Spiraa™

A COMPLETE GUIDE FOR ADVANCE AUDITING

(CA FINAL)

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ADVANCE AUDITING

(CA FINAL)

- With solved Question Papers for Last 34 Exams
- With Short Notes for Quick Revision

By

C.A. SUMIT AGGARWAL

Foreword by

C.A. AMARJIT CHOPRA

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About the Author

Sumit Kumar Aggarwal is a commerce graduate from Bikaner University, having done his graduation from Seth G.L. Bihani S.D. (P.G.) College. He qualified Chartered Accountancy Course in 2005, simultaneously; he also completed his Master in Commerce in 2005. He has cleared various exams conducted by NSE. He also qualified certification course in International Financial Reporting Standard (IFRS) from ICAI in January 2010. He is currently teaching auditing to CA Students & functioning as a Practicing Chartered Accountant. He is also a member of Institute of Certified Management Accountant, USA.

Foreword

Financial Statements are important as these reveal the state of affairs of a particular entity on a particular date as well as the performance of the entity over the accounting period. These need to be transparent and give true and fair view of the state of affairs and of profit/loss for the period. Though the responsibility for preparation of financial statements lies with the managements, the responsibility, to ensure that sound accounting policies and the relevant accounting standards have been complied with, remains with the auditor.

With a view to enable auditor to discharge his duties effectively and efficiently, Standards on Auditing have been laid down. The same are in line with the Standards laid down by International Auditing and Assurance Standards Board (IAASB). The Institute of Chartered Accountants of India have pronounced Standards on Auditing. These Standards lay down the responsibilities of the auditors and the procedures to be followed by them. Any deviation from these Standards has to be explained by the auditor giving the reasons, impact etc. In certain cases he may be required to modify his report.

I am indeed glad to know that CA Sumit Kumar Aggarwal has authored "A Complete Guide For Advanced Auditing" for CA Final students. He has covered the various Standards and other topics meticulously. He has taken pains to include topics on Professional Ethics, Bank Audit, Cost Audit etc. He has also deftly handled the questions with answers from last 34 exams. The effort is laudable and I am sure that the students would be immensely benefitted by the book.

With best wishes

CA. Amarjit Chopra,

Fellow Member ICAI

Preface

It gives me immense pleasure in presenting before the student of C.A. (Final), the first edition of the book on "Advanced Auditing and Professional Ethics".

Auditing is one of the most dynamic subjects in the C.A. curriculum. The Ministry of Company Affairs has replaced the Old "Companies Act, 1956" with new "Companies Act, 2013". The Institute of Chartered Accountants of India has revised most of the Standards on Auditing. The students of Chartered Accountancy are expected to have an expert knowledge of these SAs and other pronouncements.

The present book has been written keeping in view the requirements of C.A. (Final) examination of the Institute of Chartered Accountants of India. The features of this book are as follow:

Salient Features:

- Presentation of whole Syllabus in an easy language to understand the complex subject matter.
- Tabular and graphic presentation to facilitate easy understanding and learning.
- Inclusion of flowcharts on various topics, including Standards on Auditing.
- Presentation of maximum topics in point-wise manner.
- Upto date amendments including Companies Act, 2013, Clause 49 of Listing Agreement, Revised form 3CD – Tax Audit Report etc.
- Illustration of all "Audit Report" as per SA 700, SA 705 & SA 706 at one place (See Chapter 24) for quick understanding of "Audit Report" in different situations with minimum time frame & fast understandability.
- All Example of Engagement Letter as per SA 210, SA 2400, SRE 2410, SRS 4400, SRS 4410 at one place (See Chapter - 24) for quick understanding of Engagement Letter in different situations with minimum time frame & fast understandability.
- All Illustration of Audit Report, Review Report & Certificate as per SA 800, SA 805, SRE 810, SRE 2400, SRE 2410, SAE 3400, SRS 4400, SRS 4410 at one place (See: Chapter - 24) for quick understanding of Audit Report, Review Report in different situations & their comparison with minimum time frame & fast understandability.
- Full coverage of Questions appeared in past 34 exams has been arranged in following manners:
  - ◊ Chapter wise/topic wise
  - ◊ Standard of Auditing wise
  - ◊ Accounting Standard wise

- ◊ Clause wise & Schedule wise (Chapter – Professional Ethics)
- ◊ Clause wise (Chapter – Audit under Fiscal Law (Form 3CD)

- Graphs at the beginning of every chapter, showing marks allotment in last twenty examinations.
- List of questions including case study's appeared in past 34 examinations given at the end of each chapter. Suggested answer given after Questions, so that student could first try to recall the Law/points/SA/Section/Act related to that case study and try to solved out the case study before seeing the suggested answer. It will enhance their irretrievability power. It will also help students to have an idea of paper style.
- Short Notes of all Chapters given at the end of the book (See Chapter – 26) for Quick revision.
- Table Showing Importance of Chapter on the Basis of Marks Allotment in Past Examinations.
- 80 + practical Question on New Companies Act, 2013.

I am thankful to my students and colleagues for their valuable suggestions while presenting this first edition.

I, also grateful to "***Spiraa Publishing Inc.***" for their efforts in publishing the book.

Suggestions and criticism from all readers would be highly appreciated and acknowledged.

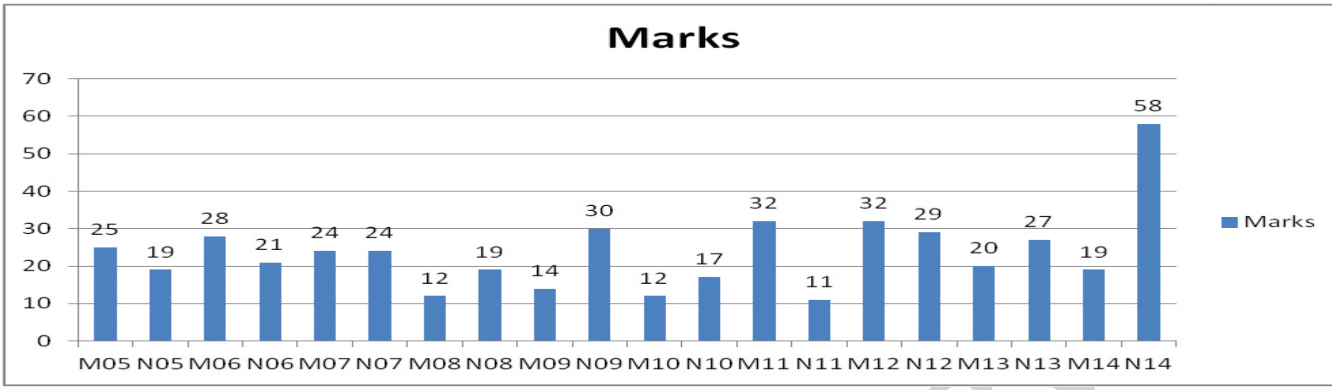
Finally, I hope that students will find this book beneficial from exam point of view. In case of any suggestions, please feel free in writing to me at cacma.sumit@gmail.com

Wishing every success to the readers.

CA Sumit Kumar Aggarwal

Contents at a Glance

1A AUDITING AND ASSURANCE STANDARDS



	General Clarification	
	General Clarification (GC)-AASB/2/2004 on SA 210 (Refer SA 210)	
	General Clarification (GC)-AASB/1/2002 on SA 620 (Refer SA 620)	

SQC 1	QUALITY CONTROL FOR FIRMS THAT PERFORM AUDITS AND REVIEWS OF HISTORICAL FINANCIAL INFORMATION AND OTHER ASSURANCE AND RELATED SERVICES ENGAGEMENTS. (W.E.F. IST APRIL' 2009)

1. **Introduction:** The objective of the SQC is to implement quality control procedures at the firm level that provide reasonable assurance that:
   - The firm performs engagements in accordance with professional standards and regulatory and legal requirements, and
   - Enable the firm to issue reports that are appropriate in the circumstances.

2. **Element of Quality Control:** The firms system of quality control should include policies and procedures w.r.t. following:
   - Leadership responsibilities for quality within the firm
   - Ethical requirements
   - Independence
   - Acceptance & continuance of client relationship & specified engagements
   - Human resources
   - Engagement performance
   - Monitoring

2.1. **Leadership Responsibilities for Quality of an Audit:** The engagement partner should take responsibility for the overall quality on each audit engagement to which that partner is assigned. Engagement team should have appropriate competence and capabilities to perform the audit engagement in accordance to the professional standards and regulatory and legal requirements.

2.2. **Ethical Requirements:** The firm should establish policies & Procedures to ensure compliance with relevant ethical requirements which include:
   - Integrity
   - Objectivity
   - Professional competence & due care
   - Confidentiality
   - Professional behavior

2.3. **Independence:** Firm should establish policies and procedures designed to provide it with reasonable assurance that the firm, its personnel and where applicable, other subject to independence requirements, maintain independence where required. For that purpose:
   - Firm should communicate Independence requirements to personnel.
   - Identify circumstances that create threats to Independence.
   - Take appropriate action to eliminate those threats or reduce them to an acceptable level or if considered appropriate, to withdraw from engagements.
   - At least annually, firm should obtain written confirmation of compliance with independence from relevant firm personnel.
   - For listed entity, audit engagement partner should be rotated after pre-defined period (maximum 7 Years).
   - For all audit or attestation engagements where regulatory or other authorities require the rotation of personnel after a specified period, the firm's policies and procedures should address these requirements.

2.4 **Acceptance and Continuance of Client Relationship and Specified Engagements:**
   - Firm should ensure that it will undertake / continue relationships only where it:
     - ◊ Has considered integrity of client.

◊ Is competent to perform the engagement.
◊ Can comply with legal and ethical requirements

- When issues have been identified, and the firm has decided to accept or continue the engagement, the firm should document how the issues were resolved.
- After taking up work, if firm obtains information that would have caused it to decline an engagement, if information had been available earlier, then consider:
  ◊ Communicating it to appointing authority & regulatory authority; &
  ◊ Possibility of withdrawing from the engagement or from both the engagement & client relationship.

2.5. Human Resources:

- Firm should establish policies & Procedures which provide a reasonable assurance that it has sufficient personnel (capable, competent & committed) to perform its engagement as per professional standard & regulatory requirements & to issue appropriate reports.
- Firm should assign appropriate staff to perform engagements.

2.6. Engagement Performance - Consultation: Consultation includes discussion, at the appropriate level, with individuals within or outside the firm who have relevant specialized expertise. Firm should establish policies and procedures designed to provide it with reasonable assurance that:

- Appropriate consultation takes place on different matters
- The nature and scope of such consultations are documented; and
- The conclusions resulting from such consultations are documented and implemented.

2.7 Monitoring:

- The firm should establish policies and procedures designed to provide it with reasonable assurance that the policies and procedures related to the system of QC is adequate, relevant, operating effectively and complied with in practice. This will includes ongoing evaluation of firms system of QC including a periodic inspection of completed engagements.
- The firm should evaluate the effect of deficiencies noted as a result of monitoring process and should determine whether they are either:
- Instances, that may not indicate insufficiency of firm Q.C
- Systematic, repetitive or other significant deficiencies requiring prompt corrective action.
- Firm should also communicate to relevant engagement partner, deficiencies noted and recommendations for appropriate remedial action.
- The Firm should also ensure proper dealing with complaints & Allegations about non-compliance with legal or Professional standards & firm's system of Q.C.

3. Difference of Opinion: The firm should establish policies and procedures to resolve difference of opinion within engagement Team, with those consulted & engagement partner & engagement QC reviewer. Conclusions reached should also be documented and implemented. The report should not be issued until the matter is resolved.

4. Engagement Q.C. Review:

- For audits of the financial statements of listed entities, and those other audit engagements, if any, for which the firm has determined that an engagement quality control review is required, the engagement partner shall:
  ◊ Determine that an engagement quality control reviewer has been appointed;
  ◊ Discuss the significant matters arising during the audit engagement, with the engagement quality control reviewer;
- The engagement quality control reviewer shall perform an objective evaluation of the significant judgments made by the engagement team, and the conclusions reached in formulating the auditor's report. This evaluation shall involve:
  ◊ Discussion of significant matters with the engagement partner;
  ◊ Review of the financial statements and the proposed auditor's report;
  ◊ Evaluation of the conclusions reached in formulating the auditor's report, and consideration of whether the proposed auditor's report is appropriate.
- For Engagement of Q.C. Review, the firm should establish policies and procedures setting out:
  ◊ NTE of an engagement quality control review.

- ◊ Criteria for the eligibility of engagement quality control reviewer; and
- ◊ Documentation requirements for an engagement quality control review.

5. **Completion of assembly of Final Engagement Files:** The firm should establish policies and procedures for engagement teams to complete the assembly of final engagement files on a timely basis after the engagement reports have been finalized.

6. **Confidentiality, Safe Custody etc. of Engagement Documentation:** The firm should establish policies and procedures designed to ensure the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation. This engagement documentation should also to be retained for sufficient period. (At least for 7 years)

7. **Documentation:** The firm should establish policies and procedures requiring appropriate documentation to provide evidence of the operation of each element of its system of Q.C.

SA 200	OVERALL OBJECTIVES OF THE INDEPENDENT AUDITOR AND THE CONDUCT OF AN AUDIT IN ACCORDANCE WITH STANDARDS ON AUDITING (W.E.F. 1ST APRIL' 2010)

1. **Overall objectives of the Independent Auditor [M93]:** While auditing the financial statements, the overall objectives of the auditor are:
   - To obtain reasonable assurance about whether the financial statements are free from material misstatements thereby enabling the auditor to express an opinion on whether financial statement are prepared as per applicable financial reporting framework; and
   - To report on financial statements and communicate as required by the SAs, in accordance with the auditor's findings.
   - If reasonable assurance cannot be obtained and qualified opinion is insufficient then he should either disclaim the opinion or **withdraw** from engagement, where withdrawal is legally permitted.

2. **Definitions :**

2.1 **Applicable Financial Reporting Framework:** means, framework/law/regulations followed by the management in preparation of financial statements. (Example: Schedule III of the Co. Act, 2013, Accounting Standards etc.)

2.2 **Audit Evidence:** Information used by the auditor in arriving at the conclusions on which the auditor's opinion is based.

2.3 **Professional Judgment:** The applicable of relevant training, knowledge and experience in taking appropriate decisions during audit engagement.

2.4 **Professional Skepticism:** An attitude that includes a questioning mind being alert to conditions which may indicate possible misstatement due to error or fraud, and a critical assessment of audit evidence.

2.5 **Risk of Material Misstatement:** Risk that financial statements are misstated prior to audit. It consists of two components: Inherent risk and control Risk.

2.6 **Misstatement:** A difference between the amounts, classification, presentation, or disclosure of a reported financial statement item and the amount, classification, presentation, or disclosure that is required for the item to be in accordance with the applicable financial reporting framework. Misstatement can arise from error or fraud.

3. **Reasonable Assurance:** Auditor is required to obtain reasonable assurance as to whether the financial statements are free from material misstatements. However, reasonable assurance is not absolute assurance. This is due to inherent limitations of an audit. Thus, auditor obtains sufficient and appropriate audit evidence to reduce audit risk to an acceptable low level.

4. **Inherent limitations of an Audit [M89 M11]:** Auditor cannot obtain absolute assurance. (Cannot reduce audit risk to Zero). This is due to inherent limitations of an audit due to which auditor obtains persuasive

evidence rather than conclusive. It arises from:

4.1 Nature of Financial Reporting:

- Preparation of financial statement involves judgment by mgt. For Example, accounting estimates. Moreover, auditor has to consider whether these estimates appear to be reasonable.
- There may be subjective decisions.
- Evidences w.r.t. such items can only be persuasive.

4.2 Nature of Audit Procedures:

- Mgt. or others may not provide complete information.
- Moreover frauds may involve carefully designed schemes to conceal it. Thus auditor may not detect them.

4.3 Limitations w.r.t. Time and Cost:

- Users expect that the auditor will form an opinion on financial statements within reasonable time and cost.
- Thus auditor resorts to test procedures (not 100% checking).
- Moreover, he directs more efforts to risky areas.

Due to aforesaid inherent limitations, there is unavoidable risk that some material mis-statement may remain undetected.

5. Requirements/ Responsibilities of the Auditor:

5.1 Ethical Requirements: The auditor is subject to following relevant ethical requirements including independence.

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality and
- Professional behavior
- He is also required to comply with code of ethics issued by ICAI.

5.2 Professional Skepticism: The Auditor shall plan and perform an audit with professional skepticism recognising that the circumstances may exist, that causes the financial statements to be materially mis-stated. He should recognize the conditions indicating possible misstatements. It includes being alert to, for example:-

- Contradictory evidence
- Conditions indicating possible frauds
- Conditions questioning reliability

Moreover, it requires critical assessment of audit evidence gathered. By maintaining professional skepticism, overall risk can be reduced.

5.3 Professional Judgment: The Auditor shall exercise professional judgement in planning and performing an audit of financial statements. Professional judgement depends on facts & circumstances known to the auditor. Professional judgement should also be exercised throughout the Audit. Professional judgement is necessary regarding decisions about:-

- Materiality
- Audit risk
- NTE of audit Procedure
- Sufficiency & appropriateness of audit evidence
- Drawing of conclusions based on the audit evidence obtained.

6. Sufficient & appropriate Audit Evidence and Audit Risk: To obtain reasonable assurance, the auditor shall obtain sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and thereby enable the auditor to draw reasonable conclusions on which to base the auditor's opinion. Sufficiency is the measure of quantity of audit evidence whereas appropriateness is the measure of quality of audit evidence.

7. Conduct of an Audit in Accordance with SAs: The auditor shall comply with all SAs relevant to the audit. An SA is relevant to the audit when the SA is in effect and the circumstances addressed by the SA exist. The auditor should have an understanding of the entire text of an SA to apply it properly. He should represent compliance with SAs in auditor's report only if he has complied with requirements of all relevant SAs. If he fails to achieve an objective in relevant SAs, in that case, he should consider the need to modify the audit report, or withdraw from the engagement. It is a significant matter requiring documentation as well.

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	What are the overall objectives of the Auditor under SA 200?	M93	4	1
2	Discuss the inherent limitations of an audit.	M89 M11	4	4
3	“An auditor is responsible for expressing his opinion on financial statements in statutory audit”. Comment.	M95	4	Ans - 1
4	Enumerate (in brief) the basic principles governing an audit.	N03 N05 N06	4	Ans - 2
5	"The auditors need not review accounting policies unless there is a change in the basis of accounting ''.	M00 M08	8	Ans - 3
6	Explain briefly duties and responsibilities of an auditor in case of material misstatement resulting from Management Fraud.	N09	6	Ans - 4

Answer

Ans - 1:

- The primary objective of audit is to enable the auditor to express his opinion on the financial statements prepared within the framework of recognized accounting policies and relevant statutory requirements.
- The opinion that he expresses should be of the “true and fair” view of the financial position and the operational results reflected in the financial statements.
- As per SA 200, auditor can express his opinion on the financial statements only after obtaining reasonable assurance. To obtain reasonable assurance, the auditor shall obtain sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and thereby enable the auditor to draw reasonable conclusions on which to base the auditor’s opinion.

Ans - 2: Basic Principles Governing an Audit:

SA 200 on “Overall objectives of an Independent Auditor and the conduct of an audit in accordance with SAs” issued by the ICAI describes the basic principles which govern the auditor’s professional responsibilities and which should be complied with whenever an audit of financial information of any entity is carried out. The basic principles as stated are as under:

- **Integrity, Objectivity and Independence:** The auditor should be honest, straightforward and sincere in his approach to his professional work. He must be fair and must not allow prejudice or bias to override his objectivity. He should maintain an impartial attitude and both be and appear to be free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity and objectivity.
- **Confidentiality:** The auditor should respect the confidentiality of information acquired in the course of his work and should not disclose any such information to a third party without specific authority or unless there is a legal or professional duty to disclose.
- **Skills and Competence:** The audit should be performed and the report should be prepared with due professional care by persons who have adequate training, experience and competence in auditing.
- **Work Performed by Others:** When the auditor delegates work to assistants or uses work performed by other auditors and experts, he will be entitled to rely on work performed by others provided he exercise adequate skill and care and is not aware of any reasons to believe that he should not have so relied. The auditor should carefully direct supervise and review work delegated to assistants and obtains reasonable assurance that work performed by other auditors or experts is adequate for his purpose since he will continue to be responsible for forming and expressing his opinion on the financial information.
- **Documentation:** The auditor should document matters which are important in providing evidence that the audit was carried in accordance with the basic principles.

