

# Code of Ethics – Revised-2019



# Important Case references

## Issuing Certificate without verification – Judgement given on 6<sup>th</sup> August, 1979 DC of ICAI

Issued consumption certificate and he was not able to justify the consumption

## Possession of Government Records by a member – Judgement delivered on 5<sup>th</sup> March, 1990

Where a Chartered Accountant being a tenant of premises, was searched in connection with taxation matter of the owner of the said premises. During the search, Assessment files and records of Income Tax Department related to HUF of owner of the premises found.

## Use of abusive language – Judgement delivered on 10<sup>th</sup> June, 1996



# History of Code of Ethics of ICAI

The Chartered Accountants Act, 1949, as we know passed in 1949 to regulate the profession of accountancy in India and also established the Code of Ethics in the same year with the objectives for administration of the Act. Accounting, auditing and ethical standards are formulated and monitored for compliance under the provisions of this Act.

Code of Ethics earlier known as Code of Conduct. In the year 2001 this change had accrued, now we say Code of Ethics instead of Code of Conduct.

ICAI published first edition of the Code of Ethics in 1963 and also issued first edition in line with IFAC in the year 2009, this was eleventh edition. And as we know that ICAI has done some important changes known as ICAI Code of Ethics, 2019 based on IESBA (International Ethics Standards Board for Accountants) Code of Ethics, 2018 issued at the annual function of the Institute on 4th February, 2019.

It is effect from 1st July 2020.



# Why code of ethics should be maintained by Professionals?

The *International Federation of Accountants* (IFAC), in its guidelines on Professional Ethics for the Accountancy Profession, has stated that *“Persons who pursue a vocation in which they offer their knowledge and skills in the service of the affairs of others have responsibilities and obligations to those who rely on their work.”*

The accountancy profession’s *public consists of clients, credit grantors, governments, employers, employees, investors, the business and financial community and others who rely on the objectivity and integrity of professional accountants* to *maintain the orderly functioning of commerce.* This *reliance imposes a public interest responsibility* on the accountancy profession.



# What is Code of Ethics according to IFAC (The International Federation of Accountants)?

A professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. The standards of the accountancy profession are heavily determined by the public interest like:-

<b>Independent auditors</b>	<u>help to maintain the integrity and efficiency of the financial statements presented</u> to financial institutions for the purpose of loans and obtaining capital from the Investors.
<b>Financial Experts</b>	serve a big role to <u>manage the finance resources of the organization efficiently and effectively</u>
<b>Internal auditors</b>	<u>help to understand and provide assurance about a sound internal control system of the organization</u> , which enhances the reliability of the external financial information of the employer



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<b>Tax Consultant</b>	<u>help to understand and build a system to meet various tax compliances</u> according to changes time to time by the tax authorities
<b>Management consultants</b>	<u>help to build a sound management system</u> in the organization towards the public interest

So, Professional accountants have an important role for society. Investors, creditors, employers and other business community, and also for the government and public.



# Important stages for CAs in the fields of Certification assignment

- Disclosure of Financial Transactions with related parties
- Valuation of investments
- Valuation of Assets
- Valuation of Inventories
- Certifying Total and outstanding balances of Secured or Unsecured loans
- Certifying Total or Closing balances of Sundry Debtors
- Certifying Total or closing balances of Creditors
- Other certificates



# Code of Ethics (old) divided in two parts

- Part – A: - This part is totally based on IFAC Code of Ethics and on general principle only.
- Part – B: - This part is totally based on the ICAI Act, 1949 and totally rule based.





# Code of Ethics (old) divided in two parts

## Part-A of the Code of Ethics, 2009

This is general principle, which has been introduced in line with the IFAC (International Federation of Accountants, Code of Ethics) in compliance of membership obligation of the ICAI. This part of the Code establishes a conceptual framework for all members to ensure compliance with five fundamental principles of professional ethics like: -

<b>Integrity (Sec. 110)</b>	<u>Quality of straight forward and honest</u> and <u>should not be influenced by self-interest</u> in the client business, <u>while giving report</u> on it.
<b>Objectivity (Sec. 120)</b>	<u>Should not be bias</u> , means <u>with the impression of undue influence</u> , he changes the report instead of <u>qualified to clean</u> or <u>materiality to immateriality</u> .
<b>Professional competency and due care (Sec. 130)</b>	Chartered Accountant should have <u>required updated knowledge</u> and <u>skill to perform his professional duties</u> .



# Code of Ethics (old) divided in two parts

## Part-A of the Code of Ethics, 2009

This is general principle, which has been introduced in line with the IFAC (International Federation of Accountants Code of Ethics) in compliance of membership obligation of the ICAI. This part of the Code establishes a conceptual framework for all members to ensure compliance with five fundamental principles of professional ethics like: -

<b>Confidentiality (Sec. 140)</b>	Chartered Accountant <u>must maintain the required level of confidentiality of the client's information</u> , which is acquired, while performing his professional duties. <u>This information should be disclosed whenever it is demanded by specific authority during any proceedings under the applicable Law.</u>
<b>Professional behavior (Sec. 150)</b>	Chartered Accountant should <u>Comply with relevant rules, regulations and laws</u> and he <u>should avoid to do any action, which down the value and image of the profession.</u>

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



# Code of Ethics (Old)

The First Schedule has four parts:

Part I	Professional misconduct in relation to <u>Chartered Accountants in Practice.</u>
Part II	Professional misconduct in relation to <u>Members of the Institute in Service.</u>
Part III	Professional misconduct in relation to <u>Members of the Institute generally.</u>
Part IV	Other Misconduct in relation to the <u>members of the Institute generally.</u>

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



# Code of Ethics (Old)

The Second Schedule has three parts:

Part I	Professional misconduct in relation to <u>Chartered Accountants in Practice.</u>
Part II	Professional misconduct in relation to <u>Members of the Institute generally</u>
Part III	Other misconduct in relation to <u>members of the Institute Generally</u>

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



# Schedule - Code of Ethics (old)

## FIRST SCHEDULE

### **PART-I Professional Misconduct in relation to Chartered Accountants in practice**

Clause-1 Practice by non-chartered accountant

Clause-2 Shares fees with non-Member

Clause-3 Accepts fees from non-Member

Clause-4 Enters into partnership with non-Member

Clause-5 Secures professional business through non-employee/non-partner or unlawful means

