Published in March, 2010 issue of the CA Journal

Q. Whether communication with previous auditor is necessary in case of appointment as statutory auditor by nationalized and other banks?

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

Q. 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.?

A. 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 166-168 of Code of Ethics, 2009 .

Q. 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?

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

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

Q. Whether a Chartered Accountant can accept an appointment as auditor of a company without first ascertaining from it whether the requirement of Section225 of the Companies Act, 1956 in respect of such appointment have been duly complied with?

A. No, as per Clause (9) of Part I of the First Schedule to the CA 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.

Q. Whether a statutory auditor can be appointed in the adjourned meeting in place of existing statutory auditor where no special notice for removal or

replacement of the retiring auditor is received at the time of the original meeting?

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

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

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

"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:

- 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;
- 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
- 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."

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

A. No, in terms of Clause (11) of Part I of First Schedule to the CA Act , in general, a Chartered Accountant in practice is not permitted to engage in any business or occupation other than the profession of Chartered Accountancy.
However, there are following exceptions to it:-

1. A Chartered Accountant can be a director of a company (not being a managing

director or a whole time director), unless he or any of his partners is interested in such company as an auditor.

2. A Chartered Accountant in practice may engage in any business or occupation with the permission granted in accordance with a resolution of the Council.
Appendix (9) of CA Regulations contains the above Resolution under two heads (A) Permission granted generally (B) Permission to be granted specifically. (please refer pages 345-349 of the Code of Ethics, 2009).

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

A. Yes, a Chartered Accountant in practice is allowed to accept teaching assignment in university, affiliated colleges, educational institution, coaching organization, private tutorship under the specific permission of the Council , provided the direct teaching hours devoted to such activities taken together do not exceed 25 hours a week .

Published in February, 2010 issue of the CA Journal

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

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

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

A. 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 correct manner within terms of the

Council Guidelines.

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

A. 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.

Q. 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?

A. Yes, under Clause (7) of Part I of the First Schedule to the CA 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.

Q. Whether public notice published in the newspaper by a Chartered Accountant individually or jointly with an Advocate in respect of acquirement of land by their client is permitted?

A. Yes, in terms of the Guidelines under Clause (7) of Part I of the First Schedule to the CA Act, as appearing at page 156 of the Code of Ethics, 2009, the public notice published in the newspaper in respect of acquirement of land by their client is permissible.

Q. 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?

A. 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 CA Act.

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

A. 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 also published at pages 686 of October 2008 issue of the CA Journal. Under this notification, a member in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as an auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the Statutory audit under the Companies Act, 1956 or various other statues has not been paid.

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

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

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

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

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

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

Published in January, 2010 issue of the CA Journal

Q. Whether a chartered accountant in practice can use expression like 'Income Tax Consultant', 'Cost Accountant', 'Company Secretary', 'Cost

Consultant' or a 'Management Consultant'?

A. No, direction given by the Council under Clause (7) of Part I of the First Schedule to the CA Act 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.

Q. Can a chartered accountant in practice also practice as an advocate?

A. Yes, direction given by the Council under Clause (7) of Part I of the First Schedule to the CA 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 , they should not use
designation 'chartered accountant' in respect of the matters involving the practice as an advocate. In respect of other matters they should use
the designation 'chartered accountant' but they should not use the designation 'chartered accountant' and 'advocate' simultaneously.

Q. Whether a chartered accountant in practice can use the designation 'Corporate Lawyer'?

A. No, a chartered accountant in practice is not permitted to use the designation 'Corporate Lawyer'.

Q. Can a chartered accountant in practice/firm give advertisement in press?

A. Yes, the members 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 Advertisement Guidelines issued by the Council(published in December, 2009 issue of the journal).
Direction given by the Council under Clause (7) of Part I of the First Schedule to the CA Act provides that a chartered accountant in practice/firm
cannot give advertisement in press. However, a special exemption has been made as regards publication of the name and address of a member or
that of his firm, with the description chartered accountant(s), in an advertisement appearing in the press in the circumstances as listed below ,
provided that the advertisement is not displayed more prominently than is usual for such advertisements or the name of the member or that of
his firm with the designation chartered accountant(s) appears in type not bolder than the substance of the advertisement:
Advertisement for recruiting staff in the members own office.
Advertisement inserted on behalf of clients requiring staff or wishing to acquire or dispose of business or property.
Advertisement for the sale of a business or property by a member acting in a professional capacity as trustee, liquidator or receiver.

