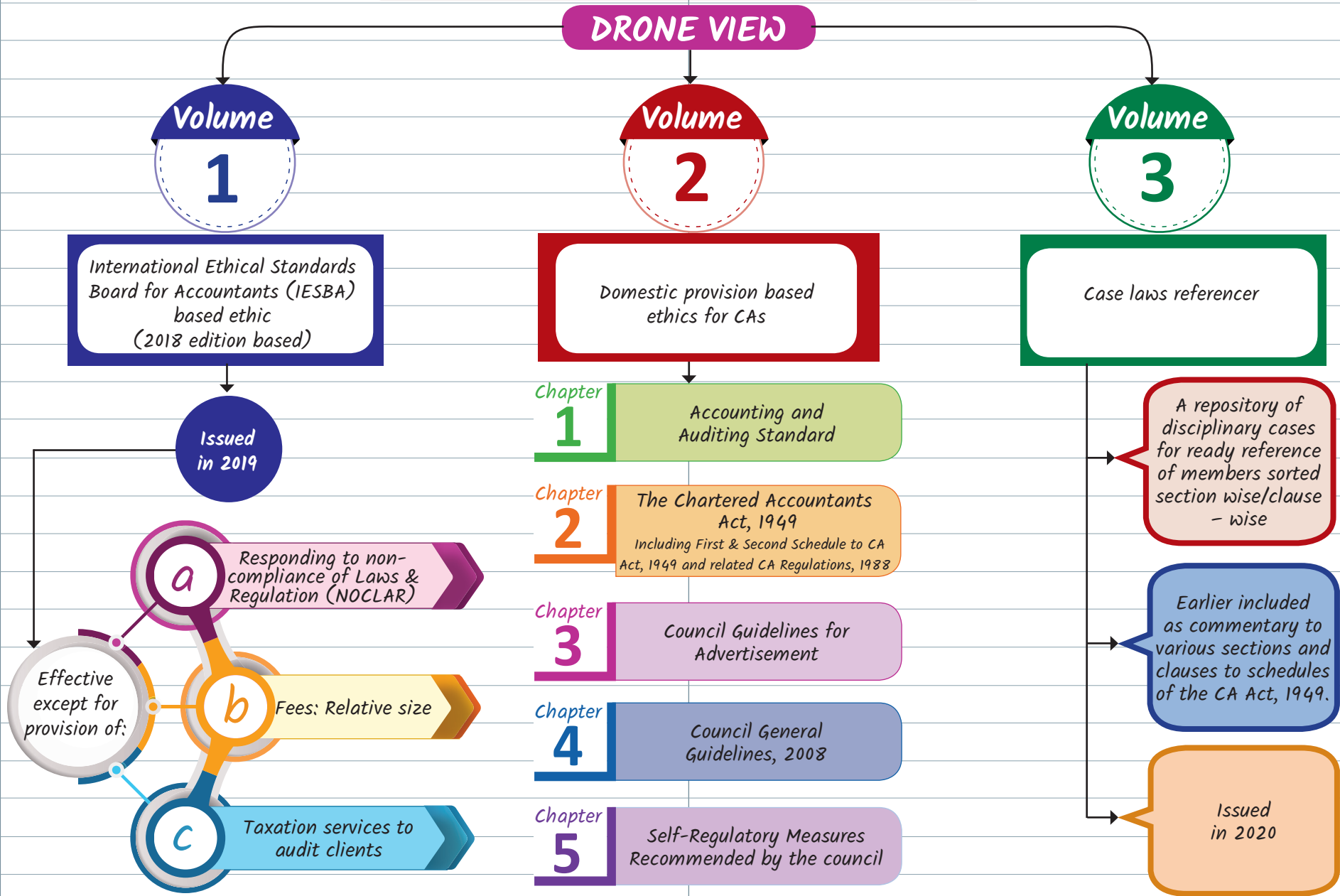


# CODE OF ETHICS 2020 (Effective 1-7-2020)



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## CODE OF ETHICS - VOLUME I

### Overview of Code based on IESBA

*(The standard setting body of International Federation of Accountants, IFAC)*

#### **(A) Guide to the CODE**

**Part 1 - Complying with the Code, Fundamental Principles and Conceptual Framework** (applies to all professional accountants) (Section 100-199)  
 Contains provisions relating to fundamental principles and complying with the code

#### **Part 2 - Professional Accountants in Service (PAIS)**

(applies to professional accountants in service while performing professional activities) (Section 200-299)  
 Contains provisions for PAIS relating to conflict of interest, preparation and presentation of information, acting with sufficient expertise, interests linked to financial reporting, gift inducements, NoCLAR response in case of listed entities, handling pressure to breach, etc.

#### **Part 3 - Professional Accountants in Public Practice**

(additionally for professional accountants in practice when providing professional services) (Section 300-399)  
 Contains provisions on conflicts of interests, professional appointments, fees, gift inducements, custody of client assets, NoCLAR, etc.

**Independence Standards (Parts 4A and 4B)** (For professional accountants in public practice)

#### **Part 4A - Independence for Audit and Review Engagements** (Section 400-899)

**Part 4B - Independence for Assurance Engagements Other than Audit and Review Engagements** (Section 900-999)

Respective part contains requirements and guidance for independence affected by matters relating to fees, compensation, financial interests, loans and guarantees, business relationships, family and personal relationships, recent service with clients, directorship / employment in client, rotation, long association etc. and related provisions.

#### **(B) Structure**

Each section has following parts with mentioned purpose

#### **Introduction (Section 100 - 199)**

- ⇒ Sets out the subject matter addressed in the section and introduces the requirements and application material in the section
- ⇒ Applies to all professional accountants

#### **Requirements**

- ⇒ Establish general and specific obligations to be complied with by the members
- ⇒ Denoted with R, usually mandatory.

#### **Application material**

- ⇒ Provides context, explanations, suggestions or actions, illustrations and other guidance to assist in complying with the requirements.
- ⇒ Must be considered to apply 'R' of the Code. Designated with A.

**Practical examples**

⇒ Incorporated in the Code to illustrate different situations in which pressure might arise.

**(C) New Features of Volume I of the Code**

1. Additional terms introduced like **Public Interest Entity** (in the context of application of certain independence provisions), **Key Audit Partner** (in the context of partner rotation), **“Relative”** term in case of companies, while “immediate family” and “close family” terms for other clients, Responding to Non-Compliance of Laws and Regulations (**NOCLAR**, applicability deferred), etc.
2. Enhanced description of inducements with a view to respond to continuing concerns about **bribery and corruption**.
3. **Stronger independence provisions** concerning long association of personnel (including partner rotation) with audit clients
4. Requirement restricting audit team members and Key Audit Partners from being compensated for providing **non-assurance services** to audit clients.
5. Requirements and guidance where, **as a result of a merger or acquisition**, an entity becomes a related entity of an audit client.
6. Provisions relating to threats that are created by certain **tax services**. (Applicability deferred)
7. Requirement where the total gross annual professional **fees** from the audit client and its related entities exceed 15% of the total fees of the firm for two consecutive years. (Applicability deferred)
8. Detailed **independence** requirements included for assurance engagements.

**PART I – General Application of Code IESBA**

**Fundamental Principles of Code of Ethics**

- ⇒ **Integrity** : Professional accountants to be straightforward and honest in both professional and business relationships.
- ⇒ **Not knowingly be associated** with reports, returns, communications or other information where accountant believes that the information:
  - (a) Contains a materially false or misleading statement;
  - (b) Contains statements or information provided **negligently**; or
  - (c) **Omits or obscures** required information

However, professional accountant may provide a modified report in respect of such above mentioned matter.
- ⇒ When a professional accountant becomes aware of above information the accountant shall take steps to be disassociated from that information.
- ⇒ **Objectivity** : Not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.
- ⇒ **Professional Competence and Due Care** :
  - (a) **To maintain professional knowledge and skill** at the level required to ensure that clients or employers receive competent professional service; and
  - (b) To act diligently in accordance with applicable **technical and professional standards**
  - (c) Serve with professional competence & exercise sound judgment in applying professional knowledge and skill.
  - (d) Develop continuing awareness

(e) Continuing professional development to develop and maintain the capabilities to perform tasks.

(f) **Diligence** encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

(g) Shall take reasonable steps to provide subordinates appropriate training and supervision.

Where appropriate, a professional accountant shall make clients, employing organization, or other users aware of the limitations inherent in the services or activities.

⇒ **Confidentiality** : To refrain from:

(a) **Disclosing outside the firm** or employing organization confidential information without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

(b) Using confidential information acquired as a result of professional and business relationships to their **personal advantage** or the advantage of third parties

⇒ **Confidentiality** : Subsection 114

1. An accountant shall:

- Be alert to the possibility of inadvertent disclosure;
- Maintain confidentiality of information within the firm or employing organization;
- Maintain confidentiality of information disclosed by a prospective client or employing organization;

- Not disclose **without proper and specific authority**, unless there is a legal or professional duty or right to disclose;

- Not use confidential information acquired for the **personal advantage of accountant or else**;

- Not use or disclose any confidential information, **after that relationship has ended**; and

- Ensure that **personnel under the accountant's control** respect the duty of confidentiality.

2. Following are circumstances where professional accountants are, or might, be **required to disclose** confidential information or when such disclosure might be appropriate:

- Disclosure is **required by law**,

- Disclosure is **permitted by law and is authorized by the client or the employing organisation**;

- There is a **professional duty or right to disclose**, when not prohibited by law:

(i) To comply with the requirements of **Peer Review or Quality Review**

(ii) To respond to **an inquiry or investigation** by a professional or regulatory body;

(iii) To protect the professional interests of a professional accountant in **legal proceedings**; or

(iv) To comply with technical and professional standards, including ethics requirements.

3. In deciding whether to disclose confidential information, professional accountants should consider the following points:

- (a) Whether the interests of any party, including third parties whose interests might be affected, could be harmed if the client or employing organization consents to the disclosure of information by the professional accountant;
- (b) Whether all the relevant information is known and substantiated, to the extent it is practicable; and
- (c) The proposed type of communication, and to whom it is addressed;
- (d) Whether the parties to whom the communication is addressed are appropriate recipients.

⇒ **Professional Behaviour :**

- 1. To **comply with relevant laws and regulations** and avoid any action that may bring discredit to the profession
- 2. Professional accountants should be honest and truthful and should not:
  - (a) Make **exaggerated claims** for the services they are able to offer, the qualifications they possess, or experience they have gained; or
  - (b) Make **disparaging references or unsubstantiated comparisons** to the work of others
  - (c) Any violation of Advertisement Guidelines issued by the Council

**PART 2 – Professional Accountant in Business / Service**

This is part of the code illustrates the application of conceptual framework contained in PART-A to Professional Accounts in Business.

**PART 3 – Professional Accountant in Public Practice**

**A. Threats**

- ⇒ **Self – interest** : E.g. A financial interest in a client or jointly holding a financial interest with a client.
- ⇒ **Self – review** : E.g. The discovery of a significant error during re-evaluation of the work of the professional accountant
- ⇒ **Advocacy** : E.g. Promoting shares in a listed entity when that entity is a financial statement audit client
- ⇒ **Familiarity**: E.g. Long association of senior personnel with the assurance client
- ⇒ **Intimidation** : E.g. Being threatened with litigation

**B. Safeguards that may eliminate or reduce threats to an acceptable level:**

- ⇒ Safeguards created by profession, legislation or regulations; and
- ⇒ Safeguards in the work environment.

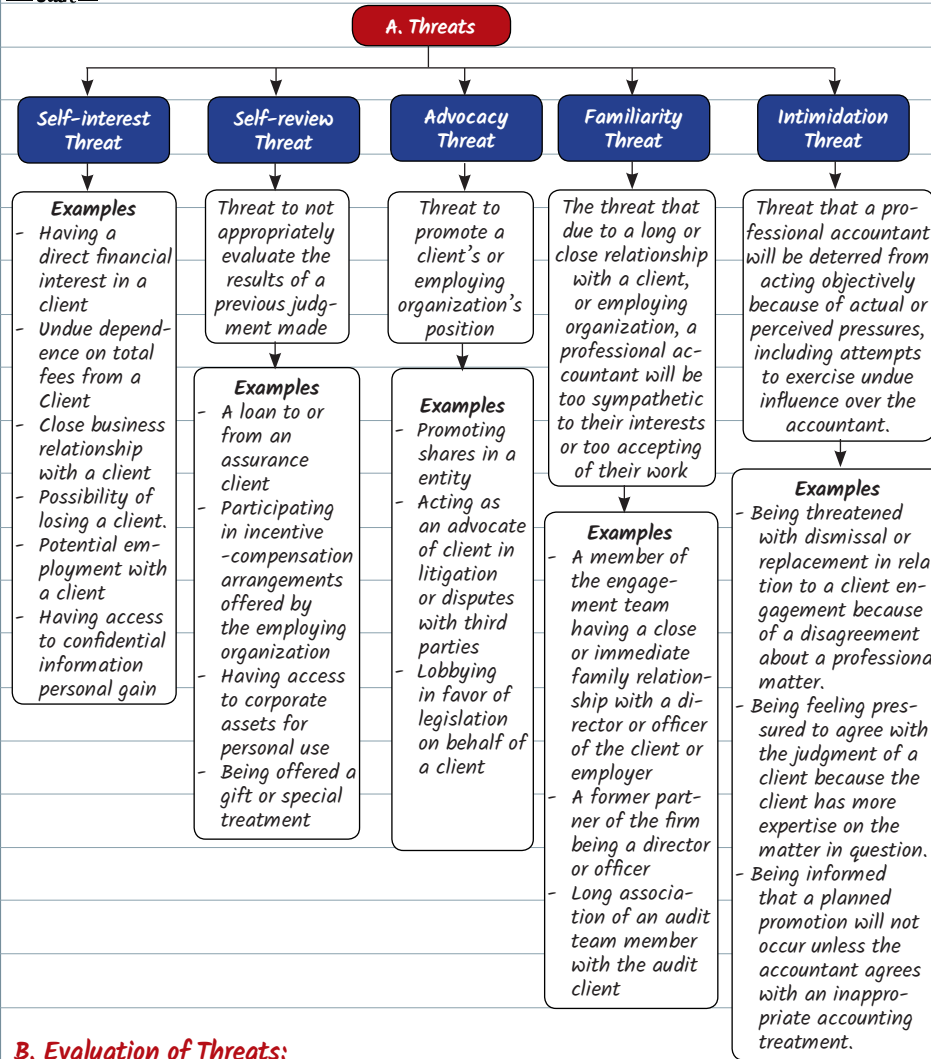
**Threats, Evaluation of Threats and Safeguards (Part 3: Professional Accounts in Public Practice)**

**Conceptual Framework**

Specifies an approach for a professional accountant to:

- (i) **Identify threats** to compliance with the fundamental principles;
- (ii) **Evaluate the threats** identified; and
- (iii) **Address the threats**





**B. Evaluation of Threats:**

Policies and procedures might impact the evaluation of whether a threat to compliance with the fundamental principles is at an acceptable level.

(i) **Acceptable level** : Third party test, party likely conclude that the accountant complies with the fundamental principles.

(ii) **Reasonable and Informed Third Party** : Consideration by the professional accountant about whether the same conclusions would likely be reached by another party.

**C. Addressing Threats**

If the identified threats to compliance are not at an acceptable level, the accountant shall address the threats by eliminating them or reducing them to an acceptable level.

The accountant shall do so by:

- (i) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (ii) Applying safeguards, where available and capable of being applied, to reduce the threats to an acceptable level; or
- (iii) Declining or ending the specific professional activity.

**Actions to Eliminate Threats** : A threat might be addressed by eliminating the circumstance creating the threat. However, there are some situations in which threats can only be addressed by declining or ending the specific professional activity.

**D. Safeguards**

Safeguards are actions individually or in combination that the accountant takes that effectively reduce threats to an acceptable level.

**Examples**

- Assigning additional time and qualified personnel, might address a self-interest threat.
- Having an appropriate reviewer, might address a self-review threat.
- Using different partners and engagement teams for the provision of non-assurance services

- Involving another firm to perform or re-perform might address self-interest, self-review, advocacy, familiarity or intimidation threats.
- Separating teams might address a self-interest threat.