Clause-6 Solicits professional work

Clause-7 Advertises professional attainment

Clause-8 Fails to communicate with outgoing auditor

Clause-9 Non-compliance of Section 225(relevant section of Co. Act, 2013) of the Companies Act, 1956(2013)

Clause-10 Charging fees based on percentage / contingency

Clause-11 Engages in any other occupation

Clause-12 Allows non-Member/non-partner to sign documents on his behalf



# Schedule - Code of Ethics (old)

## FIRST SCHEDULE

### PART-II Professional Misconduct in Relation to Members of the Institute in Service

Clause-1 Shares his emoluments with others

Clause-2 Accepts commission or gratification from a lawyer etc. engaged by the employee

### PART-III Professional Misconduct in Relation to Members of the Institute generally

Clause-1 Acts falsely as FCA

Clause-2 Does not supply information to the Institute and its other functionaries

Clause-3 Gives false information under Clause (6) and (7) of the First Schedule

### PART-IV Other Misconduct of Members in General

Clause-1 Becomes guilty of any offence punishable with imprisonment for less than 6 months

Clause-2 Bring disrepute to the profession / Institute as a result of his action



# Schedule - Code of Ethics (old)

## SECOND SCHEDULE

### PART-I Professional Misconduct in relation to chartered accountants in Practice

Clause-1 Discloses information acquired without client's consent

Clause-2 Certifies/submits report without examining the related records

Clause-3 Permits to use name for vouching the accuracy of future contingent earnings

Clause-4 Opines on Financial Statement where substantial interest involved

Clause-5 Fails to disclose any material fact in Financial Statement

Clause-6 Fails to report a known material misstatement appearing in Financial Statement

Clause-7 Performs professional duties without due diligence/grossly negligent

Clause-8 Fails to obtain sufficient information for expressing an opinion

Clause-9 Fails to invite attention to any material departure from the generally accepted procedure of audit

Clause-10 Keeps client's money without opening separate bank account



# Schedule - Code of Ethics (old)

## SECOND SCHEDULE

### PART- II Professional Misconduct of Members of the Institute generally

Clause-1 Contravenes any of the provisions of the Act/Regulations & Guidelines issued by the Council

Clause-2 Discloses employer's information without permission

Clause-3 Provides false information to the Institute and its different authorities

Clause-4 Defalcates/embezzles money received in professional capacity

### PART-III Other Misconduct in relation to members of the Institute generally

Clause Becomes guilty of any offence punishable with imprisonment for more than six months, either in civil or criminal case.





## Major Changes in the New Code of Ethics – 2019 (Revised) Vol - I

- The revised edition of the Code has been **made compatible** with Indian conditions so that it does not contradict with Indian domestic law.
- Provisions of the revised Code have been **aligned** with the provisions of Companies Act, 2013.
- **New pattern** of structuring of each Section.
- Requirements - **general** and **specific obligations** to be complied by the members
- **Application material** - provides context, explanations, suggestions or actions, illustrations and other **guidance to assist** in complying with the requirements.
- **Practical examples** have been incorporated in the Code to illustrate different situations in which pressure might arise.
- The existing **Independence sections (290 and 291)** have been characterized as Independence Standards (Parts 4A and 4B) in the new Code.
- While the revised Code retains the fundamental ethical principles from the earlier code



## Major Changes in the New Code of Ethics – 2019 (Revised) Vol - I

### Some of the new requirements include:

- **Include some Additional terms** - Public Interest Entity, Employment with an audit client, Long Association of personnel, Non-assurance services to Audit client, Key Audit Partner – Rotation, “Relative” as defined under the Companies Act, 2013 are reckoned if the client is a company while “immediate family” and “close family” are reckoned in case of other clients, Responding to **Non-Compliance of Laws and Regulations (NOCLAR)**
- Section for Chartered Accountants in service considering the **fundamental and crucial role** played by such accountants in the financial reporting supply chain and facilitating effective governance in organisations.
- **Stronger independence provisions** concerning long association of personnel (including partner rotation) with audit clients.
- A more **robust framework** for addressing a breach of the requirements of the Code.



## Major Changes in the New Code of Ethics – 2019 (Revised) Vol - I

- **Section dealing with „Management Responsibilities“**. The Code contains a description of activities that would, and would not, be generally regarded as a management responsibility and provides enhanced guidance.
- **Requirements and applicable guidance** addressing situations where, as a result of a merger or acquisition, an entity becomes a related entity of an audit client, to assist the Chartered Accountant in evaluating previous or current interests and relationships.
- Provisions relating to threats that are created by certain tax services. **(Sub Section 604) Deferred, Latest Announcement 1/7/20**
- 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. **(PARAGRAPHS 410.3 TO R410.6) Deferred, Latest Announcement 1/7/20**
- Auditor rotation requirements included under various local regulations. In particular, responding to Non-Compliance of Laws and Regulations (NOCLAR) is one of the new features in the revised Code. **(Section 260 and 360) Deferred, Latest Announcement 1/7/20**



## Major Changes in the New Code of Ethics – 2019 (Revised)

### Major Changes in the New Code of Ethics – 2019 (Revised) Vol - II

Twelfth Edition of Code of Ethics which has been revised and aligned with the International Ethics Standards Board for Accountants (IESBA) and tried to incorporate all domestic provisions relating to Code of Ethics, along with all Council/Committee decisions of last ten years.

- Tender Guidelines
- Corporate Form of Practice Guidelines
- Logo Guidelines
- UDIN Guidelines
- Networking Guidelines
- Revised Advertisement Guidelines and all relevant Council and Board decisions.

### Case Laws Referencer book related to Schedule 1<sup>st</sup> and 2<sup>nd</sup> of Code of Ethics - Vol - III



# Overview of the New Code of Ethics – 2019 (Vol – 1)

(Applicable from 1<sup>st</sup> July, 2020)

## Part - 1 – Complying with the Code, Fundamental Principles and Conceptual Framework

(All Professional Accountants, whether in practice or service) - Section (100 - 199)

## Part – 2 – Professional Accountants in Service

(For Professional Accountants in Service) - Section (200 – 299)

*(Part 2 is also applicable to Individual Professional Accountants in Public Practice when performing Professional activities pursuant to their relationship with the firm)*

## Part – 3 – Professional Accountants in Public Practice

(For Professional Accountants in Practice) – Section (300-399)

## Part – 4 - Independence Standards

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)

Glossary - For all the Professional Accountants, It includes technical and professional terms to understand and help of Professional Accountants



## ICAI Code of Ethics - 2019

The New Code Contains sections which address specific topics. Some sections contain subsections dealing with specific aspects of those topics. Each section of the Code is structured. Where appropriate, as follows:

Introduction – sets out the subject matter addressed within the section, and introduces the requirements and application material in the context of the conceptual framework. Introductory material contains information, including an explanation of terms used, which is important to the understanding and application of each Part and its sections.