- **Planning:** Planning enables the auditor to conduct an effective audit in an efficient and timely manner. Primarily, planning should be based on the knowledge of the client's business. Plans should be further developed and revised as necessary during the course of the audit.
- **Audit Evidence:** The auditor should obtain sufficient appropriate audit evidence through the performance of compliance and substantive procedures to enable him to draw reasonable conclusions there from on which to base his opinion on the financial information.
- **Accounting System and Internal Control:** The auditor should reasonably assure himself that the accounting system is adequate and that all the accounting information which should be recorded has in fact been recorded and internal controls normally contribute to such assurance.
- **Audit Conclusion and Reporting:** The auditor should review and assess the conclusions drawn from the audit evidence obtained and from his knowledge of business of the entity as the basis for the expression of his opinion on the financial information. This review and assessment involves forming an overall conclusion as to whether:
  - ◊ the financial information has been prepared using acceptable accounting policies which have been consistently applied,
  - ◊ the financial information complies with relevant regulations and statutory requirements,
  - ◊ There is an adequate disclosure of all material matter relevance to the proper presentation of the financial information, subject to statutory requirements, where applicable.

Ans - 3:

The auditor while conducting an audit should critically examine the accounting policies adopted by the client and test them for conformity with the accounting standards and recommendations of the Institute. The Companies Act, 2013 as well as many other statutes requires that the financial statements of an enterprise should give a true and fair view of its financial position and working results. This requirement is implicit even in the absence of a specific statutory provision to this effect. However, what constitutes a 'true and fair' view has not been defined either in the Companies Act, 2013 or in any other statute. The pronouncements of the Institute seek to describe the accounting principles and the methods of applying these principles in the preparation and presentation of financial statements so that they give a true and fair view. The 'Preface to the Statements of Accounting Standards' issued by the Institute in 1979 states as under:

"While discharging their attest function, it will be the duty of the members of the Institute to ensure that the Accounting Standards are implemented in the presentation of financial statements covered by their audit reports. In the event of any deviation from the Standards, it will be also their duty to make adequate disclosures in their reports so that the users of such statements may be aware of such deviations."

In cases where no pronouncement of the Institute exists, the auditor should examine the acceptability of the said accounting policy. The view presented in the financial statements of an enterprise of its state of affairs and of the profit or loss can be significantly affected by the accounting policies followed in the preparation and presentation of the financial statements. The accounting policies followed vary from enterprise to enterprise. Disclosure of significant accounting policies followed is necessary if the view presented is to be properly appreciated. It is also quite clear that there is no single list of accounting policies which are applicable to all circumstances. The differing circumstances in which enterprises operate in a situation of diverse and complex economic activity make alternative accounting principles and methods of applying those principles acceptable. The choice of the appropriate accounting principles and the methods of applying those principles in the specific circumstances of each enterprise calls for considerable judgement by the management of the enterprise. The auditor is further required to determine whether the relevant information is properly disclosed in the financial statements by considering the judgements that management has made in preparing the financial statements; accordingly, the auditor assesses the selection and consistent application of accounting policies, the manner in which the information has been classified, and the adequacy of disclosure.

Thus, the auditor should determine himself as to whether or not the said treatment is consistent with the basic principles of accounting. Therefore, it would not be correct to state that the auditor need not review the accounting policies unless there is a change in the basis of accounting.

Ans - 4:

Misstatement in the financial statements can arise from fraud or error. The term fraud refers to an 'Intentional Act' by one more individuals including management and TCWG. The primary responsibility for the prevention and detection of fraud rests with CWG and the management of the entity.

“SA 200A” indicates that an audit conducted in accordance with the “SA” is designed to provide a reasonable assurance, that the FS taken as a whole are free from any material misstatement, whether caused by error or fraud. Owing to the inherent limitations of an audit, there is some unavoidable risk, that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with the “SA” generally accepted in India. An audit does not guarantee that all material misstatement will be detected.

Certain levels of management may be in a position to override the control procedures designed to prevent similar frauds by other employees. The auditor's opinion on the FS is based on the concept of obtaining reasonable assurance. Hence, the auditor does not guarantee that material misstatements will be detected.

SA 210 | AGREEING THE TERMS OF AUDIT ENGAGEMENTS (W.E.F. 1ST APRIL' 2010)

1. **Introduction:** This SA is applicable to engagement relating to (a) audit of financial statements; and (b) other services like management consultancy, tax, accountancy etc. The clients and the auditor should agree on the terms of engagement by way of audit engagement letter, to avoid any misunderstanding. Auditor should send audit engagement letter preferably before commencement of engagement.

2. **Preconditions for an Audit:** Before accepting an audit engagement, auditor is required to ensure existence of preconditions. Accordingly, Pre-conditions to be examined are:
   - Determine whether the financial reporting framework to be applied in the preparation of the financial statements is acceptable; and
   - Obtain the agreement of management that it acknowledges and understands its responsibilities for followings:
     - ◊ The preparation of the F.S. in accordance with the applicable FRF.
     - ◊ Exercising necessary internal control to enable the preparation of F.S. that are free from material misstatement, whether due to fraud or error.
     - ◊ To provide the auditor with (a) Access to all relevant information such as records, documentation and other matters; (b) Additional information that the auditor may request from management for the purpose of the audit; and (c) Unrestricted access to persons within the entity from whom the auditor determines it necessary to obtain audit evidence.

3. **Limitation on Scope prior to Audit Engagement Acceptance:** If management or TCWG impose a limitation on the scope of the auditor’s work, and auditor believes that such limitation will result in the auditor disclaiming an opinion on the FSs, the auditor should not accept such a limited engagement as audit engagement, unless required by law or regulation to do so.

4. **Principal contents of Audit Engagement Letter:**

4.1 **Following are the mandatory items to be included in Audit Engagement Letter:**
- The Objective and scope of the audit
- The responsibilities of the auditor
- The responsibilities of the management
- Identification of the applicable financial reporting framework for the preparation of the financial statements
- Reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

4.2 **Followings items are optional to be included in Audit Engagement Letter, wherever relevant:**

- The fact that because of the inherent limitations of an audit, together with the inherent limitations of internal control, there is an unavoidable risk that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with SAs.
- The expectation that management will provide written representations.
- The agreement of management to make available to the auditor draft financial statements and any accompanying other information till time to allow the auditor to complete the audit in accordance with the proposed timetable.
- The agreement of management to inform the auditor of facts that may affect the financial statements, of which management may become aware during the period from the date of the auditor's report to the date the financial statements are issued.
- The basis on which fees are computed and any billing arrangements.
- A request for management to acknowledge receipt of the audit engagement letter and to agree to the terms of the engagement outlined therein.
- The fact that the audit process may be subjected to a peer review under the Chartered Accountants Act, 1949.
- Arrangements concerning the involvement of other auditors and experts in some aspects of the audit.
- Arrangements concerning the involvement of internal auditors and other staff of the entity.
- Any restriction of the auditor's liability when such possibility exists.
- A reference to any further agreements between the auditor and the entity.
- Any obligations to provide audit working papers to other parties.

5. **Recurring Audits [M13]:** The auditor may decide not to send a new audit engagement letter or other written agreement each period. However, the following factors may make it appropriate to revise the terms of the audit engagement or to remind the entity of existing terms:
   - Any indication that the entity misunderstands the objective and scope of the audit.
   - Any revised or special terms of the audit engagement.
   - A recent change of senior management.
   - A significant change in ownership.
   - A significant change in nature or size of the entity's business.
   - A change in legal or regulatory requirements.
   - A change in the financial reporting framework adopted in the preparation of the financial statements.
   - A change in other reporting requirements.

6. **Acceptance of change in Engagement Terms:**
   - The auditor should not agree to a change in the terms of the audit engagement, where there is no reasonable justification for doing so.
   - Before agreeing, to change, he should also consider, any legal or contractual implications of the change.
   - If the auditor is not agree with changed terms of the audit engagement & client doesn't permit him to continue with original audit engagement, then the auditor should Withdraw from the audit engagement and consider any obligation to report the circumstances to other parties such as those charged with governance, owners or regulators.

7. **Additional Consideration**

7.1 **Financial Reporting Standards (FRS) Supplemented by Law or Regulation:** If FRS established by an authorized or recognized standards setting organization are supplemented by law or regulation, the auditor should determine whether there are any conflicts between the FRS and the additional requirements. If such conflicts exist, the auditor should discuss with management the nature of the additional requirements and shall agree whether:

- The additional requirements can be met through additional disclosures in the financial statements; or
- The description of the applicable financial reporting framework in the financial statements can be amended accordingly.

If neither of the above actions is possible, the auditor should determine whether it will be necessary to modify the auditor's opinion in accordance with SA 705 (Revised).

7.2 Financial Reporting Framework prescribed by Law or Regulation: If the auditor has determined that the financial reporting framework prescribed by law or regulation would be unacceptable but for the fact that it is prescribed by law or regulation. Auditor shall accept the audit engagement only if the following conditions are present:

- Management agrees to provide additional disclosures in the financial statements required to avoid the financial statements being misleading, and
- It is recognized in the terms of the audit engagement that:
  - ◊ The auditor's report on the financial statements will incorporate an Emphasis of Matter paragraph, drawing users' attention to the additional disclosures, in accordance with SA 706(Revised), and
  - ◊ Unless the auditor is required by law or regulation to express the auditor's opinion on the financial statements by using the phrases "present fairly, in all material respects", or "give a true and fair view" in accordance with the applicable financial reporting framework, the auditor's opinion on the financial statements will not include such phrases.

If the conditions outlined above are not present and the auditor is required by law or regulation to undertake the audit engagement, the auditor shall:

- Evaluate the effect of the misleading nature of the financial statements on the auditor's report; and
- Include appropriate reference to this matter in the terms of the audit engagement.

7.3. Auditor's Report Prescribed by Law or Regulation: Some times, the law or regulation applicable to the entity prescribed the layout or wording of the auditor's report in a form or in terms that are significantly differ from the requirement of SAs. In these circumstances, the auditor should evaluate:

- Whether, users might misunderstand the assurance obtained from the audit of the financial statements and, if so,
- Whether, additional explanation in the auditor's report can mitigate possible misunderstanding.

If the auditor concludes that additional explanation in the auditor's report can't mitigate possible misunderstanding, the auditor should not accept the audit engagement, unless required by law or regulation to do so.

An audit conducted in accordance with law or regulation does not comply with SAs. Accordingly, the auditor should not include any reference within the auditor's report to the audit having been conducted in accordance with SAs.

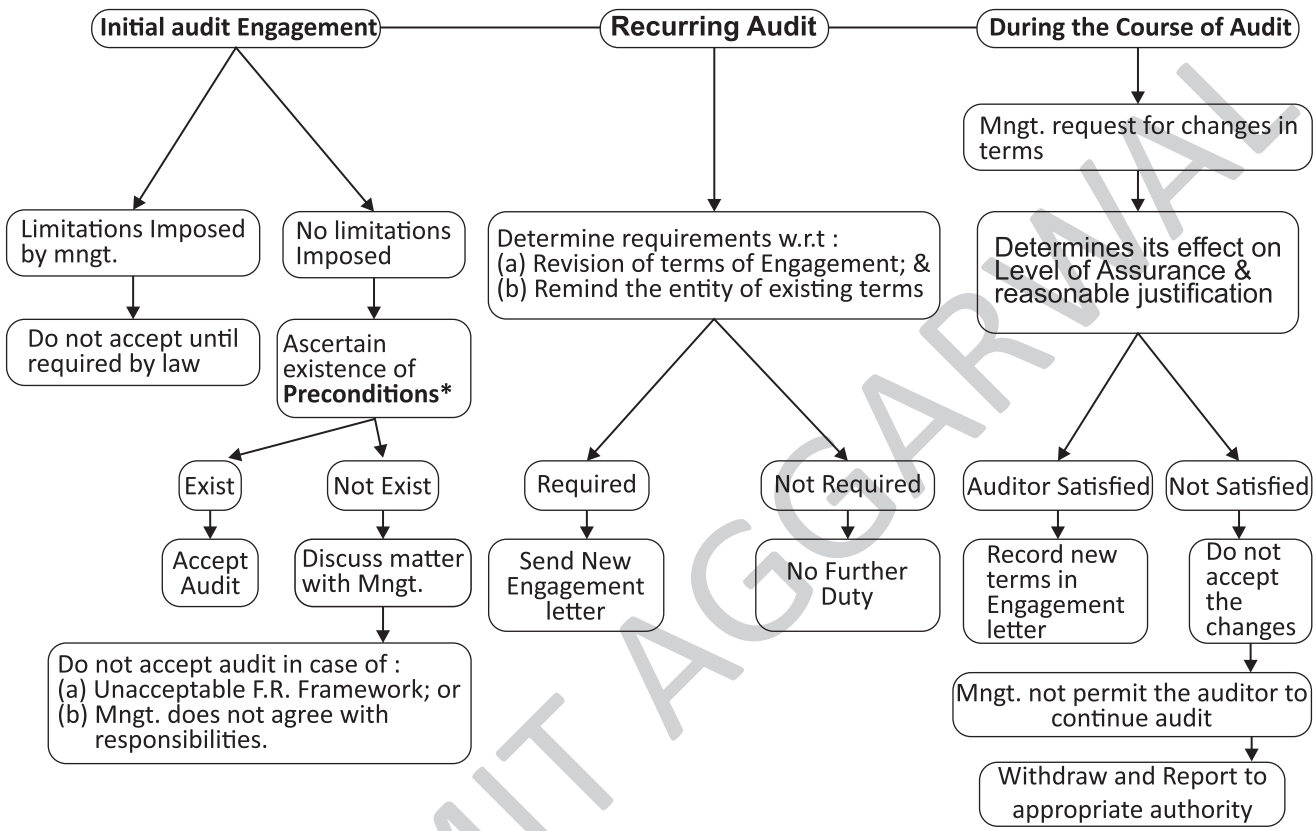
8. GENERAL CLARIFICATION (GC) – AASB/2/2004 ON SA 210

- Whether it is necessary that the engagement letter issued by the auditor should be acknowledged by addressee and returned to the auditor to indicate that the client's understanding of the terms of the engagement is in accordance with SA 210.
- As prescribed in SA 210, the objective and scope of an audit and the auditor's obligations are, normally, laid down in the ***applicable statute or regulations and the pronouncements of the ICAI,*** the audit engagement letters would be informative for the clients."
- From the above it is clear that the basic purpose of issuing an engagement letter is that the auditor and the client should agree on the terms of the engagement.
- The auditor and the client are normally considered to be agreeing on the terms of the engagement ***if the objective and scope of an audit and the auditor's obligations are laid down in the statute or regulations governing the engagement.*** Examples of such engagements include audit u/s 143 of the Companies Act, 2013, audit of public sector banks, etc. In such cases, it is not necessary that the engagement letter sent by the auditor in accordance SA 210 is acknowledged by the addressee and returned to the auditor.
- It shall be sufficient compliance with the requirements related to sending the audit engagement letter, if an engagement letter is appropriately delivered to the client and the auditor retains the evidence for such delivery. In such cases, the audit engagement letters would be informative for the clients.
- If, however, the client seeks any further explanations or clarification in regard to any terms, conditions or other contents of the engagement letter issued, it might indicate that there exists a difference in understanding of the terms of audit engagement either on the part of the client or on the part of the auditor. In such cases, the auditor should take necessary steps to resolve the issues.
- There may be certain engagements where the objective and scope of the engagement and the auditor's obligations are not laid down in the applicable statute or regulations. In such situations, the auditor should

request the client that a copy of the engagement letter be acknowledged by the addressee and returned to the auditor to establish that (a) the client's understanding of the arrangements for the engagement is in accordance with the engagement letter issued by the auditor; and (b) that the auditor has complied with the requirements of the standard in so far as they are related to sending the audit engagement letter.

9. Format of Audit Engagement Letter [N07]: Refer Chapter 24

Summary SA 210



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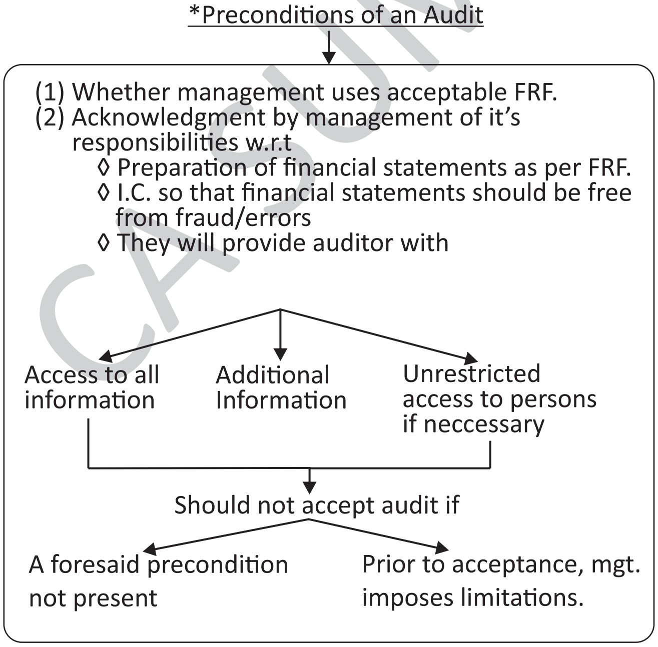

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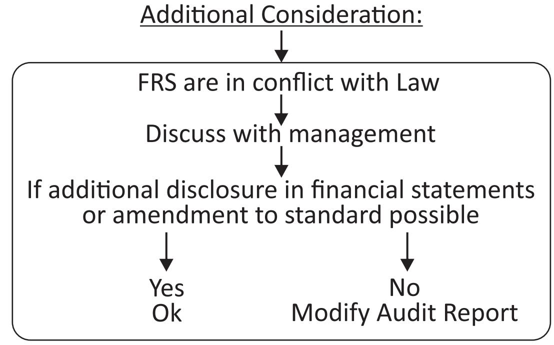


No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	R & Co, a firm of Chartered Accountants have not revised the terms of engagements and obtained confirmation from the clients, for last 5 years despite changes in business and professional environment. Please elucidate the circumstances that may warrant the revision in terms of engagement.	M13	4	5
2	M/s. PQR & Company, Chartered Accountants have been appointed Statutory Auditors of a listed Company for the year ended 31st March, 2008. Draft an appropriate engagement letter to be sent to the Board of Directors for the same.	N07	8	9

SA 220 QUALITY CONTROL FOR AN AUDIT OF FINANCIAL STATEMENTS (W.E.F. 1ST APRIL' 2010)

1. **Objective:** The objective of the auditor is to implement quality control procedures at the engagement level that provide the auditor with reasonable assurance that:
   - The audit complies with professional standards and regulatory and legal requirement; and
   - The auditor's report issued is appropriate in the circumstances.
2. **Responsibility of the Engagement Partner:** To ensure quality control for an audit of financial statements for particular audit engagement, the engagement partner should follow the following requirements:
   - **Leadership Responsibilities:** The engagement partner should take responsibility for the overall quality on each audit engagement to which that partner is assigned.
   - **Ethical Requirement:** Member of the engagement team should comply with relevant ethical requirements.
   - **Independence:** The engagement partner should form a conclusion on compliance with independence requirements.
   - **Acceptance and Continuation of Client Relationship and Audit Engagement:** The engagement partner shall be satisfied that appropriate procedures regarding the acceptance and continuance of client relationship and audit engagements have been followed.
   - **Assignment of Engagement Teams:** The engagement partner should satisfied himself that engagement team have the appropriate competence and capabilities to
     - ◊ Perform the audit engagement in accordance with professional standards and regulatory and legal requirements, and
     - ◊ Enable an auditor's report that is appropriate in the circumstances to be issued.
   - **Engagement Performance:** The engagement partner should take responsibility for the direction, supervision and performance of the audit engagement team and should satisfy that sufficient appropriate audit evidence has been obtained to support the conclusions and the auditor's report.
   - **Consultation:** The engagement partner should take responsibility for the engagement team that they are taking appropriate consultation for difficult matters.
   - **Difference of Opinion:** If difference of opinion arises, the engagement team should follow the firm's policies and procedures for dealing with and resolving differences of opinion.
3. **Engagement Quality Control Review:** For audits of financial statements of listed entities and those other audit engagement for which the engagement quality control reviews is enquired, the engagement partner should:
   - Determine that an engagement quality control reviewer has been appointed; and
   - Discuss significant matters arising during audit engaement with the engagement quality control reviewer.