## VOLUME 2 : ICAI Code / Domestic Code

### Chapter 1 – Accounting and Auditing Standard

- ⇒ Statements
- ⇒ Guidance Notes
- ⇒ Accounting Standards, Quality Control and Engagement Standard
- ⇒ Conflicts Between statement and standard
- ⇒ Conflicts between old and a new standard.

### Chapter 1 – Applicability of Various Pronouncements

#### Statements

Secure compliance by members for the proper discharge of their functions

Authority	Lists
Statements are mandatory	A list of statements issued
(a) In the event of any deviation duty to make adequate disclosure	(i) CARO, 2003 (now not relevant)
(b) If a member has not been able to perform an audit in accordance with such 'Statements' his report should draw attention to the material departures there from.	(ii) Statement of reporting under section 143 (1) of Companies Act, 13 (iii) Statement on the Amendments to Schedule III under Co.13 (iv) Statement on Peer Review (v) Statement on CPE.

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CA. Sarthak Niraj Jain

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**CODE OF ETHICS  
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### Guidance Notes

Guidance notes designed to provide guidance to number of matters on which one may desire assistance which may pose difficulty and confusion.

GUIDANCE NOTES	NON-COMPLIANCE
<ul style="list-style-type: none"> <li>📄 They are recommendatory</li> <li>📄 Member should ordinarily follow recommendations except where he is satisfied that in the circumstances, it may not be necessary to do so.</li> <li>📄 Guidance notes are given on accounting matters also</li> <li>📄 While attesting, examine whether recommendations in a guidance note have been followed or not</li> </ul>	<ul style="list-style-type: none"> <li>📄 Member should consider whether a disclosure in his report is necessary</li> <li>📄 Following guidance notes are considered as mandatory                             <ul style="list-style-type: none"> <li>▶ Guidance note on treatment of interest on deferred payments.</li> <li>▶ Provision for depreciation in respect of extra or multiple shift allowance</li> </ul> </li> </ul>

### Standards

STANDARDS	CONFLICTS
<ul style="list-style-type: none"> <li>▶ Have to be complied with to ensure that financial statements are prepared in accordance GAAP and auditors carry out their audits in accordance with the GAAP.</li> <li>▶ They are mandatory.</li> </ul>	<ul style="list-style-type: none"> <li>▶ <b>Authority</b> - 1st Standard 2nd Statements 3rd Guidance Notes</li> <li>▶ <b>LATER THE BETTER</b></li> <li>▶ A new standard shall prevail OVER OLDER in case of conflict</li> </ul>

## Chapter 2 – The Chartered Accountants Act & Regulations

**Section 2 (1) (b)** – Definition of Chartered Accountant

**Section 2(2)** – Member Deemed to be in practice

**Section 4** – Member of ICAI i.e. Register of Members

**Section 5** – Follow and Associates Members of ICAI

**Section 6** – Certificate of Practice

**Section 7** – Members to be known as Chartered Accountants

**Section 8** – How to become a member, removal, suspension and restoration of membership

### [NEW] General Provisions:

The Preamble of the CA Act, 1949 sets the purpose of the Act as “An Act to make provision for the regulation of the profession of CAs. The CAs (Amendment) Act, 2011 has incorporated changes as necessitated by the LLPAct, 2008.

### **Section 2 (2): Member deemed to be in Practice (CAiP)**

- A member of the institute shall be deemed, “to be in practice”, when individually or;
- in partnership with CAiP or members of recognized profession;
- in consideration of remuneration received or to be received;
- **Performs specified services (See deeming services)**

**HELICOPTER VIEW:**

**Section 2(2); Member deemed to be in practice (CAiP)**

**CA** - Member

**As a** - Individually or in partnership with CAiP or specified professionals

**For** - For a consideration received or to be received

**Gives** - Renders DEEMING services

**TEASER**

1. Can a CAiP enter into partnership with a CA not in practice? (Hint: No)
2. Will a member providing accounting related services for consideration, be deemed to be in practice? (Hint: Yes)
3. A CA providing accounting services as a director of the company, whether deemed to be in practice? (Hint: No)
4. What are the various modes of practice for CA? (Hint: As an individual, sole proprietorship firm or partnership firm)

**DEEMING SERVICE : Member Deemed to be in Practice (CAiP)**

- i. engages himself in the practice of accountancy;
- ii. offers to perform or performs services involving –
  - a. the auditing or verification of financial transactions, books, accounts, or records;
  - b. the preparation, verification or certification of financial accounting and related statements or
  - c. holds himself out to the public as an accountant; or

- iii. renders professional services or assistance in or about matters of principle or detail relating to accounting procedures or the recording, presentation or certification of financial fact / data;
- iv. renders such other services as, in the opinion of council, are rendered or may be rendered by a CAiP. (Notified Services)

**CAIP – NOTIFIED SERVICES**

**A. Management consultancy service :**

**(SJ Tip: covers all aspects of management except marketing and sales)**

- ▶ Financial management related
- ▶ Cost management related
- ▶ Organization and Business Management
- ▶ System Management
- ▶ Investment advice but not **PORTFOLIO MANAGEMENT**
- ▶ Management and operational audits
- ▶ Inventory management related
- ▶ HR management
- ▶ Valuations, Market research, other management decision making advisor to consult ant to an issue, resistor to issue but not

**MERCHANT BANKING**

- ▶ Quality Audit
- ▶ Environment Audit
- ▶ Energy Audit
- ▶ Acting as Recovery Consultant in the Banking Sector

▶ Insurance Financial Advisory Services (not Brokerage)

▶ **[NEW]** - Acting as Insolvency Professional.

▶ **[NEW]** - Administrative Services

Administrative services involve assisting clients with their routine or mechanical tasks within the normal course of operations. Such services require little to no professional judgment and are clerical in nature. Examples of administrative services include:

- Word processing services.
- Preparing administrative or statutory forms for client approval.
- Submitting such forms as instructed by the client.
- Monitoring statutory filing dates, and advising an audit client of those dates.

**For example, the functions of a GST practitioner**

### **B. Representation and other notified service**

CA Deemed to be in practice if he :

- ▶ In professional capacity and neither in his personal capacity nor as an employee;
  - ▶ Acts as a liquidator, trustee, executor, administrator, arbitrator, receiver, advisor or representative for costing / financial / taxation matters; or
  - ▶ Takes appointment of CG / SG or a court of law or any other legal authority or acts as a secretary unless his employment is on a salary cum – full time basis
- However a member opting to practice under sister concerns (CMA/CS) not deemed to be in practice under CA Act.

## CAIP – PROHIBITED SERVICES

▶ Portfolio Management Services

▶ Merchant Banking Involving Broking or underwriting services

### HELICOPTER VIEW :

Section 2(2): Specified services – Regulation 191

**Capacity:** In professional capacity (not on salary cum FT basis), Not in personal capacity or as an employee

**Appointed as a advisor or representative for:** liquidator, arbitrator, adviser, trustee, executor, receiver, representative for Costing- Financial-Taxation (CFT) Matters

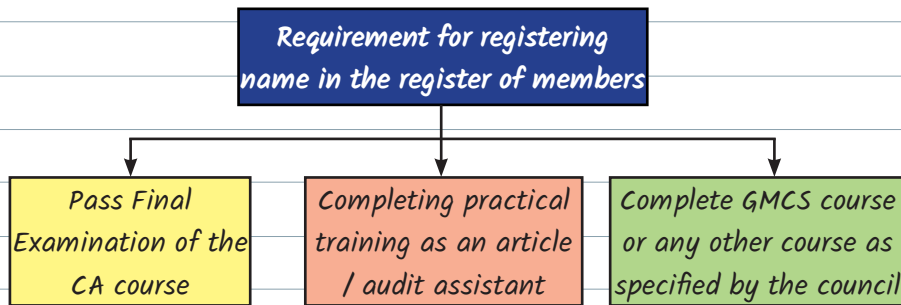
**Takes Appointment:** CG / SG / Court / legal authors appointment

**Acts as a:** Acting as a secretary

## TEASER

1. A CA who is also a CS / CMA and holding COP of CS/CMA Institute, whether deemed to be in practice under CA Act if his work is covered u/s 2(2)?  
(Hint: Special Exemption)
2. A CA is deemed to be in practice if engaged in deeming services?  
(Hint: No if provided on behalf of employer)
3. Can a CA provide service of a recovery agent? (Hint: No)
4. Is dual COP permitted for a CA with
  - a. CS
  - b. CMA
  - c. Advocate
  - d. Any other profession? (Hint: ICAI does not prohibits)

How to become member of ICAI



Submit application in prescribed form with evidence of eligibility and fees to secretary

CERTIFICATE OF PRACTICE

- Section 6 - CAiP to hold certificate of practice
- Significance of COP - If COP suspended, then too they can't appear in other capacity (eg. Advocates, tax consultants) Case of A.C. Kaher
- Cannot practice unless COP obtained, not even when applied

**[NEW]**

- CAiP shall pay annual fee for his COP, which shall not exceed ₹ 3000, payable on or before 1st April in each year.
- Council may exceed fees with the prior approval of the CG, but shall not exceed ₹ 6000.
- COP may be cancelled by the Council under such circumstances as may be prescribed.

**CAiP - OTHER POINTS**

**Section 4** - Person entitled to enter his name as member (Cleared CA Exams + Completed Practical Training & IT & communication course)

Removal / Cancellation / Restoration

Removal of Name from Register - Section 20

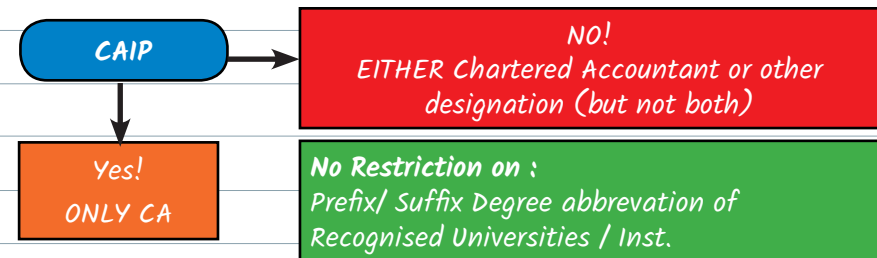
- i) Who is dead; or
- ii) Suo - moto by member; or
- iii) Who has not paid any prescribed fee, however will be restored on payment of arrears and making an application; or
- iv) Disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the register.

Cancellation and Restoration of Certificate of Practice

Regulation 10 - Incorrect details, application by member, non-payment of fees.

**[NEW]** Regulation 11 - Restoration of membership on payment of prescribed fees with application in prescribed form, as may be determined by notification by the Council, which shall not exceed ₹ 2000

**DESIGNATION**



- ▶ Special Provision for office bearers of ICAI (See below)
- ▶ Provision for using description / letters to indicate membership of other approved Institute – No restrictions
- ▶ Use of CA. Prefix – No Restrictions
- ▶ **[NEW]** Use of Merchant Banker/ Advisor to an issue, Tax consultants, Directors of Companies, Members of political parties, position in clubs, Cost Accountant etc. not permitted
- ▶ DISA - ISA (ICAI)
- ▶ **[NEW]** Members are permitted to mention membership of a foreign Institute of Accountancy, subject to MoU /MRA.
- ▶ **[NEW]** Merchant Banker / Advisor to an issue: -
  - ◆ The members may apply for and obtain registration under the SEBI's rules and regulations and act.
  - ◆ In client Co's' offer docs and advertisements, name & address of the CA or firm acting as Advisor or Consultant to the issue could be indicated .
  - ◆ However, the name and address should not appear prominently.
  - ◆ CAs or firms - should ensure that the description 'Merchant Banker' is not associated with their names in the offer documents and/or advertisements
  - ◆ CA/firms - permitted to register only as category IV 'Merchant Bankers', i.e. to act only as Advisor or Consultant to an Issue. CA/firms should not use this designations in their own letter heads, visiting cards, professional documents, etc.

### Designation (Sample):



### CA holding office position with ICAI

#### 1. Visiting Cards – Printed by ICAI

#### 2. Content:

- a) Name
- b) Chartered Accountant PREFIX
- c) Office Bearer Designation  
(Central Council, Regional Councils Branch Committee)
- d) Personal Contact Address - Back Side of Card
- e) Firm Name – Prohibited

#### 3. Letter Heads

- a) President and Vice-President of ICAI  
Name + Chartered Accountant + President / Vice – President
- b) Chairman – Designation (no name)
- c) Others – ICAI general letter heads



**Other Important Provisions of the Act**

**Section 27** - Maintenance of Branch Offices

**Penalties :**

**Section 24** - Penalty for falsely claiming to be a member, etc.

**Section 24 A** - Penalty for using name of the Council, awarding degree of chartered accountancy, etc.

**Section 25** - Companies not to engage in accountancy

**Section 26** - Unqualified persons not to sign documents

**Section 28** - Sanction to Prosecute

**Section 22** - Professional & Other Misconduct

Miscellaneous Provision & KYC NORMS

**SECTION 8: DISABILITIES FOR MEMBERSHIP**

- < 21 years
- Unsound mind and adjudged so by a competent court
- Un-discharged insolvent
- Discharged insolvent other than due to misfortune without any misconduct
- Convicted of an offence involving moral turpitude and punishable with transportation (Kaala Pani) or imprisonment or of an offence, not of technical nature, committed by him in his professional capacity unless has either been granted a pardon or, the Central Government has removed the disability; or
- Guilty by an Institute on inquiry of professional / other misconduct

**SECTION 27 : MAINTENANCE OF BRANCH OFFICES**

- Where CA in practice or a firm of such chartered accountants has *more than one office* in India.
- Each one of such offices shall be in the *separate charge of a member* of the institute;
- Provided that the Council may *exempt* any CAIP or from CA to send the list of offices to including persons in charge
- **Definition of BRANCH OFFICE:** Office where name board affixed or advertised / designated as branch in professional stationary etc.
- **Provision of Member in Charge**
  - ➔ Eligibility Criteria: CA+ Partner/ Full Time Employee
  - ➔ 182 days Test: Resides in city of branch/ visits the branch

**EXEMPTIONS:**

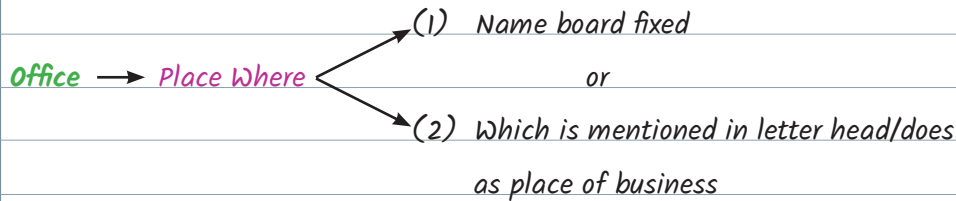
- Second Office in same Premises / City / 50 km radius of city
- Temporary office in case of Hilly Areas

**MEMBER INCHARGE**

- Eligible* - Member + Partner / FT Paid Employee (Not Retainer / PT)
- Incharge* - Visits or Resides
  - In the city of Branch for atleast 182 days in a year

**BRANCH OFFICE**

**SECTION 27 : BRANCH OFFICE**



- ▶ Intimation on Opening / Closing of Branch Office within 30 days to ICAI
- ▶ 'Khud Ka Name Board' can be placed before residence but not firm's name board
- ▶ General Rule - One Person - One Branch for a Firm
- ▶ Change in member - Only in case of Casual Vacancy
- ▶ No mandatory requirement to maintain a Register

**Branch Office Exemption**

**Hilly Area**

- ▶ Other office - in plains for 3m in winters
- ▶ No mention as POB
- ▶ Regular office needn't be closed, but no business
- ▶ Inform ICAI before commencement of winter and close of temporary office