Requirements – establish general and specific obligation with respect to the subject matter addressed.

Application material – provides context, explanation, suggestion for actions or matters to consider, illustrations and other guidance to assist in complying with the requirements.



## How to use code -2019 Revised

- The Code requires professional accountants to comply with the fundamental principles of ethics. The Code also requires them to apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles. Applying the conceptual framework requires exercising professional judgement, remaining alert for new information and to changes in facts and circumstances, and using the reasonable and informed third party test.
- The conceptual framework recognizes that the existence of conditions, policies and procedures established by the profession, legislation, regulation, the firm, or the employing organization might impact the identification of threats. Those conditions, policies and procedures might also be a relevant factor in the professional accountant's evaluation of whether a threat is at an acceptable level. When threats are not at an acceptable level, the conceptual framework requires the accountant to address those threats. Applying safeguards is one way that threats might be addressed. Safeguards are actions individually or in combination that the accountant takes that effectively reduce threats to an acceptable level.



## How to use code -2019 Revised

- In addition, the Code requires professional accountants to be independent when performing audit, review and other assurance engagements. The conceptual framework applies in the same way to identifying, evaluating and addressing threats to independence as to threats to compliance with fundamental principles.

### Requirements and Application Material

Requirements and application material are to be read and applied with the objective of complying with the fundamental principles, applying the conceptual framework and when performing audit, review and other assurance engagements, being independent.





# How to use code -2019 Revised

## Requirements

The word “shall” in the Code imposes an obligation on a professional accountant or firm to comply with the specific provision in which “shall” has been used,

In some situations, the Code provides a specific exception to a requirement. In such a situation, the provision is designated with the letter “R” but uses “may” or conditional wording.

When the word “may” is used in the Code, it denotes permission to take particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.

When the word “might” is used in the Code, it denotes the possibility of matter arising, an event occurring or a course of action being taken.



# How to use code -2019 Revised

## Application Material

In addition to requirements, the code contains application material that provides context relevant to a proper understanding of the Code. In particular, the application material is intended to help a professional accountant to understand how to apply the conceptual framework to a particular set of circumstances and to understand and comply with a specific requirement.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### SECTION 100

### COMPLYING WITH THE CODE

#### General

A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. A professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employing organization. Therefore, the Code contains requirements and application material to enable professional accountants to meet their responsibility to act in the public interest.

the application material is intended to help a professional accountant to understand how to apply the conceptual framework to a particular set of circumstances and to understand and comply with a specific requirement.

The principle of professional behavior requires a professional accountant to comply with relevant laws and regulations. Accountants need to be aware of difference in local regulations from the provisions as set out in the Code, and comply with the more stringent provisions unless prohibited by law or regulation.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

**SECTION 110 - THE FUNDAMENTAL PRINCIPLES-** There are five fundamental principles of ethics for professional accountants:-

- (a) Integrity (Sub section: 111) – to be straightforward and honest in all professional and business relationships.
- (b) Objectivity (Sub Section: 112) – not to compromise professional or business judgements because of bias, conflict of interest or undue influence of others.
- (c) Professional Competence and Due Care – (Sub Section: 113)
  - (i) To attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organization receives competent professional services, based on current technical and professional standards and relevant legislation; and
  - (ii) To act diligently and in accordance with applicable technical and professional standards.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### SECTION 110 - THE FUNDAMENTAL PRINCIPLES

(d) Confidentiality (Sub Section: 114) – to respect the confidentiality of information acquired as a result of professional and business relationships.

(e) Professional Behaviour (Sub Section: 115) – to comply with relevant laws and regulations and avoid any conduct that the professional accountant knows or should know might discredit the profession.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### SECTION 120

#### THE CONCEPTUAL FRAMEWORK

The circumstances in which professional accountants operates might create threats to compliance with the fundamental principles. Section 120 sets out requirements and application material, including a conceptual framework, to assist accountants in complying with the fundamental principles and meeting their responsibility to act in the public interest.

The conceptual framework specifies an approach for a professional accountant to:

- (a) Identify threats to compliance with the fundamental principles;
- (b) Evaluate the threats identified; and
- (c) Address the threats by eliminating or reducing them to an acceptable level.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### SECTION 120

#### THE CONCEPTUAL FRAMEWORK

When applying the conceptual framework, the professional accountant shall:

- (a) Exercise professional judgement;
- (b) Remain alert for new information and to changes in facts and circumstances; and
- (c) Use the reasonable and informed third party test described

#### Exercise of Professional Judgement

Professional judgement involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, including the nature and scope of the particular professional activities, and interests and relationships involved. In relation to undertaking professional activities, the exercise of professional judgement is required when the professional accountant applies the conceptual framework in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances.



## COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

In exercising professional judgement to obtain this understanding, the professional accountant might consider, among other matter, whether:

- There is reason to be concerned that potentially relevant information might be missing from the facts and circumstances known to the accountant.
- There is an inconsistency between the known facts and circumstances and the accountant's expectations.
- The accountant's expertise and experience are sufficient to reach a conclusion.
- There is need to consult with others with relevant expertise or experience.
- The information provides a reasonable basis on which to reach a conclusion.
- The accountant's own preconception or bias might be affecting the accountant's exercise of professional judgement.
- There might be other reasonable conclusions that could be reached from the available information.





## COMPLYING WITH FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### Identifying Threats

The professional accountant shall identify threats to compliance with the fundamentals principles.

### Evaluating Threats

When the professional accountant identifies a threat to compliance with the fundamental principle, the accountant shall evaluate whether such a threat is at an acceptable level.

### Acceptable level

An acceptable level is level at which a professional accountant using the reasonable and informed third party test would likely conclude that the accountant complies with the fundamental principles.

### Addressing Threats

The professional accountant determines that the identified threats to compliance with fundamental principles are not at an acceptable level, the accountant shall address the threats by eliminating them or reducing them to an acceptable level.