When advertising for staff, it is desirable that members should avoid the expression such as “a well-known firm”, since this would savour of advertisement. Similar considerations apply to advertisements for articled assistants. The advertisements should not contain any promotional element nor should there be any suggestion that the services offered by the chartered accountants or his firm are superior to those offered by other accountants.

Q. Whether a member can appear on television/radio or give lectures at forums?

A. Yes, direction given by the Council under Clause (7) of Part I of the First Schedule to the CA 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.

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

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

In order that the inclusion of the name of a member of the Institute in the prospectus or public announcements or other public communications issued by the companies in which the member is a director does not contravene the above noted provisions, it is necessary that the members should take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also that such prospectus or public announcements or public communications do not directly or indirectly amount to solicitation of clients for professional work by the member. While it may be difficult to lay down a rigid rule in this respect, the members must use their good judgement, depending upon the facts and circumstances of each case to ensure that the above noted provisions are complied with both in

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

(Published in December, 2009 issue of the CA Journal)

Q. Can a Chartered Accountant advertise his professional attainments or services?

A. No, as per Clause (7) of Part –I of the First Schedule of the CA Act read with Section 22, a member shall be deemed to be guilty of professional misconduct, if he advertises his professional attainments or services. Now the Act has been amended and a proviso has been inserted in the Clause (7) . The proviso says that a member in practice may advertise through a write- up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council. Thus due to addition of this proviso now the Chartered Accountant in practice is allowed to advertise. But it has to be as per the Guidelines of the Council . Here the attention is drawn to the Clause (6) of the Part-I of the First Schedule which says that if Chartered Accountant solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means it would be treated as professional misconduct . So if proviso to Clause (7) and wordings of Clause (6) are compared , it appears that an impossible situation is created since Clause (6) prohibits advertisement and Clause (7) allows advertisement. However, there is no contradiction as in Clause (6) only the advertisement for soliciting of clients or professional work is prohibited . Thus other advertisements which do not solicit clients or professional work are not covered under this Clause. Whereas, Clause (7) prohibits Chartered Accountant from advertising his professional attainments or services, but the proviso permits to 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. Thus advertisement, in a limited way through a write –up, as per the Council Guidelines and not soliciting of clients or professional work is permitted . The Advertisement Guidelines of the Council (refer pages 309- 312 of the Code of Ethics, 2009) are as under:-

GUIDELINES FOR ADVERTISEMENT FOR THE MEMBERS IN PRACTICE

**ICAI Guidelines No.1-CA(7)/Council Guidelines/01/2008,
dated 14th May,2008**

(Issued Pursuant to Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.)

The Members may advertise through a write up setting out their particulars or of their firms and services provided by them subject to the following Guidelines and must be presented in such a manner as to maintain the profession's good reputation, dignity and its ability to serve the public interest.

1. The Member(s)/Firm(s) should ensure that the contents of the Write up are true to the best of their knowledge and belief and are in conformity with these Guidelines and be aware that the Institute of Chartered Accountants of India does not own any responsibility whatsoever for such contents or claims by the Writer Member(s)/ Firm(s).

2. Definitions

For the purpose of these Guidelines:

(i) The "Act" means The Chartered Accountants Act, 1949.

(ii) "Institute" means the Institute of Chartered Accountants of India.

(iii) "write up" means the 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.

(The terms not defined herein have the same meaning as assigned to them in the Chartered Accountants Act, 1949 and the Rules, Regulations and Guidelines made there under.)

3. The write-up may include only the following information:

(A) For Members

(i) Name ……………… Chartered Accountant

(ii) Membership No. with Institute

(iii) Age

(iv) Date of becoming ACA

(v) Date of becoming FCA

(vi) Date from which COP held

(vii) Recognized qualifications

(viii) Languages known

(ix) Telephone/Mobile/Fax No.

(x) Professional Address

(xi) Web

(xii) E-mail

(xiii) C A Logo

(xiv) Passport size photograph

(xv) Details of Employees (Nos. -)

(a) Chartered Accountants -

(b) Other Professionals –

(c) Articles/Audit Assistants

(d) Other Employees
(xvi) Names of the employees and their particulars on the lines allowed for a member as stated above.
(xvii) Services provided
(a) ……………………………..
(b) ……………………………..
(c) ……………………………..