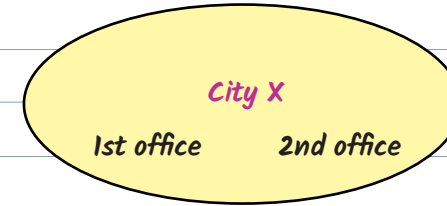
**Second Office Exemption**

**Situated in -**

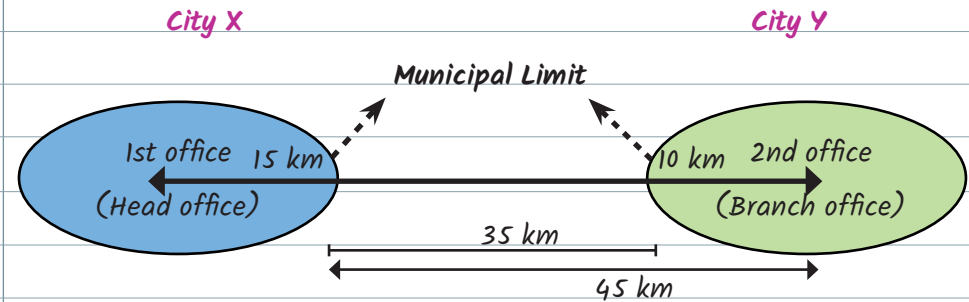
- ▶ Same premises
- ▶ Same city
- ▶ 50 km radius from municipal limits of city of main office

**Eg.**

i) The second office is located in the same city, in which the first office is located or.



ii) The second office is located within a distance of 50 km from the municipal limits of a city, in which the first office is located



Effective distance from 1st office = 35 km + 10 km = 45 km

**PENALTY FOR FALSE REPRESENTATIONS**

**Section 24 : Falsely Claiming to be CA / CAIP**

- ▶ Not being a member designates / represents as CA
- ▶ Not being in Practice exhibits to be in Practice
- ▶ Penalty -
  - ↳ First Conviction - Upto 1000
  - ↳ Subsequent - Upto 5000 & / or imprisonment <= 6 month

**Section 24 A : Uses Council Name / CA Degree**

- ▶ Uses name / common seal or awards degree as of ICAI
- ▶ Seeks to regulate CA profession
- ▶ Penalty
  - ↳ First Conviction – Upto 1000
  - ↳ Subsequent – Upto 5000/- and / or imprisonment upto 6 month

**Section 26: Refer Clause 11 of Part I of Schedule I:**

- ▶ Penalty for allowing Unqualified Members to Sign in the Report –
  - ↳ First Conviction – 5000/- to 1 lac
  - ↳ Subsequent – 10000/- to 2 lacs and / or imprisonment upto one year

**OTHER MISCONDUCT – Illustrative example**

- i) Where a chartered accountant retains the books of account any documents of the client and fails to return these to the client on request without a reasonable cause.
- ii) Where a Chartered accountant makes a material misrepresentation.
- iii) Where a chartered accountant uses the services of his articled or audit clerk for purposes other than professional practice.
- iv) Conviction by a competent court of law for any offence under Section 8 (v) of the Chartered Accountants Act 1949.
- v) Misappropriation by office-bearer of a Regional Council of the Institute, of a large amount and utilization thereof for his personal use.

- vi) Non-replying within a reasonable time and without a good cause to the letter of the public authorities.
- vii) Where certain assessment records of income tax department belonging to the client of Chartered Accountant were found in the almirah of the bed-room of the chartered accountant.
- viii) Where a chartered accountant had adopted coercive methods on a bank for having a loan sanctioned to him.

**TEASER**

1. YKS & Co. a proprietary firm of Chartered Accountants was appointed as concurrent auditor of a bank YKS used his influence for getting some cheques purchased and thereafter failed to repay the loan / overdraft (Hint: other misconduct)
2. CA issued a cheque which was dishonored with remarks 'Refer to Drawer' (Hint: other misconduct)

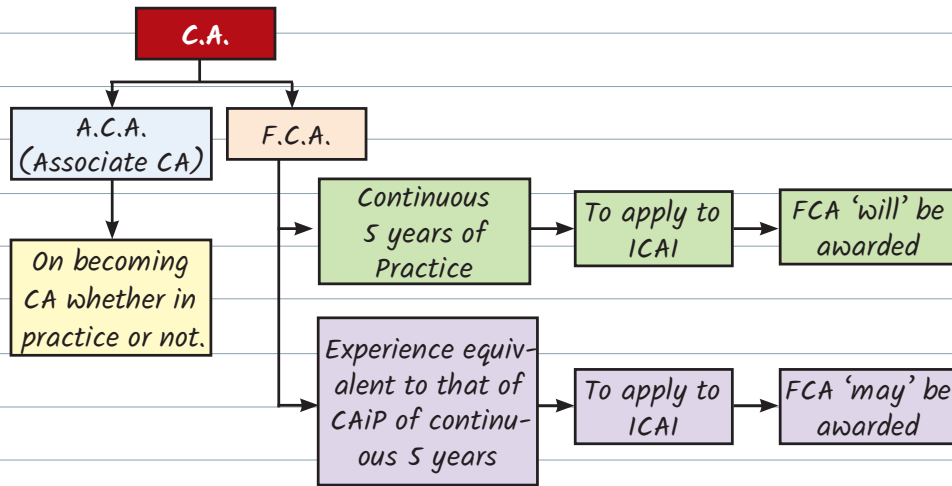
**MISCELLANEOUS PROVISIONS****Section 5:**

Fellow → 5 years of practice (confirmed) / 5 years of relevant experience (may be given on application) and Associate Members (if not fellow)

**Section 25:**

- ▶ Companies not to engage in Accountancy (LLPs permitted provided no company is its members)
- ▶ **Section 30 B** – Rules, Regulations & Notification to be laid before Parliament (CA (Amendment) Act – For 30 days, then deemed)

- ▶ **Section 30 E – Members etc to be public servants** [Inserted by CA (Amendment) Act, 2006] Applies to Council / Board etc members
- ▶ **[NEW] Corporate Form of Practice – Council in 2006 decided to allow members in practice to render MCS and Other Services in Corporate form as per Guidelines prescribed by forming a company, after registering it with ICAI. Company to also abide by Code of Ethics.**



C. Regulatory Information	D. Engagement Information
▶ Company PAN No.	▶ Type of Engagement
▶ Company Identification No.	
▶ Director's Identification No.	
▶ Director's Name & Addresses	
▶ Names and address of companies in which above person in director	

**Section 22 : Professional and Other Misconduct**

**Professional Misconduct**

Shall be deemed to include any act or omission provided in any of the schedules (referred in the Schedule I and II of CA Act, 1949)

**Other Misconduct**

Other Misconduct has been defined in Part IV of the First Schedule and Part III of the Second Schedule

**KYC Norms for CA in Practice (New)**

ENTITY INFORMATION	
A. General Information	B. Corporate Structure
▶ Name of the Entity	▶ Name of ultimate parent company
▶ Type of Entity	▶ Name of parent company
▶ Business Description	▶ Name of Affiliates

**Mukherjee Vs ICAI – SC**

Held if a member of the Institute is found guilty of conduct, which renders him unfit to be a member of the Institute, even though such conduct may not attract any of the provision of the schedules, it would still be open to the council.

## SCHEDULES TO CA ACT, 1949

Schedule	Part	Applies to	Clauses
Schedule I (Mild Misconduct) (Penalty – 1,00,000 or Max 3m suspension)	Part I	CA in Practice	12
	Part II	CA in Service	2
	Part III	All Members	3
	Part IV (OM*)	All Members	2
Schedule II (Serious Misconduct) (Penalty – 5,00,000)	Part I	CA in Practice	10
	Part II	All Members	4
	Part III (OM*)	All Members	1

OM\* - Other misconduct, rest are professional misconduct

### General Principles to Study Misconduct: SJ Tips

- ▶ Reference – Clause ‘n’ of Part ‘x’ of Schedule ‘y’ to CA Act, 1949
- ▶ Clause provide misconduct and not code of conducts
- ▶ Clause to be interpreted in letter as well as spirit
- ▶ In event of contravention of law and clauses, law shall prevail
- ▶ If misconduct covered under then disciplinary proceedings under clause with maximum penalty to be initiated multiple clauses

## SCHEDULE I – PART – I

- ▶ CAiP
- ▶ Professional Misconduct

### CLAUSE 1 : ALLOWS TO PRACTICE IN OWN NAME

- ▶ 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

### CLAUSE 2 : SHARING OF FEES

- ▶ 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 LR of a deceased partner (provided already mentioned in deed)
  - ↳ Member of any other professional body or with such other persons having such qualifications as prescribed

### Diagnosis:

- ▶ Agreement to share fees is also a misconduct
- ▶ Allowing a partner/employee to share fees shall make all other payments guilty too



▶ Clause prohibits sharing of fees irrespective of whether it is to secure any work		- Sale for lump sum consideration
▶ Sharing may be in cash or kind	<b>Timeline</b>	- No sharing of fees
▶ Only sharing under professional conduct covered. Sharing of fees personally unrelated to profession not covered		- 1 year from date of death or from decision on disputed LR, if any
▶ Sharing prohibited from professional fees/profits and not of personal incomes like rent, interest, etc.		- After 1 year name released to new member on first come basis
▶ In case of joint assignment requiring services of various professionals, assignment can be undertaken jointly but billing to be separate and payment to be received individually.	<b>OTHER PROFESSIONALS :</b>	
	<b>Regulation 53A (3) / 53 B of the Chartered Accountants Regulations, 1988</b>	
	i) Company Secretary	
	ii) Cost Accountant	
	iii) Actuary	
	iv) Bachelor in Engineering	
	v) Bachelor in Technology	
	vi) Bachelor in Architecture	
	vii) Bachelor in Law	
	viii) Master in Business Administration from Universities or AICTE approved Institutions	
<b>Exceptions:</b>		
<b>Member</b> - CA whether or not in practice		
<b>Partner</b> - Sharing with employee CA permitted		
- Whether CA or any other professional		
<b>Retried Partner</b> - Whether or not he continues to be a member		
<b>LR of a deceased partner</b> - Provided already mentioned in deed		
<b>Member of any prescribed body</b> - As prescribed under Regulation 53A(3)/B professional body or qualifications		
<b>SALE OF GOODWILL:</b>		
<b>When permitted</b> - Death of Proprietor		
- Death of all partner		
<b>Conditions</b> - Sale to CAiP		
		<b>TEASER</b>
		1. If a CA takes loan for opening a office and repayment terms require a percentage of profits to be paid whether permitted? [Hint: No]
		2. CA firm has an employee performance incentive fees where employees are entitled to receive a percentage share in profits comment. [Hint: Not permitted]

<p>3. If a CA avails services of a tax consultant for execution of his work in consideration of a fixed amount whether he will be guilty of sharing of fees? [Hint: No]</p>	<p><b>CLAUSE 3 : ACCEPTS SHARE IN FEES</b></p> <ul style="list-style-type: none"> <li>▶ Accepts or agrees to accept</li> </ul>
<p>4. If a CA takes an assignment and shares fees with an Engineer and a Lawyer whether he will be guilty of misconduct? Would answer differ if sharing was made with a doctor? [Hint: No, Yes]</p>	<ul style="list-style-type: none"> <li>▶ Any part of the profits of the professional work of a person</li> <li>▶ Who is not a member of the Institute</li> </ul>
<p>5. CAip bribes a CAis to secure assignment from the company where CAis is under employment by sharing a part of fees. Whether misconduct under clause 2? [Hint: No]</p>	<ul style="list-style-type: none"> <li>▶ 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 qualification, as is referred to in clause 2 of this part</li> </ul>
<p>6. If a CA enters into a referral arrangement with a Tax Consultant where there is an agreement to refer clients to each other without sharing fees, whether he will be guilty of misconduct under Clause 2? [Hint: No, but under clause 5]</p>	<ul style="list-style-type: none"> <li>▶ <b>[NEW]</b> Referral fees amongst members (in practice) for referring a client- Not prohibited</li> </ul>
<p>7. If a CA allows sharing of his share of profits with another person to secure work will it hold partners guilty as well? [Hint: Yes]</p>	<p><b>CLAUSE 4 : PARTNERSHIP</b></p> <ul style="list-style-type: none"> <li>▶ Enters into partnership,</li> <li>▶ In or outside India</li> </ul>
<p>8. CA has entered into an agreement to share his share of profits with his wife and an NGO. Will this be treated as a professional misconduct? [Hint: No]</p>	<ul style="list-style-type: none"> <li>▶ With any person other than;</li> <li>▶ A chartered accountant in practice or CAip;</li> <li>▶ Such other persons who is a member of any other professional body having such qualifications as may be prescribed,</li> </ul>
<p>9. CA has entered into an agreement to share profits of his professional business with an automobile engineer, However no actual sharing of fees was made? [Hint: Not Guilty]</p>	<ul style="list-style-type: none"> <li>▶ Including a resident who but for his residence abroad would be entitled to be registered as a member under Section 4 (i) (v); or</li> </ul>
<p>10. CA has entered into an agreement to share his rental income with an agent. Will he be held guilty or misconduct for sharing his fees? [Hint: No]</p>	<ul style="list-style-type: none"> <li>▶ Whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships</li> </ul>

**[NEW]**

- ▶ Members cannot form Multi-Disciplinary partnerships, till other professional regulators permit and also guidelines of Council are issued in this regard.
- ▶ Members may be Director Simplicitor. (However partner/designated partner is different) Therefore, as of now, a member in practice cannot become a partner/designated partner (non-working and non-remuneration drawing) in an LLP not carrying out professional work. However, partnership between members of the Institute and
- ▶ Partnership between members of ICAI & members of foreign professional bodies are permissible provided they are eligible for the membership. Post 8 Dec. 1997, no fresh enrolment of persons with the qualifications of institutions, organisations, etc. earlier permitted by the Council is permissible. Hence partnership with such foreign body professionals is now not permitted.
- ▶ Prohibition on entering into partnership with non-CAs is confined to the practice of the profession of CAs.

**Memorandum of Understanding (MOU) / Mutual Recognition Agreement (MRA)**

Qualification Reciprocity Arrangement	Rights under Agreement	ICAI Member right to become member of foreign body	Foreign Body Member right to become member of ICAI

MOU with The Institute of Chartered Accountants in England and Wales	Bilateral & Unilateral for CoP	Permitted, on passing certain exams and training + Allowed to hold CoP in foreign country + No statutory audit rights of that country conferred directly under this arrangement	Permitted, on passing certain exams and training + Not allowed to hold CoP in India + No statutory audit rights in India
MOU with Chartered Professional Accountants of Canada (CPA Canada)	Bilateral	Permitted, on passing certain exams + Meeting Certain experience requirements + No provision to hold CoP / have statutory audit rights	Permitted, on passing certain exams + Meeting Certain experience requirements + No provision to hold CoP / have statutory audit rights
Mutual Recognition Agreement with the Institute of Certified Public Accountants in Ireland (CPA Ireland)	Same above	same above	same above

MRA with the South African Institute of Chartered Accountants (SAICA)	Same above	same above	same above
MRA with CPA Australia	Same above	same above	same above
International Pathway Programme of Chartered Accountants Australia & New Zealand	Unilateral	Permitted, on passing certain exams and training under International Pathway Program + Allowed to hold CoP in foreign country / conduct statutory audit if residing in that country subject to terms of the agreement	No recognition by ICAI for such foreign body members

Apart from this ICAI enters into Co-operation agreements to facilitate development of accounting and auditing profession between countries and share best practices. Few examples of such agreements are MoUs with Institute of Certified Public Accountants of Kenya (ICPAK), Bahrain Institute of Bank-

ing and Finance (BIBF), National Board of Accountants and Auditors (NBAA), Tanzania, Institute of Chartered Accountants of Nepal (ICAN), The Accounting and Auditing Standards Board of Bhutan, College of Banking & Financial Studies (CBFS), Oman.

**TEASER**

1. If a CA shares fees with a CA of England and Wales whether he be guilty of misconduct? [Hint: Guilty]

**CLAUSE 5 : PROHIBITION IN SECURING WORK**

- Secures either through;
- The services of a person who is not a employee of such chartered accountant; or
- Who is not his partners; 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

**Diagnosis:**

- Secures either through;
- The services of a person who;
- Is not an employee of CA;
- Who is not his partner;
- 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.