## COMPLYING WITH FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

### Types of Threats

#### Self Interest Threat

The threat that a financial or other interest will inappropriately influence a professional accountants judgement or behaviour.

#### Self- Review Threat

The threat that a professional accountant will not appropriately evaluate the results of the accountant, or by another individual within the accountant's firm or employing organization, on which the accountant will rely when forming a judgement as part of performing a current activity.

#### Advocacy Threat

The threat that a professional accountant will promote a clients or employing organization's position to the point that the accountant's objectivity is compromised.(commenting publicly on future events)

#### Familiarity Threat

The threat that due to a long or close relationship with a client or employing organization a professional accountant will be too sympathetic to their interests or too accepting of their work.

#### Intimidation Threat

The threat that a professional accountant will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the accountant. – Example Bank Audit in UP



# Practical application of Code of Ethics - 2019

## SECTION 220

### PREPARATION AND PRESENTATION OF INFORMATION

#### **Introduction**

220.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

220.2 Preparing or presenting information might create self-interest, intimidation or other threats to compliance with one or more of the fundamental principles. This Section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **General**

R220.4 When preparing or presenting information, a professional accountant shall:

- 1) Prepare or present the information in accordance with a relevant reporting framework, where applicable;
- 2) Prepare or present the information in a manner that is intended neither to mislead nor to influence contractual or regulatory outcomes inappropriately.
- 3) Exercise professional Judgment to:
  - Represent the facts accurately and completely in all material respects:
  - Describe clearly the true nature of business transactions or activities; and
  - Classify and record information in a timely and proper manner; and
- 4) Not omit anything with the intention of rendering the information misleading or of influencing contractual or regulatory outcomes inappropriately.



# Practical application of Code of Ethics - 2019

## SECTION 350

### CUSTODY OF CLIENT ASSETS

#### Introduction

**350.1** Professional accountants are required with the fundamental principles and apply the conceptual framework set out in section 120 to identify, evaluate and address threats.

**350.2** Holding client assets creates a self-interest or other threat to compliance with the principles of professional behavior and objectivity. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.



# Practical application of Code of Ethics - 2019

## Requirements and Application Material

### Before Taking Custody

**R350.3** A professional accountant shall not assume custody of client money or other assets unless permitted to do so by law and in accordance with any conditions under which such custody may be taken.

**R350.4** As part of client and engagement acceptance procedures related to assuming custody of client money or assets, a professional accountant shall:

Make inquiries about the sources of the asset; and

Consider related legal and regulatory obligations.

**350.4 A1** Inquiries about the source of client assets might reveal, for example, that the assets were derived from illegal activities, such as money laundering. In such circumstances, a threat would be created and the provisions of Sections 360 would apply.

### After Taking Custody

**R350.5** A professional accountant entrusted with money or other assets belonging to others shall;

Comply with the laws and regulations relevant to holding and accounting for the assets;

Keep the assets separately from personal or firm assets;

Use the assets only for the purpose for which they are intended; and

Be ready at all times to account for the assets and any income, dividends, or gains generated, to any individuals entitled to that accounting.



# Practical application of Code of Ethics - 2019

## SECTION 410 FEES

### Introduction

Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to independence.

The nature and level of fees or other types of remuneration might create a self-interest or **intimidation threat**. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.



## Practical application of Code of Ethics - 2019

### Requirements and Application material

#### Fees-relative Size

##### *All Audit Clients*

*When the total fees generated from an audit client by the firm expressing the audit opinion represent a large proportion of the total fees of that firm, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat.*

Factors that are relevant in evaluating the level of such threats include:

- The operating structure of the firm
- Whether the firm is well established or new.
- The significance of the client qualitatively and/or quantitatively to the firm.



## Practical application of Code of Ethics - 2019

### Fees-Overdue

A self-interest threat might be created if a significant part of fees is not paid before the audit report for the following year is issued. It is generally expected that the firm will require payment of such fees before such audit report is issued. The requirements and application material set out in Section 511 with respect to loans and guarantees might also apply to situations where such unpaid fees exist.

Examples of action that might be safeguards to address such a self-interest threat include:

- Obtaining partial payment of overdue fees.
- Having an appropriate reviewer who did not take part in the audit engagement review the work performed.





## Practical application of Code of Ethics - 2019

### Contingent Fees

The fees which are based on a percentage of profits or which are contingent upon the findings, or results of such work, is not allowed except in cases which are permitted under Regulation 192 of The Chartered Accountants Regulations, 1998, given as under:-

- In this case of a receiver or a liquidator, the fees may be based on a percentage of the realization or disbursement of the assets;
- In the case of an auditor of a co-operative society, the fees may be based on a percentage of the paid-up capital or the working capital or the gross or net Income or profits;
- In the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued.
- In the case of certain management consultancy services as may be decided by the resolution of the Council from time to time, the fees may be based on percentage basis which may be contingent upon the findings, or results of such work;
- In the case of certain fund raising services, the fees may be based on a percentage of the fund raised;



## Practical application of Code of Ethics - 2019

- In the case of debt recovery services, the fees may be based on a percentage of the debt recovered;
- In the case of services related to cost optimization, the fees may be based on a percentage of the benefit derived; and
- Any other services or audit as may be decided by the Council.

The Council, pursuant to authority vested under clause (h) mentioned above, has in the following circumstances, permitted charging of fee based on percentage of profits or contingent upon the findings, or results of such work in the following circumstances:-

- Charging of Fees by members enrolled as insolvency professional rendered either individually or as an entity under Insolvency and Bankruptcy Code, 2016 and rules made thereunder.
- **Rendering Non-assurance services to non-audit clients. Not Audited or not assurance services**



# Practical application of Code of Ethics - 2019

## Section 521

### FAMILY AND PERSONAL RELATIONSHIPS

#### Introduction

- 521.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to independence
- 521.2** **Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat.** This Section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Close Family of an Audit Team Member

- 521.6 A1 A Self-interest, familiarity or intimidation threat is created **when a close family member of an audit team member is:**

A director or officer of the audit client: or

An employee in a position to exert significant influence over the preparation of client's accounting records or the financial statements on which the firm will express an opinion.

- 521.6 A2 **Factors that are relevant in evaluating the level of such threats include:**

The nature of the relationship between the audit team member and the close family member.

The position held by the close family member.

The role of the audit team member.