(B) For Firms
(i) Name of the Firm …………………… Chartered Accountants
(ii) Firm Registration No. with Institute
(iii) Year of establishment.
(iv) Professional Address(s)
(v) Working Hours
(vi) Tel. No(s)/Mobile No./Fax No(s)
(vii) Web address
(viii) E-mail
(ix) No. of partners
(x) Name of the proprietor/partners and their particulars on the lines allowed for a member as stated above including passport size photograph.
(xi) C A Logo
(xii) Details of Employees (Nos. -)
(a) Chartered Accountants -
(b) Other professionals –
(c) Articles/Audit Assistants
(d) Other employees
(xiii) Names of the employees of the firm and their particulars on the lines allowed for a member as stated above.
(xiv) Services provided:
(a) ……………………………….
(b) ……………………………..
(c) ……………………………..
The write-up may have the Signature, Name of the Member/ Name of the Partner signing on behalf of the firm, Place and Date.

4. Other Conditions
(i) The write-up should not be false or misleading and bring the profession into disrepute.
(ii) The write-up should not claim superiority over any other Member(s)/Firm(s).
(iii) The write-up should not be indecent, sensational or otherwise of such nature which may likely to bring the profession into disrepute.
(iv) The write-up should not contain testimonials or endorsements concerning Member(s).
(v) The write-up should not contain any other representation(s) that may like to cause a person to misunderstand and/or to be deceived.
(vi) The write-up should not violate the provisions of the ‘Act’, Rules made there

under and ‘The Chartered Accountants Regulations, 1988’.
(vii) The write-up should not include the names of the clients (both past and present)
(viii) The write-up should not be of font size exceeding 14.
(ix) The write-up should not contain any information other than stated in Para 3 hereinabove.
(x) The write-up should not contain any information about achievements/award or any other position held.
(xi) The particulars of information required at para (ii) of 3(A) and para (ii) of 3(B) above is mandatory.

(Published in November, 2009 issue of the CA Journal)

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

A. No, a Chartered Accountant in practice should not accept the original professional work emanating from a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

Q. Can a member in practice solicit clients or professional work by advertisement?
A. No. The CA Act prohibits a **member** in practice 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:-

- 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.
- 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 the newspaper or magazine and number of insertions.
- 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.

Q.Whether sponsorship or prizes can be instituted in the name of Chartered Accountants firm ?
A. Yes, as per the CA Act it is not objectionable to institute prizes in the name of the individual Chartered Accountant and also in the firm’s name provided the designation “Chartered Accountant’ , is not indicated in the prize and the clause relating to advertisements and publicity are complied with.

Q. Can a Chartered Accountant in practice/firm of Chartered Accountants post the particulars of himself/itself on a website?
A. 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 Code of Ethics, 2009.

Q. Whether a Chartered Accountant in practice can give public interviews and also whether he can furnish details about himself or his firm in such interviews?
A. Chartered accountant in practice can give public interviews. While doing so, due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments, which may hit clauses (6) and (7) of the First Schedule of the CA Act.

Q. 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?
A. The Code of Ethics provides 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.

Q. Can a member put up his photograph on the website?
A. Yes, as per the website guidelines , display of Passport size photograph by a member on the website is permitted.

(Published in October, 2009 issue of the CA Journal)

Q. Can a chartered accountant in practice agree to select and recruit personnel , conduct training programmes and work studies for and on behalf of client?
A. Yes, the ' Management Consultancy and other Services' as specified by the Council includes both, personnel recruitment and conduct of training programmes and work studies. As such, the same are permitted for a chartered accountant in practice.

Q. Whether a member can act as insurance agent and arrange business for the Insurance Companies?
A. No, a member in practice is permitted to render Insurance Financial Advisory Services only. It is not permissible to a member to do any kind of marketing and business procurement for any insurance company. Their services are limited to professional services in the form of advisory and consultancy services.

Q. Whether Code of Ethics is applicable outside India?

A. The Code of Ethics of the Institute is applicable to all the members , even outside India.

Q. Can a chartered accountant in practice allow any person to practice in his name as a chartered accountant ?

A. No, a chartered accountant in practice is prohibited to allow any person to practice in his name as a chartered accountant unless such person is also a chartered accountant in practice and is in partnership with or employed by him.

Q. Can a chartered accountant in practice secure any professional business through the services of a person who is not his employee or partner?