### CLAUSE 6 : SOLICITS CLIENT OR WORK

- Solicits client or professional work either
- Directly or indirectly, by circular, advertisement, personal communication, or inter view or by any other means
- Provided that nothing herein contained shall be construed as preventing or prohibiting –
- Any chartered accountant from applying or requesting for or inviting or securing professional work from another chartered accountant in practice; or
- A member from responding to tenders or enquires issued by various users of professional services or organizations from time to time and securing professional work as a consequence.

#### I. Advertisement and Notes in the press

Not permitted to canvass for work through advertisements except in following cases:

- **From another CA**  
A member may request another Chartered Accountant in practice for professional work.
- **A member may advertise change**

- In partnership or dissolution of a firm, or
- Change in the address of practice and telephone numbers – only informative with appropriate circulation area of media, size and number of insertions.

#### ➤ **Classified advertisement in ICAI Journal / News Letter**

**[NEW] For sharing / seeking professional work on assignment / partnership basis or salaried employment.** Allowed, provided it only contains accountant's name, address, telephone, fax number and email address and address(es) of social networking sites of members. Firm name not permitted. However, mere factual position of experience and area of specialization, relevant to seek response to the advertisement, are permissible

#### ➤ **Client's Behalf (Clause 7)**

Member may also advertise on behalf of details of client in the course of provision of any service like recruitment services, as a liquidator, etc.

#### ➤ **Staff Recruitment (Clause 7)**

Permitted to issue advertisements for recruiting office staff

#### ➤ **Advertisement under P.O. Box Number**

Prohibited [Advertise through a write up in a print / electronic media Details of these are provided in Clause 7 of this part]

#### II. Empanelment for allotment of audit professional work

##### **Permitted features:**

- CA's can apply for having their name on panel maintained by organizations (Like Empanelment by RBI for Banks)



- Provided he is aware about empanelment under process
- Once empanelled he can INQUIRE about work allotted to him continued

**Prohibited Items:**

- Raving enquiries cannot be made
- Cannot demand work once empanelled

III. Publication in telephone / other directories

**[NEW]** The CAs & CA Firms may have entries made in a Telephone Directory (in printed and electronic form) either by making a special request or by means of an additional payment subject to the council general guidelines.

**Permitted features:** They can have their name included in telephone/trade directories if following are satisfied:

- a. Entry in separate section of CA
- b. It should appear in the local directory of the city in which concerned CA/ firm/branch is situated
- c. Entries should be in logical (alphabetical) order
- d. Should not be made in a differential or prominent manner
- e. Entries should be open to all CA's.
- f. Members can also include their names in trade/ social directories.

**Prohibited Items:**

- a. No impression of publicity or advertisement

IV. Tenders or Inquiries and others

Whether CA can respond?

- Ans. ♦ No minimum fees prescribed
- Area of service exclusively reserved for CAs → Cannot apply
  - Service open to non CAs too → Can apply
- ♦ Minimum fees prescribed → Can apply

**[Also refer Council General Guidelines 2008]**

**[NEW]** The “minimum fee” for this purpose should be such that it commensurates with size, value, volume, manpower requirement and nature of work as decided by Council (However presently this requirement applicability is deferred)

V. Publication of books or articles

**Permitted**

- a. CA in practice can write books etc. and get them published.
- b. Can mention his name & his personal / academic details / continued sector prohibited.
  - No solicitation of work on the name of member & firm name
  - **[NEW]** He may indicate designation “Chartered Accountant” as well as the name of the firm.
  - No highlighting of professional attainments of member of firm.

VI. Greeting Cards or Invitations

- CA can indicate name of firm and address on greeting cards or Invitation meant for :
  - a. Marriage

b. Religious ceremonies

c. Inauguration of office

**Condition :** Provided it is sent only to clients, relatives and close friends (not defined)

**Prohibited**

- Professional Designations
- Qualifications
- Work solicitation in any form

**VII. [NEW] Advertisement for Silver, Golden, Platinum or Centenary celebrations**

- Normally It is not permitted to advertise the events organised by a Firm.
- However, advertisement for Silver, Golden, Diamond, Platinum or Centenary celebrations of the CAs Firms may be published in newspaper/ newsletters.

**VIII. [NEW] Sponsoring Activities**

- CAiP or CAs firm - not permitted to sponsor an event.
- However, member or Firm may sponsor an event conducted by a PoU (program organising unit) of the ICAI, provided such event has the prior approval of CPE
- Members sponsoring CSR activities -
  - (i) Permitted individual name & "CA" prefix.
  - (ii) Firm name or CA Logo is not permitted.

**IX. Roving inquiries**

Prohibited as these are solicitation of work covers:

- Tele - marketing
- Door - to - door marketing
- Mass level Distribution of Mails, SMS, etc.

**IX A. Issuing handbills**

**Permitted:** Can distribute hand bills containing their name to his clients (for e.g. Budget highlights)

**Prohibited:** Cannot issue to person other than client

**X. Seeking work from Professional Colleagues**

No restriction to seek professional work from CAip provided it does not lead to violation of any clause

**XI. Acceptance of professional work emanating from a client introduced by another CA**

- Member should not accept the
- Original professional work
- Emanating from a client introduced to him by another member
- If work 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

## XII. Scope of representation u/s 140 (10.13)

### **Representation when**

- The auditor who is being removed in GM, has rights of representation.
- He may indicate in his letter his willingness to continue as auditor if shareholders in AGM decide so, but this should not be in the nature of solicitation.

### **Prohibition**

- But there should not be any extra publicity therein.
- No derogatory, unsubstantial remarks against the management of Co.
- It should not highlight contribution made by CA to the company.

## XIII. Public Interview

- ▶ Due care to ensure that such interviews or details about the members or their firms
- ▶ Not given in a manner highlighting their professional attainments

## XIV. Member engaged in Coaching and Teaching

- ▶ Advised to abstain from advertising their association with coaching / teaching activities through hoardings, posters, banners, etc.
- ▶ **[NEW]** Subject to the above prohibition, such members may put, outside their coaching /teaching premises, sign board - name of coaching/teaching institute, contact details and subjects taught therein only.
- ▶ For size and type of, sign board, Council Guidelines apply.

## XV. [NEW] Sharing Firm Profile with prospective Client

Not permitted unless it is in response to a proposed client's specific query

## XVI. [NEW] Television or Movie Credits

It must be taken care of that exhibition of name (CA/firm) is not made differently as compared to others.

## XVII. [NEW] Educational Videos

- ▶ May be uploaded on the internet by members, no reference should be made to the CA's firm, where member is a partner/ proprietor.
- ▶ It should not contain any contact details or website address.

## XVIII. Website

Council General Guidelines for permitting to post their particulars at website

### **Permitted features:**

- ▶ Free to create website
- ▶ Any format / color
- ▶ Can mention website address on professional stationery
- ▶ Pull mode not in push mode

### **Prohibited information: (They can't provide on website)**

- ▶ Name of clients and fee charged **permissible only where it is required by a regulator and only till such period as required**
- ▶ Logo (other than that prescribed by ICAI)

- No photograph (other than passport style photo of member)
- No advertisement

- **[NEW]** The Firm can provide link of its page on Social Networking site. But can not solicit people to visit or like

### Permitted information within CA's Website

- Name of member / firm
- Member's / firms address / telephone no. / fax / e-mail id
- Partner's name and their qualifications, year of qualification, home address, telephone number. email id. (i.e. Bio-data of Partner)
- Employee's names and their qualifications
- Job vacancies including article ship
- Passport – style – photograph of members
- Reference about ICAI/govt. related website
- Articles etc. of professional interest such as budget highlights but not to have non-professional related information like Health Tips.
- Bulletin Board
- Chat rooms between client & CA or among CA's. However confidentiality should be maintained.
- Date upto which website is updated. (company)
- Common logo prescribed by ICAI
- Not to have any information contradicting with ICAI, or any information that is unbecoming a CA
- Year of Establishment
- **[NEW]** Educational videos on topics of professional relevance are permissible

### Within website specific pull request for

- Nature of service rendered
- Nature of assignment handled
- Area of experience and qualifications of partners
- Area of experience and qualifications of employees
- No. of articled trainee

### Address of website

- Website address should be in the name of CA/CA firm
- It may be different from firm / CA name but should be as near as possible to their name.
- Address should not be such as results in soliciting the client
- Website address may be given on stationery without on solicitation for clients to visit website

### Search Engine

- Listing of CA's website on search engine is allowed. But it should be on criteria such as CA, Indian CPA or any related field

### Hyper Links

- In CA's website, link/reference of only ICAI related or govt. related website

is allowed. No other link is permitted.

- No advertisements are permitted in CA's / Firm's website

### **Intimation - ICAI**

- Presently CA is not separately required to inform website address to ICAI  
While submitting annual membership form website address is to be provided

### **Services through other websites is allowed**

- Provided contact address, firm name with suffix chartered accountant & professional achievement of CA is not given
- Only CA's name with designation 'CA' is allowed.

### **XIX. [NEW] Online Third Party Platforms**

- A number of non-CAs' firms, corporate including banks etc. have set up their own website may request CAs or CAs' firms to provide consultation and advice through their Websites.
- This would be permitted subject to the council general guidelines on advertisements

### **Council General Guideline**

- No other service, besides consultancy and advice can be rendered through such websites.
- This would be permitted subject to the condition that on the Website, contact address of the Chartered Accountant concerned is not provided

nor such Website will contain any material which advertises professional achievements or status of such Chartered Accountant except making a statement that they are Chartered Accountants.

- The name of Chartered Accountants' firm with suffix "Chartered Accountants" would not be permitted. (Please also refer Guideline for Advertisement)

### **XX. [NEW] Application based Service Provider Aggregators (SPAs)**

- Not permissible for members to list themselves with online application based SPAs wherein other categories like businessmen, technicians event organisers etc. are also listed.

### **XXI. [NEW] Specialised Directories for limited circulation**

- The CAs and Firms may print specialised directories for limited circulation subject to the council general guidelines
- May appear in any directory or list of members in which the names are listed alphabetically.
  - For a specialised directory such as a "Who's Who" - a member should use his discretion in supplying information
  - In addition a member may give where appropriate -directorships/ personal details/ outside interests.
  - He should not give - the names of any of his clients

### CLAUSE 7: ADVERTISES PROFESSIONAL ATTAINMENTS OR SERVICES

- 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 or a University established by law in India or recognised by the Central Government or a title indicating membership of the ICAI or of any other institution, that has been recognised by the Central Government or may be recognised by the council.
- Provided that 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.

#### Designation

Clause restrains members from using any designation or expression other than that of a Chartered Accountant (Also discussed in 5.7) IMPROPER to state on his professional documents, letter heads, visiting cards etc.

- Income – tax consultant or a cost consultant or a management consultant
- Member of Parliament, Municipal Councilor any other functionary in addition to that of Chartered Accountant
- The date of setting up the practice/date of establishment of the firm
- Members otherwise eligible to practice as advocates (subject to the permission of Bar Council) should not use designation “Chartered accountant” and “advocate” simultaneously. Same rule applies for CS, CMA.

- **[NEW]** It is not proper for firm of Chartered Accountants to use the designation “Chartered Accountant” except on professional documents, visiting cards, letter heads or sign boards and under the circumstances clarified under clause (6). However, an individual member may use the prefix “CA” with his name.
- **[NEW]** A member empanelled as Insolvency Professional or Registered Valuer can mention “Insolvency Professional” or “Registered Valuer” respectively.
- **[NEW]** Members are permitted - to mention a title on their visiting cards to indicate membership of a foreign Institute of Accountancy, which has been recognised by the Council e.g. SAICA, CPA Ireland, ICAEW.

#### Accepted-

n website the year of establishment can be given at the specific “pull” request.

#### Guidelines – For Advertisement For the Members in Practice

**[NEW]** The write-up may include only the following information:

(Now definiton includes social networking websites also)

#### For Members:

Name, Membership No., Age, Date of becoming ACA, Date of becoming FCA, Date which COP held, Recognised qualifications, Languages known, Telephone/ Mobile/Fax No., Professional / Address Web, E-mail, CA logo, *Passport Style Photograph*, Services provided Names and details of the employees and their particulars on the lines allowed for a member as stated a. CA’s b. Other professional c. Articles/Audit Assistants, d. Other Employees.

**[NEW]** Position held as Dir.or MD in a Mgmt Cons.Co. registered with the ICAI.



**For Firms:**

Name of the Firm, Firm Registration No., Year of Establishment Professional Address, Working hours, Telephone No. (s) / Mobile No. / Fax No., Web Address, E-mail, No. of partners, CA logo, Passport Style Photograph, Services Provided, Name of the proprietor / partners and their particulars on the lines allowed for a member as stated above, Names and details of the employees and their particulars on the lines allowed for a member as started a. CAs b. Other Professionals c. Articles / Audit Assistants d. Other Employees. Affiliation with a Network registered with the ICAI

**Other Conditions:**

**[NEW]** The write-up shall comply with the following conditions: -

- It shall be honest and truthful.
- There shall be no exaggerated claims for the services offered
- It must not make any disparaging references or unsubstantiated comparisons to the work of others.
- It should not be of a nature that may bring the profession into disrepute.
- It should not contain testimonials or endorsements concerning Member(s)/ names of clients/ fees charged.
- It should not contain any info. about achievements /awards (except CG or SG or Reg.bodies) or any other position /accreditation/ granted by any organisation.
- Monogram of any kind or use of any kind of catch words is not permissible.

- The Membership No./FRN is mandatory to be mentioned.
  - It should not be of font size exceeding 14.
  - It must not be violative of any provisions of CAs Act, 1949, CA Reg's, 1988, CoE, 2020 or any Guideline of the Council
- The ICAI may issue a reasoned directive for removal or withdrawal of the whole write-up or of any part(s) thereof

**Important Points:****i) Advertisement in press**

refer guidelines for advertisement for members in practice.

**ii) [NEW] Appearance on TV/films/internet/radio/press/seminars**

- a. They may appear & may describe themselves as CA
- b. Special qualifications or specialised knowledge directly relevant to the subject matter of the programme may also be given.
- c. Firm name may also be mentioned, however, any exaggerated claim or any kind of comparison is not permissible.
- d. 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.

**iii) Photograph & brief particulars of CA in magazine**

- a. No payments is made for such publication and
- b. No mention of professional attainments.

iv) Members giving talks or lectures or attending conference

Member may describe themselves as Chartered Accountant only when they are acting in their capacity as Chartered Accountants. However, reference to the professional firm of the member should not be given.

v) Training Courses and Seminars for his staff

A CA holding training courses, seminars etc. for his staff may also invite the staff other professional accountants and clients to attend the same.

**[NEW]** However, undue prominence should not be given to the name of the CA in any booklet or document issued in connection therewith.

vi) Publicity for appointment of position of local / national importance permitted

- a. They may mention membership of ICAI i.e. CA
- b. But no mention as to firm name.  
Eg. MP, MLA, Clearing an exams, etc.

vii) Prospectus of Company in which CA is director

- a. CA's name address in the capacity of director is allowed in prospectus.
- b. But no firm name.
- c. No expression like "Associate of ....."
- d. No advertisement of professional achievement.
- e. Update company about code of Ethics too

viii) [NEW] Press note on success of a candidate in Exams – Permitted

- a. His name & address his local background
- b. His success details-school /examination passed/ prize or place gained
- c. Name & firm of his principal and town may be given but there should not be any undesirable publicity of Article / Principal / Firm.

ix) Sign Board

- a. Can't use glow sign board or large sized sign boards
- b. At residence, name board of himself is allowed but not that of firm

x) Date of establishment of firm – Can't provide on letter head, visiting cards, etc.

Exceptions – Website on specific pull request

xi) Photographs

No objection to the publication of photographs and brief particulars of members in

- a. Magazines provided no payment is made for such publication and there is no advertisement of professional attainments.
- b. Passport size photo in website permitted on pull request.  
PROHIBITED Photograph on visiting cards through Quick Response Code (QR Code) are permitted visiting card.