## Practical application of Code of Ethics - 2019

### Relationships of Partners and Employees of the Firm

R521.8 Partners and employees of the firm shall consult in accordance with firm policies and procedures if they are aware of a personal or family relationship between:

A partner or employee of the firm or network firm who is not an audit team member; and

A director or officer of the audit client or an employee of the audit client in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

521.8 A1 **Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation**

**Threat created by such a relationship include:**

**The nature of the relationships between the partner or employee of the firm and the director or officer or employee of the client .**

**The degree of interaction of the partner or employee of the firm with the audit team.**

**The position of the partner or employee within the firm.**

**The position the individual hold with the clients.**



## Recent Decisions of Ethical Standards Board

- ❖ A CA Firm may register itself on Udyog Aadhar, a web portal of Ministry Micro, Small and Medium Enterprises.
- ❖ There is no prohibition for internal auditor of a company to acquire/purchase shares of the said Company.
- ❖ 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.
- ❖ 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.
- ❖ A Chartered Accountant in practice can act as Authorized Representative of a Foreign Company, provided he is not the auditor of the said Company.



## Recent Decisions of Ethical Standards Board

- ❖ 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.
- ❖ 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.
- ❖ 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.
- ❖ 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.
- ❖ 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.



## Recent Decisions of Ethical Standards Board

- ❖ A Chartered Accountant, who is a member of a Trust, cannot be the auditor of the said trust.
- ❖ A Chartered Accountant in practice may engage himself as Registration Authority (RA) for obtaining digital signatures for clients.
- ❖ 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.
- ❖ 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.



## Recent Decisions of Ethical Standards Board

- ❖ 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.
- ❖ 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.





## Recent Decisions of Ethical Standards Board

- ❖ 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 Decisions of Ethical Standards Board

- ❖ A chartered accountant in practice cannot become Financial Advisors and receive fees/commission from Financial Institutions such as Mutual Funds, Insurance Companies, NBFCs etc.
- ❖ A chartered accountant cannot exercise lien over the client documents/records for non-payment of his fees.
- ❖ 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-I of First Schedule to the Chartered Accountants Act, 1949.



## Recent Decisions of Ethical Standards Board

- ❖ It is not permissible for chartered accountants in practice to take agencies of UTI, GIC or NSDL.
- ❖ It is permissible for a member in practice to be a settlor of a trust.
- ❖ 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.
- ❖ 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.
- ❖ 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.



## Recent Decisions of Ethical Standards Board

- ❖ 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.
- ❖ A concurrent auditor of a bank 'X' cannot be appointed as statutory auditor of bank 'Y', which is sponsored by 'X'.
- ❖ 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).
- ❖ 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.



## Unjustified Removal of Auditors

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

Where an auditor resigns from his appointment as an auditor of a Company or does not offer himself for reappointment as auditor of such Company, he shall send a communication, in writing, to the Board of Directors of the Company giving reasons therefor, if he considers that there are professional reasons connected with his resignation or not offering himself for re-appointment which, in his opinion, should be brought to the notice of the Board of Directors, and shall send a copy of such communication to the Institute. It shall be obligatory on the incoming auditor, before accepting appointment to obtain a copy of such communication from the Board of Directors and consider the same before accepting the appointment.

Where an auditor, willing for reappointment has not been re-appointed, he shall file with the Institute a copy of the statement which he may have sent to the management of the Company for circulation among the shareholders. It shall be obligatory on the incoming auditor before accepting the appointment, to obtain a copy of such a communication from the Company and consider it, before accepting the appointment.

The Ethical Standards Board, on a review of the communications referred to in paras (i) and (ii) may call for such further information as it may require from the incoming auditor, the outgoing auditor and the Company and make a report to the Council in cases where it considers necessary.



# Announcements

## New Website Guidelines – 14<sup>th</sup> Oct, 2020

It is pertinent to note that following contents and features on the Websites of members and Firms are prohibited :-

- (1) Mention of Names of clients / Client Logo
- (2) Writing of Firm name in a manner Tanta mounting to Logo/Monogram
- (3) Mention of Professional Fees, or fact of providing services free of charge
- (4) Using Photographs other than passport style, including Event galleries of Photographs
- (5) Use of expressions such as “Leading Firm”/”Best Firm”/ “Top Firm”
- (6) Claiming to have liasoning with Government offices
- (7) Mention of activities forming other business or occupation, which are not allowed to members in practice e.g. Real Estate, Health , etc.
- (8) Mention of activities forming other business or occupation allowed to members in practice e.g. reference of Books authored, teaching activities by the member concerned, etc. (since the website can be utilized for mentioning professional services of members only, and not of other business /occupation carried out by him)
- (9) Mention of activities which exceed the purview granted to members in practice e.g. “Arrangement of Loans” (the members in practice are permitted to act as Financial Adviser in terms of Regulation 191 of Chartered Accountants Regulations, 1988)
- (10) Links of organizations which do not fall under permitted categories e.g. of a commercial Company



# Announcements

## New Website Guidelines – 14<sup>th</sup> Oct, 2020

- (11) Videos other than educational videos e.g. Firm profile, canvassing for Elections etc.
- (12) Mentioning subjective claims e.g. “having presence/associates in big cities”, “have well equipped Conference Room”, “best quality services in the market” etc.
- (13) Mentioning CSR contribution / donation done by the Firm
- (14) Mentioning any kind of affiliation with any national or international organisation e.g. United Nations
- (15) Mention of any award(s) as may have been given to the CA Firm
- (16) Mention of any kind of grading granted to the Firm by any organization (including a Regulator) or a survey agency e.g. “Tier 2 Firm”
- (17) Mentioning of a particular role instead of professional service e.g. “Training”
- (18) Professional services of the Firm mentioned in push mode/ the website running on a push model of technology
- (19) Mention of media coverage of Firm
- (20) Mention of association of the member with the Institute e.g. as a Special Invitee in a Committee of the Institute
- (21) Mentioning testimonial with client name
- (22) ISO Certification or any other certification or accreditation (it is allowed for CA Firms to have ISO certification, but the same cannot be mentioned)



# Announcements

## New Website Guidelines – 14<sup>th</sup> Oct, 2020

- (23) Using Logo of a Government Department or scheme e.g. of Startup India
- (24) Mention of updates which do not fall under the category of professional updates e.g. relating to movies, National and International News
- (25) Mention of empanelment with any organisation, whether for Audit or any other assignment
- (26) Mention of engagement of the Firm in social activity(ies)
- (27) Mention of features like “why choose us” on the website
- (28) Mentioning association/reference of any other Firm(s) , wherein the proprietor or partner of the Firm may be partner
- (29) Advertisement of any commodity, service or entity.