A. No, the CA Act , 1949 does not permit a practicing chartered accountant from securing, either through the services of a person who is not an employee of such chartered accountant or who is not his partner, any professional business.

Q. Whether a 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?

A. It has been clarified by the Council that if announcements are made for empanelment by Government, Corporations, Courts, Cooperative 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.

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

A. Yes, a member in practice is permitted to have his name published in the Telephone Directory subject to certain conditions :-

- The entry should appear in the section/category of “Chartered Accountants“.
- The member/firm should belong to the town/city in respect of which the directory is being published.
- 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.
- The order of the entries should be alphabetical and logical.
- 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.
- The payment, if any, for the entry should not be unreasonable.
- 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.
- 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.

Q. 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?

A. No, as per CA Act, 1949, a member is not permitted to indicate in a book or an article, authored/contributed/published by him, his association with any firm of Chartered Accountants.

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

A. Yes, as per CA Act , 1949 a member is permitted to apply or request for, or to invite, or to secure professional work from another Chartered Accountant in practice.

(Published in September, 2009 issue of the CA Journal)

- Based on the ethical point of view the CA Director of a company should not participate in board meeting and therefore withdraw himself when the item relating to his client(s) is considered by the Board.
- Members from Industry as well as from Practice can pursue the AMFI (Association of Mutual Funds in India) Course. However, as to the question whether a member can be registered with it so as to take the role of Financial Intermediary, it has been decided that members in Industry /otherwise not in practice can obtain the membership by registering them with a mutual fund /Association whereas members in practice can not do so whether holding full time COP or Part time COP.
- Engagement by a member in practice in the business of buying and selling shares amounts to be 'any business' within the meaning of Clause(11) of Part-I of the First Schedule and hence the prior permission of the Council is required.
- It is prohibitive to undertake the assignments of Internal Audit of a client and entry of the transaction for Accounting, simultaneously being violative of the provisions of the 'Guidance Note on Independence of Auditors'.
- Concurrent audit and the assignment of Quarterly review of the same entity cannot be taken 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'.
- Publishing a book by a firm containing its history for the purpose of distributing to clients , associates, friends and well wishers and printing of the words ' Celebrating 75 years in the profession' on special letterheads and envelopes will lead to solicitation of professional work, hence not permissible as per the provisions of Clauses(6) and (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
- Member is not permitted to use his letterhead containing the name and address of his firm for presenting before the public at large , as it contains a promotional element and leads to solicitation of professional work.

Ethical issues in Question- Answer form

Q. What is 'professional or other misconduct' ?

A. ‘Professional or other misconduct’ refers to an action or omission listed out in the two schedules of the CA Act, 1949 . However, this does not purport to be a comprehensive definition as the scope of this term is expanding in view of the power conferred under the Act on the Director (Discipline) to enquire into the conduct of members under any other circumstances.

Q. What is the distinction between the two Schedules?
A. The two Schedules are distinguished on the basis of gravity of misconduct described therein. The misconduct listed in the Second Schedule is understood to be grave and serious prescribing higher punishment.

Q. Can a Member in practice render ‘ Management Consultancy and other Services’?
A. Yes, the areas permitted under the ‘ Management Consultancy and other Services’ have been specified by the Council (appearing at pages 103-104 of the Code of Ethics, 2009) pursuant to Section 2 (2)(iv) of the CA Act, 1949.

Q. Whether a member in practice permitted to undertake the management of NRI funds?
A. No, a member in practice is not permitted to undertake such services as it is not covered under ‘ Management Consultancy and other Services’ specified by the Council.

Q. Can a chartered accountant in practice provide ‘Portfolio Management Services’(PMS)?
A. No, as the ‘ Management Consultancy and other Services’ expressly bars the activities of broking, underwriting and portfolio management.

Q. Can a chartered accountant undertake practice after getting the CA final pass certificate?
A. No, a chartered Accountant requires the Certificate of Practice (CoP) issued by the Institute after getting the final pass certificate to practice as a chartered accountant.

Q. Can a chartered accountant in practice work as a ‘ collection agent’?
A. No, a chartered accountant in practice can not work as a ‘ collection agent’ as, the ‘ Management Consultancy and other Services’ specified by the Council , do not permit such engagement.

(Published in August , 2009 issue of the CA Journal) -By Ethical Standards Board(ESB)
Ethics is the foundation of a civilized society, and is a preliminary requirement of what a civilized person expects from another civilized person. The recent spate of events in the corporate world has highlighted the importance of ethics in business and profession. A business or profession that lacks the compliance of ethics is bound to fail sooner or later.