   The Engagement Quality Control Reviewer should evaluate the following:
   - Discussion of significant matters with the engagement partner.
   - Review of the financial statements and the proposed auditor's report.
   - Review of selected audit documentation; and

- Conclusion reached in formulating the auditor's report and consideration of whether the proposed auditor's report is appropriate.

4. **Monitoring:** An effective system of quality control includes a monitoring process designed to provide the firm with reasonable assurance that its policies and procedures relating to the system of quality control are relevant, adequate and operating effectively.

5. **Documentation:**

5.1 **The Auditor shall document:**
- Issue identified w.r.t. compliance with relevant ethical requirements and how they were resolved.
- Conclusions on compliance with independence requirements that apply to the audit engagement, and any relevant discussions with the firm that support these conclusions.
- Conclusions reached regarding the acceptance and continuance of client relationships and audit engagements.
- The nature and scope of, audit conclusions resulting from, consultations undertaken during the course of the audit engagement.

5.2 **The Engagement Quality Control Reviewer shall document, for the Audit Engagement reviewed that:**
- The procedures for engagement quality control review have been performed.
- The engagement quality control review has been completed on or before the date of the auditor's reports.
- The reviewer is not aware of any unresolved matters.

SA 230 | AUDIT DOCUMENTATION (W.E.F. 1ST APRIL' 2009)

1. **Scope of this SA:** This SA deal with auditor's responsibility to prepare audit documentation for an audit of financial statements. The specific documentation requirements of other SAs do not limit the application of this SA. Laws or regulations may establish additional documentation requirements.

2. **Nature and Purpose of Audit Documentation:** Audit documentation refers to the working papers prepared or obtained and retained by the auditors for his audit work. Audit documentation serves the following purpose:
   - Evidence that support the auditor opinion in his audit report; and
   - Evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements.

   Audit documentation serves a number of additional purposes including the following:
   - Assisting the engagement team to plan and perform the audit.
   - Assisting members of the engagement team responsible for supervision to direct and supervise the audit work.
   - Enabling the engagement team to be accountable for its work.
   - Retaining a record of matters of continuing significance to future audits.
   - Enabling the conduct of quality control reviews and inspections in accordance with SQC 1.
   - Enabling the conduct of external inspection in accordance with applicable legal, regulatory or other requirements.

3. **Experienced Auditor:** An individual (whether internal or external to the firm) who has practical audit experience, and a reasonable understanding of:
   - Audit processes
   - SAs and applicable legal and regulatory requirements
   - The business environment in which the entity operates; and
   - Auditing and financial reporting issues relevant to the entity's industry.

4. **Form, Content and Extent of Audit Documentation:** The auditor should prepare audit documentation that is sufficient to enable an experienced auditor having no previous connection with the audit to understand:-
   - The nature, timing and extent of the audit procedures performed to comply with the SA, and applicable

legal and regulatory requirements.

- The results of the audit procedures performed, and the audit evidence obtained; and
- Significant matters arising during the audit and the conclusions reached thereon and significant professional judgments made in reaching those conclusion.

If the auditor identified information that is inconsistent with the auditor's final conclusion regarding significant matter, the auditor should document how the auditor addressed the inconsistency.

The auditor should document discussions of significant matters with management, including the nature of discussion and when and with whom the discussions took place.

5. **Factor Governing Form & Content of Working Papers:** The form, content and Extent of audit documentation depend on factors such as:-
   - The size and complexity of the entity.
   - The nature of the audit procedure to be performed.
   - The identified risk of material misstatement.
   - The significance of the audit evidence obtained.
   - The nature and extent of exceptions identified.
   - The audit methodology and tool used.

6. **Departure from a Relevant Requirement:** If, in exceptional circumstances, the auditor departs from a relevant requirement in a SA, the auditor should document the reasons for the departure and alternative procedures performed.

7. **Matters Arising after the Date of the Auditor's Report:** If, it exceptional circumstances, the auditor performs new or additional audit procedures or draws new conclusions after the date of the auditor's report, the auditor should document:
   - The circumstances encountered.
   - The new or additional audit procedures performed, audit evidence obtained, and conclusions reached, and their effect on the auditor's report; and
   - When and by whom the resulting changes to audit documentation were made and reviewed.

8. **Assembly of the Final Audit File:**
   - The auditor should assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report. (SQC -1: Time limit 60 days after the date of the auditor's report)
   - After the assembly, the auditor should not delete audit documentation of any nature before the end of its retention period. (SQC-1 : minimum 7 years)
   - In exceptional circumstances, if the auditor finds it is necessary to modify existing audit documentation or add new documentation after the assembly of the final audit file, the auditor should document, the (a) specific reasons for making such modification/addition; and (b) when and by whom they were made and reviewed.

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	As an auditor how would you deal with the following: The statutory auditor of the holding company demands for the working paper of the auditors of the subsidiary company, of which you are the auditor?	Case Study		Ans - 1

Answer

Ans- 1:

As per SA 230, "Audit Documentation" working papers are the property of the auditor. The auditor may, at his discretion, make portion of or extracts of his working papers available to his client.

SA 600 "Using the Work of Another Auditors" also states that an auditor should respect the confidentiality of information acquired during the course of his audit work and should not disclose such information unless there is a legal or professional duty to disclose.

As per ICAI Guidelines, statutory auditor of an enterprise do not have right of access to the audit working papers of the branch auditor. An auditor can rely on the work of another auditor, without having any right of access to the audit working papers of other auditor.

Conclusion: Statutory auditor of Holding company cannot have access to audit working papers of the subsidiary company's auditor. He can however, asks the auditor to answer certain questions about the manner in which the audit is conducted and certain other clarifications regarding audit.

SA 240	THE AUDITOR'S RESPONSIBILITIES RELATING TO FRAUD IN AN AUDIT OF FINANCIAL STATEMENTS (W.E.F. 1ST APRIL' 2009)

1. **Characteristics of Fraud:** Misstatement in the financial statements can arise from either fraud (intentional) or error (unintentional). Fraud refers to intentional misrepresentation of financial information by one or more individuals among employees, management those charged with governance, or third parties. The auditor is concerned with fraud that causes a material misstatement in the financial statements.
2. **Responsibility for the Prevention and Detection of Fraud:** The primary responsibility for the prevention and detection of fraud rests with management and those charged with governance and for this purpose they should implement and continuously operate an adequate system of internal control which may reduce the opportunities for fraud to take place.
3. **Auditor's Responsibilities relating to fraud in an audit of Financial Statements [N09]:**
   - An auditor is responsible for obtaining reasonable assurance that the financial statements taken as a whole are free material misstatement, whether caused by fraud or error.
   - When obtaining reasonable assurance, the auditor is responsible for maintaining an attitude of professional skepticism throughout the audit.
   - As described in SA 200, due to the inherent limitation of an audit, there is an unavoidable risk that some material misstatement of the financial statements will not be detected, even though the audit is properly planned and performed in accordance with the SAs.
   - The risk of not detecting a material misstatement resulting from fraud is higher than the risk of not detecting one resulting from error. This is because fraud may involve sophisticated and carefully organized schemes designed to conceal it.
   - It is difficult for the auditor to determine whether misstatements in judgment areas such as accounting estimates are caused by fraud or error.
   - The risk of the auditor not detecting a material misstatement resulting from management fraud is greater than for employee fraud because management can easily manipulate accounting records.
   - If conditions cause the auditor to believe that a document may not be authentic or that terms in document have been modified, the auditor shall investigate further.
   - Where responses to inquiries of management or TCWG are inconsistent, the auditor shall investigate the inconsistencies.
4. **Objectives:** The objectives of the auditor are:
   - To identify and assess the risks of material misstatement in the financial statements due to fraud.
   - To obtain sufficient appropriate audit evidence about the assessed risks of material misstatement due to fraud. and
   - To respond appropriately to identified or suspected fraud.
5. **Professional Skepticism:** Professional skepticism means an approach that would ensure that if something is wrong, it is detected. This attitude of auditor helps him in identifying and evaluating
   - Matter that increase the risk of material misstatements resulting from fraud or error,
   - Circumstances that make the auditor to suspect material misstatements, and

- The question of managements' representations reliability. The auditor is entitled to accept the records and documents as genuine unless, there is some evidence to the contrary.

6. **Discussion with the Audit Team:** The auditor must discuss with the other members of the audit team regarding the possibility and suspicion of material misstatement in the financial statement resulting from fraud or error. This discussion should occur notwithstanding the engagement team member's beliefs that management and those charged with governance are honest and have integrity.

7. **Risk Assessment Procedures and Related Activities:** When performing risk assessment procedures and related activities to obtain an understanding of the entity and its environment, including the entity's internal control, required by SA 315, the auditor should perform the following procedures to obtain information for use in identifying the risks of material misstatement due to fraud:-

7.1 **Enquiring Management and Others within the Entity:** The auditor should enquire the management on the following matters:

- Management understands regarding the accounting and internal control systems to prevent and detect error.
- Awareness of any known fraud by the management.
- Management's process for identifying & responding to the risks of fraud in the entity, including any specific risks of fraud.
- Management's communication, if any, to those charged with governance regarding its processes for identifying and responding to the risks of fraud in the entity.
- Management's communication, if any, to employees regarding its views on business practices and ethical behavior.
- For those entities that have an internal audit function, the auditor should make inquiries of internal auditor.

7.2 **Enquiring Those Charged with Governance**

- He should obtain an understanding of how they supervise management's processes.
- The auditor shall ask whether they have knowledge of any fraud affecting the entity.

7.3 **Unusual or Unexpected Relationships Identified:** The auditor should evaluate whether unusual or unexpected relationships identified in performing analytical procedures, may indicate risks for material misstatement due to fraud.

7.4 **Other Information:** The auditor should consider whether other information obtained by the auditor indicates risks of material misstatement due to fraud.

8. **Evaluation of Fraud Risk Factors:** The auditor should evaluate whether the information obtained from the other risk assessment procedures and related activities performed indicates that one or more fraud risk factors are present. However, fraud risk factors may not necessarily indicate the existence of fraud.

9. **Identification and Assessment of the Risks of Material Misstatement Due to Fraud:**

- In accordance with SA 315, the auditor should identify and assess the risks of material misstatement due to fraud at the financial statement level, and at the assertion level for classes of transactions, account balances and disclosures.
- The auditor should, based on a presumption that there are risks of fraud in revenue recognize, evaluate which types of revenue, revenue transactions or assertions give rise to such risks.
- The auditor should treat those assessed risks due to fraud as significant risks and accordingly, to the extent not already done so, the auditor should obtain an understanding of the entity's related controls, including control activities, relevant to such risks.

10. **Auditor Response:**

10.1 **Responses to the Assessed Risks of Material Misstatement Due to Fraud:**

- In accordance with SA 330, the auditor should determine overall responses to address the assessed risks of material misstatement due to fraud at the financial statement level. In determining overall responses, the auditor should:
- Assign and supervise audit team as per their capability;
- Evaluate whether accounting policies adopted by the entity, indicate fraudulent financial reporting, resulting from management's effort to manage earnings; and

- Incorporate surprise element in the selection of the nature, timing and extent of audit procedures.

10.2 Responses to Assessed Risks of Material Misstatement Due to Fraud at the Assertion Level: The auditor should design and perform further audit procedures whose nature, timing and extent are responsive to the assessed risks of material misstatement due to fraud at the assertion level.

10.3. Responses to Risks Related to Management Override of Controls: Management is in a unique position to perpetrate fraud because of management's ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls. The auditor should design and perform audit procedures in the area relating to (a) Journal Entries (b) Accounting Estimates, and (c) Unusual transactions. The auditor should also determine whether the auditor needs to perform extra audit procedures.

11. Evaluation of Audit Evidence:

- The auditor should evaluate whether analytical procedures are consistent with the auditor's understanding of the entity and its environment.
- When the auditor identifies a misstatement, the auditor should evaluate whether such a misstatement is indicative of fraud. If there is such an indication, the auditor should evaluate the implications of the misstatement in relation to other aspects of the audit, particularly the reliability of management representations.
- If the auditor identifies a misstatement, and the auditor has reason to believe that it is or may be the result of fraud and that management is involved, the auditor should re-evaluate the assessment of the risks of material misstatement due to fraud and its resulting impact on the NTE of audit procedures.
- When the auditor confirms that, or is unable to conclude whether, the financial statements are materially misstated as a result of fraud; the auditor should evaluate the implications for the audit.

12 Auditor Unable to Continue the Engagement [N06]: If, as a result of a misstatement resulting from fraud or suspected fraud, the auditor encounter exceptional circumstances that bring into question the auditor's ability to continue performing the audit, the auditor shall:

- Determine the professional and legal responsibilities applicable in the circumstances, including whether there is a requirement for the auditor to report to the person or persons who made the audit appointment or, in some cases, to regulatory authorities.
- Consider whether, it is appropriate to withdraw from the engagement, where withdrawal from the engagement is legally permitted; and
- If the auditor withdraws:
  - ◊ Discuss with the appropriated level of management and those charged with governance, the auditor's withdrawal from the engagement and the reasons for the same; and
  - ◊ Determine whether there is a professional or legal requirement to report to the person or persons who made the audit appointment or, in some cases, to regulatory authorities, the auditor's withdrawal from the engagement and the reasons for the same.

13 Management Representations: The auditor should obtain a management representation that:

- They acknowledge their responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.
- They have disclosed to the auditor the result of its assessment of the risk of fraud.
- They have disclosed to the auditor their knowledge of fraud or suspected fraud affecting the entity involving (a) Management; (b) Employees who have significant roles in internal control; or (c) Others; and
- They have disclosed to the auditor, its knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others.

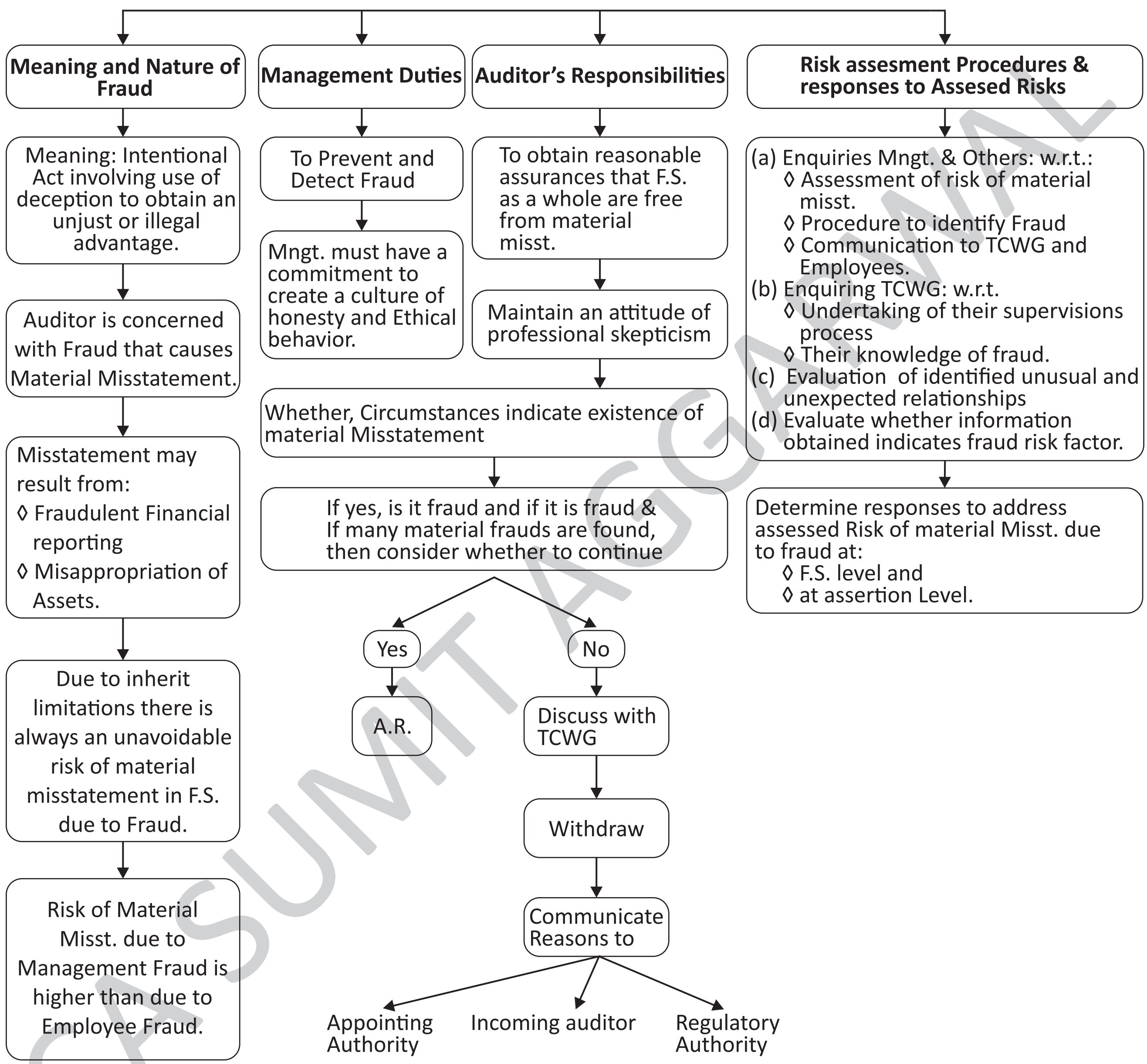
14. Communications to Management and TCWG: If the auditor has identified a fraud or has indication of fraud, the auditor should communicate these matters to the appropriate level of management on a timely basis. He should also communicate with TCWG, any other matters related to fraud that are, in the auditor's judgment, relevant to their responsibilities.

15. Communications to Regulatory and Enforcement Authorities: As per SA 200, the auditor should not disclose the client's information to anybody without the client's permission or under any regulatory requirement. But in certain circumstances, the statute, the law or courts may override the duty of confidentiality.

16. Documentations: The auditor should document the following in his working papers:

- The risk factors identified at present.
- The auditor response to those risk factors.
- Inquiring of management regarding the risk of fraud in the entity.
- Entity programme for prevention or detection of fraud.

Summary SA 240



No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	Explain briefly duties and responsibilities of an auditor in case of material misstatement resulting from Management Fraud.	N09	6	3
2	As a Statutory Auditor, how would you deal with a misstatement resulting from fraud or suspected fraud during the audit and conclude that it is not possible to continue the performance of audit.	N06	5	12

3	The teeming and lading fraud was detected and the amount involved was subsequently deposited by the Executive Director of the company and, therefore, need not be reported upon.	N99	4	Ans - 1
4	The Managing Director of 'the Company has committed a "Teeming and Lading" Fraud. The amount involved has been however subsequently after the year end deposited in the company.	N99 M05	4	
5	While conducting statutory Audit of ABC Ltd., you come across IOUs amounting to Rs. 2 crores as against a cash balance shown in books of Rs. 2.10 crores. You also observe that despite similar high balances throughout the year, small amounts of Rs. 50,000 are withdrawn from the bank to meet day-today expenses.	J09	5	Ans - 2
6	In the course of audit of A Ltd. you suspect that the management has indulged in fraudulent financial reporting. State the possible source of such fraudulent financial reporting.	M12	6	Ans - 3
7	M/s Honest Limited has entered into a transaction on 5th March, 2013, near year-end, whereby it has agreed to pay Rs. 5 lakhs per month to Mr. Y as annual retainer-ship fee for "engineering consultation". No amount was actually paid, but Rs. 60 lakhs is provided in books of account as on March 31, 2013. Your inquiry elicits a response that need-based consultation was obtained round the year, but there is no documentary or other evidence of receipt of the service. As the auditor of M/s Honest Limited, what would be your approach?	N13	5	Ans - 4
8	In the course of audit of K Ltd., its auditor Mr. 'N' observed that there was a special audit conducted at the instance of the management on a possible suspicion of a fraud and requested for a copy of the report to enable him to report on the fraud aspects. Despite many reminders it was not provided. In absence of the special audit report, Mr. 'N' insisted that he be provided with at least a written representation in respect of fraud on/by the company. For this request also, the management remained silent. Please guide Mr. 'N'.	M14	5	Ans - 5

Answer

Ans - 1:

- The Managing Director of the company has committed a “Teeming and Lading” fraud. The fact that the amount involved has been subsequently deposited after the year end is not important because the auditor is required to perform his responsibilities as laid down in SA 240, “The Auditor’s responsibilities relating to Fraud in an Audit of Financial Statements”.
- First of all, as per SA 240, the auditor needs to perform procedures whether the financial statements are materially misstated. Because an instance of fraud cannot be considered as an isolated occurrence and it becomes important for the auditor to perform audit procedures and revise the audit risk assessment.
- Secondly, the auditor needs to consider the impact of fraud on financial statements and its disclosure in the audit report.
- Thirdly, the auditor should communicate the matter to the Chairman and Board of Directors.
- Finally, in view of the fact that the fraud has been committed at the highest level of management, it affects the reliability of audit evidence previously obtained since there is a genuine doubt about representations of management. Finally, the auditor shall have to report under CARO, 2003 indicating the nature and amount involved in respect of fraud noticed during the year.