# Announcements

## Clarification on Fees from a single client- SA 260

- As the members are aware, the revised Code of Ethics will come into effect w.e.f 1st July, 2020.

Some members have expressed their concern on one of the provisions contained in Paragraph R410.4 of the Volume-I of revised Code of Ethics on measures for addressing self-interest threats resulting from dependence of Fees from a single client.

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**.



# Announcements

- The Communication with the retiring auditor through Email

The members have raised concerns that during the period of ongoing lockdown, it is not possible for the Incoming Auditor to communicate with the Retiring Auditor through the mode(s) of communication permissible in terms of provisions of Code of Ethics.

The existing Code of Ethics, 2009 , provides, under commentary to Clause (8) of Part-I of First Schedule to The Chartered Accountants Act, 1949 as under :- *“Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent “Registered Acknowledgement due” or by hand against a written acknowledgement would in the normal course provide such evidence.”*

Due to the existing constraint of communication through abovementioned 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.



# Announcements

- Advisory on mentioning fee in advertisements issued by members

Certain concerns have been raised by members as to whether it is permissible to advertise the services rendered by them, while also mentioning that Professional Fees with regard to individuals engaged in Community service would be charged lesser than what is usually charged by them/ free of charge basis.

As the members are aware, the advertisement of services is generally prohibited vide provisions of Clauses (6) and (7) of Part-I of First Schedule to The Chartered Accountants Act, 1949. However, in accordance with proviso to Clause (7), the advertisement of services has been permitted vide "write-up" , subject to Guidelines issued by the Council .

In accordance thereof, the Council had issued Advertisement Guidelines No.1-CA(7)/Council Guidelines/01/2008,dated 14th May,2008.

The members may thus advertise through a write up setting out their particulars or of their firms and services provided by them in conformity with the said Guidelines.



# Announcements

As per the said Guidelines, the “write up” refers to "writing of particulars according to the information given in the Guidelines setting out services rendered by the Members or firms and any writing or display of the particulars of the Member(s) in Practice or of firm(s) issued, circulated or published by way of print or electronic mode or otherwise including in newspapers, Journals, magazines and websites (in Push as well in Pull mode) in accordance with the Guidelines.“ Further, as per the said Guidelines, the "write-up" may include **only** the information expressly permitted under the said Guidelines.

It may be noted that mentioning professional Fees for the services rendered is **not** appearing as a permitted entry under the Advertisement Guidelines.

As the members are further aware, the Website Guidelines of the Institute govern the rules for posting of particulars on the Website of Chartered Accountant(s) in practice and firm(s) of Chartered Accountants in practice. As per S.no. 6(ix) of the Website Guidelines :-

*“.....Names of clients and fee charged cannot be given.”*

In view of the above provisions, it is clear that the mandate of posting any particular(s) on Firm's own website or advertisement through write -up cannot exceed the authority granted respectively vide the Website Guidelines and Advertisement Guidelines of the Institute under any circumstances.

Accordingly, 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.



# Announcements

- FAQs relating to professional Ethics of members pertaining to Bank Assignments

Details available as pdf file for the references

- Announcement on internal auditor not to undertake GST Audit Simultaneously 28-9-18

We have received enquiries from the members at large and other stakeholders as to whether an internal auditor of an entity can also undertake GST Audit of the same entity as required under the Central Goods and Service Act, 2017. The Council of the Institute, while considering the issue at its 378th Meeting held on 26th and 27th September, 2018, noted its earlier decision taken at its 281st Meeting held from 3 rd to 5th October, 2008, that internal auditor of an assessee, whether working with the organization or independently practicing Chartered Accountant being an individual chartered accountant or a firm of chartered accountants, **cannot be appointed as his Tax auditor** (under the Income Tax Act, 1961). Upon consideration, the Council has decided that based on the conflict in roles as statutory and internal auditor simultaneously, the bar on internal auditor of an entity to accept tax audit (under Income Tax Act, 1961) **will also be applicable to GST Audit (under the Central Goods and Service Act, 2017)**. Accordingly, it is clarified that an Internal Auditor of an entity cannot undertake GST Audit of the same entity.



# Announcements

- FAQs on Ethical issues relating to GST – PDF file available
- Announcement on advertising by members in practice engaged in coaching / teaching institute  
18-5-17

Regulation 190A of the Chartered Accountants Regulations, 1988 provides that a chartered accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council. The Council has passed a Resolution under Regulation 190A granting general permission (for private tutorship, and part-time tutorship under Coaching organization of the Institute) and specific permission (for part-time or full time tutorship under any educational institution other than Coaching organization of the Institute). Such general and specific permission granted is subject to the condition that the direct teaching hours devoted to such activities taken together should not exceed 25 hours a week in order to be able to undertake attest functions . Keeping in view the broad purview of Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949, an advertisement of Coaching /teaching activities by a member in practice may amount to indirect solicitation, as well as solicitation by any other means, and may therefore be violative of the provisions of Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949. In view of the above, such members are advised to abstain from advertising their association with Coaching /teaching activities through hoardings, posters, banners and by any other means, failing which they may be liable for disciplinary action, as per the provisions of Chartered Accountants Act, 1949 and Rules /Regulations framed thereunder . Subject to the above prohibition, such members may put, outside their Coaching /teaching premises, sign board mentioning the name of Coaching/teaching Institute, contact details and subjects taught therein only. As regards the size and type of sign board, the Council Guidelines as applicable to Firms of Chartered Accountants would apply.



# Announcements

- Announcement on KYC norms 1-1-2017 - PDF file available
- Announcement on ICAI code conduct for elected, nominated and co-opted representatives  
PDF file available 1-1-2017
- Announcement on amendment in ICAI website Guidelines, september, 2015  
PDF File available



## Announcements

- Announcement on use of designation(s) other than the designation of Chartered Accountants. Febraury, 2015

It has been brought to the notice of the Institute that some members are using the certain designation (s) other than Chartered Accountant in addition to the designation “Chartered Accountant’. In this regard, the attention of the members is drawn on Item (7) of Part-I of First Schedule to the Chartered Accountants Act, 1949 which provides that a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council.