### xii) Listing in directory or list of members of particular body

- a. Allowed
- b. It may contain his/his firm name and address
- c. Names of members in such directory should be in logical order
- d. He may provide directorships held, reasonable personal details and outside interest
- e. But can't provide name of clients and services offered by his firm For e.g. In list of members of Income Tax Appellate Tribunal, When CA concerned is a member of ITAT

### xiii) Common CA Logo

**[NEW]** The Council has decided that use of CA logo is permissible, subject to CA logo guidelines:

- (i) The logo consists of the letters 'CA' with a tick mark
- (ii) (Upside down) inside a rounded rectangle with white background.
- (iii) The letters 'CA' have been put in Blue.
- (iv) Do not change the design and colours, including the white background.
- (v) Refrain from rotating or tilting the logo

### xiv) Audit reports and certificates issued by CA

Ensure that no needless publicity and firm name and particulars to be given as usually in audit reports/certificates

**[NEW]** The members may however note that they should use letterhead of their Firm for issuing reports and certificates.

### xv) Network Firms and Networking Guidelines

- a. The Council has permitted Network amongst the Firms registered with the Institute.
- b. A member of the Network may advertise to the extent permitted by the Guidelines issued by Institute.
- c. The firms constituting a Network are permitted to use the words "Network Firms" on their professional stationery.
- d. Once the relationship of network arises, it will be necessary for such a network to comply with all applicable ethical requirements.
- e. It is not permissible for the Firms to join Networks not registered with the Institute. **[Also refer Council General Guidelines 2008]**

### xvi) Photo and QR Codes on Visiting Card

It is not permissible for the chartered accountants in practice to print their photograph on their visiting cards.

However, they are allowed to print QR Code on the visiting Card provided that it has not contain information that is not otherwise permissible to be printed on a visiting Card.

### xvii) [NEW] Guidelines for elected Members of the Council/ Office Bearers of the Regional Council

The guidelines/directions laid down by the Council as revised by the Council from time to time for use of designation etc. and manner of printing letterheads and visiting cards of the President, VP, Members of the Council etc. (also refer Section-7)

**TEASER**

1. Whether a CA is prohibited from responding to tenders, advertisements and circulars [Hint: Clause 6]
2. Whether a CA is prohibited from seeking work from professional colleagues? [Hint : Not Prohibited]
3. Whether a CA is prohibited from printing photographs / QR Codes on Visiting cards? [Hint: Photo- Prohibited, QR Code: Not prohibited ]

**CLAUSE 8: COMMUNICATION WITH PREVIOUS AUDITORS**

- Accepts a position as auditor
- Previously held by another chartered accountant
- Without first communicating with him in writing

**Objective:**

- member may have an opportunity to know the reasons for the change
- able to safeguard his own interest, public interest and the independence of the existing accountant.
- It is important to remember that every client has an inherent right to choose his accountant;

**Sick Unit: [NEW]**

Shall mean a unit registered for not less than five years, which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.

**NOC Diagnosis:**

- Apply to all types of audit
- Communication mandatorily where previous auditor is a Chartered Accountant
- Assignments done by other professionals also be a healthy practice to communicate
- In case of audit of government companies/banks or their branch obligation must be complied with before accepting the audit
- However, time schedule is such that there is no time to wait for the reply incoming auditor may give a conditional acceptance and commence the work

**Applicability of Clause:**

- All or any audit assignment whether internal or external, FS or FA or Stock or else
- Applies to government audit, bank audits, branch audits, GST audits, internal audit, as well
- Not applicable on Investigation, Certifications etc. (recommendatory)
- Applicable only when previous auditor was a CA
- Communication with previous auditor not necessarily PY auditor
- In case of joint auditor communication required if any previous auditor not appointed or a new joint auditor appointed

**[NEW] Grounds for non-Acceptance of Audit:**

The professional reasons for not accepting an audit would be:

- Non-compliance of the provisions of Sections 139 and 140 of the Companies Act, 2013 and

- Non-payment of undisputed audit fees by auditees other than in case of Sick Units ; and
- Issuance of a qualified report.

**Recourse in case of Qualified Audit Report:**

Accept if attitude of the retiring auditor was not proper and justified.

**Fees pending due to non-availability of Previous Auditor:**

- Accept if previous auditor is not available for accepting payment of undisputed audit fees.
- Incoming auditor may accept the Audit assignment after verifying the DD for undisputed audit fees of retiring auditor is purchased by the client and
- It will be the duty of the Incoming auditor to ensure the payment of undisputed audit fees at the earliest possibility.

**Course of action in case of change of Auditorship:**

- Ask him the reason for the proposed change- If there is no valid reason for a change, it would be healthy practice not to accept the audit.
- If he decides to accept he should address a communication to the retiring auditor.

**Certificate of Posting not a conclusive proof of communication –**

- The Council has taken the view that a mere posting not sufficient
- Need some evidence to show that the letter has in fact reached the person communicated with.

**Premises found Locked:**

The communication received back -written on the Ack-Due shall be deemed as having been delivered

**Firm not found at the given Registered address –**

- If the Communication received back with remarks “No such office exists at this address”, and
- The address of communication is the same as registered with the ICAI, the letter will be deemed to be delivered,
- Unless the retiring auditor proves that it was not really served and that he was not responsible for such non-service.

**Mode of Communication:**

- In writing
- Mode of such that provides a proof of Delivery
- **[NEW]** Like Reg. Post with Acknowledgement Due (Reg-AD), Courier with POD, By hand delivery, E-communication (email) through his email ID registered with ICAI or last known official email ID, (UDIN) generated on UDIN portal (seperate guidelines for this to be issued), if proof of delivery obtained
- In case of emergency provide conditional acceptance of audit subjected to receipt of NOC.

**Response:**

- Previous auditor also responsible to respond in time
- Else incoming auditor free to accept

- No responsibility of incoming auditor to check (except as given in clause 9)
- If response is:-
- Undisputed Audit Fees not paid – Do not accept audit
- Removal of previous auditor improper – Do not accept audit
- Modified report by previous auditor – May accept
- Undercutting – No compulsion to accept

### CLAUSE 9: CHECKING COMPLIANCE WITH SECTION 140 (& 139)

Accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 140 of the companies Act, 2013 in respect of such appointment have been duly complied with

#### Diagnosis:

Auditor to proactively ascertain (find out of certain) whether

- Removal of previous auditor proper
- Eg. Notice of removal, AGM, representation rights, resolution etc.
- His appointment as per provisions of law

Eg. Resolution by appropriate authority passed, etc.

Clause relevant in case of

- First Auditor Appointment
- Appointment in case of casual vacancy including resignation
- Removal of existing auditor
- Joint Auditor Appointment

It is suggested that the incoming auditor should verify the following records of the Company:-

- (i) **First time appointment** :- Whether the BoDs have passed the resolution within 30 days
- (ii) BoDs have not appointed the first auditor being made by GM of the Company
- (iii) **Casual vacancy**: - Whether the BoDs have powers to fill & have passed the resolution
- (iv) **Vacancy due to resignation**: - Whether a proper resolution filling the vacancy has been passed at GM
- (v) **Removal of the auditor**: - See that SR has been passed and previous approval of the CG obtained
- (vi) **Auditor other than the retiring auditor is proposed to be appointed**: - Ascertain provisions of Sec. 139 & 140 have been complied with.
- (vii) **Whether the Company has complied with the provisions of Section 140:-**  
Auditor should verify the following matters:-
  - a. Whether a member of the Co. has given special notice. notice shall be sent by members to the co. not earlier than 3 months but at least 14 days before date of AGM
  - b. Whether notice sent to all the members, at least 7 days before the date of the GM.
  - c. Whether this special notice has been sent to the retiring auditor
  - d. Representation received from the retiring auditor has been sent to the members
  - e. Whether the representation received from the retiring auditor has been considered at the GM”



(viii) A copy of the relevant minutes of the GM verified by the Chairman should also be obtained

(ix) Sometimes the AGM is adjourned without conducting any business or after conducting business .

(x) The items in respect of which the business is conducted may or may not include the item relating to appointment of auditors. u/s 139(1) the retiring auditor holds office till the conclusion of every sixth AGM.

(xi) Therefore, when the AGM is adjourned in the circumstances stated above, the retiring auditor will continue to hold the office of auditor till the adjourned meeting is held and the business listed in the agenda of the meeting is concluded.

(xii) In case a new auditor is appointed at the original meeting (which is adjourned) such auditor can assume office only after the conclusion of such adjourned meeting.

(xiii) If any AGM 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 Co., since in terms of Sec. 115 of the Co. Act, special notice should be given to the Co. at least 14 clear days before the meeting

**CLAUSE 10 : CONTINGENT FEES**

- Charges or offers to charges, 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.

**Diagnosis : Exceptions – (Regulation 192)**

- Receiver / Liquidator based on a percentage realization or disbursement of assets
- Auditor of co-operative society, percentage of the paid up share capital or working capital or gross or net income or profits

**[NEW] Permitted Deposits /Payments**

- **[NEW] Audit fee payable to concerned SG** - the auditor has to deposit a % of his audit fee in the state Treasury
- **[NEW] Assignment** wherein a % of professional fee is deducted by the Govt. to meet the administrative and other expenditure.
- A valuer for any purpose of direct taxes and duties as percentage of value of property valued.
- Certain Management Consultancy Services as may be prescribed
- Debt recovery consultation services may be based on % of debt recovered
- Cost optimization services
- **[NEW] Other Services Prescribed by Council** like
  - (i) Acting as Insolvency Professional
  - (ii) Non-Assurance Services to Non-Audit Clients
- In the case of certain fund raising services, the fees may be based on a

derecentage of fund raised.

- In the case of services related to cost optimisation, the fees may be based on a percentage of the benefir derived.

### Other Exceptions

If contingent fees is so fixed by court or public authority fee under any statute where statute prescribes contingent fee. Special case – Management Consultancy Services Company Floated by CAs can receive remuneration from employer based on of annual CTC.

### CLAUSE II : ENGAGES IN OTHER BUSINESS / OCCUPATION

- Engages in any business or occupation other than the profession at 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 whole time director)
- Unless he or any of his partners is interested in such company as an auditor

### Directorship

General permission to be a director provided:

- He / Partner not interested as an auditor (SII, PI, SI)
- Not being a MD or WTD (Special Permission Required)
- Can be a simple director (non-executive) even with substantial interest

### Permission Granted Generally (Regulation 190A)

- Employee under CAip
- Part time tutorship of the institute
- Private Tution
- Valuation of papers, paper – setter, head – examiner or moderator
- Life Insurance Agency
- Attending classes appearing for Examination
- Editorship of professional journals
- Surveyor Loss Assessor
- Holding public elective offices MP MLA & MLC
- Owning agricultural land and carrying out agricultural activity
- Honorary office charitable educational Other non-commercial organizations
- Acting as Notary public, justice of the peace, special Executive Magistrate
- [NEW] Acting as Recovery consultant in the Banking Sector.
- [NEW] Any coaching assignment organized by the Institute/Regional Councils /Branches
- [NEW] Engagement as Lecturer in an University, affiliated college, educational institution etc. max. teaching hours 25 hours a week.

[NEW] Part-Time Employments, a CA in Practice may accept

Notwithstanding anything contained in Regulation 190A but subject to the control of the Council:

- a CAiP may act as a liquidator, trustee, executor etc.or
- May take up an appointment that may be made by the CG/SG/court /other

legal authority or

- May act as a Secretary in his professional capacity, provided his employment is not on a salary-cum-full-time basis

**[NEW] Member in Practice in a HUF doing business**

A member of the Institute can acquire interest in family business in any of the following manner:

- (i) as a proprietary firm
- (ii) as a partnership firm
- (iii) HUF as its Karta or a member.

It would be necessary for the members to provide evidence that :

- Interest in the family business
- Interest in the family business concern devolved on him as a result of **inheritance/succession/partition** of the family business.
- Not actively engaged in business
- Furnish a declaration in the prescribed format and the documents evidencing above
- **A member in practice engaged as Karta of a HUF doing family business, will be within the limit prescribed by Council if he makes investments from the funds pertaining to HUF only, provided, he is not actively engaged in the management of the said business.**

**Permission Granted Specifically**

- After obtaining the specific and prior approval of the council-

- Full - time or part - time employment in business concern members and / or relative not hold substantial interest in concerns
- In non-business concerns.
- Office of managing director or a whole time director provides not hold substantial interest
- Interest in family business acquired as a result of relationship and in the management of which no active part is taken.
- Interest in an educational institution
- Part - time full time lectureship for courses other than those relating to the Institute's examination under auspices of the Institute
- Part - time of Full time tutorship under educational institution other than coaching organization of the Institute.
- Editorship of journals other than professional journals
- Any other business or occupation for which the executive committee considers that permission may be granted.

**Special Permission Note**

- "Relative", means husband, wife, brother or sister or lineal ascendant or descendant
- "Substantial interest" means holding 20% of voting power / 20% share of profits beneficially
- Holdings to be at any time, during the relevant years

### Permission Granted Generally

Not permitted to perform attest functions (or to train articles) if permitted to engage in any activity UNDERLINED. Before continued sentences Permitted to engage in attestation if engaged as lecturer in University, affiliated, education institution, coaching organization, private tutorship provided direct teaching hours taken together do not exceed 25 hours a week

- Clause prohibits any member in practice to engage in any other engagement without first seeking council's permission
- Engagement by a member in practice, in the business of buying and selling shares amount to be 'any business' within the meaning of clause 11 hence the prior permission of the council is required.

### Special Note on Accepting Directorship

- a. 'Director Simplicitor' means an ordinary / simple director
  - b. Member in practice is permitted generally to be a Director Simplicitor. Specific permission not required, irrespective of whether he and / or his relatives hold substantial interest in that company.
  - c. No bar for a member to be a promoter / signatory to the Memorandum and Articles of Association of any company
  - d. A member in practice is permitted generally to be a Promoter / Director
  - e. Specific permission of the Council / is required in individual cases for holding the office of MD or a WTD of a Body Corporate
  - f. A person is deemed to be a MD or WTD if he is entrusted with the wholly or substantially the whole of the management of the affairs of the company.
- A member cannot accept and hold the office of a MD or a WTD in a company if the member and / or his partners and relatives hold substantial interest in such a company.

### CLAUSE 12 : ALLOWS OTHER PERSON TO SIGN REPORTS

- Allows a person not being a CAip
- Or a member not being his partner
- To sign on his behalf or behalf of his firm
- Any balance sheet, profit and loss account, report of financial statements

### Signature:

Only an:

- Eligible member; or
- Partner of CA firm on behalf of the firm, is eligible to sign the following:
  - Balance Sheet, P & L Account, or
  - Financial Statement, or
  - Report
- Section 26 of the Act stipulates that no person other than a member of the Institute shall sign documents on behalf of a CA or on behalf of a firm of CA in professional capacity.

**[NEW]** Signing in the name of the Firm:

(a) Statutorily required to disclose his name-

Disclose name while appending his signature on the report or document.

(b) No statutory requirement-

Member may sign in the name of the firm.

(c) SA 700 mandates mentioning-

Membership No. /Firm Registration No. Also read UDIN Guidelines

Instances and delegation that will not attract the provisions of this clause:

a. Issue of audit queries /confirmation of third parties for Audit.

b. Asking for information or issue of questionnaire.

c. Letter forwarding draft observations/FSS.

d. Initialing and stamping of vouchers & of schedules.

e. Acknowledging routine correspondence with clients.

f. Issue of memorandum of cash verification & other physical verification.

g. Issuing acknowledgments for records produced.

h. Raising of bills and issuing acknowledgements for money receipts.

i. Attending to routine matters in tax practice.

j Any other matter incidental to the office administration and routine work .

**[NEW]** Clarified that where the authority to sign documents given above is delegated by CA or CA Firm, the fact that the docs have not been signed by a CA is not a defence to him or to the firm in an enquiry relating to professional misconduct.

**[Also refer Council General Guidelines 2008]**

**SCHEDULE I – PART II**

➤ CAIs

➤ Professional Misconduct

**CLAUSE 1: SHARING OF FEES**

Pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him.

**CLAUSE 2 : ACCEPTS SHARE IN FEES**

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

➤ Lawyer

➤ CA

Accept / Agree + Commission / Gifts + Employee's

➤ Broker

➤ Agent

➤ Customer

**SCHEDULE I – PART III**

➤ All members

➤ Professional Misconduct

**CLAUSE 1 : NOT BEING A FELLOW ACTS AS A FELLOW**

Not being a fellow of the institute; acts as a fellow of the institute

### CLAUSE 2 : DOES NOT SUPPLY INFORMATION CALLED BY ICAI

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 (discipline), Board of Discipline Disciplinary Committee, Quality Review Board or the Appellate Authority.

abridge in anyway the power conferred or duty cast on the Director (Discipline) under Section 21(1) of the Act to inquire into the conduct of any member of the Institute under any other circumstances.

