



CA ETHICS_{PLUS}

An Initiative to Promote Ethical Standards

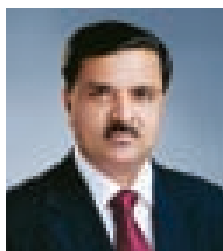
Knowledge Sharing on Ethics for Chartered Accountants



ETHICAL STANDARDS BOARD (ESB)
The Institute of Chartered Accountant of India



Today, in the era of globalization, the role of Chartered Accountants has shifted from number crunching to strategic thinking thus expanding their role to a proactive catalyst in factoring change into emerging global vision. In a rapidly changing world, Accountants have evolved as a professional group with new concepts and procedures to meet the varied demand of society on their skills. As corporate sector evolves in an environment of enhanced transparency and accountability, the Chartered Accountants are required to work with independence and maintain highest integrity. They need to follow laws and regulations to maintain a very high level of self discipline and work within the code of ethics framework. I am pleased that the Ethical Standards Board is launching an initiative releasing 'CA. Ethics Plus' to promote Ethical Standards amongst our members. - **CA. Jaydeep N. Shah, President, ICAI**



Ethics in accountancy profession are invaluable to Chartered Accountants and to those who rely on their services. Stakeholders including clients, credit grantors, governments, taxation authorities, employees, investors, the business and financial communities etc. perceive them as highly competent, reliable, objective and neutral people. Chartered Accountants therefore, must not only possess contemporary knowledge but also possess a high degree of professional integrity. Because of these high expectations, we have well structured code of ethics in place. The Code of Ethics calls for members to maintain a level of self-discipline that goes beyond the requirements of laws and regulations. Those with strong foundations can never be uprooted and for the purpose I appreciate the Ethical Standards Board for this initiative 'CA Ethics Plus'. - **CA. Subodh Kumar Agrawal, Vice-President, ICAI**



Professionals are part of the intelligentsia of society that disseminates knowledge and information. To succeed in the Knowledge Economy, most of us will need an order-of-magnitude leap in our ability to create, acquire, assimilate, comprehend and share knowledge. Even the manner in which we experienced knowledge has transformed, through technologies and practices that exist today or will soon be available. This transformation is constantly underway even today. We have to evolve and keep pace with changing technology or we will become its victims. I am confident that our new initiative CA Ethics Plus to promote Ethical Standards amongst our members will be a success. - **CA. K. Raghu, Chairman, ESB**



The Institute of Chartered Accountants of India has always been the standard bearer of the accounting profession since its inception and for the same we have always been vigilant in ensuring that the training of our Chartered Accountants matches the best in the world. In this new world order our members are respected in society as being part of the intelligentsia because of their comprehensive training, adherence to high standards of ethics and professionalism. They are competent professionals to provide value added services to the National and trans-national corporate world. At the same time, our members have to abide by certain prescribed fundamental principles of ethical behavior and are duty bound to observe these principles in their professional duty rendering mechanism. I appreciate the Ethical Standards Board for constantly guiding the members on Ethical issues and at the same time confident that this initiative of the Ethical Standards Board of releasing 'CA. Ethics Plus' to promote Ethical Standards amongst members will benefit the members at large. - **CA. V. Murali, Vice-Chairman, ESB**

The maintenance of ethical Standards is necessary to keep on reinforcing the idea of keeping up and observing the highest ethical standards repeatedly. With this end in view and also keeping in mind the need to adhere to our creed "Excellence, Independence and Integrity", as well as the changing dimensions and requirements of our members in their professional responsibilities this CA ETHICS PLUS handy brochure attempts to disseminate the knowledge in brief Question-Answer form relating to the ethical requirements and updated information to the members as hereunder:

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

Yes, however, the areas covered under the Management Consultancy and other services have been summarized by the Council.

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

No, the Explanation to Clause (xix) of the definition of 'Management Consultancy and other Services' expressly bars the activities of broking, underwriting and Portfolio Management.

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

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

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

No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant.

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

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

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

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

The above conditions apply to any additional office situated at a place beyond 50 km from the municipal limits in which any office is situated. It is to be noted that the requirement of Section 27 in regard to a member being in charge of an office of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be satisfied only if the member is actively associated with such office. Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year or in such other circumstances as, in the opinion of the Executive Committee, establish such active association.

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

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

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

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

7. Can goodwill of a Chartered Accountant firm be purchased?

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

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

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

However, there are following exceptions to it:-

- (i) A member can respond to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence.
- (ii) A member may advertise changes in partnerships or dissolution of a firm, or of any change in the address of practice and telephone numbers, the advertisement being limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of newspaper or magazine and number of insertions.
- (iii) A member is permitted to issue a classified advertisement in the Journal/Newspaper of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and e-mail address.