Further, attention of the members is also drawn to the following paras appearing at page no. 154 of the Code of Ethics, 2009 under commentary of Item (7):-

*“It is improper for a Chartered Accountant to state on his professional documents that he is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant”.*





# Announcements

*“While noting that it had already allowed its members to appear before the various authorities including Company Law Board, Income Tax Appellate Tribunal, Sales Tax Tribunal where the law has permitted the same, so far as the designation “Corporate Lawyer” is concerned, the Council was of the view that as per the existing provisions of law, a Chartered Accountant in practice is not entitled to use the designation “Corporate Lawyer”.*

*“The members are not permitted to use the initials ‘CPA’ (standing for Certified Public Accountant) on their visiting cards”.*

*“Members of the Institute in practice who are otherwise eligible may also practice as Company Secretaries and/or Cost Accountants. Such members shall, however, not use designation/s of the aforesaid Institute/s simultaneously with the designation “Chartered Accountant”.*

Section 7 of the Chartered Accountants Act, 1949 also provides that every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor unless such descriptions indicate the membership of any other accounting body recognized by the Council in this behalf or the qualification he may possess.



# Announcements

In view of the above, though the members are allowed to use the description as to their qualifications however members are not permitted to use any other designation along with the designation 'Chartered Accountant'. Members are therefore advised to abstain from using any other designation with the designation 'Chartered Accountant' failing which they may be liable for disciplinary action, as per the provisions of the Chartered Accountants Act, 1949 and Rules/Regulations framed thereunder.



# Announcements

- Announcement on prohibition to undertake the assignment of audit and accounting work together for the same entity

No. ICAI/ESB/2014/03 It has come to the knowledge of some members that certain entities , while inviting tenders for services of chartered accountants for the assignment of statutory audit , are mentioning accounting and book keeping related works in the scope of works required to be done by the auditor.

Members are hereby advised not to undertake such assignment since it is violative of the provisions of 'Code of Ethics' and 'Guidance Note on Independence of Auditors' for auditor of an entity to do book keeping work of the entity. The said prohibition in the case of Companies is further also mentioned in Section 144 of the Companies Act, 2013.



# Announcements

- Announcement on Ranking of CA Firms

It has been brought to the notice of some members that certain entities are seeking details of the Chartered Accountants firms, for the purpose of making ranking of the various Firms through comparison of different parameters.

In this regard, Members are hereby informed that sharing of details of their Chartered Accountants firms in the aforesaid manner does not fall within the permitted categories , and would therefore be violative of Item 6 of Part-I of First Schedule to The Chartered Accountants Act, 1949 . Further, as it is known beforehand that the information regarding firms would be used for ranking purposes, the sharing of such details would tacitly result 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 –I of First Schedule to The Chartered Accountants Act, 1949. Members are therefore advised to abstain from such sharing of details of their Chartered Accountants Firms.



# Announcements

- Announcement - amendment in council general guidelines 2008 - PDF File available
- Announcement - Definition of Relatives in chapter –IV of the council general guidelines 2008

All the members of the Institute of Chartered Accountants of India (ICAI) are hereby informed that in terms of its decision taken at the 299th Meeting of the Council held on 27th – 28th October, 2010, **it has been decided that the term “relative” for the purpose of Chapter-IV of Council General Guidelines, 2008 (Opinion on Financial Statements when there is substantial interest) will have the same meaning as assigned to it in AS-18.**



## Clarification

### Clarification on the member in practice being Karta of a HUF making Investment

A member in practice engaged as Karta of a Hindu undivided Family (HUF) doing family business (under s.n. 4 of “Permission to be granted specifically” of Appendix 9 to the Chartered Accountants Regulations, 1988) will be within the **limits 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.**



## Clarification

### Clarification on prohibition of simultaneously undertaking Concurrent Audit and Quarterly Review of the same Bank

Clarification on prohibition of simultaneously undertaking Concurrent Audit and Quarterly Review of the same Bank. - (02-04-2014) Since queries are being received from members at large on the issue, **it is accordingly hereby clarified that concurrent audit and the assignment of quarterly review of the same Bank cannot be undertaken simultaneously as the concurrent audit being a kind of internal audit and the quarterly review being a kind of statutory audit undertaken simultaneously are prohibited under the provisions of 'Guidance Note on Independence of Auditors'.**



# Clarification

## Clarification on Tax Audit Assignment

As per Chapter VI of Council General Guidelines, 2008 (Tax Audit Assignments under Section 44AB of the Income Tax Act, 1961), a member of the Institute in practice shall not accept, in a financial year, more than the specified number of tax audit assignments as prescribed under Section 44AB of the Income Tax Act, 1961. The specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961 is 45(60).

It is further provided in Chapter VI of Council General Guidelines, 2008 that in case of firm of Chartered Accountants in practice, specified number of tax audit assignments means 45 tax audit assignments per partner of the firm, in a financial year.

Therefore, if there are 10 partners in a firm of Chartered Accountants in practice, then all the partners of the firm can collectively sign 450 tax audit reports. This maximum limit of 450 tax audit assignments may be distributed between the partners in any manner whatsoever. For instance, 1 partner can individually sign 450 tax audit reports in case remaining 9 partners are not signing any tax audit report.

It is needless to say that the tax audit assignment should be in accordance with the Standard on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.





# Clarification

## Clarification on acting as recovery consultant in Banking Sector

The members of the profession have sought the Institute's view as to whether the Chartered Accountants in Practice acting as Recovery Consultant for recovery of Non-Performing Assets (NPA) of Banks under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SRFA&ESI) can charge fee on percentage basis as is permitted under Regulation 192 of the Chartered Accountants Regulations, 1988 for 'receiver' or 'liquidator'.

The Institute has examined the matter in detail and is of the view that Recovery Consultant cannot be equated with 'receiver' or 'liquidator' provided under Regulation 192 of the Chartered Accountants Regulations, 1988 and as such, the charging of fee by Recovery Consultant in Banking Sector on percentage basis is not permissible.



## Clarification

### Clarification regarding inclusion of "Insurance Financial .Advisory Services under the Insurance Regulatory and Development Authority Act, including Insurance Brokerage" in the definition of Management Consultancy Services

The attention of the members is drawn to the Announcement published in the January 2005 issue of the Journal at page 935 as well as hosted in the website regarding inclusion of "Insurance Financial Advisory Services under the Insurance Regulatory & Development Authority Act, 1999, including Insurance Brokerage" in the definition of "Management Consultancy and Other Services" as appearing at pages 8-10 of Code of Ethics, January 2001 edition.