### SCHEDULE II – PART I

- CAip
- Professional Misconduct

### CLAUSE 3 : SUPPLIES INCORRECT INFORMATION

1. While inviting professional work from another chartered accountant, or,
2. While responding to tenders or enquiries or,
3. While advertising through a write up or,
4. Anything provided for in items (6) and (7) of Part I of this schedule Gives information knowing it to be false.

### CLAUSE 1 : CONFIDENTIALITY

- 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

### SCHEDULE I – PART IV

- All Members
- Other Misconduct

### Diagnosis : Confidentiality diagnosis

- Discloses
- Information acquired in the course of
- Professional engagement
- To any person
- Without the consent of his client or
- Otherwise than as required by any law for the time being in force

### CLAUSE 1 & 2 : OTHER MISCONDUCT

1. Is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding 6 months.
2. 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.

**[NEW] Note:-** This Clause, read with Section 22 of the Act, now defines 'Other Misconduct', which has been covered under this Part does not limit or



**[NEW] Person competent to accord consent**

- Sole-proprietary concern: - The proprietor or his constituted attorney
- Partnership firm: - Every partner
- Company: - The Board of Directors (unless a resolution by the Co. in a GM is required by the Act or by the MOA or AOA)

**[NEW] Working Papers of the Auditor**

- Not required to provide it to the client or other auditors of same/related enterprise
- Main auditors -do not have right of access to WP of the branch auditors
- However, the auditor may provide to client -at his discretion, as considered appropriate.

**Confidentiality : Rate Yourself !!!**

- Clause applies to information which is already publicly known
- Clause applies on information obtained during the current course of audit or even in past years
- Clause applies to financial or non-financial information
- Clause attracts even if staff makes an unauthorized disclosure
- If information not disclosed but used for personal benefit
- Whether applies on previous auditor communication with incoming auditor
- If client refuses but law demands information, whether to disclose

**Confidentiality : Client Frauds**

- No duty to inform about taxation frauds by client
- Under Section 126 of the Evidence Act, a pleader barred from disclosing, (except with the express consent) any communication made in the course of and for the purpose of his employment
- Subject to the above, not the duty of a member to shield a client from consequences of tax frauds

**Duty of CA relating to tax frauds of a client**

- If fraud relates to past year (s)  
The member may, continue in respect of current matters and report only if it affects current year or if he was auditor in previous year
- Fraud relates to the accounts or tax assessment  
Examined by the member client should be advised to make a complete disclosure
- If fraud relates to accounts or returns currently being prepared  
Member should advise the client to make full disclosure and should be the client refuse, auditor make full reservation in his report and should not associate himself with his return
- On removal of auditor before completion of term  
No further duty regarding disclosure etc. rest on the members
- If there's fraud and related returns  
Eg. - personal income / income from investment other than business investments. Members may still continue but, is under no obligation so to do.

### Whether protection u/s 126 of Evidence Act available to CA?

- Immunity from disclosure afforded by section 126 of the Evidence Act, and the extent involve niceties of law and expert legal advice.
- However, if it is not legally permissible to claim privilege under the Evidence Act, the disclosure made by a member may not be considered as a misconduct.

### CLAUSE 2 : CERTIFIES / REPORTS WITHOUT EXAMINATION

- 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 by him or by a partner or an employee in his firm or by another chartered accountant in practice [with supervision]

The Clause applies in cases where report is issued without conducting any examination either through himself or through:

- Partner
- Employee
- **[NEW] Another CAiP.** Thereby a CA can rely on the work of a Joint Auditor or another auditor subject to such condition being fulfilled as given under SA 299(Revised) on “Joint Audit of Financial statements” and SA 600 “Using the Work of Other Auditor”

### Diagnosis:

- Signing by other than member Clause 12 PI, SI

- Representation by another person Clause 1 PI, SI
- Examination on behalf of CA Clause 2 PI, SI

### CLAUSE 3 : CERTIFIES ON ACCURACY OF FORECASTS

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.

### Diagnosis:

- A CA may participate in the preparation of forecasts or review
- So long as he does not “vouch” for the accuracy of the forecasts/projections
- Indicates clearly in report
  - ↳ Source of info
  - ↳ Basis of forecast
  - ↳ And major assumptions
- SAE 3400 prescribes the guidelines

### “Guidance Note on Reports in Company Prospectuses (Revised 2019)”

- This Guidance Note provides guidance on compliance with the provisions of the Co. Act, 2013 and
- The SEBI (ICDR) Regulations 2018 relating to the reports required to be issued by CA

**CLAUSE 4 : SUBSTANTIAL INTEREST**

Expresses his opinion on financial statement of any business or enterprise in which he, his firm, or a partner in his firm has a substantial interest

1. CA, Partner, Firm
2. Substantial interest – Throughout holding the office
3. If the Question does not involves any specified relationship causing S.I. but it appears that independence might be affected – Give Conditional ans.

**Diagnosis:**

**Opinion** – Only assurance assignments

**FS** – Includes all financial information

**Substantial Interest** – CA / Partner / Firm

**[NEW] Not apply on** – statement prepared by members in employment for employers and not meant to be submitted to any outside authority.

**Assurance:**

**Includes -**

- ↳ Audit of ES
- ↳ Audit of projected ES
- ↳ Audit Specialised purpose FS
- ↳ Review of FS
- ↳ Opinion on Internal Control
- ↳ Statutory Audits
- ↳ Tax Audits

**Excludes -**

- ↳ Engagements to perform agreed upon procedures
- ↳ Compilation of FS
- ↳ Management Consultancy Services
- ↳ Internal Audit
- ↳ Liquidator, Arbitrator, Executor, etc. services

- ↳ Concurrent Audit
- ↳ Audit of non-corporate bank borrowers
- ↳ Audit of stock exchange members/brokers

**Substantial Interest Definition :**

- A member shall be deemed to have a substantial interest in a COMPANY
- If its shares (other than preference shares):  
Carrying not less than 20% of voting power (profits share in case of non-corporate entity) at any time
- Owned beneficially by such members or partner an
  - ↳ One or more relatives of the member;
  - ↳ Any concern in which any of the persons referred to above has a substantial interest

**Disqualified to provide opinion:**

- Liquidator of a company
- Internal Auditor to conduct statutory Audit including Tax Audit, GST Audit.
- Person maintaining books or internal controls
- PT/FT Faculty
- Trustee
- Director in that company
- Disqualified u/s 141 of Co. 13
- Clarified, Director in holding company to disqualified in subsidiary company as well

➤ One partner disqualified – then complete firm disqualified

**Not disqualified to provide opinion:**

➤ Director in subsidiary appointed by holding company

**[NEW] Cooling off period after completion of tenure as Director :**

Two years from the date of completion or resignation as Director, till then should not accept audit of that company

**[NEW] Members to satisfy whether appointment is as per the statute:**

**(i) Entity constituted under a trust deed/instrument: -**

Whether his appointment is valid as per instrument constituting the entity

**(ii) Appointment is to be authorised by the regulatory authorities: -**

Whether such regulatory authorities have authorised the managing committee for appointment of the auditors

**(iii) Partnership or sole proprietary concerns: -** Ensure that a letter of engagement is given by the firm/sole proprietor before he accepts .

**Section 288 of Income Tax Act, 1961 mentions the disqualifications for the purpose of Tax Audit** “accountant” means a chartered accountant as defined CA Act, 1949 who holds a valid certificate of practice but does not include: -except for the purposes of representing the assessee –

**(a) In case of a company: -** The person who is not eligible u/s 141(3) of the Companies Act, 2013 ; or

**(b) In any other case,–**

(i) the assessee himself or in case of firm/AOP/HUF, any partner or member

(ii) trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;

(iii) the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in subclauses (i), (ii) and (iii);

(v) an officer or employee of the assessee;

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(i) is holding any security of, or interest in, the assessee: Provided that the relative may hold FV upto Rs.1 lakh

(ii) is indebted to the assessee: Provided that the relative may be indebted upto Rs.1 lakh

(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee: Provided that the relative may provide upto Rs.1 lakh

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) a person who has been convicted by a court of an

offence involving fraud and a period of 10 years has not elapsed

**Explanation.**— For the purposes of this section, “relative” in relation to an individual, means—

- (a) spouse of the individual;
- (b) brother or sister of the individual;
- (c) brother or sister of the spouse of the individual;
- (d) any lineal ascendant or descendant of the individual;
- (e) any lineal ascendant or descendant of the spouse of the individual;
- (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);
- (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual

Fails to report a material fact / material misstatement known to him to appear in a financial statement which he is concerned in professional capacity

**Diagnosis : Clause 5 & 6 : Substantial Interest**

- Known to CA
- Covers all assignments on FS not just audit
- Clause 5 on failure to DISCLOSE
- Clause 6 on failure to REPORT

**CLAUSE 7 : DUE DILIGENCE / GROSSLY NEGLIGENCE**

- Does not exercise due diligence or is grossly negligent in the conduct of his professional duties

**TEASER**

Whether auditor of a subsidiary company be Director of its Holding Company?

**CLAUSE 5 : FAILS TO DISCLOSE A MATERIAL FACT KNOWN TO HIM**

Fails to disclose a material fact known to him which is not disclosed in financial statement, but disclosure of which is necessary in making such financial statements (not misleading) where he is concerned with that financial statement in a professional capacity

Diagnosis:

**Due Diligence**

Means the diligence reasonably expected from, and ordinarily exercised by a person who seeks to satisfy a legal requirement or to discharge on obligation

**Negligence**

The expression negligence covers a wide field and extends from the frontiers of fraud to collateral minor negligence

**CLAUSE 6 : FAILS TO DISCLOSE MISSTATEMENT KNOWN TO HIM**

**CLAUSE 8 : FAILS TO OBTAIN SUFFICIENT INFO**

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

<p><b>Diagnosis:</b></p> <p><i>Incorrect opinion</i></p> <ul style="list-style-type: none"> <li>➤ Without Checking – Clause 2</li> <li>➤ Grossly Negligent Checking – Clause 7</li> <li>➤ Inadequate Checking – Clause 8</li> </ul> <p><i>Knowingly Wrong Opinion</i></p> <ul style="list-style-type: none"> <li>➤ Fails to Disclose – Clause 5</li> <li>➤ Fails to Report – Clause 6</li> </ul>	<p>is not reported in the report</p> <p><i>Tips – Since SAs compliance is mandatory for auditor, any non-compliance to attract this clause. Further Co. 13 S. 143 (9&amp;10) also requires auditor to comply with SAs</i></p> <p><b>[NEW] Certain generally accepted procedures for audit include:</b></p> <p>(i) <b>Generally Accepted Audit Procedure (GAAP):</b> – What constitutes “generally accepted audit procedure” would depend upon the facts and circumstances of each case for eg. SA’s</p> <p>(ii) <b>Audit of Listed Companies:-</b> Shall be done by only those auditors who have:</p> <ul style="list-style-type: none"> <li>• subjected themselves to the Peer Review process of the Institute, and</li> <li>• hold a valid certificate issued by the Peer Review Board of the ICAI</li> </ul> <p>(iii) <b>FRN and Membership No.:</b> – The members are required to mention in all reports issued pursuant to any attestation engagements, including certificates.</p> <p>(iv) <b>Unique Document Identification Number (UDIN):</b>– The members may note that UDIN is mandatory from 1st July, 2019 on all Corporate/ Non-Corporate Audit, Attest and Assurance Functions.(Also refer Council General Guidelines, 2008)</p> <p>(v) <b>Standards on Auditing(SA):</b>– Formulated in the context of an audit of FSs by an independent auditor</p> <p>(vi) <b>Statements on Auditing :-</b> Issued with a view to securing compliance by professional accountants on matters which are critical to discharge - hence mandatory.</p>
<p><b>Type of Opinion:</b></p> <p><i>Unmodified opinion</i> – Unqualified – True and fair view</p>	
<p><b>Modified opinion:</b></p> <p><i>Qualified</i> – T&amp;F view with exceptions due to limitations or misstatements</p> <p><i>Adverse</i> – No true and fair view on account of misstatements</p> <p><i>Disclaimer</i> – No opinion on account if limitations</p>	
<p><b>[NEW]</b> For detailed consideration of the subject, including illustrative formats of auditor’s report in different circumstances, the members may refer to SA 700(Revised), SA 705(Revised) and SA 706(Revised).</p>	
<p><b>CLAUSE 9 : FAILS TO INVITE ATTENTION TO SAs</b></p> <p>Fails to invite attention to any SAs/Material departure from the generally accepted procedure of audit applicable to the circumstances</p>	
<p><b>Diagnosis:</b></p> <p>Clause applicable when RELEVANT SA not observed by auditor and such fact</p>	



- (vii) **General Clarifications** :- Issued with a view to clarify any issues.
- (viii) **Guidance Notes** :- Issued to assist professional accountants in implementing the Eng. Standards and the SQC issued by the AASB.
- (ix) **Technical Guides, Practice Manuals, Studies and Other Papers** Published by AASB
- (x) **Special procedure: Two instances of an audit requiring a special procedure are given below:-**
  - (a) **Certifying figures of circulation of Newspapers etc.:-** Audit Bureau of Circulations Ltd. Members are normally supplied by the ABC with the Rules and Regulations under which the certification of circulation is to be carried out.
  - (b) **Verification on behalf of Banks:-** Members are required to be very familiar with the special procedure required in these matters and act accordingly.

- 2. **Moneys received for expenses to be incurred for example payment of prescribed statutory fees, purchase of stamp paper etc., which are intended to be spent whether to be deposited in separate bank account?**  
[Hint: No, provided to be spent in short time]
- 3. **Moneys received by a CA in his capacity as a liquidator must be put in a separate bank account immediately Comment.** [Hint: Yes]
- 4. **Can a CA adjust Client's money meant to be spent for paying taxes against his outstanding fees?** [Hint: No]
- 5. **Client paid advance for out of Pocket expense to auditor, for which auditor misappropriated the amount inflating expense vouchers. Under which clause the CA will be held guilty?** [Hint: Clause 10, Part I, Schedule II]

**SCHEDULE II - PART II**

- All members
- Professional Misconduct

**CLAUSE 10 : FAILS TO KEEP MONEY OF CLIENT SEPARATE IN BANK**

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.