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

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

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

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

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

1. The entry should appear in the section/category of "Chartered Accountants".
2. The member/firm should belong to the town/city in respect of which the directory is being published.

3. The entry should be in normal type of letters. Entry in bolder type or abnormal type of letters or in a box is not permissible.
 4. The order of the entries should be alphabetical and logical.
 5. The entry should not appear in a manner giving the impression of publicity/advertisement. Entry should not be given in a manner which gives prominence to it as compared to other entries.
 6. The payment, if any, for the entry should not be unreasonable.
 7. The entries should not be restricted and should be open to all the chartered accountants/firms of chartered accountants in the particular city/town in respect whereof the directory is published.
 8. Subject to the above conditions, the members can also include their names in trade directories which are published and/or otherwise available such as electronic media e.g. Internet, telephone services like "Ask Me Services" etc.
- 11. Whether a member in practice can respond to Tenders, Advertisements and Circulars?**
Yes, it is permitted as per proviso (ii) to clause (6) of part-I of the First Schedule to the Act. The same is appearing at page 138 of the Code of Ethics, 2009.
- 12. Can a member in practice indicate in a book or an article, authored/contributed/published by him, his association with any firm of Chartered Accountants?**
No, as per Para (e) under Clause (6) of Part I of First Schedule to the Act as appearing at page 138 of the Code of Ethics, 2009 a member is not permitted to indicate in a book or an article, authored/contributed/published by him, the association with any firm of Chartered Accountants.
- 13. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?**
No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the Act, as appearing at page 139 of Code of Ethics, 2009).
- 14. Can a Chartered Accountant in practice seek professional work from his professional colleagues?**
Yes, in terms of proviso (ii) of Clause (6) of Part-I of the First Schedule to the Act, a member is permitted to apply or request for or to invite or to secure professional work from another Chartered Accountant in practice.
The issue of advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever is in violation of Clause (6) of Part I of the First Schedule to the Act. However, classified advertisement in the Journal/Newsletter of the Institute is permissible in this regard. A member is permitted to issue a classified advertisement in the Journal/Newsletter of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and E-mail address.
- 15. Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?**
Yes, an individual Chartered Accountant or a firm of Chartered Accountants can institute or sponsor prizes, provided that the designation "Chartered Accountants", is not appended to the prize and Clause (6) of the First Schedule regarding advertisement and publicity is complied with.
- 16. Can a Chartered Accountants firm give advertisement in relation to Silver, Diamond, Platinum or Centenary celebration of the firm?**
Yes, while considering the implications of Clause (6) & (7) of Part I of the First Schedule of the Act in relation to such advertisements and having regard to the need of interpersonal socialization/relationship of the members through such get-together occasions, the advertisement for Silver, Diamond, Platinum and Centenary celebrations of the firms has been permitted to be published in any newspaper or in the newsletters.
- 17. Can a Chartered Accountant in practice/firm of Chartered Accountants post the particulars of himself/itself on a website?**
Yes, the Council has approved the detailed guidelines for posting the particulars on Website by Chartered Accountants in practice and firm(s) of Chartered Accountants in practice. For Guidelines please refer pages 140-144 of the Code of Ethics, 2009.

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

Yes, please refer pages 140-144 of the Code of Ethics, 2009.

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

Sub-Para (3) & (4) of Para (m) under Clause (6) of Part I of the First Schedule to the Act appearing at page 140 of the Code of Ethics, 2009 prescribe that the Chartered Accountants and/or Chartered Accountants' firms should ensure that none of the information contained in the website be circulated on their own or through e-mail or by any other mode or technique except on a specific "pull" request. The Chartered Accountants and/or Chartered Accountants' Firms would ensure that their Websites are run on a "pull" model and not a "push" model of the technology to ensure that any person who wishes to locate the Chartered Accountants or Chartered Accountants' firms would only have access to the information and the information should be provided only on the basis of specific "pull" request.

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

Yes, revised Sub-Para (8) of Para (m) under Clause (6) of Part I of the first schedule to the Act appearing at page 142 of the Code of Ethics, 2009 provides that display of passport size photograph is permitted.

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

No, as per Clause (7) of Part I of the First Schedule to the Act, a Chartered Accountant shall be deemed to be guilty of professional misconduct, if he advertises his professional attainments or services, or uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants or of any other institution that has been recognized by the Central Government or may be recognized by the Council.

However, the member in practice may advertise through a write-up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council. For advertisement guidelines, please refer page 309-312 of the Code of Ethics, 2009.

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

No, Council direction under Clause (7) of Part I of the First Schedule to the Act which is appearing at page 154 of the Code of Ethics, 2009 prescribes that it is improper for a Chartered Accountant to state on his professional documents that he is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant, whereas it is permitted to mention his degrees.