In this regard, it may be clarified that as per the decision of the Council, a member is permitted to render Insurance Financial Advisory Services as prescribed under "The Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002" only in Corporate form. Further, the members are required to comply with the conditions prescribed by the Insurance Regulatory & Development Authority and the conditions to be prescribed by The Institute of Chartered Accountants of India.

It may also be clarified that the members are not permitted to do any work relating to insurance agency as prescribed under "Insurance Regulatory and Development Authority (Licencing of Insurance Agents) Regulations, 2000" and "Insurance Regulatory and Development Authority (Licencing of Corporate Agents) Regulations, 2002", either individually or in partnership/proprietorship form or in corporate form.

The existing position regarding allowing members generally to hold life insurance agency license for limited purpose of getting renewal commission, still hold good as provided in the Appendix (9) to the Chartered Accountants Regulations, 1988 (2002 edition).



# Clarification

## Clarification on Sharing of Fees with Government

The Institute came across certain Circulars / Orders issued by the Registrars of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Government and the auditor has to deposit a percentage of his audit fee in the state Treasury by a prescribed challan within a prescribed time of the receipt of Audit fee. Recently, the Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering then administrative and other expenses incurred in the process, **the Council decided that as such there is no bar in the Code of Ethics to accept such assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.**



# Clarification

## Clarification regarding (1) Listing with bodies creating data-base for independent directors of Chartered Accountants and (2) Acting as E-Intermediary.

Clarification regarding (1) Listing with bodies creating data-base for independent directors of Chartered Accountants and (2) acting as E-Intermediary Some members have brought to our notice that some website is creating data-base for independent directors and is inviting Chartered Accountants to enroll with it. The data-base collected by it will be provided to the listed Companies in order to reach the Chartered Accountants for taking them on their Board as Independent Directors. It is also brought to our notice that certain Chartered Accountants have been approached to act as e-Intermediary. The members have sought clarification whether they can enroll with the website creating such data-base and whether they can act as e- Intermediary. The aforesaid issues have been examined. The Code of Ethics, 2005 edition, at page 81\* provides as under: “(16) A number of Chartered Accountants Societies or other bodies are creating data-bases of Chartered Accountants or Chartered Accountants’ Firms and are offering listing to Chartered Accountants. **Such listing would be permitted with or without payment. In case a Chartered Accountant or Chartered Accountants’ Firm is a member of a professional body or association or Chamber of Commerce and they offer listing to the members or firm, the same would be permitted.”** Accordingly, it is clarified that listing with the website collecting the data-base for independent directors is permissible with or without payment.

It is also clarified that since acting as E-Return Intermediary comes within the purview of the definition “Management Consultancy and Other Services” appearing at pages 8-10 \*\* of Code of Ethics, 2005 edition, it is permissible.



# Clarification

## Clarification on Chartered Accountants acting as Direct Selling Agent (DSA)- Ethical issues involved.

Clarification on Chartered Accountants acting as Direct Selling Agent (DSA) - Ethical issues involved As you are aware that various Companies are appointing Chartered Accountants as their Direct Selling Agents (DSA) and thus is an emerging area of professional opportunities for the members. We may inform you that the Committee on Ethical Standards (CES), a non-standing Committee of the Institute, considered the matter in great details and **was of the view that one has to see the ethical issues involved while acting as Direct Selling Agent (DSA) and decided that:**

- 1) A member in practice is not permitted to market any specific product.
- 2) He may verify credit card credential
- 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).



# Clarification

## Clarification regarding transfer of Goodwill of Chartered Accountant Firms

Transfer of goodwill of the firms of Chartered Accountants are **permitted by the Institute subject to fulfillment of the following procedures :-**

1. An application in writing should be forwarded by a member, holding Certificate of Practice, intimating his intention to purchase goodwill.
2. The application should be made within 1year from the date of death of the member.

### The application should be sent along with the following details :-

- a) Death Certificate' of the deceased member; and
- b) (i) A draft sale deed for sale/transfer of goodwill entered into between the legal heir/s of the deceased and the member intending to purchase goodwill.



# Clarification

## Clarification regarding transfer of Goodwill of Chartered Accountant Firms

(ii) The sale of goodwill deed must be very clear as to the amount of consideration and payment thereof in one or more instalment(s) to be paid within a specified period. The consideration should not be contingent upon future profit.

2. Documents, such as, succession certificate or will, legal Heir Certificate or an affidavit sworn by all legal heir/s stating that there is/are no other legal heir to the deceased member.

3. Legal heir, in this context, means spouse, child/children and parents.

4. If the agreement is entered into by one of the legal heirs, 'No Objection' from the other legal heirs, except those minor, are also required to be submitted. In case of minor, 'No Objection' is to be obtained from the guardian.



# Clarification

## Clarification regarding transfer of Goodwill of Chartered Accountant Firms

5. The member intending to purchase the goodwill should give an advertisement about his intention to purchase such goodwill, and the advertisement should spell out that anyone having objection thereto should send the objection directly to the respective DCO (address of which shall be indicated in the advertisement). A copy of the advertisement so published should be sent by the intending purchaser to the concerned DCO.

6. Within 30 days of the receipt of the approval, for transfer of goodwill, Form '18' should be filed by the member purchasing the goodwill.

The members are requested to comply with the above procedure and submit documents mentioned above, while applying for transfer of goodwill of a Chartered Accountant Firm





## Clarification

### Clarification on whether the Auditor of a Subsidiary Company can be a Director of its Holding Company.

A Member has sought the Institute's view as to whether the Auditor of a Subsidiary Company can be a Director of its Holding Company. The Committee on Ethical Standards (CES) a non-standing Committee of the Institute, has examined the issue in detail. **The Committee noted that in terms of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949 a Chartered Accountant in practice can not engage (unless permitted by the Council so to engage) in any business or occupation other than the profession of Chartered Accountant but he can be a director of a Company (not being a managing director or whole time director) wherein he or any of his partners is not interested in such Company as an auditor.** The Committee further noted that Public conscience is expected to be ahead of the law. Members, therefore, are expected to interpret the requirement as regards independence much more strictly than what the law requires and should not place themselves in positions which would either compromise or jeopardise their independence. **In view of the above the Committee has decided that the auditor of a Subsidiary Company can't be a Director of its Holding Company, as it will affect the independence of an auditor.**

# Thank you

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For your patience listening and precious time given

**CA JAGJEET SINGH JAGS**

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