**CLAUSE 1 : CONTRAVENES PROVISION OF THE ACT ETC.**

Contravenes any of the provision of this Act or the regulations made there under or any guidelines issued by the Council

**TEASER**

- 1. **An advance received by a Chartered Accountant against services to be rendered whether fall under Clause (10) of Part I of the Second Schedule?**  
[Hint: Clause 10 not applicable]

**Articles Related Regulations:**

<b>CA Regulations 1988</b>	<b>Particulars</b>
Regulation 43	Engagement of Articled Assistant
Regulation 46	Registration of Articled Assistant

<p>Regulation 47 Premium from Articled Assistant</p> <p>Regulation 48 Stipend to Articled Assistant</p> <p>Regulation 56 Termination or assistant of Articles</p> <p>Regulation 65 Article Assistant not to engage in</p> <p>Regulation 67 Complaint against the employer (from Articles)</p> <p>Regulation 68 to 80 Audit Assistant</p> <p>Regulation 190 Register of offices and firms</p>	<p><b>CLAUSE 4 : DEFALCATES OR EMBEZZELS MONEY</b></p> <p>Defalcates or embezzles moneys received in his professional capacity</p> <p><b>Defalcation of Money</b></p> <ul style="list-style-type: none"> <li>➤ Clause 4 – Part 2 Schedule 2 - Will cover CAIs, CA holding officer bearer positions in ICAI, etc.</li> <li>➤ Clause 10 – Part 1 Schedule 2 - Client money defalcation by a CAip will e covered under Clause 10, PI, S2</li> <li>➤ Other Misconduct - Only professional capacity defalcation cover</li> </ul>
<p><b>CLAUSE 2 : CONFIDENTIALITY - CAIs</b></p> <p>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 or except as permitted by the employer</p>	<p><b>SCHEDULE II – PART III</b></p> <ul style="list-style-type: none"> <li>➤ All members</li> <li>➤ Other Misconduct</li> </ul>
<p><b>CLAUSE 3 : SUPPLIES INCORRECT INFO TO ICAI, ETC.</b></p> <p>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:</p>	<p><b>CLAUSE: OTHER MISCONDUCT</b></p> <p>A member of the institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding 6 months</p>
<p><b>Diagnosis</b></p> <ul style="list-style-type: none"> <li>• The clause applicable when ‘incorrect information’ is supplied to the Institute</li> <li>• In case of non – supply of information clause 2 of part 3 of schedule 1 is applicable</li> </ul>	<p><b>Chapter 4: COUNCIL GENERAL GUIDELINES 2008</b></p> <p><b>Chapter I</b> - Preliminary</p> <p><b>Chapter II</b> - Conduct if a Member Being on Employee</p> <ul style="list-style-type: none"> <li>➤ (CAIs not be grossly negligent &amp; exercise due diligent)</li> </ul>

<b>Chapter III</b> - Appointment of Member as Cost Auditor <ul style="list-style-type: none"><li>➤ (Deleted Now)</li></ul>	➤ Prov. for audit fee in a/c signed by both - along with other expenses, if any, incurred shall be considered as "undisputed" audit fee.
<b>Chapter IV</b> - Opinion on Financial Statement when there is Substantial Interest <ul style="list-style-type: none"><li>➤ (Deleted Now)</li></ul>	<b>Chapter VIII</b> - Specified Number of Audit Assignments <ul style="list-style-type: none"><li>➤ Max 30 Company Audit assignments at any point of time per partner who is CAiP. Branch Audit Included</li><li>➤ <b>[NEW] Exception:</b> - One person companies and Dormant companies.</li><li>➤ The number of partners of a firm on the date of acceptance shall be taken into account.</li></ul>
<b>Chapter V</b> - Maintenance of Books of Accounts <ul style="list-style-type: none"><li>➤ Maintain Cash Book and Ledger</li></ul>	<b>Chapter IX</b> - Appointment as Statutory Auditor <ul style="list-style-type: none"><li>➤ Not to accept if fees &gt; audit fees</li><li>➤ Covers CA firm as well as network firms</li><li>➤ Applies an audit of listed co., PSU, Companies with turnover <math>\geq</math> 50 Crores</li></ul>
<b>Chapter VI</b> - Tax Audit Assignments u/s 44 AB of income tax Act <ul style="list-style-type: none"><li>➤ Maximum 60 audits per AY per partner who is a CAiP. Including branch Audit.</li><li>➤ It does not include audits conducted under Section 44AD, 44ADA, 44AE and 44AF of the Income Tax Act, 1961</li><li>➤ A CAiP shall maintain a record of the tax audit assignments accepted by in each AY in the format as may be prescribed.</li><li>➤ This maximum limit of tax audit assignments may be distributed between the partners in any manner whatsoever.</li><li>➤ However, it should be in accordance with the Standard on Quality Control (SQC)1. (Rotation of Partners)</li></ul>	<b>Chapter X</b> - <b>[NEW]</b> Appointment of Auditor when he or his relative is indebted to a concern <ul style="list-style-type: none"><li>➤ Limit &gt; 1,00,000 unless other limit prescribed under law</li><li>➤ Covers debt as well as guarantees given &amp; security provided</li><li>➤ Co. law limit : -500,000/- for indebtedness &amp; 100,000/- for guarantee</li></ul>
<b>Chapter VII</b> - <b>[NEW]</b> Appointment of an Auditor in case of Non Payment of undisputed fees <ul style="list-style-type: none"><li>➤ Not permitted except in Sick Units i.e. where a unit registered for <math>\geq</math> 5 years &amp; at the end of any FY accumulated losses <math>\geq</math> its entire net worth</li></ul>	<b>Chapter XI</b> - Directions in case of Unjustified Removal of Auditors <ul style="list-style-type: none"><li>➤ Not to accept Audit</li></ul> <b>Chapter XII</b> - Minimum Audit Fee in respect of Audit (Deleted Now)

**Chapter XIII** - [NEW] Guidelines on Tenders Clarifications on the various issues-related to tender

- A member shall not respond to any tender - where areas of services which are exclusively reserved for CA by statute
- A member may respond where minimum fee prescribed in the tender document itself.
- The fees quoted by the member shall not be less than the minimum fee mentioned in the tender.
- Can respond to tenders which are open to other Professionals; even though in tender doc only CAs invited to respond.
- Can respond to assignments where quotations have been called through individual letters.
- A member can respond to tenders where only technical bid has been asked for
- Institute can call for any papers/documents related to bid submitted

**EMD/Security Deposit:-** Ethical Standards Board may look into the matter on case to case basis.

**Cost Sheet:-** A cost sheet be maintained by members responding to tenders, incorporating details of the costs  
(Also refer Clause (6) Part-1 Schedule-1)

**Chapter XIV** - Unique Document Identification Number (UDIN) Guidelines

- A CAip shall generate UDIN for all kinds of the certification undertaken/signed by him which made

mandatory from the following dates

- For all Certificates w.e.f. 1st February, 2019.
- For all GST and Tax Audit Reports w.e.f. 1st April, 2019.
- For all other Audit, Assurance and Attestation functions w.e.f. 1st July, 2019. (Also Refer Clause (12) Part-1 Schedule-1 and Clause (9) Part-1 Schedule-11- Unique Document Identification Number (UDIN)

**Chapter XV** - Guidelines for Networking (Also refer Clause (7) Part-1, Schedule-1 - Point -Network Firms and Networking Guidelines)

## NETWORKING GUIDELINES

### (A) MEANING OF NETWORK & NETWORK FIRM

⇒ **Network** : A larger structure :

(a) That is aimed at **co-operation**; and

(b) That is **clearly aimed at** :

profit or cost sharing or shares common ownership, control or management, common quality control policies & procedures, common business strategy, the use of a common brand name, or a significant part of professional resources.

⇒ **Network Firm** : Means a **firm or entity** that belongs to a network.

### (B) CONCEPT OF NETWORK

- (1) **Facts and circumstances** : Whether these larger structures create a network -It depends on particular facts and circumstances and not on whether the firms and entities are legally separate and distinct.

(2) **Judgment** : Whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a network exists.

(3) **Profit or cost sharing** : Where the larger structure is aimed at co-operation and it is clearly aimed at profit or cost sharing among the entities within the structure, it is deemed to be a network.

**Costs not itself create a network:**

- (i) Immaterial costs
- (ii) Cost related to the development of audit methodologies, manuals, or training courses

(4) **Share common ownership, control or management (OCM)** : Where the larger structure is aimed at cooperation and the entities within the structure share common OCM, it is deemed to be a network. This could be achieved by contract or other means.

(5) **Common quality control policies and procedures** : Those designed, implemented and monitored across the larger structure.

(6) **Common business strategy** : It involves an agreement by the entities to achieve common strategic objectives.

(7) **Common brand name** : It includes common initials or a common name.

**Note:-** It may give the appearance that it belongs to a network if it makes reference in its stationery or promotional materials to being a member of an association of firms.

Accordingly, if care is not taken in how a firm describes such memberships, a perception may be created that the firm belongs to a network.

(8) **Share a significant part of professional resources** :

Professional resources include:

- (i) Common Information systems
- (ii) Partners and staff;
- (iii) Technical departments
- (iv) Audit methodology or audit manuals; and
- (v) Training courses and facilities.

**(C) FORMS OF THE NETWORK**

<b>1. Mutual entity</b>	<b>4. company</b>
<ul style="list-style-type: none"> <li>▶ Which will act as a facilitator for the constituents of the Network.</li> <li>▶ Network itself will not carry out any professional practice.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Subject to the guidelines prescribed by Institute for :                             <ul style="list-style-type: none"> <li>(i) Corporate form of practice and</li> <li>(ii) Formation of management consultancy services company.</li> </ul> </li> </ul>
<b>2. Partnership firm</b>	<b>5. Other entities</b>
<ul style="list-style-type: none"> <li>▶ Condition : Max. Partners - 20</li> </ul>	<ul style="list-style-type: none"> <li>▶ Sole Practitioner/proprietor, partnership or any such entity as may be permitted by the Act.</li> </ul>
<b>3. Limited Liability Partnership</b>	<b>Sj's note:-</b>
<ul style="list-style-type: none"> <li>▶ Subject to the provision of CA Act and Rules and such other laws as may be applicable.</li> </ul>	<ul style="list-style-type: none"> <li>(i) A firm is allowed to join only one network.</li> <li>(i) Firms having common partners shall join only one Network.</li> </ul>



**(D) APPROVAL OF NAME OF NETWORK AMONGST FIRMS REGISTERED WITH INSTITUTE:**

**(1) Approval of name :**

- (i) Network may have distinct name- which should be approved by institute (ICAI)
- (ii) To distinguish from firms “ & Affiliates” word shall be used
- (iii) “&Company, & Associates”- word shall not be used

Examples of names of Network- if network is a :

- Mutual Entity or Partnership Firm: AB & Affiliates
- LLP: AB Affiliates LLP
- Limited Company: AB Affiliates P. Ltd/Limited

**(2) Application :** Prescribed format of application- **Form-A**

**(3) Approval/Rejection :**

- Institute shall approve/reject application and
- Intimate the same to network within **30 days** (from receipt of form) on address mentioned in **Form A**

**(4) Withdrawal of name :**

- Regulation 190 applies on name of network
  - ICAI may withdraw name at any time-if found undesirable
- Provisions of Companies Act 1956 applicable in spirit

**(5) Entitlement to practice :**

- Mere approval of name - not entitle to carry on practice in its own name

**(E) REGISTRATION OF NETWORK WITH ENTITIES IN INDIA**

**(1) Reservation of name :**

- After approval of name- institute reserve such name for **3 months** from the date of approval.

**(2) Registration :**

- The Network shall get itself registered with the Institute
- By applying in **Form B** within the period of **3 months**
- It is mandatory in nature.

**(3) Cancellation :**

- On the expiry of the said period.

**(4) Deemed network :**

- If different Indian firms are networked with a common Multinational Accounting Firm, they shall be considered as a part of network.

**(F) LISTING OF NETWORK WITH ENTITIES OUTSIDE INDIA**

**(i) Filing of declaration with institute**

- By **authorized representative(s)** of the
  - ➔ Indian Member firm (s)
  - ➔ Member constituting the Network
- In **Form ‘D’** within **30 days** from the **date of arrangement**.



**(ii) Can join only one network**

- Entities as permitted by the Act Eg. → Proprietary, partnership firms, LLP etc.
- Provided they can join only one network and
- Firms having common partners shall join only one such network.

**(G) CHANGE IN CONSTITUTION OF REGISTERED NETWORK**

- On account of any entry into or exit from the Network
- Communicate the same to institute In Form 'C' within 30 days from the date of change.

**(H) ETHICAL COMPLIANCE :** Applicable ethical requirements prescribed by ICAI:**(1) Independence :** If one firm of the network is the statutory auditor of an entity:

- then associates or the said firm directly/indirectly
- shall not accept the internal audit or book-keeping or such other professional assignments which are prohibited for the statutory auditor firm.

**(2) Guidelines of ceiling on Non-audit fees :-** applicable as follows:

- Network firm who is doing statutory audit :- Same as mentioned in the said notification
- For other firms of the same Network collectively:- 3 times of the fee payable

**(3) In case of Rotation of firms :** Prescribed by regulatory authority:

- No member of network can accept appointment In place of retiring auditor of network

**(4) Advertisement by network :**

- May advertise as permitted by guidelines of institute
- May use "Network Firms" on their professional stationary

**(5) Compliance of Ethical Standard :**

- As prescribed by council from time to time

**(I) CONSENT OF CLIENT****Effect of registration of network with Institute:**

- deemed to be a public notice of the network and
- therefore consent of client will be deemed to be obtained.

**(J) FRAMEWORK OF INTERNAL BYELAWS OF NETWORK:**

- Appointment of a Managing Committee-
  - ↳ from among the managing partners
  - ↳ terms and conditions
  - ↳ minimum and maximum number of members
- Administration of the network.
- Contribution of membership fees to meet the cost of the administration
- Identification of responsible partner of firm
- Dispute settlement
- Development of training materials
- Issue of news letters

- Development and maintenance of data base
- Appointment of a technical director
- Library etc.

*SJ's note :- These clauses are illustrative.*

### (K) REPEAL AND SAVING:

- The erstwhile "Rules/Guidelines of Network" issued by the Institute stands repealed from the date of commencement of these Guidelines.
- Provided that notwithstanding:
  - ➔ such repeal, anything done or any action taken or
  - ➔ purported to have been done or
  - ➔ taken in respect of the erstwhile Rules/Guidelines
  - ➔ prior to the date of applicability of these Guidelines
  - ➔ shall be deemed to have been done or taken under the corresponding provisions of these Guidelines.

### [NEW] Chapter XVI -

Logo Guidelines - Please refer in Clause (7) - Common CA Logo



### Chapter 3: COUNCIL GUIDELINES FOR ADVERTISEMENT, 2008

(Issued Pursuant to Clause (6) & (7) of Part I of the First Schedule)

1. The Member(s)/Firm(s) should ensure that the contents of the Write up are **true to the best of their knowledge and belief** and are in conformity with these Guidelines.

### 2. Definitions

(i) "write up" means the writing of particulars according to the information given in the Guidelines setting out services rendered by the Member-sor firms and any writing or display of the particulars of the CAIP or of firm(s) issued, circulated or published by way of print or electronic mode or otherwise including in newspapers, journals, magazines and websites which include social Networking Websites.

3. The write-up may include:- Refer Clause 7 Part-1 Schedule-1

4. The write-up shall comply the conditions: :- Refer Clause 7 Part-1 Schedule-1

5. Website Guidelines: :- Refer Clause 6 Part-1 Schedule-1

6. [NEW] Online Third Party Platforms: - Refer Clause 6 Part-1 Schedule-1

7. [NEW] Telephone or other Directories: :- Refer Clause 6 Part-1 Schedule-1

8. [NEW] Specialized Directories: -Refer Clause 6 Part-1 Schedule-1

Exemptions: :- Refer Clause 6 Part-1 Schedule-1

### ETHICAL STANDARDS BOARD (ESB)

#### A. Purpose:

Develops and issues ethical standards and other pronouncements for chartered accountants.

#### B. Objective:

- ➔ Set up ethical standards for CAs, converge with the International best practices on ethics, subject to local laws
- ➔ Enhancing the quality and consistency of services and
- ➔ Strengthening the public confidence in the profession.

**C. Terms of Reference:**

- ↳ To examine various issues concerning Code of Ethics
- ↳ To establish standards for CAs for regulation and maintenance of status and standards
- ↳ To examine and advise on any ethical matters
- ↳ To review periodically and publish the revised Code of Ethics
- ↳ To promote public awareness and confidence in the profession.
- ↳ To examine and deal with the complaints of members.
- ↳ The ESB will review the terms of reference at every 2 years

**D. Procedure to be followed for dealing with the cases of unjustified removal of Auditors**

- (i) Where an auditor resigns from his appointment or does not offer himself for reappointment
- (a) he shall send a communication, in writing, to the BoD of the Co. giving reasons
  - (b) and shall send a copy of such communication to the Institute.
  - (c) It shall be obligatory on the incoming auditor, before accepting appointment to obtain a copy of such communication and consider the same before accepting the appointment.
- (ii) Where an auditor, willing for reappointment has not been reappointed, he shall file with the Institute a copy of the statement which he may have sent to the mgmt of the Co. for circulation among the shareholders.
- (iii) The ESB on a review of the communications referred to in paras

and may call for such further information as it may require and make a report to the Council in cases where it considers necessary.

