No. 54-EL(1)/1/2009 3rd September, 2009

ELECTION - 2009

CIRCULAR

Dear Contesting Candidate,

Sub: Election Code of Conduct – Compliance regarding.

You may be aware that the Chartered Accountants (Amendment Act) 2006 required the Central Government to specify the Rules on the manner in which the election to the Council is required to be conducted. Accordingly, the Central Government made the Chartered Accountants (Election to the Council) Rules, 2006, which are applicable to our elections.

2. Rule 16 of the Chartered Accountants (Election to the Council) Rules, 2006 requires the Council of the Institute to frame and issue a Election Code of Conduct for maintaining a healthy and peaceful atmosphere during the election process for ensuring a free and fair election. Accordingly, the Council of the Institute framed the Election Code of Conduct containing instructions/ norms/prohibitions as enclosed for the forthcoming election to be held on 4th and 5th December, 2009. The Election Code of Conduct shall be applicable to all candidates and their authorized representatives for the election to the twenty-first Council and twentieth Regional Councils. This Code shall come into force from 3rd September, 2009 and shall remain in operation till the last date for receipt back of postal ballots, i.e., 17th December, 2009. [As per Election Rules in place, the Election Code of Conduct is required to be in force till the conclusion of counting of votes. However, the Council of the Institute has decided to recommend to the Central Government to keep the said Code in force till the last date for receipt back of postal ballots, i.e. 17th December, 2009. Accordingly, an amendment in the Rules is proposed. Consequently, the said date of 17th December, 2009 is subject to the decision to be taken by the Central Government in due course. All concerned are therefore requested to watch for our further announcement by around the end of October, 2009.]

3. It should be appreciated that compliance with the above Election Code of Conduct would not only meet the expectations of the members of the profession and the society at large, but would also avoid basis for allegation(s) on violation of provisions of the Chartered Accountants (Election to the Council) Rules, 2006. It should be noted in this regard that the Election Code of Conduct is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 and is therefore obligatory for each candidate and his authorized representative(s) to comply with the Election Code of Conduct framed by the Council.

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4. An extract of the relevant provisions of Rules 16 and 42 of the Chartered Accountants (Election to the Council) Rules, 2006 specified by the Central Government, on the conduct of the candidates and their authorized representatives, as also aforementioned, as expected thereunder, in connection with the election, is also enclosed herewith for your ready reference.

Yours faithfully,

(T. Karthikeyan)
Secretary

Encl: As above

Copy to:

1. Chairmen of Non-Standing Committees of the Council.

2. Chairmen of Regional Councils and Chairmen of Branches thereof.

3. All Members concerned including those heading /concerned with Study Circles of Regional Councils/Branches, Chapters abroad, CPE Chapters, CPE Study Circles and Voluntary Associations/ Societies or its equivalents whose members are Chartered Accountants.

Extract of the relevant provisions of Rules 16 and 42 of the Chartered Accountants (Election to the Council) Rules, 2006 specified by the Central Government.

Rule 16: Election Code of Conduct.

(1) With a view to maintain a healthy and peaceful atmosphere during the election process for ensuring a free and fair election, the Returning Officer, shall issue a Election Code of Conduct for candidates, as approved by the Council before issue of notification under sub-rule (2) of rule 4, and which shall be published on the web-site of the Institute.

(2) The Election Code of Conduct shall contain instructions and norms to be followed by candidates and their authorized representatives appointed under these Rules during the entire election process including at the polling booth and counting centre.

(3) The Election Code of Conduct shall come into force from the date of issue of notification under sub-rule (2) of rule 4.

(4) The Election Code is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule of the Act and it is obligatory for each candidate to comply with the Election Code of Conduct.

Rule 42: Disciplinary action against member in connection with conduct of election.

(1) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (2) or all or any of the clauses of sub-rule (3) or sub-rule (4) of this rule.

(2) Only one manifesto or circular shall be issued by a candidate in relation to the election in the period commencing from the date of issue of final list of nominations to the candidates.