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

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

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

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

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

No, however, the members in practice may advertise the services setting out the services provided by him or his firm, and particulars of his firm, through a 'Write-Up', subject to such guidelines as may be issued by the Council. For advertisement guidelines, please refer pages 309-312 of the Code of Ethics, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33. Whether posting of a letter under "Certificate of Posting" is sufficient to establish communication with retiring auditor?

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

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

Yes, the requirement for communicating with the previous auditor would apply to all types of audits viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit. The Council has laid down detailed guidelines in this regard and the same are appearing at pages 163-168 of Code of Ethics, 2009 edition.

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

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

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

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

No, as per Clause (9) of Part I of the First Schedule to the Act, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with. In this regard, the Council has laid down detailed guidelines that are appearing at pages 188-196 of Code of Ethics, 2009 Edition.

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

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

“192. Restriction on fees

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

Provided that:

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

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

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

However, there are following exceptions to it:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No, under clause 3 of part-I of the Second Schedule of the Act, a member in practice cannot permit his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transaction in a manner which may lead to the belief that he vouches for the accuracy of the forecast. However, the Council has decided that a Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the sources of information, the basis of forecasts and also the major assumptions made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts. (Please refer page 239 of the Code of Ethics, 2009)

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

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

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

The meaning of the word 'substantial interest' shall be the same as are contained in the resolution passed by the Council in pursuance to Regulation 190A of the CA Regulations.

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

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

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

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

51. Can an auditor write the books of accounts of the auditee?

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

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

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

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

Explanation:

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

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

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

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

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

In this regard, attention is drawn to the following directions as appearing at pages 150 to 154 of Code of Ethics:

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

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

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

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

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

57. Can a Chartered Accountant receive his professional fees in advance partly or in full?

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

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

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

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

No. Please refer page 316 of Code of Ethics, 2009 (Chapter-6 of the Council General Guidelines, 2008 issued under clause (i) of Part II of the Second Schedule).

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

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

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

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

Yes, there is no bar for a member to be a promoter/signatory to the Memorandum and Articles of Association of any company. There is also no bar for such a promoter/signatory to be a Director *Simpliciter* of that company irrespective of whether the objects of the company include areas, which fall within the scope of the profession of

chartered accountants. Therefore members are not required to obtain specific permission of the Council in such cases. There is also no bar on holding any number/percentage of shares in the company.

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

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

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

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

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

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

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

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

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

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

67. Can a member act as an Insurance Agent and arrange business for Insurance Company?

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

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

Yes, in a restricted manner within the provisions of the Advertisement Guidelines issued by the Council on 14th May, 2008. For Advertisement Guidelines, please refer pages 309-312 of the Code of Ethics, 2009.

69. Can a member holding Certificate of Practice is entitled to own Agricultural land and continue agricultural activity?

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

70. What are the "Know Your Client" (KYC) guidelines for members?

Chartered Accountant should obtain the following additional information/data along with the other necessary documentation as per existing client acceptance policy of ICAI.

1. ENTITY INFORMATION

A. General Information

Name of the Entity

Type of Entity

Business Description

B. Corporate Structure

Name of ultimate parent company

Name of Parent company

Name of Affiliates

C. Regulatory Information

Company PAN No

Company Identification No

Directors' Identification No

Directors' Names & Addresses

In how many companies, the above named are Directors along with the Name and Addresses of those companies.

D. Engagement Information

Type of Engagement

2. OTHER INFORMATIONS

Entities financial Information

Name of the ultimate parent Auditor

Any known violation of any Law/Regulations

Past Performance

Significant Transactions of the company

However, these Guidelines are recommendatory in nature but every Chartered Accountant carrying out the attest function is expected to follow these Guidelines in the national interest.

71. Requirement of earnest or deposit money while responding to tenders or enquiries issued by various users of professional services or organization from time to time.

Interference with the practices prevailing for requirement of EMD/Deposit is not required. However, on having received complaint/ instance of exorbitant EMD/ Deposit, the Ethical Standards Board may look into the matter on case to case basis. Further, a cost sheet be maintained by members of the Institute responding to tenders, incorporating details of the costs being incurred therein having regard to number of persons involved, hours to be spent, etc, so that the same may be called for by the Institute for perusal .

72. Whether CA logo may be used in the stamp?

The use of CA logo in the stamp is permissible, subject to CA logo guidelines issued by the Institute

73. Whether a Chartered Accountant in practice accept a professional assignment of investigation given by Insurance Company?

It is permissible for Chartered Accountant in practice to accept such assignment as the work of investigation is akin to audit.