**E. Unjustified removal/non-reappointment of inconvenient auditor due to his alleged qualificatory remarks/queries: -**

ESB (Board) has also been empowered to adopt the procedure narrated herein under:-

- (i) On receipt of a complaint regarding his unjustified removal or non re-appointment due to alleged qualifications/queries, Board may ask for the Statement of Reasons from the complainant.
- (ii) The Statement of reasons will be sent to the Incoming Auditor and Auditee for their Comments/ Observations. The Complainant and the Incoming Auditor will submit their Statement of Reasons, Observations/ Comments thereof and other Submissions duly verified and in case of any wrong Submission, the members shall be liable for misconduct.
- (iii) The Incoming Auditor will be advised to consider the Statement of Reasons submitted by the Complainant while conducting the audit. The Incoming Auditor will be asked to submit a copy of his Audit Report for consideration of the Board. The Board, thereafter, shall examine the Statement of Reasons sent by the Complainant, the Observations/ Comments of Incoming Auditor and Auditee and the Audit Report of the Incoming Auditor to ensure that the issues raised by the Complainant have been adequately addressed to by the Incoming Auditor.

- (iv) It is clarified that this procedure is without prejudice to right of any person and legality of his appointment.
- (v) In case of any negligence by the Incoming Auditor the matter will be referred to the **Disciplinary Directorate** of the Institute to treat the same as 'Information'.
- (vi) It may be mentioned that so far as payment of **undisputed fee** of the Outgoing Auditor is concerned, the present position shall be maintained.
- (vii) The Board shall have the right to issue interim order, in appropriate cases.

**E. Form of complaint/statement of reasons: -**

The form of the complaint and the list of the enclosures to be submitted along with the Complaint/Statement of Reasons is prescribed under, and may be sent at the prescribed address

**RECENT DECISIONS OF ETHICAL STANDARDS BOARD**

1. A Chartered Accountant in practice may be an **equity research adviser**, but he cannot publish retail report, as it would amount to other business or occupation.
2. A Chartered Accountant, who is a member of a **Trust**, cannot be the auditor of the said trust.
3. A Chartered Accountant in practice may engage himself as **Registration Authority (RA)** for obtaining digital signatures for clients.
4. A Chartered accountant can hold the **credit card of a bank** when he is also

the auditor of the bank, provided the outstanding balance on the said card does not exceed Rs 10000 beyond the prescribed credit period limit on credit card given to him.

5. A Chartered Accountant in practice can act as mediator in Court, since acting as a **"mediator"** would be deemed to be covered within the meaning of "arbitrator"; which is inter-alia permitted to members in practice as per Regulation 191 of the Chartered Accountants Regulations, 1988.
6. A Chartered Accountant in practice is not permitted to accept audit assignment of a bank in case he has taken **loan against a Fixed Deposit** held by him in that bank.
7. A chartered accountant in practice cannot become **Financial Advisors** and receive fees/commission from **Financial Institutions** such as Mutual Funds, Insurance Companies, NBFCs etc.
8. A chartered accountant cannot exercise **lien over the client documents/ records** for non-payment of his fees.
9. It is not permissible for CA Firm to print its **vision and values behind the visiting cards**, as it would result in solicitation and therefore would be violative of the provisions of Clause (6) of Part-1 of First Schedule to the Chartered Accountants Act, 1949.
10. It is not permissible for CA in practice to take **agencies of UTI, GIC or NSDL**.
11. It is permissible for a member in practice to be a **settlor of a trust**.
12. A member in practice cannot hold **Customs Brokers Licence** under section 146 of the Customs Act, 1962 read with Customs Brokers Licensing Regulations, 2013 in terms of the provisions of Code of Ethics.

13. A Chartered accountant in service may appear as **tax representative before tax authorities on behalf of his employer**, but not on behalf of other employees of the employer.
14. A chartered accountant who is the **statutory auditor of a bank** cannot for the same financial year accept **stock audit of the same branch** of the bank or any of the branches of the same bank or sister concern of the bank, for the same financial year.
15. A CA Firm which has been appointed as the **internal auditor of a PF Trust** by a Government Company cannot be appointed as its Statutory Auditor.
16. A **concurrent auditor** of a bank 'X' cannot be appointed as statutory auditor of bank 'Y', which is sponsored by 'X'.
17. A CA/CA Firm can act as the **internal auditor of a company & statutory auditor of its employees PF Fund** under the new Companies Act, 2013.
18. The Ethical Standards Board while noting that there is requirement for a **Director u/s 149(3)** of the Companies Act, 2013 to **reside in India for a minimum period of 182 days** in the previous calendar year, decided that such a Director would be within the scope of **Director Simplicitor** (which is generally permitted as per ICAI norms), if he is non – executive director, required in the Board Meetings only, and not paid any remuneration except for attending such Board Meetings.
19. A CA Firm may register itself on Udyog Aadhar, a web portal of Ministry **Micro, Small and Medium Enterprises**.
20. There is no prohibition for **internal auditor** of a company to acquire/purchase **shares of the said Company**.
21. It is not permissible for a member to **use WhatsApp** to send messages to make people aware about his practice, and mention the services provided therein.
22. A Chartered Accountant in practice being Director Simplicitor in a Company cannot **sign ROC Forms of the Company** as it is a direct conflict of role.
23. A Chartered Accountant in practice can act as **Authorized Representative of a Foreign Company**, provided he is not the auditor of the said Company.
24. It is permissible for two or more Chartered Accountants in practice collectively to have **joint training session** for their clients on **GST**, and share the fees collected from the clients thereof.
25. A chartered accountant in practice can provide **services through kiosk** only if the services provided are professional activities of a practicing chartered accountant, permitted under the Act.
26. A Chartered Accountant in service is allowed to take **e-return registration** if it does not conflict with employment obligation. However, he cannot certify the return.
27. In case where **Chartered Accountant in practice is a non-executive director in a company**, he or a Firm in which he is a partner, should not accept the appointment as a **statutory auditor of a Company which is a joint venture of the original Company**, as it would impact independence.
28. The Ethical Standards Board in 2013 generally apply the stipulations contained in the then amended Rule 11U of Income Tax generally, wherein statutory auditor /tax auditor cannot be the **valuer of unquoted equity shares of the same entity**.



The Board has at its recent Meeting (January, 2017) has reviewed the above, and decided that where law prohibits for instance in the Income Tax Act and the rules framed thereunder, such prohibition on statutory auditor/tax auditor to be the valuer will continue.

But where there is *no specific restriction under any law*, the said eventuality will be permissible, subject to compliance with the provisions, as contained in the Code of Ethics relating to independence.

29. The Ethical Standards Board had in 2011 decided that it is not permissible for a member who has been *Director* of a Company, upon resignation from the Company to be appointed as an auditor of the said Company, and the *cooling period for the same may be 2 years*.

The Board has at its recent Meeting (January, 2017) has reviewed the above, and noted that the Section 141 of Companies Act, 2013 on disqualification of auditors does not mention such prohibition; though threats pertaining to the said eventuality have been mentioned in Code of Ethics. Further, the Board was of the view that a member may take decision in such situation based on the provisions of Companies Act, 2013 and provisions of Code of Ethics.

### RECENT ANNOUNCEMENTS OF ETHICAL STANDARDS BOARD

#### (1) FAQs on Books, Articles and Presentations by Members in Practice (COE 2020)

1. No partner eligible to accept audit of bank, if he or any partner in his firm has taken *loan from the bank*

2. *Revenue auditor, concurrent auditor, stock auditor, internal auditor, consultancy service provider of a bank to not undertake statutory audit of same bank or its Sponsor Bank whether it is audit under Companies Act, 2013, Income-tax Act, 1961 or Limited review as per SEBI guidelines.*

3. *Internal auditor can provide advisory services*

4. *A member can simultaneously be the Certified Information system Auditor (CISA) and Credit Appraiser of the same Bank; however, he should ensure at his end that there is no conflict of interest involved*

5. *Member may hold credit card of the bank for which he is the auditor provided the amount of indebtedness is not more than 10,000/-*

6. *Auditor can relinquish his concurrent audit assignment to accept statutory audit provided concurrent of that year has not commenced.*

#### (2) Fees from a Single Client (COE 2020)

“It may be clarified that there is NOT a bar in the revised Code of Ethics on acceptance of **more than 15% fees from a single client**. There is only requirement of **disclosure, and taking safeguards** prescribed therein, if the **total gross annual professional fees from the audit client and its related entities** represent more than 15% of the total fees received by the firm expressing the opinion on the financial statements of the client for two consecutive years. Accordingly, the Audit may be continued while taking safeguards as mentioned in the said Paragraph. It may further be clarified that **this rule would not apply** in Case of audit of Government Companies, public undertakings, nationalized banks, public financial institutions or



where appointments are made by Government; OR where the total gross annual fees of the Firm does not exceed five lakhs of rupees. It may also be relevant to note that the rule applies ONLY where such Fees is received from an **AUDIT CLIENT**. "Further COE 2020, requirements relating to fees are not yet notified and hence presently not effective."

**(3) Communication with the Retiring Auditor through E-mail**

Due to the existing constraint of communication through prescribed modes, it has been decided that the **members may communicate with the Retiring Auditor vide E-mail**, provided an acknowledgement of such communication is received from the **Retiring Auditor's E-mail address registered with the Institute** or his last known official E-mail address. Such acknowledgement of communication would be **deemed as valid evidence of positive delivery** of communication.

**(4) Advisory on Mentioning Fees in Advertisements issued by Members**

It is clarified that the quantum of Fees (including free of charge), whatsoever, should not be mentioned by members in any Advertisement of services or posting of particulars.

**(5) FAQs relating to professional ethics of members pertaining to Bank Assignments**

**Ethical Standards Board -  
FAQs on Books / Article / Presentations by Members**

1. Member in practice may **mention his name**, along with the prefix "CA" in a book or an article published by him, or a presentation made by him.
2. Member can also mention in **books / articles / presentations, the name of Chartered Accountants Firm**, wherein he is a partner. The member may also choose to use only his name, or only the name of the said Chartered Accountants Firm whether it used at a platform of ICAI or else, whether presentation held in physical mode or online mode. However, other details of the firm, other partners cannot be given.
3. It is **not permitted** for a member to **use his photograph on the Book or Article published by him, or a presentation made by him**.
4. It is **not permissible for a member to indicate his designation** (other than "CA" like "Associate Director", "coordinator" etc.), or his association with private company in a book, article or presentation contributed or published by him, as it would be violative of Section 7 of Part-I of First Schedule to The Chartered Accountants Act, 1949.
5. The **names of other partners of the Chartered Accountants Firm cannot be mentioned on the Presentation**.
6. As per the revised Volume-II of Code of Ethics, 2020, **videos of educational nature uploaded on the internet by members, no reference should be made to the Chartered Accountants Firm** wherein the member is a partner/ proprietor. Accordingly, a presentation that is a part of an online educational video should not depict the name of his Firm.
7. **Member in service**, being an employee of a CA Firm, can make a **presentation, and mention his name along with prefix "CA" and name of Firm of**

Chartered Accountants. However, the bar on mentioning professional attainments or other details of own or the Firm will be the same as in case of partner of the CA Firm.

**(6) Announcement on Internal Auditor not to undertake GST Audit simultaneously**  
It is clarified that an Internal Auditor of an entity cannot undertake GST Audit of the same entity.

**(7) FAQs on Ethical Issues relating to GST**

1. A member in practice can engage as GST practitioner & can act as Tax Return Preparer for GST.
2. A member holding CoP, who is an employee in a CA Firm, can be enrolled as GST practitioner, subject to contractual obligations, if any, with the employer.
3. A member/Firm can conduct training through seminars etc. on GST for only existing clients.
4. A member can send presentation on GST /write-up on GST only to existing clients, and to a proposed client if an enquiry was received from the proposed client.
5. It is not permissible for a member to mention himself as "GST Consultant".
6. A member can share GST updates, mentioning himself as "CA" with individual name, provided the communication is limited to providing updates. Mention of Firm name is not allowed.
7. A member can publish testimonials /appreciation letters received by him with regard to GST Training assignments on CA Firm website, but not on

social media like Facebook, LinkedIn etc.

8. A member can provide GST Training to the existing clients. In case of non-clients, training can be provided only if the member is invited to provide such training.
9. GST services are part of professional services provided by a CA, and accordingly, its advertisement has to be in terms with the ICAI Advertisement Guidelines, 2008 only.
10. The member is not allowed to share fees with another professional ; however, he can engage separately with the clients of such other professional to provide GST consultation.

**(8) Announcement on advertising by members in practice engaged in coaching/ teaching institute**  
Refer Clause 6 & Clause 11 of Part-1 Schedule-1

**(9) Announcement on KYC Norms**  
Refer KYC Norms for CA in Practice (Recommendatory)

**(10) Announcement- Amendment in ICAI Website Guidelines**  
Refer Clause 6 Part-1 Schedule-1

**(11) Announcement on use of designation(s) other than the designation of "Chartered Accountant".**  
Refer Clause 7 Part-1 Schedule-1

**(12) Announcement on prohibition to undertake the assignment of audit and accounting work together for the same entity.**

Refer Clause 4 Part-1 Schedule-2

**(13) Announcement on Ranking of CA Firms.**

Providing ranks or providing information to entities providing ranks to CA Firms is violative of Item 6 of Part-1 of First Schedule to The Chartered Accountants Act, 1949 . Additionally, it results in claiming superiority of one firm over other, which is prohibited in terms of the Advertisement Guidelines of the ICAI under Item 7 of Part -1 of First Schedule to The Chartered Accountants Act, 1949.

**RECENT CLARIFICATIONS OF ETHICAL STANDARDS BOARD**

S.N	Clarification	Notes
1.	Clarification on a member in practice being a Karta of a HUF making investment.	Refer Clause 11 of Part-1 Schedule-1
2.	Clarification on prohibition of simultaneously undertaking Concurrent Audit and Quarterly Review of the same Bank	Refer Clause 4 Part-1 Schedule-2

3.	Clarification on member of Tax Audit Assignments	Refer Council General Guidelines, 2008
4.	Clarification on acting as recovery consultant in Banking Sector	The charging of fee by Recovery Consultant in Banking Sector on percentage basis is not permissible as he cannot be equated to a receiver or liquidator under such circumstances.
5.	Clarification on Sharing of Fees with Government	Refer Clause 2 of Part-1 Schedule-1
6.	Clarification regarding (1) Listing with bodies creating data-base for independent directors of Chartered Accountants and (2) Acting as E-Intermediary.	1) It is clarified that listing with the website collecting the data-base for independent directors is permissible with or without payment 2) It is also clarified that since acting as E-Return Intermediary comes within the purview of the definition “Management Consultancy and Other Services” it is permissible.
7.	Clarification on Chartered Accountants acting as Direct Selling Agent (DSA)- Ethical issues involved.	1) A member in practice is <b>not permitted</b> to market any specific product. 2) He may <b>verify credit card credential</b> 3) He may provide services that are in the nature of verification etc. which are in the nature of assurance services.

		4) He may provide services, which are in the nature of Management Consultancy & other Services and can perform all those services, which a Chartered Accountant can provide. Members are required to keep in mind the aforesaid decision of the Committee while acting as Direct Selling Agent (DSA).
8.	Clarification regarding transfer of Goodwill of Chartered Accountant Firms	Refer Clause 2 of Part-1 Schedule-1
9.	Clarification on whether the Auditor of a Subsidiary Company can be a Director of its Holding Company.	Refer Clause 4 Part-1 Schedule-2

- (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.

### (2) Joint Audit

In the case of large Companies, the practice of associating a practising firm with less than five members as joint auditors should be encouraged.

### (3) Ratio Between Qualified and Unqualified Staff

A practising firm of Chartered Accountants engaged in audit work should have at least one member for every five non-qualified members of the staff, excluding articled and audit assistants, typists, peons and other persons not engaged directly in such professional work.

### (4) Disclosure of Interest by Auditors in other Firms

Auditors should make a disclosure of the payments received by them for other services through the medium of a different firm or firms in which the said auditor may be either a partner or proprietor.

### (5) Recommended Minimum Scale of Fees

The Institute has issued revised Minimum scale of Fees for the professional assignments of the members of ICAI. The recommended scale of Fees is to be charged as per the work performed for various professional assignments.

## Chapter 5: SELF REGULATORY MEASURES

**Recommended by the Council:** The self-regulatory measures are recommendatory.

### (1) Branch Audits

- 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 restriction may not apply in the following cases: