. What are the safeguards available to a Professional Accountant in Public Practice in respect of Custody of Client Assets?**

A professional accountant in public practice entrusted with money (or other assets) belonging to others should:

- (a) Keep such assets separately from personal or firm assets;
- (b) Use such assets only for the purpose for which they are intended;
- (c) At all times, be ready to account for those assets, and any income, dividends or gains generated, to any persons entitled to such accounting;
- (d) Comply with all relevant laws and regulations relevant to the holding of and accounting for such assets.

**136. What is Independence?**

Independence requires:

**Independence of Mind** - The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional skepticism.

**Independence in Appearance** - The avoidance of facts and circumstances that are so significant that a reasonable and informed third party, having knowledge of all relevant information, including safeguards applied, would reasonably conclude a firm's, or a member of the assurance team's, integrity, objectivity or professional skepticism had been compromised.

**137. What is the Conceptual Framework to Independence?**

It is to be applied to specific circumstances and relationships. It gives various examples about the threats to independence that may be created by specific circumstances and relationships and also provides how professional judgment is used to determine the appropriate safeguards to eliminate threats to independence or to reduce them to an acceptable level depending on the characteristic of the individual assurance engagement.

**138. What is Engagement Period?**

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The period of the engagement starts when the assurance team begins to perform assurance services and ends when the assurance report is issued, except when the assurance engagement is of a recurring nature.

**139. What is the meaning of Direct Financial Interest?**

Direct Financial Interest means

- Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or
- Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control.

**140. What is the meaning of Indirect Financial Interest?**

Indirect Financial Interest means a financial interest beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control.

**141. What is Financial Statement Audit Client?**

Financial Statement Audit client means an entity in respect of which a firm conducts a financial statement audit engagement. When the client is a listed entity, financial statement audit client will include its related entities, wherever applicable.

**142. When conflict of interest arises, what are the options available to a firm/Network firm when the firm/ network firm has a direct financial interest/Indirect financial interest in a Financial Statement Audit Client or a client that is not a Financial Statement Audit client?**

When conflict of interest arises, the options available to a firm/Network firm when has a direct financial interest/Indirect financial interest in a Financial Statement Audit Client/ or a client that is not a Financial Statement Audit client:

- (a) Dispose of the interest
- (b) Dispose of a sufficient amount of the interest so that the remaining interest is no longer material; or
- (c) Withdraw from the audit.

**143. Whether a loan, or a guarantee of a loan to the professional accountant/any partner of the firm/firm from an assurance client, or deposits made by, or brokerage accounts of a firm or a member of the assurance team with an assurance client, creates any threats to Independence?**

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A loan, or a guarantee of a loan to the professional accountant/any partner of the firm/firm from an assurance client or deposits made by, or brokerage accounts of a firm or a member of the assurance team with an assurance client creates threats to Independence unless;

- (a) Made within the terms of statutory provisions and guidelines/ guidance notes issued by the Council
- (b) When assurance client that is a bank or a similar institution, provided the loan, or guarantee/ deposit or brokerage account is made under normal procedures, terms and requirements.

### **144. What are the examples of Close Business Relationships giving rise to conflict of interest?**

Examples of Close business Relationships giving rise to conflict of interest are

- (a) Material financial interest in Joint venture
- (b) Arrangements to combine one or more services or products of the firm with one or more services or products of the assurance client and to market the package with reference to both parties.
- (c) Business relationships involving an interest held by the firm, a network firm or a member of the assurance team or their relative(s) in a closely held entity when the audit client or a director or officer of the audit client, or any group thereof, also has an interest in that entity,
- (d) The purchase of goods and services from an assurance client by the firm (or from a financial statement audit client by a network firm) or a member of the assurance team, etc.