74. Whether Management Consultancy Companies floated by Practicing Chartered Accountants can receive remuneration from an employer based on percentage of the annual CTC of such candidate while providing recruitment or placement of such candidate(s)?

Practicing Chartered Accountants or Management Consultancy Companies floated by practicing Chartered Accountants can receive remuneration from an employer on percentage basis for providing the services of recruitment or placement of candidate(s), being the management consultancy services, a non exclusive area.

75. Printing of rotary visiting card and the use of designation (District Governor) therein.

The member who is in practice cannot use the designation of 'District Governor' in his rotary visiting card along with the term 'Chartered Accountant'.

76. Whether a member holding Certificate of Practice can own Agricultural Land and continue Agricultural activity?

Owning Agricultural Land and carrying out Agricultural activities by a member holding Certificate of Practice is covered under activities "Permission Generally Granted" under (9) of the Chartered Accountants Regulations, 1988, and is, therefore permitted.

COMPOSITION 2012-13

MISSION

To work towards evolving a dynamic and contemporary Code of Ethics and ethical behaviour for members while retaining the long cherished ideals of 'excellence, independence, integrity' as also to protect the dignity and interests of the members.

MEMBERS

CA. K. Raghu, Chairman

CA. Jaydeep N. Shah, President

CA. Subodh K. Agrawal, Vice-President

CA. V. Murali, Vice-Chairman

CA. Manoj Fadnis

CA. Dhinal A. Shah

CA. Madhukar N. Hiregange

CA. P. Rajendra Kumar

Shri Prithvi Haldea

Shri Sidharth Kumar Birla

Shri Manoj Kumar

CO-OPTED MEMBERS

CA. Ajit Anantrao Gokarn

CA. Ashok K. Khurana

CA. Munish Saraogi

SECRETARIAT TO THE BOARD

Shri N.P. Singh, Secretary

Shri Ashish Swaroop Bhatnagar, Executive officer

Shri Ravindra Singh Pundhir, Executive officer

CA. Akshay Chandan, Associate

ACTION PLAN 2012 – 2013

- ☞ To consider the issues suggested by Council to be dealt with by ESB in formulating strategy for finalizing the mission statement of the Council of the Institute.
- ☞ To bring awareness of the provisions of Code of Ethics among the members and devise ways to acquaint the members belonging to all areas of the Country, including the remote areas, of the provisions of Code of Ethics. Further, the following are considered for the purpose of propagating ethical awareness at various levels -
 - ⊗ Popularising ethical standards, relevant for members in industry and members in practice, separately.
(This includes publication of compendium of publications of ESB for free distribution among the members at various seminars/programmes on ethical issues attended by them, publish advertisements of Ethical Standards Board to be published in the CA Journal)
 - ⊗ Making ESB website more useful and popular
 - ⊗ Conducting out reach programmes on ethical issues
 - ⊗ Sending e-mail flashes (single subject at a time) on weekly basis to members throughout the country
 - ⊗ Holding national conference of Ethical Standards Board in Ernakulam, Mysore, Vellore, etc.
 - ⊗ To bring out a brochure on issues of Ethics in Question – Answer form for awareness of the members.
 - ⊗ To start a new feature 'Ethics Plus' in the Chartered Accountant journal comprising of ethical issues for the benefit of members.
- ☞ To consider any changes/modifications required in the publication 'Guidance Note on Revision of the Audit Report.'
- ☞ To consider any changes/modifications required in the procedure for 'Unjustified Removal of Auditors' in the light of its working since inception.
- ☞ To consider the directions of Council in the following issues presently pending before the Council:-
 - ⊗ Changes/modifications in the ICAI Code of Ethics, 2009 (Part –A) in view of the revised edition (2010) of IFAC Code of Ethics for Professional Accountants – Recommendation of the Ethical Standards Board.
 - ⊗ Code of Conduct for elected and nominated Representatives of the Council, Regional Councils & Branches of the Regional Council of ICAI for appropriate functioning of the Institute – Recommendation of Ethical Standards Board.
 - ⊗ Revision of the publication titled 'Guidance Note on Independence of Auditors' – Recommendation of Ethical Standards Board.
 - ⊗ Whether the Advertisement and Website Guidelines of ICAI require any changes/modifications – Recommendation of Ethical Standards Board.
 - ⊗ Changes / Modifications in the Part – B of the Code of Ethics in view of the developments taken place since last revision –Recommendations of the Ethical Standards Board.
- ☞ To consider any issues/matters which may be referred by the Council/Executive Committee and other Committees and members from time to time.

*For any comment/query or any suggestion,
please contact us at*

Mr. N. P. SINGH

Secretary

ETHICAL STANDARDS BOARD

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