Every institution, be it political, business or professional, must therefore have a system for compliance of ethical standards to the extent as may be acceptable to the public at large. Accordingly, it is imperative for the members of any profession to comply with the ethics in its letter and spirit..

With this vision, the Ethical Standards Board of the Institute was formed , having primary responsibility to formulate principles of Ethics for its members that are stringent enough to guarantee the confidence building in the public. The mission of the Board is "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".

Besides formulating ethical principles for members, the Board also examines and renders advice on ethical issues referred to it. It reviews the 'Code of Ethics' for members from time to time, and publishes the revised editions . The other publications of the Board, namely, 'FAQ on Ethical Issues', 'Guidance Note on Independence of Auditors' and 'Guidance Note on Revision of the Audit Report' are also reviewed and revised from time to time. The Board promotes public awareness and confidence in the integrity, objectivity, competence and professionalism of members . It also examines and deals with the complaints of members against their unjustified removal as auditors of an entity, as per procedure evolved, and takes necessary steps to protect the interest of its members

- The Code of Ethics -2009 was released on 4th February, 2009 . The revised Code of Ethics for the first time incorporated the International Federation of Accountants (IFAC) Code of Ethics for professional accountants with variances, wherever required, to make it compatible with Indian laws.
- Advertisement Guidelines issued on 14th May,2008 for the members in practice to allow them to advertise in a restricted way through a write-up.
- Council General Guidelines, 2008 issued on 8th August, 2008 on various issues e.g. Maintenance of Books of Account, Tax Audit Assignments under I.T.Act, 1961, Specified Number of Audit Assignments etc.
- Members in practice are allowed to own agricultural land and carry out agricultural activity under general permission under Appendix (9) of the Chartered Accountants Regulations, 1988 .
- Members of the Council, the Chairman/Vice-Chairman of the Committees of the Council, the Members of the of the Regional Councils and Members of the Managing Committees of Branches may print either their residential address or office address including telephone/fax no. without mentioning the firm's name on the back of the visiting cards.
- Management Consultancy Companies floated by Practicing Chartered Accountants can receive remuneration from an employer based on percentage of the annual CTC of the Candidate while providing services relating to recruitment or placement of such candidate as only clauses (6) & (7) of Part I of First Schedule to The Chartered Accountants Act, 1949, are applicable to such companies. Individual practicing Chartered Accountants or their firms are not permitted for the same as per the provisions of Clause (10) of part I of the First Schedule to the CA Act,1949.
- Member who is in practice can not use the designation of 'District Governor' in his rotary visiting card along with the word 'Chartered Accountant (In view Section 7 of the Act and Clause (7) of Part I of the First Schedule to the CA Act,1949).
- It is not permissible for a Member of ICAI who is practicing as an Advocate, to use CA Logo on his professional stationary as the CA Logo is recognized as a symbol of CA Profession in India and it is to promote the brand of Profession of Chartered Accountants.
- Based on an ethical point of view the CA Director of a Company should not participate in board meeting and withdraw himself when the item relating to his client(s) is considered by the Board

- Members from industry as well as from Practice can pursue the AMFI (Association of Mutual Funds in India) Course . However, as to the question whether a member can be registered with it so as to take the role of Financial Intermediary, the Board decided that , members in Industry/ otherwise not in practice can obtain the membership by registering them with a mutual fund / Association whereas members in practice can not do so whether holding full time COP or Part time COP.
- Engagement by a member in practice , in the business of buying and selling shares amounts to be ‘any business’ within the meaning of Clause (11) of Part I of the First Schedule and hence the prior permission of the Council is required.
- It is prohibitive to undertake the assignments of Internal Audit of a client and entry of the transaction for Accounting, simultaneously being violative of the provisions of the ‘Guidance Note on Independence of Auditors’
- Concurrent audit and the assignment of Quarterly review of the same entity cannot be taken 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’.
- Publishing a book by a firm containing its history for the purpose of distributing to clients, associates, friends and well wishers and printing of the words ‘Celebrating 75 years in the Profession’ on special letterheads and envelopes of the firm will lead to solicitation of professional work, hence not permissible as per the provisions of Clause (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
- Member is not permitted to use his letterhead containing the name and address of his firm for presenting before the public at large, as it contains a promotional element and leads to solicitation of professional work.