(3) A manifesto or circular issued shall conform to the following requirements in the interest of maintaining dignity in the election, namely:-

(a) A manifesto or circular shall contain information regarding the candidate himself and shall not make any reference, directly or indirectly, to any other candidate;

(b) The information, which a candidate may furnish in a manifesto or circular regarding himself, shall not differ in any material respect from the information furnished by the Institute to the voters under rule 9. A candidate may, however, include in such manifesto or circular, any additional information not contained in the information furnished under rule 9;

(c) A manifesto or circular shall neither contain any appeal to the voters on the basis of caste or on communal, religious, regional or sectional lines nor any tall claim;

(d) The distribution of a manifesto or circular shall be restricted only to the members of the constituency concerned;

(e) A certified copy of such manifesto or circular shall be sent to the Returning Officer by speed/registered post within 15 days of its issue;

(f) While a candidate may repeat, in any form, the manifesto or circular issued under sub-rule (2) of this rule without changing its contents, however, he shall not issue more than one manifesto or circular.

(4) A member shall not adopt one or more of the following practices with regard to the election to the Council, namely :-

(i) Bribery, that is to say, any gift, offer or promise of any gifts or gratification to any person by a candidate or any other person, with his connivance, with the object directly or indirectly of :-

(a) inducing a member to stand or not to stand as a candidate at an election or rewarding him for act or omission; or

(b) inducing to withdraw his candidature or rewarding such withdrawal; or

(c) inducing a voter to vote or not to vote at an election, or as a reward for act or omission;

Explanation - For the purpose of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and it includes organising parties or providing any other form of entertainment, and all forms of employment for reward; but it does not include the payment of any expenses bonafide incurred at or for the purpose of any election;

(ii) undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person, with his connivance, with the free exercise of any electoral right;

(iii) the publication by a candidate or by any other person, with his connivance, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election;

(iv) the obtaining or procuring or abetting, or attempting to obtain or procure, by a candidate or by any other person, with his connivance, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State, other than the giving of vote by such person, if he is a member entitled to vote;

(v) the hiring or procuring, whether on payment or otherwise, of a vehicle by a candidate or by any other person, with his connivance, for the conveyance of voters;

(vi) resorting to disorderly behaviour or misbehaviour within the zero tolerance zone to be determined by the Returning Officer of the polling booth and/or venue for counting of votes;

Explanation.- For the purpose of this clause, canvassing for votes, distribution of visiting cards, pamphlets, manifestos, letters, hand-outs, circulars and the like, erection of any stall and display of any banner shall be treated as disorderly behaviour or misbehaviour.

(vii) exhibiting or placing any notice or sign board relating to the election by a candidate or by any other person with the connivance of the candidate at any time and any where during the election period including on the date or dates of polling within a distance of 200 meters from the polling booth;

(viii) non-compliance with any of the directives or circulars or instructions issued by the Returning Officer under these Rules in any matter relating to elections;

(ix) contesting the election representing a political party or on political lines;

(x) any act specified in clauses (i) to (ix), when done by a member, who is not a candidate, but is acting with the concurrence or connivance of a candidate;

(xi) the receipt by a member or an agreement by a member to receive any gratification:-

(a) as an inducement or reward for standing or not standing as a candidate; or

(b) as an inducement or reward for withdrawing his candidature; or

(c) as an inducement or reward for himself or any other person for voting or refraining from voting; or

(d) as an inducement or reward for inducing or attempting to induce any voter to vote or refrain from voting; or

(e) inducing or attempting to induce any candidate to withdraw his candidature;

(xii) Contravention or misuse of any of the provisions of these Rules or making of any false statement knowing it to be false or without knowing it to be true, while complying with any of the provisions of these Rules.

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CHAPTER VII
REGIONAL COUNCILS

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134. Elections to the Regional Councils

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(10) Subject to the provisions contained in this Chapter, the provisions regarding election prescribed in Chapter VI of these Regulations shall 'mutatis mutandis' apply to the election to the Regional Councils.

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