### **145. What are the safeguards available when the same senior personnel have been engaged over a long period of time by an Assurance Client in an Assurance Engagement?**

The following safeguards are available, using the same senior personnel on an assurance engagement over a long period of time:

- Rotating the senior personnel off the assurance team;
- Involving an additional professional accountant who was not a member of the assurance team to review the work done by the senior personnel or otherwise advise as necessary; or
- Independent internal quality reviews, etc

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**146. Whether a person who is an officer or employee of an entity shall be qualified for appointment as auditor of that entity?**

As per Section 290.148 of Part – A of Code of Ethics no person who is an officer or employee of an entity shall be qualified for appointment as auditor of that entity.

**147. Whether a firm can obtain an assurance engagement at a significantly lower fee level than that charged by the predecessor firm, or quoted by other firms?**

When a firm obtains an assurance engagement at a significantly lower fee level than that charged by the predecessor firm, or quoted by other firms the threat created will not be reduced to an acceptable level unless:

- (a) The firm is able to demonstrate that appropriate time and qualified staff are assigned to the task; and
- (b) All applicable assurance standards, guidelines and quality control procedures are being complied with.

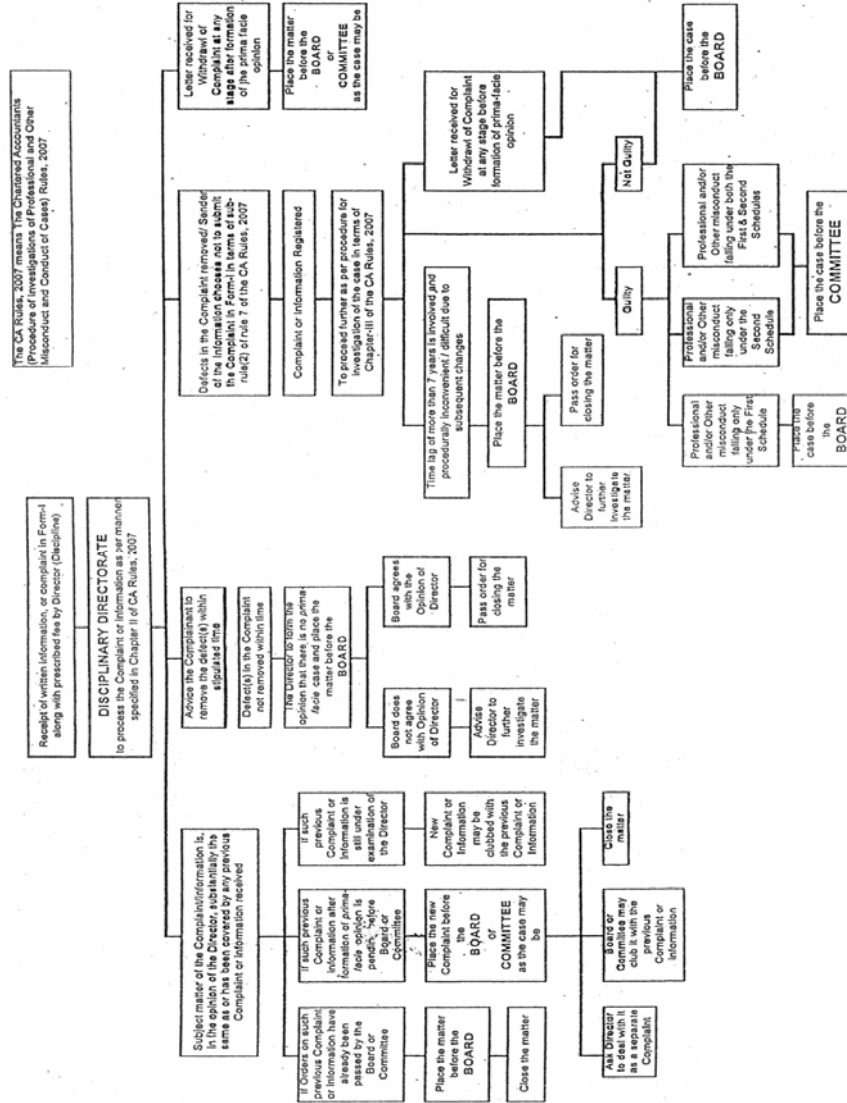
**148. When the situation for Potential Conflict arises?**

When the responsibilities to an employing organization and the professional obligations to comply with the fundamental principles are in conflict, the situation of potential conflict arises for the Professional Accountant in service.

**149. Whether a Professional Accountant in Service should undertake those tasks for which he does not have sufficient specific training or experience?**

The fundamental principle of professional competence and due care requires that a professional accountant in service should only undertake significant tasks for which the professional accountant in service has, or can obtain, sufficient specific training or experience. A professional accountant in service should not intentionally mislead an employer as to the level of expertise or experience possessed, nor should a professional accountant in service fail to seek appropriate expert advice and assistance when required.

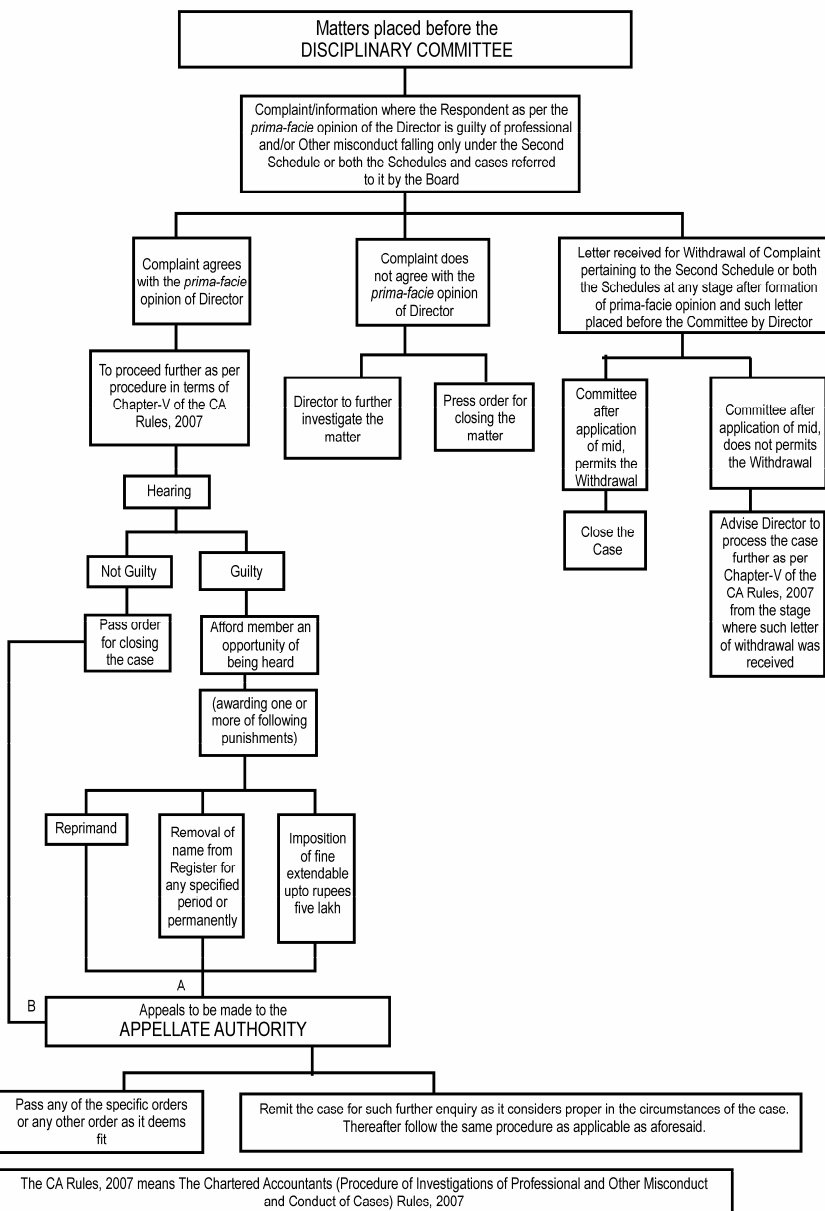
# Appendix – 1 Disciplinary Mechanism of the Institute





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**DISCIPLINARY COMMITTEE**



A	Member of Institute	Within 90 days of the date on which the order concerned is communicated or even later if
B	Director, if authorised by the Council	Appellate Authority is satisfied with reasons for delay.

## Appendix – 2

# Permission to be granted Generally/ Specifically

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**[Regulation 190A of the Chartered Accountants Regulations, 1988]**

**(A) Permission granted generally**

Members of the Institute in practice be generally permitted to engage in the following categories of occupations, for which no specific permission from the Council would be necessary in individual cases:-

1. Employment under Chartered Accountants in practice or firms of such Chartered Accountants.
2. Private tutorship.
3. Authorship of books and articles.
4. Holding of Life Insurance Agency Licence for the limited purpose of getting renewal commission.
5. Attending classes and appearing for any examination.
6. Holding of public elective offices such as M.P., M.L.A. & M.L.C.
7. Honorary office-bearership of charitable, educational or other non-commercial organisations.
8. Acting as Notary Public, Justice of the Peace, Special Executive Magistrate and the like.
9. Part-time tutorship under the Coaching Organisation of the Institute.
10. Valuation of papers, acting as paper-setter, head-examiner or a moderator for any examination.
11. Editorship of professional journals.
12. Acting as Surveyor and Loss Assessor under the Insurance Act, 1938.
13. Acting as Recovery consultant in the Banking Sector.
14. Owning agricultural land and carrying out agricultural activity.

**(B) Permission to be granted specifically:**

Members of the Institute in practice may engage in the following



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categories of business or occupations, after obtaining the specific and prior approval of the Council in each case:-

1. Full-time or part-time employment in business concerns provided that the member and/or his relatives do not hold substantial interest in such concerns.
2. Full-time or part-time employment in non-business concerns.
3. Office of a Managing Director or a whole time Director of a body corporate within the meaning of the Companies Act, 1956, provided that the member and/or any of his relatives do not hold substantial interest in such concern.
4. Interest in family business concern or concern in which interest has been acquired as a result of relationship and in the management of which no active part is taken.
5. Interest in an educational institution.
6. Part-time or full-time lecturership for courses other than those relating to the Institute's examination conducted under the auspices of the Institute or the Regional Councils or their branches.
7. Part-time or full-time tutorship under any educational institution other than the Coaching Organisation of the Institute.
8. Editorship of journals other than professional journals.
9. Any other business or occupation for which the Executive Committee considers that permission may be granted.

Further resolved that the Council may refuse permission in individual cases though covered under any of the above categories.

It was also decided that for the purpose of the above resolution:-

- (I) the expression "relative", in relation to a member means the husband, wife, brother or sister or any lineal ascendant or descendant of that member; and
- (II) a member shall be deemed to have a "substantial interest" in a concern -
  - (i) in a case where the concern is a Company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of voting power at any time, during the relevant years are owned beneficially by such member or by any

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one or more of the following persons or partly by such member and partly by one or more of the following persons:

- (a) One or more relatives of the member;
  - (b) Any concerns in which any of the persons referred to above has a substantial interest;
- (ii) in the case of any other concern, if such member is entitled or the other persons referred to above or such member and one or more of the other persons referred to above are entitled in the aggregate, at any time during the relevant years to not less than twenty percent of the profits of such concern.

***Explanation:***

- (a) The relevant years in the context of Clause (4) of Part I of the First Schedule to the Chartered Accountants Act, 1949 read with Appendix (17) mean the year/period to which the report/certificate relates and the year/period during which the said report/certificate is signed.
- (b) The relevant years in the context of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949 read with Appendix (10) mean the year/period in which not less than 20% of voting power/20% share of profits were owned beneficially.

Attention of the members is also invited to para 3 of the above Resolution relating to the holding of office of a Managing Director or a whole time Director in a Company. In such cases, a member can accept the office of a managing director or a whole-time Director only after obtaining the specific and prior approval of the Council. Attention of the members is also invited to the provisions of Section 2(26) of the Companies Act, 1956 under which even where a person is not designated as a managing director or a whole-time director, he can be deemed to be a managing director or a whole-time director if he is entrusted with the whole or substantially the whole of the management of the affairs of the Company.

It may be pointed out that a member cannot accept and hold the office of a managing director or a whole-time director in a Company. If the member/and/or his partners is interested in such a Company as an auditor.

The Council at its 241st meeting held in March 2004 decided that effective from 1.4.2005, any member in part-time practice (namely, holding certificate of practice and is also engaging himself in any other

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business and/or occupation) is not entitled to perform attest function, and that the resolution passed under Regulation 190A.

The Council at its 242nd meeting held in May 2004 noted the recommendations made to it by the Executive Committee in this regard and accordingly passed the following resolution as a part of and in continuation of the existing resolution under Regulation 190A which appears as Appendix No.9 to the C.A. Regulations, 1988 (2002 edition).

“Further resolved that the general and specific permission granted by the Council is subject to the condition that:

- (i) any member engaged in any other business or occupation, in terms of general or specific permission granted shall not be entitled to perform any attest function. However, a member engaging in any of the following area(s), in terms of the specific or general permission so granted, shall be entitled to perform attest function:
  - (a) Authorship of books and articles
  - (b) Holding of Life Insurance Agency Licence for the limited purpose of getting renewal commission.
  - (c) Attending classes and appearing for any examination.
  - (d) Holding of public elective offices such as M.P., M.L.A. & M.L.C.
  - (e) Honorary office-bearership of charitable, educational or other non-commercial organisations.
  - (f) Acting as Notary Public, Justice of the Peace, Special Executive Magistrate and the like.
  - (g) Part-time tutorship under the Coaching Organisation of the Institute.
  - (h) Valuation of papers, acting as paper-setter, head-examiner or a moderator for any examination.
  - (i) Editorship of professional journals – (not in employment)
  - (j) Acting as surveyor and Loss Assessor under the Insurance Act, 1938 - (not in employment).
  - (k) Acting as Recovery consultant in the Banking Sector - (not in employment).

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- (l) Any coaching assignment organized by the Institute, its Regional Councils and Branches of Regional Councils.
  - (m) Engagement as Lecturer in an University, affiliated college, educational institution, coaching organisation, private tutorship, provided the direct teaching hours devoted to such activities taken together do not exceed 25 hours a week.
  - (n) Owning agricultural land and carrying out agricultural activity.
  - (o) Engagement in any other business or occupation permitted by the Executive Committee from time to time.
- (ii) A member who is not entitled to perform attest function shall not be entitled to train articled assistants.
  - (iii) The decision (of the Council) taken at its 223rd meeting held in February, 2002 prescribing the criteria for individual cases of articleship shall continue to be in operation, mutatis mutandis.

The Council in this connection clarified that the Attest function for the purpose of this Resolution would cover services pertaining to audit, review, certification, agreed upon procedures, and compilation, as defined in the Framework of Statements on Standard Auditing Practices and Guidance Notes on Related Services published in the July, 2001 issue of the Institute's Journal

## Appendix – 3

# Guidelines for Corporate Form of Practice

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The guidelines for Corporate Form of Practice are as follows:

### Definition

- (i) Managing Director, Whole-time Director and Manager -  
The term “Managing Director”, “Whole- time Director” and “Manager” shall have the same meaning as defined/understood in the Companies Act, 1956. For this purpose, the member in practice who is a Managing Director, Whole-time Director or Manager shall be full-time practitioner/proprietor/partner in a Chartered Accountants firm.
- (ii) Act – Act means The Chartered Accountants Act, 1949.
- (iii) Regulations – Regulations means the Chartered Accountants Regulations, 1988.
- (iv) Code of Ethics – Code of Ethics means the Code of Ethics issued by the Institute and decisions of the Council in this regard.
- (v) Institute – Institute means the Institute of Chartered Accountants of India.
- (vi) Council – Council means the Central Council of the Institute.
- (vii) Member – Member means a Member in Practice. Member in Practice means a ‘Member in Practice’ as defined in the Chartered Accountants Act, 1949 and its Regulations.
- (viii) Management Consultancy & Other Services – Management Consultancy & Other Services or MCS means ‘Management Consultancy & Other Services’ permitted by the Council in pursuance to Section 2(2)(iv) of the Chartered Accountants Act, 1949. The definition of the expression “Management Consultancy and other Services” as appears at pages 8-10 of the Code of Ethics, 2005 edition is as under:  

The expression “Management Consultancy and other Services” shall not include the function of statutory or periodical audit, tax (both direct taxes and indirect taxes) representation or advice concerning tax matters or acting as liquidator, trustee, executor, administrator, arbitrator or receiver, but shall include the following:

  - (i) Financial management planning and financial policy determination.

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- (ii) Capital structure planning and advice regarding raising finance.
- (iii) Working capital management.
- (iv) Preparing project reports and feasibility studies.
- (v) Preparing cash budget, cash flow statements, profitability statements, statements of sources and application of funds etc.
- (vi) Budgeting including capital budgets and revenue budgets.
- (vii) Inventory management, material handling and storage.
- (viii) Market research and demand studies.
- (ix) Price-fixation and other management decision-making.
- (x) Management accounting systems, cost control and value analysis.
- (xi) Control methods and management information and reporting.
- (xii) Personnel recruitment and selection.
- (xiii) Setting up executive incentive plans, wage incentive plans etc.
- (xiv) Management and operational audits.
- (xv) Valuation of shares and business and advice regarding amalgamation, merger and acquisition.
- (xvi) Business Policy, corporate planning, organization development, growth and diversification.
- (xvii) Organization structure and behaviour, development of human resources including design and conduct of training programmes, work study, job-description, job evaluation and evaluation of work loads.
- (xviii) Systems analysis and design, and computer related services including selection of hardware and development of software in all areas of services which can otherwise be rendered by a Chartered Accountant in practice and also to carry out any other professional services relating to EDP.
- (xix) Acting as advisor or consultant to an issue, including such matters as: -
  - (a) Drafting of prospectus and memorandum containing salient features of prospectus. Drafting and filing of listing agreement and completing formalities with Stock Exchanges, Registrar of Companies and SEBI.

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- (b) Preparation of publicity budget, advice regarding arrangements for selection of (i) ad-media, (ii) centres for holding conferences of brokers, investors, etc., (iii) bankers to issue, (iv) collection centres, (v) brokers to issue, (vi) underwriters and the underwriting arrangement, distribution of publicity and issue material including application form, prospectus and brochure and deciding on the quantum of issue material (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
- (c) Advice regarding selection of various agencies connected with issue, namely Registrars to Issue, printers and advertising agencies.
- (d) Advice on the post issue activities, e.g., follow-up steps, which include listing of instruments and dispatch of certificates and refunds, with the various agencies connected with the work.

Explanation: For removal of doubts, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.

- (xx) Investment counseling in respect of securities [as defined in the Securities Contracts (Regulation) Act, 1956 and other financial instruments.] (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
- (xxi) Acting as registrar to an issue and for transfer of shares/other securities. (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
- (xxii) Quality Audit.
- (xxiii) Environment Audit.
- (xxiv) Energy Audit.
- (xxv) Acting as Recovery Consultant in the Banking Sector.
- (xxvi) Insurance Financial Advisory Services under the Insurance Regulatory & Development Authority Act, 1999, including Insurance Brokerage.
- (ix) Management Consultancy Company– Management Consultancy Company means a Company, which complies with the Guidelines for Practice in Corporate Form issued by the

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Institute.

- (x) Relative – Relative means “Relative” as defined in Appendix (9) of the Chartered Accountants Regulations, 1988, 2002 edition.

3. Name of the Management Consultancy Company:

- (i) The Management Consultancy Company shall have a distinct name which shall be approved by the Institute. The prescribed format of application for approval of name for Management Consultancy Company is at Form ‘G’ (enclosed).
- (ii) Standards prescribed in Regulations 190 of the Chartered Accountants Regulations, 1988 shall be applicable to the name of the Management Consultancy Company. However, even if a name is provided and subsequently it is found that the same is undesirable then, the said name can be withdrawn at any time by the Institute. The provisions in respect of name of companies as prescribed in the Companies Act, 1956 shall be applicable in letter and spirit.
- (iii) The name of Management Consultancy Company may indicate the area of ‘Management Consultancy & Other Services’ permitted by the Council from time to time.
- (iv) The Management Consultancy Company shall neither be permitted to advertise nor to use logo.

4. Registration:

After approval of the name under Guideline 3 and incorporation under the Companies Act, 1956, the Management Consultancy Company is required to be registered with the Institute in a prescribed Form ‘H’ (enclosed).

5. Ethical Compliance:

- (i) Once the Management Consultancy Company is Registered with the Institute as per the Guidelines, it will be necessary for such a Company to comply with the following requirements:-
  - (a) If the individual practitioner/sole-proprietorship firm/partnership firm is the statutory auditor of an entity then the Management Consultancy Company should not accept the internal audit or book-keeping or such other professional assignments, which are prohibited for the statutory auditor firm.



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- (b) The Notification No. 1-CA (7)/60/2002 dated 8th March, 2002 in respect of ceiling on Non-audit fees is applicable in relation to a Management Consultancy Company.
    - (c) The Management Consultancy Company shall comply with clauses (6) & (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 and such other directives as may be issued by the Institute from time to time.
  - (ii) The Management Consultancy Company shall give an undertaking that it shall comply with clauses (6) & (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 and such other directives as may be issued by the Institute from time to time.
6. Object of Management Consultancy Company:
- The Management Consultancy Company shall engage itself only in Management Consultancy & Other Services. The Management Consultancy Company shall give an undertaking that it shall render only Management Consultancy & Other Services prescribed by the Council pursuant to powers under section 2 (2)(iv) of the Chartered Accountants Act, 1949.
- The Object Clause should restrict itself only to the Management Consultancy & Other Services permitted by the Council in pursuance to Section 2(2)(iv) of the Chartered Accountants Act, 1949.
7. Violation of Act:
- In case of alleged violation of the provisions of the Act, Regulations framed there under, guidelines/directions laid down by the Council from time to time and Code of Ethics issued by the Council, the individual practitioner/sole-proprietorship firm/partnership firm in general and the Managing Director/Whole-time Director/Manager of such company in particular, would be answerable.
8. Applicability of Companies Act, 1956 and other laws:
- All the provisions of the Companies Act, 1956 and other laws that are applicable to a Company formed under the Companies Act, 1956 shall be applicable to the Management Consultancy Company. The Guidelines are in addition to the provisions contained in the Companies Act, 1956.
9. Benefits available to members if the Guidelines framed are complied with:

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- (i) The member can retain full time Certificate of Practice besides being the Managing Director/Whole-time Director/Manager of Management Consultancy Company.
- (ii) The member will be entitled to train articled/audit assistant(s).
- (iii) There will be no restrictions on the quantum of the equity holding of the member, either individually and/or along with his relatives, in such a company.

10. Transitory Provisions:

- (i) Any member who wishes to become Managing Director/Whole-time Director/Manager of an existing Company, which is rendering Management Consultancy & Other Services, and wishes to take other benefit contained in the Guidelines, shall comply with the Guidelines for Practice in Corporate Form.
- (ii) The Company is required to take approval of name and then apply for registration with the Institute.
- (iii) If the Institute has reservation over the name of an existing Company that wishes to come under the provisions of this Guidelines, the Company shall be required to apply for change in name.
- (iv) The Company is also required to change its object clause, if the same contains objects other than those provided in the Guidelines.

## Appendix – 4

# First & Second Schedule of the Chartered Accountants Act, 1949

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### THE FIRST SCHEDULE

(See Section 21 and 22)

#### PART I

#### ***Professional Misconduct in relation to Chartered Accountants in Practice***

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he –

- (1) allows any person to practice in his name as a chartered accountant unless such person is also a chartered accountant in practice and is in partnership with or employed by him;
- (2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India;

Explanation – In this item “partner” includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part.

- (3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute;

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this part;

- (4) Enters into partnership, in or outside India, with any person other than a chartered accountant in practice or such other a person who is a member of any other professional body having such qualifications as

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may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (v) of sub-section (1) of Section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;

- (5) Secures, either through the services of a person who is not an employee of such chartered accountant or who is not his partner or by means which are not open to a chartered accountant, any professional business;

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this part.

- (6) Solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means;

Provided that nothing herein contained shall be construed as preventing or prohibiting:-

- (i) any chartered accountant from applying or requesting for or inviting or securing professional work from another chartered accountant in practice; or
- (ii) a member from responding to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence;

- (7) advertises his professional attainments or services, or uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognized by the Central government or may be recognized by the Council;

Provided that a member in practice may advertise through a write up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council;

- (8) Accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under Restricted Certificate Rules, 1932 without first communicating with him in writing;

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- (9) Accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with;
- (10) Charges or offers to charge, accepts or offers to accept in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings, or results of such employment, except as permitted under any regulation made under this Act;
- (11) Engages in any business or occupation other than the profession of chartered accountant unless permitted by the Council so to engage:  
Provided that nothing contained herein shall disentitle a chartered accountant from being a director of a company (not being a managing director or a wholetime director) unless he or any of his partners is interested in such company as an auditor;
- (12) Allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any balance-sheet, profit and loss account, report or financial statements.

### **PART II**

#### ***Professional misconduct in relation to members of the Institute in service***

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person –

- (1) pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him;
- (2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a chartered accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification;

### **PART III**

#### ***Professional misconduct in relation to members of the Institute generally***

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he –

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- (1) not being a fellow of the Institute, acts as a fellow of the Institute;
- (2) does not supply the information called for, or does not comply with the requirements asked for, by the Institute, Council or any of its Committees, Director (Disciplinary), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority;
- (3) while inviting professional work from another chartered accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

### **PART IV**

#### ***Other misconduct in relation to members of the Institute generally***

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he –

- (a) is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;
- (b) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

## **THE SECOND SCHEDULE**

**(See Sections 21 and 22)**

### **PART I**

#### ***Professional misconduct in relation to chartered accountants in practice***

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he –

- (1) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client or otherwise than as required by any law for the time being in force;
- (2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice;

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- (3) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;
- (4) expresses his opinion on financial statements of any business or enterprise in which he, his firm or a partner in his firm has a substantial interest;
- (5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;
- (6) fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity;
- (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information which is necessary for expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;
- (10) fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a reasonable time.

### **PART II**

#### ***Professional misconduct in relation to members of the Institute generally***

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he –

- (1) contravenes any of the provisions of this Act or the regulations made there under or any guidelines issued by the Council;
- (2) being an employee of any company, firm or person, discloses confidential information acquired in the course of his employment except as and when required by any law for the time being in force except as permitted by the employer;

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- (3) includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false;
- (4) defalcates or embezzles money received in his professional capacity.

#### **PART III**

##### ***Other misconduct in relation to members of the Institute generally***

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.