Ans - 2:

- According to SA 240, “The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements” when, the auditor comes across such circumstances indicating the possible misstatements resulting from the fraud, then the auditor needs to consider the impact of fraud on financial statements and its disclosure in the audit report. In this case, the circumstances indicate that the possible misstatement in financial statements is due to fraud and error and the auditor must investigate further to consider effect on financial statements.

- The Guidance Note on Audit of Cash and Bank balances also mentions that if the entity is maintaining an unduly large balance of cash, he should carry out surprise verification of cash more frequently to ascertain whether it agrees. If cash in hand is not in agreement with the book balance, he should seek explanations and if the same are not satisfactory should state the said fact appropriately in his Audit Report.

Ans - 3:

As per SA 240, "The Auditor's responsibilities relating to Fraud in an Audit of Financial Statements", fraudulent financial reporting involves intentional misstatements or omissions of amounts or disclosures in financial statements to deceive financial statement users. It may be accomplished by manipulation, falsification, or alteration of accounting records or supporting documents from which the financial statements are prepared. or Misrepresentation in, or intentional omission from, the financial statements of events, transactions or other significant information or intentional misstatements involve intentional misapplication of accounting principles relating to measurement, recognition, classification, presentation, or disclosure etc.

It often involves management override of controls, misappropriation of assets etc, that otherwise may appear to be operating effectively. Fraud can be committed by management overriding controls using such techniques as:

- Recording fictitious journal entries, particularly close to the end of an accounting period, to manipulate operating results or achieve other objectives.
- Inappropriately adjusting assumptions and changing judgments used to estimate account balances.
- Omitting, advancing or delaying recognition in the financial statements of events and transactions that have occurred during the reporting period.
- Concealing, or not disclosing, facts that could affect the amounts recorded in the financial statements.
- Engaging in complex transactions that are structured to misrepresent the financial position or financial performance of the entity.
- Altering records and terms related to significant and unusual transactions.
- Embezzling receipts (for example, misappropriating collections on accounts receivable or diverting receipts in respect of written-off accounts to personal bank accounts).
- Stealing physical assets or intellectual property (for example, stealing inventory for personal use or for sale, stealing scrap for resale, colluding with a competitor by disclosing technological data in return for payment).
- Causing an entity to pay for goods and services not received (for example, payments to fictitious vendors, kickbacks paid by vendors to the entity's purchasing agents in return for inflating prices, payments to fictitious employees).
- Using an entity's assets for personal use (for example, using the entity's assets as collateral for a personal loan or a loan to a related party).

Ans - 4:

As per SA 240 on "The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements", fraud can be committed by management overriding controls using techniques such as recording fictitious journal entries, particularly close to the end of an accounting period, to manipulate operating results or to achieve other objectives.

Keeping in view the above, it is clear that Company has passed fictitious journal entries close to the end of an accounting period to manipulate the operating results. Also Auditor's enquiry elicited a response that need-based consultation was obtained round the year, but there is no documentary or other evidence of receipt of the service, is not acceptable. Accordingly, the auditor would adopt the following approach:

If, as a result of a misstatement resulting from fraud or suspected fraud, the auditor encounters exceptional circumstances that bring into question the auditor's ability to continue performing the audit, the auditor should:

- Determine the professional and legal responsibilities applicable in the circumstances, including whether there is a requirement for the auditor to report to the person or persons who made the auditor appointment or, in some cases, to regulatory authorities;

- Consider whether it is appropriate to withdraw from the engagement, where withdrawal is legally permitted; and
- If the auditor withdraws:
  - ◊ Discuss with the appropriate level of management and TCWG, the auditor's withdrawal from the engagement and the reasons for the withdrawal; and
  - ◊ Determine whether there is a professional or legal requirement to report to the person(s) who made the auditor appointment or, in some cases, to regulatory authorities, the auditor's withdrawal from the engagement and the reasons for the withdrawal.

Ans - 5 : Auditors Responsibilities Relating to Fraud

- As per SA 240, "The Auditor's Responsibilities relating to Fraud in an Audit of FS", the primary responsibility for the prevention and detection of fraud rests with both TCWG and management. In addition an auditor conducting an audit in accordance with SAs is responsible for obtaining reasonable assurance that the FS taken as a whole are free from material misstatement, whether caused by fraud or error.
- As per SA 580, "Written Representations (WR)", If management does not provide one or more of the requested WR, the auditor shall discuss the matter with management; re-evaluate the integrity of management and evaluate the effect that this may have on the reliability of representations (oral or written) and audit evidence in general; and take appropriate actions, including determining the possible effect on the opinion in the auditor's report.
- The auditor shall disclaim an opinion on the FS if the auditor concludes that there is sufficient doubt about the integrity of management such that the WR are not reliable; or management does not provide the WR.
- Further the auditor is also required to report as per Paragraph 4 (xxi) of CARO, 2003, if there is any fraud on or by the company has been noticed or reported during the year. If yes, the nature and the amount involved is to be indicated.
- In the given case, in the course of audit of K Ltd., its auditor Mr. N observed that there was a special audit conducted at the instance of the management on a possible suspicion of fraud. Therefore, the auditor requested for special audit report, which was not provided by the management despite of many reminders. Mr. N also insisted for WR in respect of fraud on/by the company. For this request also management remained silent.
- Hence, the fact is required to be reported as per Paragraph 4(xxi) of the CARO, 2003 and the auditor should also disclaim an opinion on the FS.

SA 250	CONSIDERATION OF LAWS AND REGULATIONS IN AN AUDIT OF FINANCIAL STATEMENTS (W.E.F. 1ST APRIL' 2009)

1. **Scope of this SA:** This SA deals with the auditor's responsibility to consider laws and regulations when performing an audit of financial statements. This SA does not apply to other engagements in which the auditor is specifically engaged to test and report on non-compliance of specific laws or regulations.

2. **Effect of Laws and Regulation:**
   - The provision of some laws or regulation have a direct impact on the financial statements in that, they determine the reported amounts and disclosures in an entity's financial statements such as tax and labor laws, and
   - Other laws or regulation are to be complied with by management but do not have a direct effect on an entity's financial statements such as compliance with environmental regulations etc.
   - Some entities operate in heavily regulated industries (such as banks and chemical companies).
   - Non-compliance with laws and regulation may result in fines, litigation of other consequences for the entity that may have a material effect on the financial statements.

3. **Responsibility of Management for Compliance with Laws and Regulations:** It is the responsibility of management to ensure that the entity's operations are conducted in accordance with the provisions of laws and regulations. For this purpose management may apply the following procedures:
   - Monitoring legal requirements and ensuring that operating procedures are designed to meet these

requirements.

- Instituting and operating appropriate systems of internal control.
- Developing, Publishing and following a code of conduct.
- Ensuring employees are properly trained and understand the code of conduct.
- Monitoring compliance with the code of conduct and acting appropriately to discipline employees who fail to comply with it.
- Engaging legal advisors to assist in monitoring legal requirements.
- Maintaining a register of significant laws and regulations with which the entity has to comply within its particular industry and a record of complaints.

4. **Responsibility of the Auditor:**
   - The requirements in this SA are designed to assist the auditor in identifying material misstatement of the financial statements due to non-compliance with laws and regulations.
   - However, the auditor is not responsible for preventing non compliance and cannot be expected to detect non-compliance with all laws and regulations.
   - The auditor is responsible for obtaining reasonable assurance that the financial statements, taken as a whole, are free from material misstatement, whether caused by fraud or error. Owing to the inherent limitations of an audit, there is an unavoidable risk that some material misstatements in the financial statements may not be detected, even though the audit is properly planned and performed in accordance with the SAs.
   - Sometimes the auditor may be specifically required to report, as part of the audit of the financial statements, on whether the entity complies with certain provisions of laws or regulations.

5. **The Auditor's Consideration of Compliance with Laws and Regulations:**
   - The auditor should obtain a general understanding of (a) the legal and regulatory framework applicable to the entity and the industry or sector in which the entity operates; and (b) How the entity is complying with that framework.
   - The auditor should obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements.
   - The auditor should perform the following audit procedures to identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements:
     - ◊ Inquiring of management; and
     - ◊ Inspecting correspondence, if any, with the relevant licensing or regulatory authorities. (e.g. RBI License for NBFC Companies)
   - During the audit, the auditor should remain alert to the possibility that other audit procedures applied (e.g.; Reading Minutes, Claim & assessment, Account balances or disclosures, Inquiring with management etc.) may bring instances or non-compliance or suspected no-compliance with laws and regulations to the auditor's attention.
   - The auditor should obtain written representation that all known instances of non-compliance or suspected non-compliance with laws and regulations have been disclosed to the auditor and the effects of these have been considered while preparing financial statements.

6. **Indicator of Non-Compliance:**
   - Investigation by regulatory organizations and government departments.
   - Payment of fines or penalties.
   - Payments for unspecified services or loan to consultants, related parties, employees or government employees.
   - Purchases at prices significantly above or below market price.
   - Unusual payments towards legal and retainer ship fees.
   - Unusual payments of sales commission or agent fees.
   - Unusual payments in cash.
   - Unauthorized transactions or improperly recorded transaction.
   - Adverse media comment.

7. **Audit Procedures When Non-Compliance is Identified or Suspected:**

- If the auditor becomes aware of information concerning a instance of non compliance or suspected non-compliance, the auditor should obtain:
  - ◊ An understanding of the nature of the act and the circumstances in which it has occurred; and
  - ◊ Further information to evaluate the possible effect on the financial statements.
- If the auditor suspects that, there may be non-compliance, the auditor should discuss the matter with management and TCWG.
- If management or TCWG do not provide sufficient information, the auditor should consider the need to obtain legal advice.
- If sufficient information about suspected non-compliance cannot be obtained, the auditor should evaluate the effect of the lack of sufficient appropriate audit evidence on the auditor's opinion.
- The auditor should also evaluate the implications of non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations, and should take appropriate actions.
- In exceptional cases, the auditor may consider whether, unless prohibited by law or regulations withdrawal from the engagement is necessary when management or TCWG do not take remedial action that the auditor consider appropriate in the circumstances, even when the non-compliance is not material to the financial statements. When deciding whether withdrawal from the engagement is necessary, the auditor may consider seeking legal advice.
- If withdrawal from the engagement is prohibited, the auditor may consider alternative actions, including describing the non-compliance in an Other Matter(s) paragraph in the auditor's report.

8. Reporting Non-Compliance:

8.1 Reporting Non-Compliance to Those Charged with Governance:

- Unless all of TCWG are involved in management of the entity, the auditor should communicate with TCWG, matters involving non compliance with laws and regulations that come to the auditor's attention.
- If, in the auditor's judgment, the non-compliance is believed to be intentional and material, the auditor should communicate the matter to TCWG as soon as practicable.
- If the auditor suspects that management or TCWG are involved in non-compliance, the auditor should communicate the matter to the next higher level of authority at the entity (such as an audit committee or supervisory board). Where no higher authority exists, or if the auditor believes that the communication may not be acted upon, the auditor should consider the need to obtain legal advice.

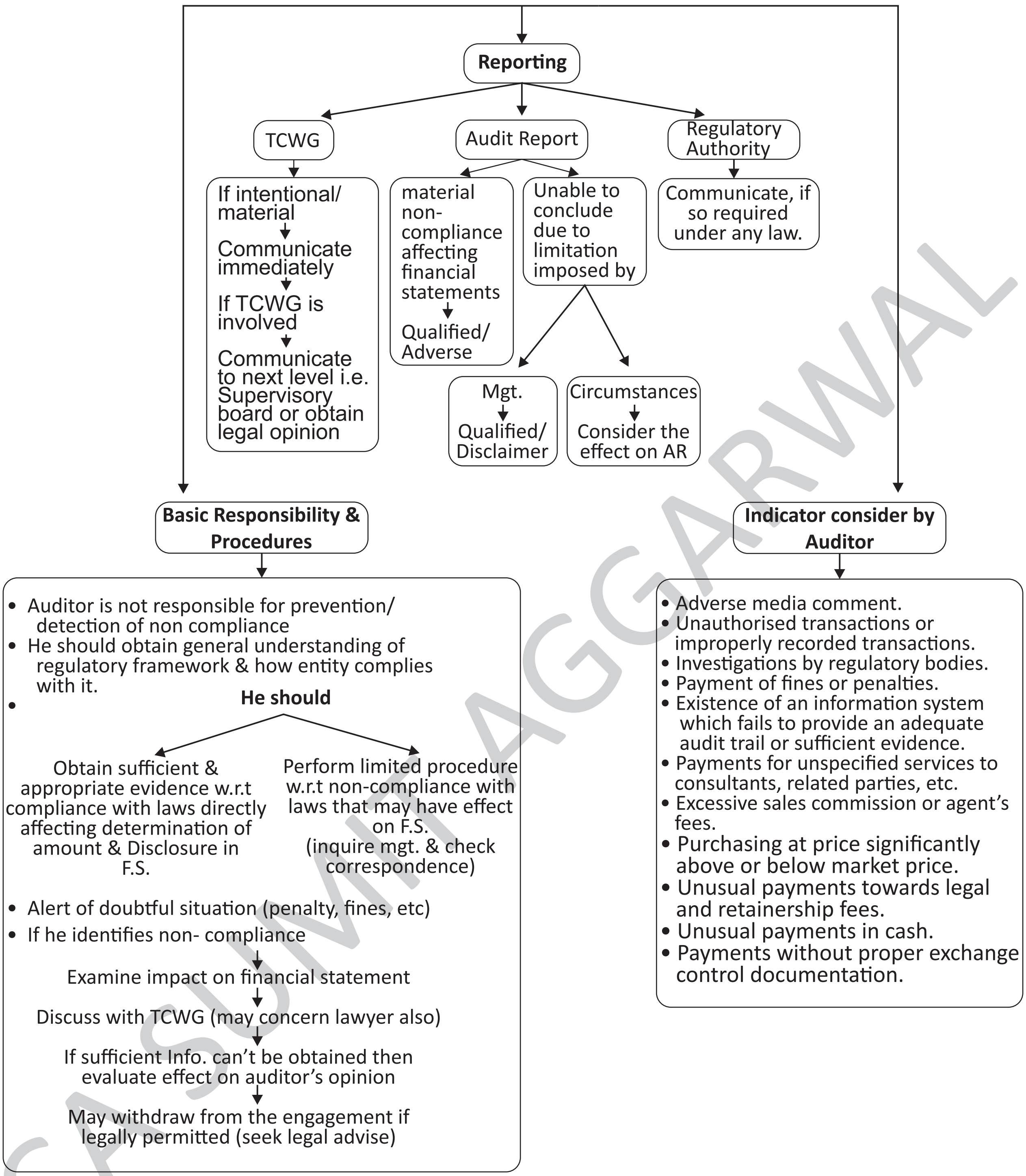
8.2. Reporting Non-Compliance in the Auditor's Report on the Financial Statements:

- If the auditor concludes that the non-compliance has a material effect on the financial statements, and has not been adequately reflected in the financial statements, the auditor should, express a qualified or adverse opinion on the financial statements.
- If the auditor is prevented by management or TCWG from obtaining sufficient appropriate audit evidence, the auditor shall express a qualified opinion or disclaim an opinion on the basis of limitation on the scope of the audit.
- If the auditor is unable to determine whether non-compliance has occurred because of limitation imposed by the circumstances rather than by management or TCWG, the auditor should evaluate the effect on the auditor's opinion in accordance with SA 705.

8.3 Reporting Non-Compliance to Regulatory and Enforcement Authorities: If the auditor has identified or suspects non-compliance with laws and regulations, the auditor should determine whether the auditor has a responsibility to report the identified or suspected non-compliance to parties outside the entity.

9. Documentation: The auditor should document identified or suspected non-compliance with laws and regulations and the results of discussion with management and those TCWG and other parties outside the entity.

Summary of SA 250



No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	While verifying the employee records in a company, it was found that a major portion of the labour employed was child labour. On questioning the management, the auditor was told that it was outside his scope of the financial statement audit to look into the compliance with other laws. Comment.	N05	5	Ans - 1
2	State the reporting responsibility of an auditor in the context of non-compliance of Law and Regulation in an audit of Financial Statement.	N06	8	Ans - 2

Answer

Ans - 1:

- As per SA 250, "Consideration of Laws and Regulations in an Audit of Financial Statements", the auditor shall obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the financial statements including tax and labor laws.
- Further, non-compliance with other laws and regulations may result in fines, litigation or other consequences for the entity, the costs of which may need to be provided for in the financial statements, but are not considered to have a direct effect on the financial statements.
- In the instant case, major portion of the labour employed in the company was child labour. While questioning by auditor, reply of the management that it was outside his scope of financial audit to look into the compliance with other laws is not acceptable as it may have a material effect on financial statements.
- Thus, auditor should ensure the disclosure of above fact and provision for the cost of fines, litigation or other consequences for the entity. In case if the auditor concludes that non-compliance has a material effect on the financial statements and has not been adequately reflected in the financial statements, the auditor shall express a qualified or adverse opinion on the financial statement.

Ans - 2:

The auditor should as soon as practicable, either communicate with the audit committee, the Board of Directors and senior management or obtain evidence that they are appropriately informed regarding non-compliance that comes to the auditors attention.

- If in the auditor's Judgment, the non compliance is believed to be intentional and / or material, the auditor should communicate the findings without delay.
- If the auditor suspects that members of senior management, including members of the Board of Directors, are involved in non-compliance, the auditor should communicate the matter to the next higher level of authority at the entity, such as, the audit committee or Board of Directors, to the users of the auditor's report or FS.
- If the auditors conclude that the non-compliance has a material effect on the FS and has not been properly reflected in the FS the auditor should express a qualified or an adverse opinion.
- If the auditor is precluded by the entity from obtaining sufficient and appropriate audit evidence to evaluate whether non-compliance is, or is likely to have occurred that have or may have material impact on the financial statements, the auditor should express a qualified opinion or a disclaimer of opinion on the FS on the basis of a scope limitations..
- If the auditor is unable to determine whether non compliance has occurred because of limitations, imposed by the circumstances rather than by the entity, the auditor should consider the effect on the auditor's report.
- The auditor's duty of confidentiality would ordinarily preclude reporting non compliance to third party. However, in certain circumstances, that duty of confidentiality is overridden by statement, law or by courts of laws.

SA 260	COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE (W.E.F. 1ST APRIL' 2009)

1. **Scope of this SA:** This SA deal with the auditor's responsibility to communicate with TCWG in relation to an audit of financial statements. This SA does not establish requirements regarding the auditor's communication with an entity's management or owners unless they are also charged with a governance role.
2. **Objective:** The auditor's objective is to communicate clearly with TCWG in relation to:
   - Their responsibilities for the financial statement audit, and an overview of the planned scope and timing of the audit;

- Obtain information relevant to the audit;
- Provide timely observation arising from the audit that are significant and relevant to their responsibility to oversee the financial reporting process; and
- Promote effective two way communication.

3. Definitions:

3.1 Those Charged with Governance (TCWG):

- The person(s) or organization(s) (e.g., a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity.
- For some entities TCWG may include management personnel, for example, executive members of a governance board of a private or public sector undertaking or an owner-manager.
- In some cases, TCWG are responsible for approving the entity's financial statements (in other cases management has this responsibility)

3.2 Management:

- The person(s) with executive responsibility for the conduct of the entity's operations.
- For some entities, management includes some or all of those charged with governance, for example executive members of a governance board or an owner-manager.
- Management is responsible for the preparation of the financial statements, overseen by TCWG and in some cases management is also responsible for approving the entity's financial statements.

4. Those Charged with Governance:

- The auditor should determine the appropriate person(s) within the entity's governance structure with whom to communicate.
- When the auditor communicates with a subgroup of TCWG, for example, an audit committee, or an individual, the auditor should determine whether he should also need to communicate with the governing body.
- **Governance = Management:** This may applicable in case of small business where a single owner manages the entity and no one else has a governance role. In these cases, if matter required by this SA is communicated with person(s) with management responsibilities and those person(s) also have governance responsibilities; the matters need not be communicated again with those same person(s) in their governance role.
- If appropriate person(s) with, whom to communicate may not be clearly identifiable from the applicable legal framework or other engagement circumstances, (for e.g. family owned entities, some non-profit organizations and some government entities) in such case, the auditor may need to discuss and agree with the engaging party the relevant person(s) with whom to communicate.

5. Matter to be communicated to TCWG:

5.1 Auditor's Responsibilities in relation to the Financial Statement Audit: The auditor should communicate with TCWG that:

- The auditor is responsible for forming and expressing an opinion on the financial statements; and
- The audit of the financial statements does not relieve management or TCWG of their responsibilities.

5.2 The overall Scope and Timing of the Audit: Which includes

- How the auditor proposes to address the significant risks of material misstatements.
- Auditors approach to internal control.
- Application of concept of materiality.

5.3 Significant Findings from the Audit: which includes:

- The auditor's view about significant qualitative aspects of the entity's accounting practices, including accounting policies, accounting estimates and financial statement disclosures.
- Significant difficulties/matters, if any, encountered during audit.
- Written representations, the auditor is requesting.

5.4 Auditor's Independence: In the case of listed entities, the auditor should communicate with TCWG "a statement that the engagement team and others in the firm as appropriate, have complied with relevant ethical requirements regarding independence."

6. The Communication Process:

- The auditor should communicate with TCWG the form, timing and expected general content of communications.
- Significant finding from the audit should be communicated in writing.
- Matter regarding auditor's independence should be communicated in writing.
- Communication should be on a timely basis.
- The auditor should evaluate whether the two-way communication has been adequate for the purpose of the audit. If it has not, the auditor should evaluate the effect on the auditor's assessment of the risks of material misstatement and ability to obtain sufficient appropriate audit evidence.

7. Documentation:

- Where the matters required by this SA to be communicated are communicated orally, the auditor should document them, and when and to whom they were communicated.
- Where matters have been communicated in writing, the auditor should retain a copy of the communication as part of the audit documentation.

Summary SA 260

Matter to be communicated to TCWG

- Auditor responsibility in relation to F.S. audit
- The overall scope and timing of the audit.
- Significant finding from audit w.r.t.:
  - ➢A/c Policy
  - ➢A/c Estimate
  - ➢Material weakness in I.C.
  - ➢Matter discuss with mgt.
  - ➢Other significant matter.
- In case of Listed Co., a statement that the engagement team and others in the firm as appropriate have complied with relevant ethical requirements regarding independence.

Communication process

- In writing, when oral communication is not adequate
- On timely basis.

Following communication should be in writing

- Matter of Independence (Listed Co.)
- Significant finding
- Responsibility of mgt. and auditor
- Scope of audit.

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	The auditors should communicate audit matters of governance interest arising from the audit of financial statements with those charged with the governance of an entity". Briefly state the matters to be included in such Communication.	N06	8	Ans - 1

Answer

Ans - 1:

SA 260 deals with communications of audit matters with TCWG. The following are the audit matters of governance interest which are to be communicated.

- The general approach and overall scope of audit including expected limitations.
- The selection of or change in significant accounting policies and practices that have a material effect on the entity's financial statements.
- The potential effect on the financial statements of any significant risks and exposures.
- Material uncertainties that may cast significant doubt on the entity's ability continue as a going concern.
- Adjustment to financial statements arising out of audit which have a significant effect on the financial statement.
- Disagreement with management on matters which could have significant impact to the financial statements and to audit report.
- Others matters like material weakness in internal control measures, questions on management integrity and fraud involving management.
- Expected modifications to the audit report.
- Other matters agreed in terms of audit engagement.

SA 265	COMMUNICATING DEFICIENCIES IN INTERNAL CONTROL TO THOSE CHARGED WITH GOVERNANCE AND MANAGEMENT (W.E.F. 1ST APRIL' 2010)

1. **Scope of this SA:** This SA deals with the auditor's responsibility to communicate appropriately to TCWG and management, deficiencies in internal control that, the auditor has identified in an audit of financial statements.

2. **Definitions:**

2.1 **Deficiency in Internal Control:** This exists when:

- A control is designed, implemented or operated in such a way that it is unable to prevent, or detect and correct, misstatement in the financial statements on a timely basis; or
- A control necessary to prevent, or detect and correct, misstatements in the financial statements on a timely basis is missing.

2.2 **Significant Deficiency in Internal Control:** A deficiency or combination of deficiencies in internal control that, in the auditor's professional judgment, is of sufficient importance to merit the attention of TCWG.

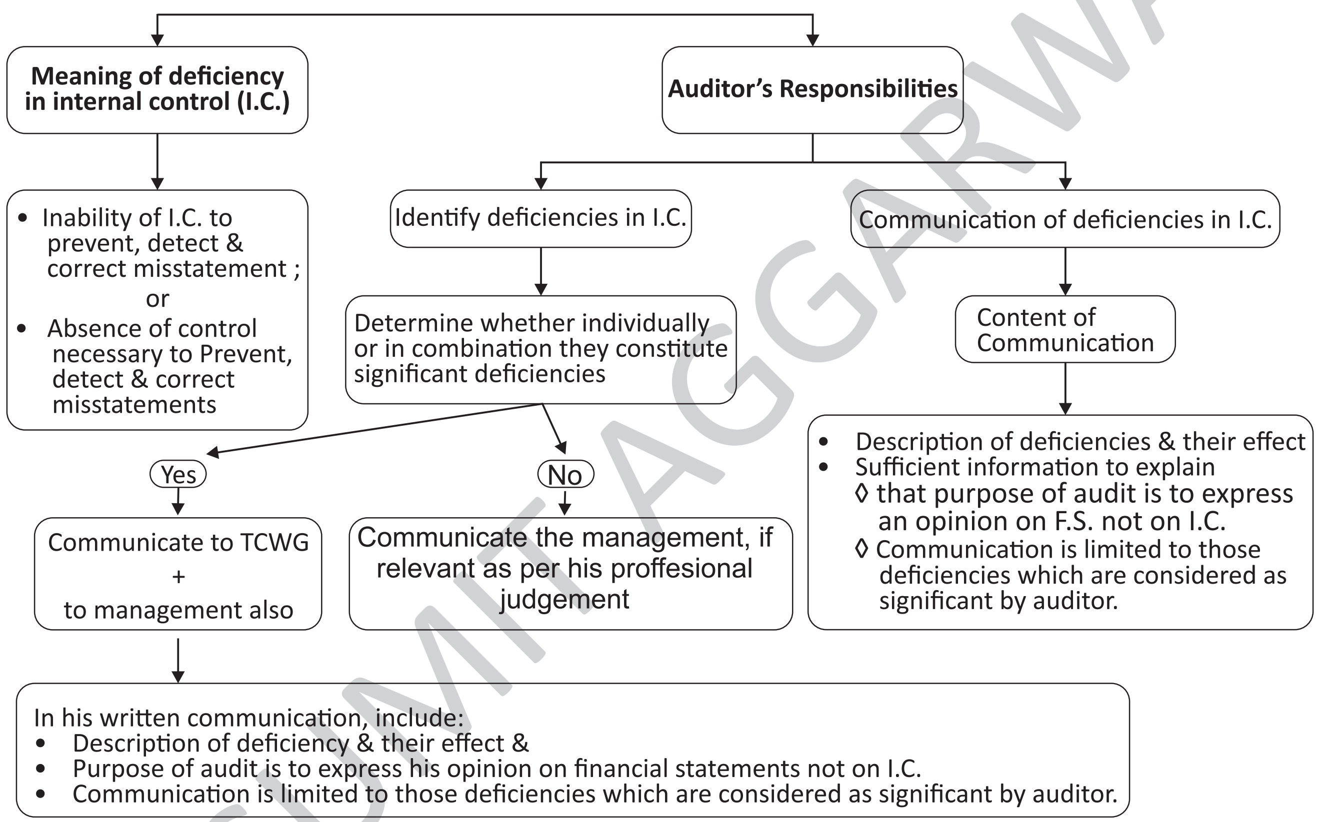
3. **Requirements:**

- The auditor should determine whether, on the basis of the audit work performed, the auditor has identified one or more deficiencies in internal control.
- If the auditor has identified one or more deficiencies in internal control, the auditor should determine, whether individually or in combination, they constitute significant deficiencies.
- The auditor should communicate in writing significant deficiencies in internal control identified during the audit to TCWG and management on a timely basis.
- The auditor should also communicate to management, other deficiencies in internal control identified during the audit that have not been communicated to management by other parties and that, in the auditor's professional judgment, are of sufficient importance to merit management's attention.
- The auditor should include the following matter, in the written communication of significant deficiencies in internal control:
  - ◊ A description of the deficiencies and an explanation of their potential effects; and
  - ◊ Sufficient information to enable TCWG and management to understand the context of the communication. In particular, the auditor should explain that:
  - ◊ The purpose of the audit was for the auditor to express an opinion on the financial statements;
  - ◊ The audit included consideration of internal control relevant to the preparation of the financial statements in order to design audit procedures that are appropriate in the effectiveness, but not for the purpose of expressing an opinion on the effectiveness of internal control; and
  - ◊ The matters being reported are limited to those deficiencies that the auditor has identified during the

audit and that the auditor has concluded are of sufficient importance.

4. **Previous Communication/Continuous Deficiencies:** Management and TCWG may already be aware of significant deficiencies that the auditor has identified during the audit and may have chosen not to remedy them because of cost or other considerations. In such cases, the auditor has the following responsibilities:
   - In case of known significant deficiencies, the auditor should repeat the communication, if remedial action has not yet been taken.
   - In case of known other than significant deficiencies, the auditor need not repeat the communications in the current period except in case of :-
     - ◊ A change of management, or
     - ◊ If new information has come to the auditor's attentions that alters the prior understanding of the auditor and the management regarding the deficiencies.

Summary SA 265



SA 299 | RESPONSIBILITY OF JOINT AUDITORS (W.E.F. IST APRIL' 1996)

1. **Introduction:**
   - This Standard deal with the professional responsibility when two or more auditors are accepting an appointment as Joint Auditors.
   - This SA does not deal with the relationship between a principal auditor who is appointed to report on the financial statements of an entity and another auditor who is appointed to report on the financial statements of one or more divisions or branches included in the financial statements of the entity's (e.g. Central Statutory auditor and Branch Auditor).

2. **Division of Work:**
   - The joint auditors should by mutual discussion divide the total work of audit among themselves. Division of audit may be based on: -
     - ◊ Geographical location (Plant Wise/Branches/Regional Office etc.)

- ◊ Period of time.
- ◊ Component of financial statement (Assets wise/Liability wise/Income/Expenditure).
- ◊ Functional areas.

- Certain area of work which is important in nature may not be divided and carried on by all the joint auditors.
- Division of work among the joint auditors should be in writing and agreed by all the auditors and this division of work may also be communicated to client.

3. **Coordination:** If a joint auditor comes across matter which are relevant to the other joint auditors, and deserve their attention, then he should communicate it immediately in writing to all other joint auditors, before finalization of the audit.

4. **Responsibility among Joint Auditors:** Each joint auditor is responsible for the work allocated to him. Each joint auditor is also responsible for drafting his own audit programme and determines NTE etc. However in following cases, all the joint auditors are jointly and severally responsible.
   - Audit work which is not divided among the joint auditors and is carried out by all of them.
   - Collective decision taken by all the joints auditors concerning the NTE of the audit procedures to be carried out.
   - Matters which are brought to the notice of the joint auditors by any one of them and on which there is an agreement among the joint auditors.

   Compliance and disclosure requirements of the relevant statue.
   - The responsibility of obtaining and evaluating information and explanation from the management is generally a joint responsibility of all the auditors.
   - It is the separate and specific responsibility of each joint auditor to study and evaluate the prevailing system of internal control relating to the work allocated to him, the extent of enquiries to be made in the course of his audit.
   - If any matter brought to the notice of other joint auditors by an auditor after submission of the audit report, then the other joint auditor would not be responsible for such matter.

5. **Reliance on Other Joint Auditor Work:**
   - Each joint auditor is entitled to assume that the other joint auditors have carried out their part of the audit work in accordance with the generally accepted audit procedures.
   - It is not necessary for a joint auditor to review the work performed by other joint auditors or perform any test in order to ascertain whether the work has actually been performed in such a manner.
   - Each joint auditor is entitled to rely upon the work carried by other joint auditors.

6. **Reporting Responsibilities:** Where the joint auditors are in disagreement with regards to any matters to be covered by the report, each one of them should express his own opinion through a separate report. A joint auditor is not bound by the views of the majority of the joint auditors, regarding matters to be covered in the audit report.

Summary SA 299

Division of work between Joint Auditors

By Mutual discussion on the basis of identifiable units or specified areas

↓

If it is not possible, then division of work w.r.t. following:
- Assets/Liabilities; or
- Income/Expenditure; or
- Period

↓

Work should not be divided for Important areas

↓

Proper documentation of work divided.

Co-ordination between Joint Auditors

If one auditor comes to know a matter relevant for other, he should communicate it immediately to other joint auditor before submission of report. Communication should be in writing.

Responsibility of Joint Auditors

Separate → For work allocated

Joint & several →
- For work not divided
- For joint decision w.r.t. NTE of audit procedures Disclosure requirements in FS.
- For matters brought to knowledge of all by any of them and on which they all agree.
- Compliance of audit report with statutory requirement.

Reporting

- Generally: - Single Report
- If disagree:- Separate Report
- No one is bound by Majority

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	Write a short note on "Responsibility of Joint Auditors".	N04	4	refer SA
2	ABC & Co. and DEF & Co., Chartered Accountant Firms were appointed as joint auditors of Good Health Care Limited for 2009-10. A special audit was conducted u/s 233A of the Companies Act, 1956 during March 2011 and observed gross understatement of revenue. The revenue aspects were look after by DEF & Co., but there was no documentation for the division of work between the joint auditors.	N11	4	Ans - 1

Answer

Ans - 1:

As per SA 299 "Responsibilities of Joint Auditor" where joint auditors are appointed, they should, by mutual discussion, divide the work among themselves. Further the work so divided should be adequately documented and preferable communicated to the entity. In respect of audit work divided among the joint auditors, each joint auditor is responsible only for the work allocated to him, whether or not he has prepared a separate report on the work performed by him. However for the work not divided, all joint auditors are jointly and severally responsible.

In the present case, though the revenue aspects were looked after by DEF & Co., but as there is no documentation for division of the work between them, both the joint auditors will be held responsible for it.

Conclusion: Both Joint auditors are jointly and severally responsible.

SA 300 | PLANNING AN AUDIT OF FINANCIAL STATEMENTS (W.E.F. 1ST APRIL' 2008)

1. **Objective:** The objective of the auditor is to plan the audit so that it will be performed in an effective manner.
2. **Involvement of Key Engagement Team Members:** The engagement partner and other key members of the engagement team should involve in planning the audit.
3. **Preliminary Engagement Activities:** The auditor should undertake the following activities at the beginning of the current audit engagement.
   - Performing procedures as required by SA 220 (Quality control for audit Work) regarding the continuance of the client relationship.
   - Evaluating compliance with ethical requirement, including independence, as required by SA 220 and communication with previous auditors; and
   - Establishing an understanding of the term of the engagement, as required by SA 210. (Terms of Audit Engagements)
4. **Planning Activities:-** The auditor should establish an overall audit strategy that sets the scope, timing and direction of the audit and guide the overall development of the audit plan. In establishing the overall audit strategy, the auditor should consider the following factors:
   - Consider the result of preliminary engagement activities, and where applicable, whether knowledge gained during other engagements of same clients is relevant.
   - Identify the characteristics of the engagement, that define its' scope.
   - Ascertain the reporting objectives of the engagement to plan the timing of the audit and the nature of the communications required.
   - Consider the factors that, in the auditor's professional judgment, are significant in directing the audit team.
   - Knowledge of client's business, accounting systems, policies and internal control procedure.
   - Establishing the degree of reliance to be placed on internal control.
   - The analytical procedures to be applied as risk assessment procedures.
   - The determination of materiality.
   - The involvement of experts.
   - Determine the NTE of resources necessary to perform the engagement.
   - The auditor should plan the NTE of direction and supervision of engagement team members and the review of their work.
   - The auditor should also update and change the overall audit strategy and the audit plan as necessary during the course of the audit.
5. **Documentation:** The auditor should document:
   - The overall audit strategy.
   - The audit plans.
   - Any significant changes made during the audit engagement to the overall audit strategy or the audit plan, and the reason for such changes.

Summary SA 300

Preliminary Engagement Activities

- Performing procedures as required by SA 220 w.r.t. continuous of Client relationship
- Evaluate compliance with Ethical Requirements (SA 220)
- Understanding of the term of Engagement (SA 210)

Planning Activities

Establishment of Audit Strategy

- Identify the Characteristics of Engagement that define it's scope
- Ascertain Reporting Objectives.
- Determination of Materiality.
- Degree of Reliance on I.C.
- Analytical procedure to be applied.
- Consider the factor that is significant in directing the audit team.
- Consideration of result of Preliminary Engagement Activities.
- NTE of audit procedures to be performed.

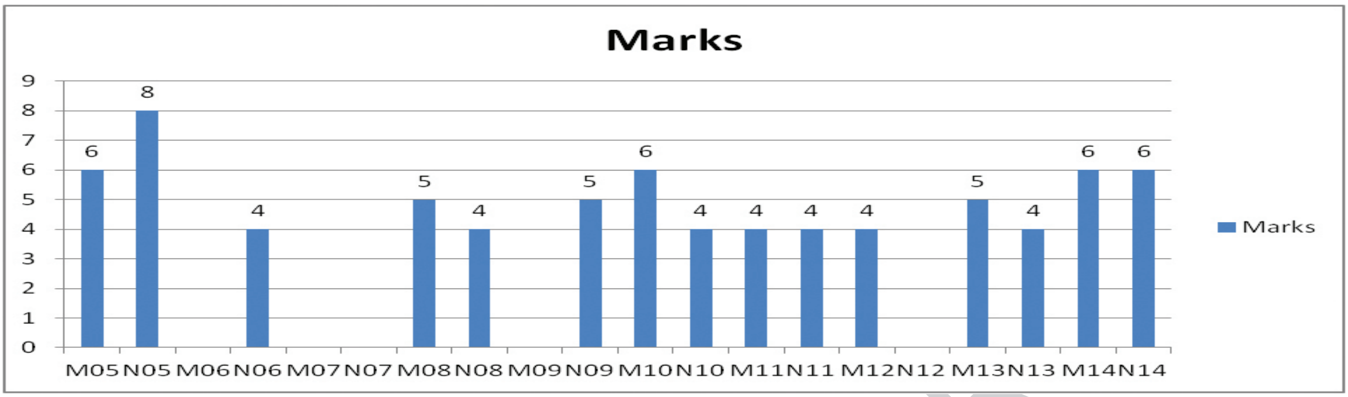
Development of Audit Plan

- NTE of Risk Assessment Procedures (SA 315)
- NTE of further Audit Procedures (SA 330)
- Other Planned Audit Procedure.

Documentation

- Audit Strategy
- Audit Plan
- Any Significant Change in Audit Strategy and Audit Plan and the Reason for the change.

13 AUDIT OF GENERAL INSURANCE COMPANIES



1. Principal Enactments Governing Insurance Audit:

- The Insurance Act, 1938 (Including Insurance Rules, 1939)
- The Insurance Regulatory and Development Authority Act, 1999.
- The IRDA Act, 1999.
- The General Insurance Business (Nationalization) Act, 1972 (Including Rules framed thereunder)
- The Companies Act, 1956 (Now 2013)

2. Form and Content of Financial Statement:

- Balance Sheet,
- Profit & Loss account
- Receipt & Payments accounts
- Revenue account

3. Requirements of Schedule B to the IRDA (Preparation of Financial Statements and Auditors' Report of Insurance Companies) Regulations, 2002:

Part I: Accounting Principles for Preparation of Financial Statements:

- Applicability of Accounting Standards
- Premium
- Premium Deficiency
- Acquisition Costs
- Claims
- Recognition of Surplus arising in non-participating funds as profit/loss in the P&L A/c
- Loans
- Catastrophe Reserve

Part II: Disclosures forming part of Financial Statements

Part III: General Instructions for Preparation of Financial Statements.

Part IV: Contents of Management Report

Part V: Preparation of Financial Statements

For Detail along with format of the above, student may refer Chapter 5 of Volume I of the Paper 5 Advance Accounting, IPCC Study Material.

4. Applicability of Accounting Standards and CARO 2003: Every balance sheet, receipts and payments account [cash flow statement] and profit and loss account [shareholders' account] of the insurer shall be in conformity with the Accounting Standards (AS) issued by the ICAI, to the extent applicable to the insurers carrying on general insurance business, except that:

- **AS 3:** cash flow statements - cash flow statement shall be prepared only under the direct method
- **AS 13:** Will apply where where GIC regulations silent.
- segment reporting shall apply to all insurers irrespective of the listing and turnover criteria.
- **AS 9:** revenue recognition- not applicable w.r.t. income of insurance business.
- **Applicability of CARO, 2003:** As per Section 1(2) of Companies (Auditor's Report) Order, 2003, (as amended in November 2004) the provisions of CARO are not applicable to insurance companies.

5. **Premium [M01 N02]:** Premium is the consideration received by an insurer from the insured under an insurance contract, whereby the insurer agrees to undertake certain sum of risk on behalf of the insured. The premium collections are credited to a separate bank account and no withdrawals are normally permitted from that account for meeting the general expenditure. The premium receipt of insurance companies carrying on general insurance business normally arise out of 3 sources, viz.,
   - premium received from direct business
   - premium received from reinsurance business
   - the share of co-insurance premium.

   Premium received in advance, which represents premium income not relating to the current accounting period, shall be disclosed separately under the head 'Current Liabilities' in the financial statements. The objective of internal controls over premium is to ensure that:
   - correct premium is calculated
   - Premium collected before acceptance of any risk
   - premium is accounted for in an appropriate manner and
   - the premium is collected only in respect of such risks which are assumed by the company.

   As per Insurance Act, no risk can be assumed by the insurer unless the premium is received or the same has been guaranteed by the insured or deposit of such amount, as may be prescribed, is tendered to the company.

5.1 **Premium Deficiency:** Premium deficiency shall be recognised if the sum of expected claim costs and other related expenses and maintenance costs exceeds related unearned premium.

5.2 **Premium Revenue Recognition:** Premium revenue recognition is based on the risk pattern to which the insurer is exposed. An insurer, based on past experience can reliably estimate the risk pattern for a particular type of insurance business. Most insurers recognize premium on the basis of the passage of time. This is generally appropriate where the risk is evenly spread over the policy period. Further in some cases, the risk pattern may not be evenly spread over the policy period because of the very nature of the risk covered, for example, infrastructure project involving varying degree of risk factors. In such cases, a deposit premium is paid at the beginning of the policy period and subsequently adjusted. The basis of premium recognition shall be adequately justified and preferably supported by external evidence such as an actuary or other technical expert's certification.

5.3 **No Risk Assumption Without Premium:** No risk can be assumed by the insurer unless the premium is received. According to section 64VB of the Insurance Act, 1938, no insurer should assume any risk in India in respect of any insurance business on which premium is ordinarily payable in India, if:
   - *the premium payable is not received; or*
   - *the premium payable is not guaranteed to be paid by such person in such manner and within such time, as may be prescribed; or*
   - *the premium payable is not deposited in advance in in the prescribed manner.*

   The premium receipt of insurance companies carrying on general insurance business normally arise out of three sources, viz., premium received from direct business, premium received from reinsurance business and the share of co-insurance premium.

5.4 **Verification of Premium [N08 N10 N11 M14]:** The auditor should apply the following procedures for verification of premium:
   - before commencing verification of premium, auditor should look into and satisfy himself about the internal control and compliance in this area.
   - ensure that premium income is recognized as per the guideline laid down by the IRDA.
   - Ascertain, that no risk has been assumed until premium is received.

- ascertain that no risk has been assumed in respect of premium received in advance.
- ascertain that all the cover notes relating to the risks assumed have been serially numbered for each class of business.
- ensure that premium revenue is recognized based on the pattern of risk to which the insurer is exposed.
- ensure that the premium received during the year but pertaining to risk commencing in the following year has been accounted for under the head 'Premium Received in Advance' and has been disclosed separately.
- verify the collections lodged by agents after the balance sheet date to see whether any collection pertains to risk commencing for the year under audit.
- verify whether installments falling due on or before the balance sheet date, whether received or not, have been accounted for as premium income for the year under audit and premium falling due in subsequent period should be recognized as premium received in advance.
- examine the cut off procedures operated by the insurance company.
- where premium originally received has been refunded, and the auditor should verify whether the agency commission paid on such premium has been recovered.
- check that premium is originally recorded at gross amount, i.e. without providing for un-expired risk or re-insurances.
- verify whether service tax has been charged from the insured wherever applicable, and service tax so collected is disclosed under 'Current Liabilities' to the extent not deposited in Government's account.
- verify that in case of co-insurance business, the company's share of premium has been properly recorded in the books of accounts in case the risk has commenced.

5.5 Outstanding Premium: The auditor should apply the following audit procedures for verification of outstanding premium:

- verify whether balances in "outstanding premium accounts have been listed, analysed and reconciled for the purpose of audit
- check age-wise and sector-wise analysis of outstanding premium
- verify whether outstanding premium have since been collected.

Check the availability of adequate bank guarantee or premium deposit for outstanding premium.

6. Commission:

The commission is the consideration payable for getting the insurance business. As per section 40 of Insurance Act, 1948, no commission can be paid to a person other than its agent. The objective of internal controls over commission is to ensure that commission is paid:

- in accordance with the rules and regulations of the company
- in accordance with the agreement with the agent
- paid to the agent who brought the business
- to ensure that the legal compliances have been complied with, for example, tax deduction at sources and provisions of the Insurance Act, 1938.

6.1 Verification of Commission: The auditor should apply the following procedures for verification of commission:

- vouch disbursement entries with commission bills and commission statements
- check whether the vouchers are authorised by the authorized person and TDS has been deducted properly as per Income Tax Act
- test check the calculation of commission amount
- scrutinize agents' ledger for any abnormal entries and examine accounts having debit balances, if any and obtain information for the same
- check whether the payment of commission for the period under audit has been properly accounted for
- verify that no commission is given to agents for business directly procured by it
- obtain management representation that all commission has been appropriately adjusted in the accounts.

7. Operating Expenses Related to Insurance Business (Expenses of Management) [M99 N01]: Management expenses, includes all charges whether direct or indirect, including commission payment of all kinds. But, it does not include HO expenses, expenses on shareholder and claim expenses. Following to be noted:

- All the administrative expenses in an insurance company are broadly classified under 13 heads as mentioned in Schedule 4 of Revenue Account.

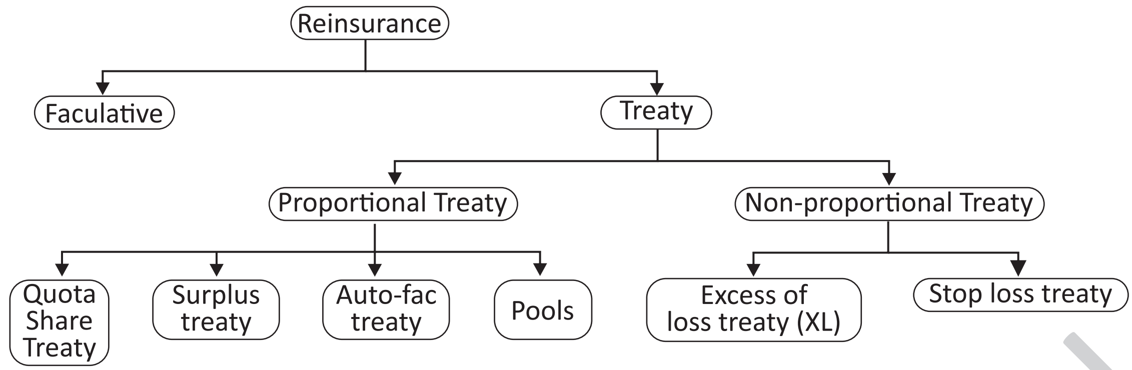
- Any other expenses are required to be disclosed under the head 'Others'. 'Others' would include foreign exchange gains or losses as indicated in note 'B' of Schedule 4.
- Any major expenses (Rs. 5 lacs or in excess of 1% of net premium, whichever is higher) are required to be shown separately.
- expenses which do not have any direct relation to insurance business are to be shown separately in the Profit and Loss Account. For example: Expenses relating to investment department, brokerage, bank charges, transfer fees etc. These expenses are first aggregated and then apportioned to the Revenue Account of each class of business on a reasonable and equitable basis.

8. **Reinsurance [N00 N03 N05 N09]:** Reinsurance is the arrangement whereby one insurer obtains insurance from another insurer on risks assumed by the former. The former is called the "ceding company", where latter is called the "reinsurer". Section 101 of the Insurance Act, 1938 provides that every insurer shall reinsure with Indian reinsurers such percentage of the sum assumed on each policy as may be specified by IRDA with previous approval of Central Government. The objective of internal controls over reinsurance transaction involves:
   - determination of correct amounts for reinsurance ceded
   - proper valuation of assets and liabilities arising out of reinsurance transactions
   - adherence to legal provisions, regulations and reinsurance agreements.

8.1 **Verification of Reinsurance Inward:** The auditor should apply the following verification measures for reinsurance inward transactions:
   - re-Insurance inward underwriting should be as per the norms and guidelines prescribed by the Insurance Act, 1938 and IRDA Regulations
   - verify whether reinsurance inward transactions are as per the arrangements / agreements with reinsurer
   - examine the accounting policy of the company with regard to reinsurance business received, premium received and payment of commission and claim costs
   - in case of the foreign currency transaction, whether it is in accordance with the Accounting Standard (AS)-11, Accounting for Effects of Changes in Foreign Exchange Rates.
   - examine whether the outstanding claim figures have been properly obtained well in time and sufficient provision has been made for all the outstanding claims
   - check whether provision has also been made for claims incurred but not reported
   - closing balances of the reinsurer's accounts should be reconciled and the confirmation of balances should be obtained from all the reinsurers

8.2 **Verification of Reinsurance Outward:** The following steps may be taken by the auditor in the verification of reinsurance outward:
   - reinsurance outward underwriting should be as per the norms and guidelines prescribed by the Insurance Act, 1938 and IRDA Regulations
   - ensure the appropriateness of accounting treatment of reinsurance business given for premium paid to reinsurer and payment of commission
   - in case of the foreign currency transaction, whether it is in accordance with the Accounting Standard (AS)-11, Accounting for Effects of Changes in Foreign Exchange Rates
   - verify whether reinsurance outward transactions are as per the arrangements/agreements with company.
   - verify the confirmations received from reinsurers regarding claims for losses submitted to them
   - verify any old outstanding claims paid or outstanding at the end of the year
   - look into events after balance sheet date which might have significant impact on recovery of claims – paid or outstanding.
   - check percentage pattern of gross to net premium, claims paid and outstanding claims to ensure comparative justification.

9. **Types of Reinsurance Contracts:**



(a) Facultative Reinsurance: Reinsurance whereby separate contracts are entered into for each particular risk. This is the oldest method of reinsurance. This type of reinsurance is used either when risks are not covered under treaties or the issuers does not want to cover the risk under the treaty, etc.

(b) Treaty Reinsurance: Under treaty reinsurance, a treaty agreement is entered into between the ceding company and the reinsurer(s) where reinsurances are within the limits of the treaty. These limits can be monetary, geographical, section of business, etc.

(c) Proportional Treaties: Such treaties are based on pro-rata apportionment of the sum insured, premium and losses, according to a pre-determined percentage/ratio. These treaties can be further classified into:

(d) Quota Share Treaty: Under this treaty, the ceding company agrees to cede a fix percentage of all policies issued by it under a defined scope of business covered by the agreement.

(e) Surplus Treaty: Under this treaty, the ceding company identifies excess liabilities under insurance policy issued by it and obtains reinsurance for such excess liabilities.

(f) Auto-fac Treaty: Under this treaty, a ceding company may reinsure up to a specified limit after cession of its surplus treaties.

(g) Pools: Under this category, more than one insurer may form a pool under an agreement whereby its members cede a pre-determined proportion of a particular category of business directly written by them into the pool. They also share the aggregate premiums and claims in the proportion and the share of premium ceded by each member.

(h) Non-Proportional Treaties: Such treaties are characterised by a sharing of liability between the ceding company and the reinsurer on the basis of losses rather than the sum insured. These treaties can be further classified into:

(i) Excess of Loss (XL) Treaties: in this treaty the reinsurer's liability arises only when a claim exceeds a predetermined figure relating to a specific branch of the ceding company's business or to its entire business.

(j) Stop Loss Treaties: It protects the ceding company from losing more than a specified amount for a given class of business.

10. Claims [M04 M10]: A demand for payment of policy benefit because of the occurrence of an insured event is known as 'claim'. The components of the cost of claims to an insurer comprise the claims under policies and claim settlement costs. The settlement cost of claims includes surveyor fee, legal expenses, etc. The liability for claims may arise on:

- direct business.
- inward reinsurance business.
- co-insurance business.

The liability also includes future payment in relation to:

- reported but unpaid claims.
- claims Incurred But Not Reported (IBNR) including inadequate reserve to settle the claims.

The accounting estimate shall also include claims cost adjusted for estimated salvage value if there is sufficient degree of certainty of its realisation. The objective of internal controls over claim is to ensure that:

- proper procedure is there for processing and payment of claims

- adequate procedure is there to identify and investigate suspicious claims
- reinsurance claims, if any, are duly lodged with the reinsurer
- monetary thresholds are established for review of claims paid by senior officer
- significant variance between expected and actual claims are identified and investigated.

10.1 Verification of Claims Provisions: The auditor should apply the following procedures for verification of claims:

- provision has been made for all unsettled claims as at the year end on the basis of claims lodged/ communicated by the insured against the company
- provision has been made for only such claims for which the company is legally liable
- events after the balance sheet date have been examined
- in determining the amount of provision, the 'average clause' has been applied in case of under-insurance by parties
- in case of co-insurance arrangements, the company has made provisions only in respect of its own share of anticipated liability
- the claims are provided for net of estimated salvage, wherever applicable
- no contingent liability is carried in respect of any claim intimated in respect of policies issued.
- intimation of loss is received within a reasonable time and reasons for undue delay in intimation are looked into
- in case of material differences in the liability estimated by the management and by the auditor, the same must be brought out in the auditor's report after obtaining further information or explanation from the management.

10.2 Verification of Claims Paid: The auditor should apply the following procedures for verification of claims paid:

- in case of co-insurance arrangements, claims paid have been booked only in respect of own share and the balance has been debited to other insurance companies
- in case of claims paid on the basis of advices from other insurance companies, (where the company is not the leader in co-insurance arrangements), whether share of premium was also received by the company
- claims which have been communicated after the year end for losses which occurred prior to the year end must be accounted for in the year of audit.
- that the claim payments have been duly sanctioned and acknowledged by the claimants
- that the amounts deposited with Court in matters under litigation/arbitration should not be classified as claims paid and treated as advance/deposit till final disposal of such claims. In such cases, full provision should be made for outstanding claims
- in case of final settlement of claims, an unqualified discharge letter is obtained from the insured not involving the company in any further liabilities in respect of the claim.

11. Investments [Sections 27B, 27C and 27D of the Insurance Act, 1938]:

- A General Insurance Company can only invest in approved securities. However, it can invest other than approved securities if the following conditions are satisfied:
  - ◊ such investments should not exceed 25% of the total investments
  - ◊ such investments are made with the consent of all the Directors.
- **An insurer should not invest in share or debenture of insurance or investment company in excess of least of the following:**
  - ◊ 10% of its own total assets
  - ◊ 2% of the subscribed share capital or debenture of the investee
- **An insurer should not invest in share or debenture of a company other than insurance or investment company in excess of least of the following:**
  - ◊ 10% of its own total assets
  - ◊ 10% of the subscribed share capital or debenture of the investee
- In case, the insurer has invested in partly paid up shares, the uncalled liability on the share is to be added to the amount invested for the purpose of computing percentages (%) referred above.
- Insurance Company cannot invest in the shares or debentures of a private company.
- Insurance Company cannot invest fund of the policy-holders outside India, however funds which do not

belong to policy-holders can be invested outside India.

- The authority in exercise of its powers has issued detailed guidelines for investment by insurance companies. Every insurer carrying on the business of general insurance should invest and at all times keep invested its total Investment assets in the following manner:

No.	% of Total Investment Assets	Types Securities
1	>= 20%	Government Securities.
2	>= 30% (Including (1) above	Government Securities and other approved securities.
3	<= 55%	Approved Investment & Other Investments (Other investments shall not exceed 25% of Investment Assets).
4	>= 5%	Housing and Loan to State Government.
5	>= 10%	Investment in infrastructure.

12. Cash and Bank Balances: The auditor should apply the following audit procedures for verification of cash and bank balances:

- the auditor should physically verify cash balance at balance sheet date. If it is not possible to verify cash at balance sheet date, proper reconciliation should be drawn between verification date and balance sheet date.
- the cheque received but not deposited in bank should be shown as cheque in hand.
- perform test checking for bank transactions.
- obtain confirmation for yearend bank balance.
- verify subsequent realization of all items appearing in bank reconciliation statement and amounts shown as being in transit.

13. Agents' Balance [N08 N10 N11 M14]: Agent's balance includes both the premium accepted and commission payable to them. The auditor should apply the following audit procedures for verification of agents' balance:

- Verify whether agent's balance have been listed, analysed and reconciled for the purpose of audit
- Verify whether there is any old outstanding debit or credit balance as at the year end which requires adjustment. A written explanation may be obtained from the management in this regard
- verify whether recovery of large outstanding in agent balance have been made in post audit period
- In case of doubtful debit balance, check whether provisions have been made or not
- Verify that agent's balance do not include employee's balances and balances of other insurance companies
- Verify that no credit of commission is given to agents for business directly procured by it
- Ensure that the relevant control account in the general ledger is reconciled with the subsidiary records
- Vouch adjustment or payments against old outstanding balance in agent's accounts.

14. Receipts and Payments Accounts [M05]: After the commencement of IRDA Act, 1999, every insurer, in respect of insurance business transacted by him and in respect of his share holders funds, should prepare a balance sheet, a profit and loss account, a separate account of receipts and payments and a revenue account in accordance with the regulations made by the IRDA, at the end of each financial year. Since receipts and payments account has been made a part of financial statements of an insurer, it is implied that the receipts and payment account is also required to be audited. The IRDA Regulations, 2002 require that the auditor of an insurance company should:

- Report whether the receipts and payments accounts of the insurer is in agreement with the books of accounts and returns
- Express an opinion as to whether the receipts and payments account has been prepared in accordance with the provisions of the relevant statutes
- Express an opinion as to whether the receipts and payments account give a true and fair view of the receipts and payments of the insurer for the relevant financial year/period under audit.

So it may be said that auditor is not only required to audit the receipts and payments accounts of the insurer but also express an opinion on the same.

15. Provision for Taxation: The auditor should apply the following audit procedures for verification of agents' balance:

- The auditor should check whether the provision for taxation has been made after taking into account the specific provisions applicable to general insurance companies.
- The auditor should, in addition to financial statements, examine other accounts furnished by the company to the C&AG.
- The auditor should assess the past trend regarding the approach of the Income Tax Department, the decision of the various appellate forums including the High Court and the Supreme Court vis-a-vis the computation made.
- Ensure that provisions of Chapter III of the Income Tax Act, 1961 have been complied with.
- Ensure that deductions under Chapter VI A of the Income Tax Act, 1961 have been properly taken into account
- Ensure that all TDS certificates have been kept and deduction on the same is claimed
- Examine the income of foreign branches and other income earned in foreign countries and the impact of the double taxation avoidance agreement, if any, entered into with those countries
- Ensure that the exemption provision relating to tax deducted at source from certain categories of income as exempted u/s 35A of the General Insurance (Business Nationalisation) Act, 1972 has been properly availed
- Examine sales tax implication on sale of salvage
- Examine the system of service tax collection and the payments to Statutory authorities and the internal system including the filing of returns
- Assess the applicability of the Wealth Tax Act, 1957 on the company.

16. Unexpired Risks Reserve [M08]: All policies are renewed annually except in specific cases where short period policies are issued. Since the insurers close their accounts on a particular date, not all risks under policies expire on that date. Many policies normally extend beyond this date into the following year during which risks continue. Therefore, at the closing date, there is unexpired liability under various policies which may occur during the remaining term of the policy beyond the year end. According to the requirements of the Insurance Act, 1938, for the purpose of maintaining solvency margin, it is sufficient if the provision is made for unexpired risks:

- 50% for fire, marine cargo and miscellaneous business
- 100% for marine hull.

It may be noted that the insurance companies are governed by the provisions of Section 44 of the Income Tax Act, 1961. In this regard Income Tax Rules provides for creation of a reserve for unexpired risks. Deduction of these reserves is also allowed under the Income Tax Act under this Rule.

17. Co-insurance [N99 M00]: High business risks are shared between more than one insurer under co-insurance arrangements at agreed percentage. In case of co-insurance, the leading insurer receives the premium and issues a policy with the co-insurance clause & settles claims. The leading insurer provides statements of accounts to the co-insurers. The auditors should get information from the agreement arrived at the insurance council, where the insurance companies may chose to be the members.

17.1 Incoming Co-insurance: The auditor should apply the following audit procedures for verification of incoming Co-insurance:

- ensure that the premium account is credited on the basis of Statement of Accounts received from the leading insurer.
- if no Statement of Accounts is received then premium is accounted on the basis of advice received from leading insurer to ensure that premium in respect of risks assumed in any year is booked in the same year
- examine communication in the post-audit period and obtain written confirmation from management that all incoming advice has been accounted for the claim provisions and claims paid should also be verified with reference to advice received from the leading insurer.

17.2 Outgoing Co-insurance: The auditor should apply the following audit procedures for verification of outgoing Co-insurance:

- The auditor should scrutinize the transaction relating to outgoing business i.e. where the company is the leader.

- The auditor should verify the transactions with reference to the relevant risks assumed under policies and correspondingly for debits arising to the Co-insurer on account of their share of claims.

18. Catastrophe Reserve: Every General Insurance Company is required to create a Catastrophe Reserve to meet future potential liabilities against insurance policies in force. Catastrophe Reserve cannot be created for a specific purpose. Catastrophe reserve shall be created in accordance with norms, if any, prescribed by the Authority. Investment of funds out of catastrophe reserve shall be made in accordance with prescription of the Authority. The auditor should, depending upon the facts of the case, evaluate the adequacy of such a reserve.

19. Solvency Margin [Section 64VA of the Insurance Act, 1938] [N06 M12]:

- Every insurer is required to maintain an excess of the value of its assets over the amount of its liabilities at all times. The excess is known as 'Solvency Margin'.
- In the case of an insurer carrying on general insurance business, the solvency margin should be the highest of the following amounts:
  - ◊ 50/- Crore Rupees (100/- Crore rupees in case of a reinsurer)
  - ◊ a sum equivalent to 20% of net premium income
  - ◊ a sum equivalent to 30% of net incurred claims.
- Credit for re-insurance is allowed in computing Net Premium Income and Net incurred Claims.
- It may be noted that conditions regarding maintenance of the above mentioned solvency margin may be relaxed by the Authority in certain special circumstances:
  - ◊ if, at any time, an insurer does not maintain the required solvency margin, the insurer is required to submit a financial plan to the Authority indicating the plan of action to correct the deficiency in the solvency margin.
  - ◊ if an insurer fails to comply with the requirements of solvency margin, it shall deemed to be insolvent and may be wound up by the Court.

  Provided, in respect of any insurer, the Authority is satisfied that either by reason of unfavorable claim experience or because of sharp increase in the volume of the business, or for any other reason, compliance with provision of solvency margin would cause hardship to insurer, the Authority may direct for such period and subject to such conditions, such solvency margin not being less than lower of the amount mentioned above.

20. Trade Credit Insurance:

- "Trade credit insurance" means insurance of suppliers against the risk of non-payment of goods or services by their buyers who may be situated in the same country (domestic risk) or situated in another country (export risk) against:
  - ◊ non-payment as a result of insolvency of the buyer.
  - ◊ non-payment after an agreed number of months after due date.
  - ◊ non-payment following an event outside the control of the buyer or the seller (political risk cover).
- Political risk cover is available only in case of buyers outside India and in countries agreed upon at the proposal stage.
- **An insurer shall offer "trade credit insurance" product only if all requirements mentioned below are met:**
  - ◊ policyholder's loss is non-receipt of trade receivable arising out of a trade of goods or services.
  - ◊ policyholder is a supplier of goods or services in consideration for a fair market value.
  - ◊ policyholder's trade receivable does not arise out of factoring or reverse factoring arrangement or any other similar arrangement.
  - ◊ policyholder has a buyer or customer, who is liable to pay a trade receivable to the policy holder in return for the goods and services received by him from the policy holder, in accordance with a policy document filed with the insurer.
  - ◊ policyholder undertakes to pay premium for the entire policy period.
  - ◊ any other requirement that may be specified by the Authority from time to time.
- It may be noted, that this policy shall not be issued to banks/financiers/lenders or the beneficiary of such policy cannot be a banks/financiers/lenders. Further this policy shall also not applicable to any receivable arising from a financial or consultancy service.

21. Deposits [Sec. 7 of Insurance Act, 1938] [N13]:

- Every insurer shall, in respect of the insurance business carried on by him in India, deposit and keep deposited with the RBI in one of the offices in India a sum equivalent to 3% of total gross premium written in India in any FY.
- This deposit is to be kept for and on behalf of the GOI.
- The deposit can be made either by way of cash or investment in approved securities. If securities are deposited, their estimated market value on the date of deposit is to be seen. The amount of deposit required in the case of reinsurance business is rupees 20 crores.
- The amount of deposit required in case of marine insurance business is Rs. 1 lacs only.

22. Compliance with Corporate Governance Guidelines: [Circular No. IRDA/F&A/CIR/CG/081/05/2011, Dated 2-5-2011] : Attention is drawn to the Corporate Governance Guidelines issued by the Authority vide Circular no. IRDA /F&A/ CIR/025/2009-10, dated 05th August, 2009, and Circular No IRDA /F&I/CIR/ F&A/014/01/2010, dated 29th January, 2010. The following additional stipulations shall form part of the Guidelines:-

22.1 Annual Filing of Compliance status: W.e.f. F.Y. 2010-11, all insurers are required to file a Report on status of compliance with the CG Guidelines on an annual basis. This report shall be filed within 90 days from the end of the Financial year (i.e., before 30th June).

22.2 Filling up of the Vacancy to the Post of Independent Director on the Board: CG Guidelines also lays down the requirements regarding appointment of a minimum number of independent directors on the Board of Directors of an insurer. All insurers are required to ensure compliance with the stipulations regarding the minimum number of independent directors at all times. In case, the number of independent directors falls below the minimum requirement laid down, the vacancy shall be filled up within a maximum period of 180 days, under intimation to the Authority.

22.3 CG Guidelines provides for the formation of following three optional Committees:

- Remuneration Committee
- Nomination Committee
- Ethics Committee

It is further clarified that though the formation of such Committees is optional, once these committee are formed, the insurer is required to comply with the requirements on the "Role and Responsibilities" of such Committees as laid down in the said clause of the CG Guidelines.

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	Enumerate the steps to be taken by an auditor for the verification of the premium income received by a general insurance company.	M01	8	5
2	Describe the audit procedures to be followed for verification of premium by a Statutory Auditor of a General Insurance Company.	N02	8	5
3	Write short notes on "Management Expenses of Insurance Companies".	M99	4	7
4	In the context of audit of general insurance business, state the provisions regarding management expenses.	N01	8	
5	Enumerate the steps to be taken by an auditor for the verification of Re-insurance outward in case of a General Insurance Company.	N09 N03	5, 8	8
6	What are the steps to be taken while auding re-insurance transactions in an insurance Company?	N00	8	
7	What are the steps to be taken by an auditor for the audit of re-insurance ceded?	N05	8	
8	While auditing the claims paid in respect of a General Insurance Company, what aspects need to be looked into?	M10	6	10

9	What are the specific areas to which you will give your attention while examining "Claim Paid" by a General Insurance Company.	M04	8	10
10	State the procedure for verification of Agents' Balances in the course of audit of a General Insurance Company	N04	4	13
11	Write short notes on "Verification of Outstanding premium and agents Balances".	N10	4	5.4 & 13
12	Write short notes on "Audit procedure in respect of "Outstanding premium and agents Balances" in Insurance company.	N11	4	
13	As the auditor of an Insurance company state the audit procedures you would follow to verify outstanding premium and agents balances.	N08	4	
14	M/s ABC & Co., a CA firm was appointed as the auditor of 'Always Safe General Insurance Ltd.' Advise them how they will verify outstanding premium and agent's balances.	M14	6	
15	In an audit of an Insurance Company, the Receipts and Payments accounts is also subjected to audit. Comment on this statement in brief.	M05	6	14
16	RQ Insurance Ltd, has made a provision of 25% on unexpired risks reserve in its books. Comment.	M08	5	16
17	Write short notes on "Co-insurance".	N99	4	17
18	Write short notes on "Incoming and outgoing Co-insurance".	M00	4	
19	Write short notes on "Solvency margin in case of an insurer carrying on general insurance business".	N06	4	19
20	Write short notes on "Solvency Margin".	M12	4	
21	ABC Limited, an Indian insurance company carrying on general insurance business, is facing liquidity problems and, therefore, it has decided to maintain deposits u/s 7 of the Insurance Act, 1938 at one percent of total gross premium written in India. The company thinks that it is sufficient, as the company has a Paid-up Capital of Rs. 150 Crores. As an Auditor of ABC Limited what would be your suggestion to the company for compliance of Insurance Act and rules and regulations made there under?	N13	4	21
22	As at 31st March 2013 while auditing Safe Insurance Ltd you observed that a policy has been issued on 25th March 2013 for fire risk favouring one of the leading corporate houses in the country without the actual receipt of premium and it was reflected as premium receivable. The company maintained that it is a usual practice in respect of big customers and the money was collected on 5th April, 2013. You further noticed that there was a fire accident in the premises of the insured on 31st March 2013 and a claim was lodged for the same. The insurance company also made a provision for claim. Please respond.	M13	4	Ans-1
23	State the disclosure requirements in respect of contingent liabilities in the notes to the Balance Sheet of a General Insurance Company.	M11	4	Ans-2

Answer

Ans -1:

No Risk Assumption without Premium: No risk can be assumed by the insurer unless the premium is received. According to section 64VB of the Insurance Act, 1938, no insurer should assume any risk in India in respect of any insurance business on which premium is ordinarily payable in India, if

- the premium payable is not received; or
- the premium payable is not guaranteed to be paid by such person in such manner and within such time,

as may be prescribed; or

- the premium payable is not deposited in advance in in the prescribed manner.

The premium receipt of insurance companies carrying on general insurance business normally arise out of three sources, viz., premium received from direct business, premium received from reinsurance business and the share of co-insurance premium.

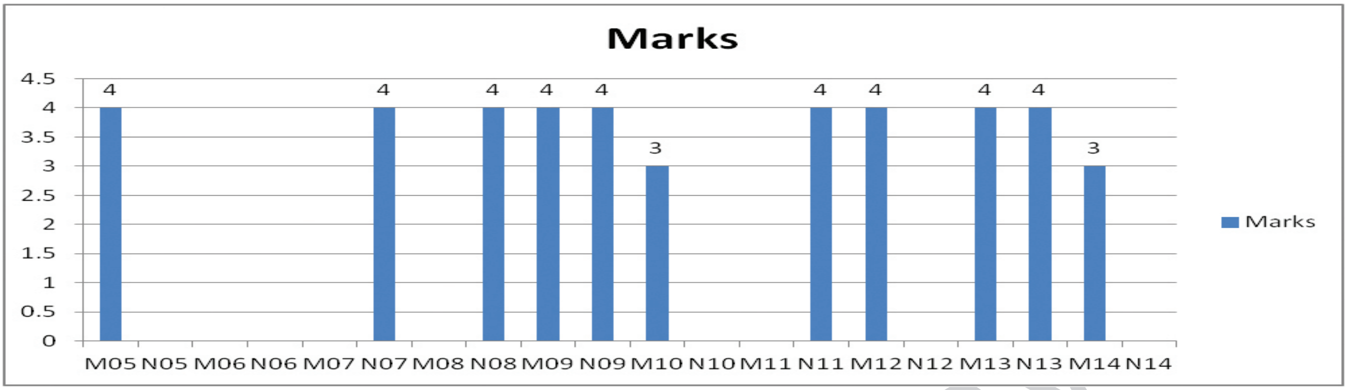
In view of the above, the insurance company is not liable to pay the claim and hence no provision for claim is required.

Ans- 2:

The following shall be disclosed by way of notes to balance sheet of a GIC in respect of contingent liabilities:

- Partly paid up investments.
- Underwriting Commitments outstanding.
- Statutory demands/Liabilities in dispute, not provided for.
- Claims, other than those under policies, not acknowledged as debts.
- Guarantees given by or on behalf of the Company.
- Reinsurance obligations to the extent not provided for in the accounts.

22 PEER REVIEW



1. **Introduction [N07 N08 M10]:** 'Peer Review' is defined as, a regulatory mechanism for monitoring the performances of professionals for maintaining quality of service expected of them for enhancing the reliance placed by the users of financial statements for economic decision-making. The peer review mechanism was established by the Council of the ICAI with the issuance of the Statement on Peer Review in March, 2002. Under peer review one chartered accountant will examine the other chartered accountant to judge the quality of attestation work performed by them. The former is known as Reviewer and the latter is known as practice unit/audit firm. The peer review is administered by Peer Review Board (PRB) constituted by ICAI. The Reviewer shall submit his report to PRB and necessary follow up action may be taken by PRB on such report.

2. **Objective of Peer Review [N07 N08 M10]:** The main objective of peer review is to ensure that (in carrying out their professional attestation service assignments) the members of the Institute:
   - Comply with the technical standards laid down by the ICAI.
   - Ensure that they have proper system for maintaining the quality of attestation services performed by him.
   - To ensure adherence to various statutory and other regulatory requirements.
   - To enhance the reliance placed by the users of financial statements for economic decision making.

   Thus the main objective of peer review is not to find out deficiencies but to improve the quality of services rendered by the members.

3. **Scope of Peer Review [N11 N13]:** Once a practice unit is selected for review, its attestation engagement records pertaining to the Peer review period shall be subjected to review. The Review shall focus on:
   - Compliance with Technical, Ethical & Professional Standards.
   - Quality of Reporting.
   - System and procedures for carrying out assurance services.
   - Training Programs for staff (including Articled and Audit Assistants) concerned with attestation functions, including appropriate infrastructure.
   - Compliance with direction and/or guidelines issued by the Council to the members, including fees to be charged, number of audits undertaken, register for assurance engagements conducted during the year and such other related records.
   - Compliance with directions and / or guidelines issued by the council in relating to article assistants and / or audit assistants, including attendance register, work diaries, stipend payment, and such other related records.

   A Practice Unit means members in practice, whether practicing individually or a firm of Chartered Accountants.

   The entire peer review process is directed at the attestation services which include all those services such as internal audit, concurrent audit etc., which involve provisions of some kind of element of assurance to users. Specifically, the services which have been excluded from the scope of attestation services are all management consulting engagements, representing a client before the authorities, preparing tax returns and providing tax advice, compilation services, testifying as expert witness and providing expert opinions based on facts.

4. **Areas excluded from scope of Peer Reviewer [M14]:** Areas excluded from scope of Peer Reviewer are:
   - Management Consultancy Engagements.
   - Representation before various Authorities.
   - Engagements to prepare tax returns or advising clients in taxation matters.
   - Engagements for the compilation of FS.
   - Engagement for Due diligence.
   - Engagements solely to assist the client in preparing, compiling or collating information other than financial statements.
   - Testifying as an expert witness.
   - Providing expert opinion on points of principle, such as Accounting Standards or the applicability of certain laws, on the basis of facts provided by the client.

5. **Technical, Ethical and Professional Standards as per Statement on Peer Review [M13]:** As per the Statement, Technical, Professional and Ethical Standards means:
   - Accounting Standards issued by ICAI and /or prescribed and notified by the Central Government of India.
   - **Standards issued by the ICAI including:**
     - ◊ Engagement standards
     - ◊ Statements
     - ◊ Guidance notes
     - ◊ Standards on Internal Audit
     - ◊ Statements on Quality Control
     - ◊ Notifications / Directions / Announcements / Guidelines / Pronouncements / Professional standards issued from time to time by the Council or any of its committees.
   - **Framework for the Preparation and Presentation of Financial Statements:**
     - ◊ Framework of statements and Standard on Auditing.
     - ◊ Framework for assurance engagements.
     - ◊ Standard on Assurance Engagements.
     - ◊ Standards on Quality Control and Guidance Notes on related services issued, from time to time, by the ICAI.
   - Provisions of the various relevant statutes and / or regulations which are applicable in the context of the specific engagements being reviewed including instructions, guidelines, notifications, directions issued by regulatory bodies as covered in the scope of assurance engagements.

6. **Applicability of Peer Review:**

Periodicity of Peer Review	A Practice Unit which has undertaken any of the under-mentioned Assurance Services in the period under Review
Once in 3 Years	• Central Statutory Auditors of Public Sector Banks, Private Sector Banks, Foreign Banks and Public Financial Institutions. • Central Statutory Auditors of Central and State Public Sector Undertakings and Central Cooperative Societies based on criteria (such as turnover or paid up capital etc) as may be decided by the board. • Central Statutory Auditors of Insurance Companies. • Statutory Auditors of asset management companies and mutual fund entities. • Statutory audit of enterprises whose equity or debt securities are listed in India or abroad. • Statutory Audit of entities which have raised funds from public or banks or financial institutions of over Rs. 50 crore during the period under review. • Statutory Audit of Entities which have raised donation and / or contributions over Rs. 50 crore during the period under Review. • Statutory Audit of entities having Net Worth of more than Rs. 500 crore at any time during the period under Review. • Statutory Audit of entities which have been funded by Central and / or State Government(s) scheme of over Rs. 50 crore during the period under Review.

Once in 4 Years	• Statutory / Internal / Concurrent / Systems/ Tax Audit and / or Departmental Review of Branches / Offices of (a) Public Sector or Private Sector and / or Foreign Bank (b) Insurance Companies, (c) Co-operative Banks (d) Statutory Audit of Regional Rural Banks (e) Statutory Audit of NBFC. • Statutory Audit of entities having Net Worth of Rs. 5 Crore or an annual Turnover of more than Rs. 50 Crore during the period under review.
Once in 5 Years	• All other practice units, which are not covered above.

Note:

1. Any Practice Unit not selected for Peer Review, may ***suo moto*** apply to the Board for the conduct of its Peer Review .The Board shall act upon the same within 30 days from the date of receipt of such request.
2. Any Auditee (Client) may request the Board for the conduct of Peer Review of its auditors. The Board shall act upon the same within 30 days from the date of receipt of such request.

7. Peer Review Board:

- The Board shall be constituted by the Council.
- The Board shall consist of maximum of 12 members to be appointed by the Council, of whom at least 6 shall be from amongst the Members of the Council.
- The balance members of the Board shall be drawn from outside bodies and amongst prominent individuals of high integrity and reputation, including but not limited to, regulatory authorities, bankers, academicians, economists, legal professional and business executives.
- The Chairman and Vice-Chairman of the Peer Review Board is appointed by Council from amongst the members of the Council.
- Casual vacancies on the Board shall be filled in by the council.
- The term of a member shall be for 1 year, or such period as may be prescribed by the Council.
- The members of the Disciplinary Committee or the Committee on Ethical Standards or Committee on Financial Reporting and Review Board of the Institute of Chartered Accountants of India shall not be members of the Peer Review Board.

8. Eligibility of Reviewer:

- **A Peer Reviewer shall:**
  - ◊ A member of ICAI.
  - ◊ Be a member, possessing at least 10 years of experience in practice; and Currently active in the practice as per CA Act. 1949.
  - ◊ Should have undergone the requisite training as prescribed by the Board.
  - ◊ Furnish a declaration as prescribed by the Board, at the time of acceptance of Peer Review appointment.
  - ◊ Should have signed the Declaration of Confidentiality as prescribed by the Board.
  - ◊ Should have conducted audit of Level 1 Entities for at least 7 years to be eligible for conducting Peer Review of Level 1 Entities as referred above.
- **A Peer Review should not have:**
  - ◊ Disciplinary action / proceedings pending against him.
  - ◊ Been convicted by a Competent Court Whether within or outside India.
  - ◊ Been found guilty by the Council or the Disciplinary Board or Committee at any time.
  - ◊ Any obligation or conflict of interest in the Practice Unit or its Partners/ Personnel.
- A Reviewer shall not accept any professional assignment from the Practice Unit for a period of 2 years from the date of appointment.

9. The Peer Review Process:

9.1 Stage 1: Selection of Practice Unit and Appointment of Reviewer:

- Notification to the Practice Unit.
- Name of the three reviewer shall be recommended by the Board to the Practice Unit
- The Practice Unit shall select one out of three Reviewers & intimate to the Board within 7 days.
- The Board shall intimate to the selected Reviewer and seek his consent within 7 days.

9.2 Stage 2: Planning: After Reviewer consent, the Practice Unit shall furnish the following information to the

Reviewer within 15 days.

- Complete list of assurance service clients including the nature of service provided and fees charged.
- A note on the policies, procedure and process generally followed by the Practice Unit.
- Detail of any proceedings against the Practice Unit or any of its partners or qualified assistant taken by any regulatory, monitoring or enforcement bodies relating to attest function during the period of 3 years preceding the period of Review or at any time thereafter.

Selection of Sample by the Reviewer:

- After receiving information from the Practice Unit, Reviewer within 15 days select a sample of the assurance services that he would like to review and intimate the same to the Practice Unit.
- If required, Reviewer may also ask further /additional clarification from the Practice Unit.
- After selection process, Reviewer shall give at least 15 days time to the Practice Unit to keep the necessary records of the selected assurance services. Reviewer shall also plan for an on-site Review visit and this on-site Review should not extend beyond 7 working days.
- The Reviewer and Practice Unit will ensure that the entire Review process is completed within 90 days from the date of intimation to the Practice Unit about its selection for Review.

9.3 Stage 3: Execution [N09]:

- The reviewer should carry out the compliance review of the 5 key controls, i.e. independence, maintenance of professional skills and standards, outside consultation, staff supervision and development and office administration for evaluating the degree of reliance to be placed upon Practice Unit.
- The number of assurance service engagements to be reviewed shall depend upon number of factors such as fees charged/ service tax paid by the Practice Unit, size and nature of assurance service engagements, methodology generally adopted by the Practice Unit in providing assurance services etc. The Reviewer may also reduce or enlarge the initial sample size of assurance service after consultation with the Practice Unit.
- The reviewer is required to adopt a combination of compliance approach and substantive approach in the Review process.
  - ◊ **Compliance Approach:** The compliance approach is to assess whether proper control procedures have been established / followed by the Practice Unit to ensure that assurance serviced are being performed in accordance with Technical, Professional and Ethical Standards.
  - ◊ **Substantive Approach:** The Substantive Approach required a Review of the assurance working papers in order to establish the extent of compliance, whether the assurance work has been carried out as per the Technical, Ethical and Professional Standards.
- **Collection of Evidence by Peer Reviewer:** A Peer Reviewer collects evidence by applying the following methods:
- **Inspection:** Inspection mainly consists of examination of documentation (working papers) and other records maintained by the practicing unit.
- **Observation:** Observation consists of witnessing a procedure or process being performed by others. For example, while conducting on-site review, the reviewer may review the performance of internal control.
- **Inquiry:** Inquiry consists of seeking appropriate information from the partner/ proprietor of the firm or other knowledgeable persons within the practicing unit. The inquiries may originate from the responses to the questions given in the questionnaire. The inquiries may also arise from the inspection of documentation maintained by the practice unit.

Observation and inquiry may be considered as external independent sources of review evidence and inspection remains the most significant method for confirming the effective observance of control procedures in the practicing unit.

9.4 Stage 4: Reporting [M05 M09]:

- **Preliminary Report of Reviewer:** After completing the on-site review, the reviewer before making his Report to the Board shall communicate his finding in the preliminary report to the Practice Unit if in his opinion, the system and procedures of the practice unit reviewed by him have been found to be deficient with reference to any matter that has been noticed by him or if he wants to seek clarification on any other matters. However, no preliminary report is required in case no deficiencies or non-compliance are noticed by the reviewer.

- **Reply to Preliminary Report:** The Practice Unit within 15 days after the date of receipt of the preliminary report will reply in writing to the Reviewer.
- **Final Clean Report of Reviewer:** If the Reviewer is satisfied with the reply given by the Practice Unit, he shall submit a Peer Review Report to the Board along with his initial findings, response by the Practice Unit and the manner in which the responses have been dealt with. A copy of report shall also be forwarded to the Practice Unit.
- **Final Modified Report:** If the Reviewer is not satisfied, he shall accordingly submit a modified Report to the board incorporation his reasons for the same and his initial finding and discussion with Practice Unit. In case of modified report issued, Board shall order for a "follow on" Review after a period of 1 year (which may reduce to 6 months) from the date of issue of modified report.

10. **Qualified Assistant:** The reviewer may take the help of a qualified assistant while carrying out peer review. In this context, the Board decided to clarify that a reviewer is permitted to take the assistance of only one assistant who shall be a chartered accountant and a person who does not attract any of the dis-qualifications prescribed u/s 8 or Section 21 of the Chartered Accountants Act, 1949. The name of the qualified assistant shall be intimated to the Board as well as the practice unit before the commencement of the peer review and such a qualified assistant shall also have to sign the declaration of confidentiality. Selected Qualified assistant shall also not have any direct interface either with the practice unit or the Board. Further the selected assistant shall be from the firm of the reviewer and should have been working with him at least 1 year as a member in practice.

11. **Confidentiality:** Strict confidentiality provisions will applicable to all those involved in the peer review process, namely, reviewers, members of the Board, the Council, or any person who assists any of these parties. A Declaration of confidentially shall be signed by the persons who are responsible for the conduct of Peer Review i.e. Reviewer and his Qualified Assistants. All member of the Board shall also sign a declaration of Confidentiality in a manner as may be prescribed by the Board.

12. **Approach of the Reviewer:**
    - The reviewer should gain an understanding of the engagement letter. Engagement letter is an important document as it defines the nature and scope of the attestation engagement, practice unit's responsibilities with regard to the engagement.
    - The number of attestation engagements to be selected requires the exercise of judgement by the reviewer based on the evaluation of replies given in the questionnaire and the size of the practice unit.
    - The practice unit may have policies and procedures for accepting a particular engagement. These policies and procedures may not exist in the form of records in each practice unit. In such a case the reviewer should consider enquiring from the concerned persons about such policies and procedures.
    - The reviewer may follow a combination of compliance procedures and substantive.
    - procedures throughout the peer review process.

    Finally, the reviewer while evaluating records may consider the following:
    - Determine that any significant issues, matters, problems that arose during the course of the engagement have been appropriately considered, resolved and documented.
    - Determine that adequate audit evidence or other relevant evidence in relation to the engagement is obtained to support the reasonableness of the conclusions drawn; and
    - Determine that significant decisions relating to the engagement, use of professional judgement, resolution of significant matters have been properly documented.

13. **Inherent Limitations of Review:** The reviewer conducts the review in accordance with the Statement on Peer Review. The review would not necessarily disclose all weaknesses in compliance of technical standards and maintenance of quality of attestation services since it would be based on selective tests. As there are inherent limitations in the effectiveness of any system of quality control which happens to be subject-matter of review, departure from the system may occur and may not be detected.

No.	Question Bank	Exam	Marks	Refer Point/ Ans.
1	Write short notes on "Peer Review"	N07	4	1 & 2
2	Explain the objectives of Peer Review.	N08	4	
3	Write short notes on "Focus of a Peer Review"	M10	4	
4	Write short notes on "Scopr of Peer Review"	N11, N13	4	3
5	What are the areas excluded from the scope of peer reviewer?	M14	3	4
6	Write short notes on " Technical ethical and professional standards as per statement on peer review"	M13	4	5
7	Explain briefly: Collection of evidences by Peer reviewer.	N09	4	9.3
8	Write short notes on "Preliminary Report under in Peer Review"	M05	4	9.4
9	Write short notes on "Reporting Stage in Peer Review"	M09	4	
10	A, a practicing Chartered Accountant is appointed to conduct the peer review of another practicing unit. What areas a should review in the assessment of independence of the practicing unit.	M12	4	Ans-1

Answer

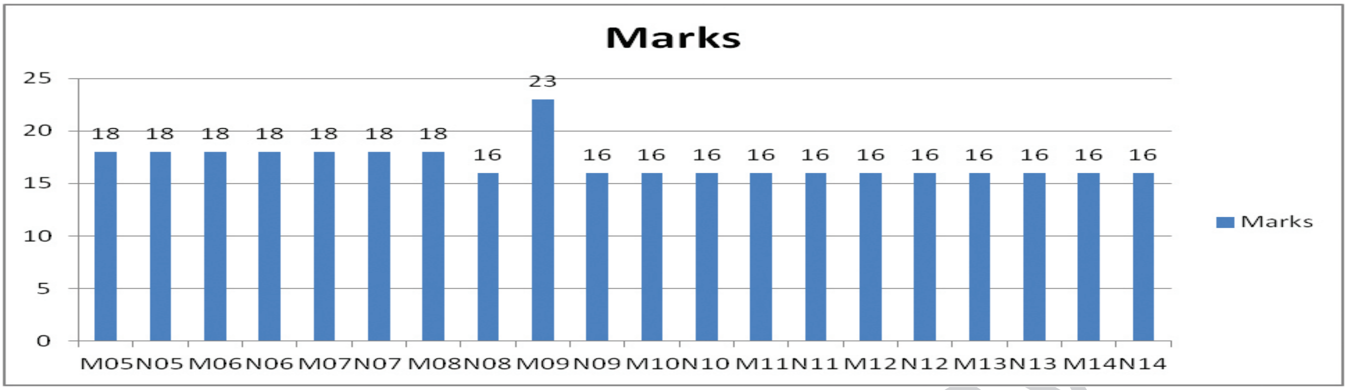
Ans 1:

Peer Review is a regulatory mechanism for monitoring the performances of professionals for maintaining quality of service expected of them. It was established by ICAI in March, 2002. Under peer review one CA will examine the other CA to judge the quality of attestation work performed by them. The objective of peer review is to ensure adherence to various statutory and other regulatory requirements & to enhance the reliance placed by the users of Financial statements for economic decision making.

In the instant case A, a practicing CA should review following controls in respect of assessment of independence of the practicing unit:

- Does the practice unit have a policy to ensure independence, objectivity and integrity, on the part of partners and staff? Who is responsible for this policy?
- Does the practice unit communicate these policies and the expected standards of professional behavior to all staff?
- Does the practice unit monitor compliance with policies and procedures relating to independence?
- Does the practice unit periodically review the practice unit's association with clients to ensure objectivity and independence?

23 PROFESSIONAL ETHICS



23A The Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006

No.	Particular	Section
1	Member deemed to be in Practice	2
2	Entry of names in the Register of Member	4
3	Class of Member	5
4	Significance of Certificate of Practice (COP)	6
5	A member in practice is prohibited from using any designation other than Chartered Accountant	7
6	Disqualification of Member	8
7	Disciplinary Procedure	21
8	Other Misconduct	22
9	Appellate Authority	22
10	Penalty for falsely claiming to be a Member	24
11	Unqualified persons not to Sign Documents	26
12	Maintenance of Branch office by Practicing Member	27
13	Quality Review Board	28

1. **Introduction - Code of Ethics:** The "Code of Ethics" is essentially a set of professional ethical standards regulating the relationship of CAs with their clients, employers, employees, fellow members of the group and the public in general. The CA Act, 1949 and the Schedules to the Act set out the acceptable forms of behavior of the members of the profession.

2. **Entry of Names in the Register of Member [Section 4]:**
   - A person who cleared the Final Examination and completed the training prescribed by the ICAI (such GMCS course) can become a member of the ICAI and have his name entered in the Register of Member.
   - **Status of Member:** member in practice (must have COP), member in service or member (may not be in practice or service, just having a degree).
   - Member can practice in his individual names or in his sole proprietorship firm or partnership firm.

3. **Class of Member [Section 5]:**

- **ACA:** - any person shall on his name being entered in Register of member, become Associate member & can use letter A.C.A. after his name.
- **FCA:**- On an application, Associate member in continue practice in India for at least 5 years or associate member for continuous 5 years possessing such qualification as prescribed, shall be entered in Register of fellow members & can use letters F.C.A. after his name.

4. A member in practice is prohibited from using any designation other than Chartered Accountant [Section 7]:

- All member (whether in practice or not) can use prefix CA before their name.
- Member in practice can't use any other designation other then "CHARTERED ACCOUNTANT", but they can use any other letter or description indicating membership of Accounting body approved by Council; e.g. Member in practice can't designate himself as 'COST ACCOUNTANT' but can use letter AICWA, if he is a member of AICWA.
- If member have more than one COP (CA & Advocate), then he/she can't use two designations simultaneously. For matter involving practice as Advocate he should use designation 'ADVOCATE' & for matter involving practice as CA, he should use designation 'CHARTERED ACCOUNTANT'.
- A member who is not in practice and does not use designation of a Chartered Accountant may use any other description.

5. Disqualification of Member (Section 8):

- Age <21 years at time of application.
- Unsound mind as per competent court.
- Un-discharged insolvent.
- Discharged insolvent but has not obtained a certificate from court stating that his insolvency was due to misfortune without any misconduct on his part.
- Removed from membership by ICAI due to misconduct.
- Convicted by competent court of offence involving moral turpitude, or offence not of technical nature, committed by him in his professional capacity, but this disqualification is not attracted if he has been granted a pardon or CG has removed his disability.

If the person fails to disclose the fact that he suffers from any of the above disabilities, it will constitute professional misconduct on his part. The name of the member, who is found to have been subject at any time of the disabilities mentioned above, can be removed from the register of members by the Council.

6. Member deemed to be in Practice (Section 2):

(A) When he (Individually or in Partnership) in consideration of Remuneration:

- Engage him-self in practice of accountancy, or
- Offer to Perform audit and related services, or
- Holds himself out to the public as an accountant, or
- Renders professional services or assistance in or about matters relating to accounting procedure or the recording, presentation or certification of financial facts or data; or
- Renders such other services as in the opinion of the Council may be rendered by CA in practice.

(B) When he accepts any of the following in his Professional Capacity:

- Act as Liquidator, trustee, executor, administrator, arbitrator, receiver, advisor or representation for costing, financial or taxation matter.
- Appointment by Central govt. or State govt. or court or legal authority.
- Act as Secretary, unless his employment is on a salary-cum-full time basis.

Proviso: If such work as in **[B]** is accepted in personal/employee capacity, he will not be deemed to be in practice.

(C) Other Services (which include Management Consultancy Services) which are in the opinion of the council may be rendered by CA in practice [Council resolution u/s 2(2)]:

- Financial management planning and financial policy determination.
- Capital structure planning and advice regarding raising finance.
- Working capital management.
- Feasibility study & project reports.
- Budgeting (Capital and Revenue).

- Inventory management, material handling and storage.
- Market research and demand studies.
- Price-fixation and managerial decision making.
- Management accounting system, cost control & value analysis.
- Control methods and management information and reporting.
- Personnel recruitment & selection.
- Setting up incentive plan etc.
- Management & operation audits.
- Valuation of shares and business and advice regarding amalgamation, merger and acquisition.
- Business policy, corporate planning, organization development, growth and diversification.
- Organization structure & behavior, employee training, job evaluation.
- System analysis and design and computer related services and other EDP services.
- Acting as advisor to issue.
- Investment counseling.
- Acting as registrar to issue.
- Quality audit, Environment audit, Energy audit.
- Acting as recovery consultant in banking sector.
- Insurance financial advisory services (including insurance brokerage).

Explanation: For removal of doubt, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.

Management Consultancy Services shall not include the functions of:

- Statutory or Periodical audit.
- Tax (both direct and indirect taxes) representation or advice concerning tax matters.
- Acting as Liquidator, Trustee, Executor, Administrator, Arbitrator or Receiver.

(D) Points to Remember:

- CA who is salaried employee of CA in practice shall be deemed to be in practice for limited purpose of training articled clerk.
- Once a person become a member of ICAI, he is bound by the provisions of CA Act and its regulations.
- If he appears before the Income Tax Tribunal as an Income tax representative after becoming a member he could appear so only in his capacity as a CA and a member of ICAI.

7. Penalty for falsely claiming to be a Member [Section 24]:

- Any person, not being CA, represents that he is CA or use designation CA or any person being CA not having COP, represents that he is in practice or practice as a CA, shall be penalized by Rs. 1000/- and on any subsequent conviction with imprisonment which may extend up to 6 months or fine which may extent to Rs 5000/- or both.
- No company, whether incorporated in India or elsewhere, shall practice as CA. If any company contravenes this provision then, without prejudice to any other proceedings which may be taken against the company, every director, secretary, manager and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to Rs. 1000/- and on any subsequent conviction to Rs 5000/-

8. Unqualified persons not to Sign Documents [Section 26]:

- No person other than a member of the institute shall sign any document on behalf of a CA in practice or a firm of such CA in his or its professional capacity.
- Any person contravenes this provision shall, without prejudice to any other proceedings, which may be taken against him, be punishable on first conviction with a fine not less than Rs 5000/- but which may extend to Rs. 1 lakh rupees, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to 1 year or with fine not less than Rs 10000/- but which may extent to Rs 2 lakh rupees or with both.

9. Significance of Certificate of Practice (COP) (Sec 6):

- A CA not holding Certificate of Practice (COP) can't take up any other work PRESCRIBED for a practicing CA. thus if CA has surrendered his COP due to misconduct he can't appear before taxation authorities etc' (even though he is having law degree) during his removal because once a member becomes a member of the institute; he is bound by the provisions of the CA Act 1949 and regulations made there under.

- But he can appear in a civil court as advocate because appearing in civil court is not a prescribed service for CA in practice.

10. **Maintenance of Branch Office by Practicing Member [Section 27]:** A CA in practice or a firm of CAs has more than one office in India provided each one of such offices should be in the separate charge of a member of the institute (CA) either as a partner or in whole time employment. Separate charge means, member either attends the said office or resides in the city where such office is situated, at least for 182 days in a year.

Exception (No separate incharge is needed): Each branch must have separate CA in charge, but in following cases no separate in-charge is required for branch office:

A) Exemption has been given to members, practicing in hill areas subject to certain conditions. The conditions are:

- Temporary office may be opened in plains in winter season only for maximum 3 month a year.
- The regular office need not be closed during this period and all correspondence can continue to be made at the regular office.
- Temporary office address not to be mentioned as place of business on professional stationary (Visiting cards/letter head etc).
- Before opening & close of such temporary office inform ICAI.
- Name board of firm to be displayed at temporary office only for the period allowed as above.

(**B)** Member can be in-charge of two offices if second office located in same premises in which first office (Head Office) is situated OR in the same city or within 50 Kms from municipal limits of city in which first office (Head Office) situated.

11. **Other Misconduct [Section 22]:** Other misconduct relates to any misconduct of a member if it does not arise out of his professional work. Other misconduct has been defined in part IV of the First Schedule and Part III of the Second Schedule, which have been discussed in detail later under "Schedule to CA, Act, 1949". As per Part IV of the First Schedule to the CA Act, a member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct if he:

- Is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six month;
- In the opinion of the Council, brings disrepute to the profession of the Institute as a result of his action whether or not related to his professional work.

Example of Other Misconduct:

- Retention of books of accounts and documents of the Client and failure to return these to the Client on request without a reasonable cause.
- Material misrepresentation by a CA.
- Misappropriation by office-bearer of a Regional Council of the Institute, of a large amount and utilization thereof for his personal use.
- Non-replying within a reasonable time and without a good cause to the letter of the public authorities.
- Use of services of articled or audit clerk for purposes other than professional practice.
- Where certain assessment records of income tax department belonging to the client of CA were found in the almirah of the bed-room of the chartered accountant.
- Forging the will of a relative, even though the forgery may not have been done in the course of his professional duty.
- Adoption of coercive methods on a bank having a loan sanctioned to the CA.

Some Important Case Decisions:

- A CA authorized a book titled "Tax Planning for Secret Income (Black Money)". The Council found him guilty of "Other Misconduct" and removed his name from the Register for a period of 6 months initially. But, the High Court removed his name for a period of 5 years, for the totally unacceptable misconduct.
- Submission of Bogus Bills/Receipts for halting allowance expenses for audit of bank branches amount to "Other Misconduct". The CA's name was removed from the Register of Member for a period of 15 days.
- Issuing vogue certificate to facilitate the client to obtain bank loans amount to "Other Misconduct" u/s

21 &22.

12. Disciplinary Procedure [Section 21]:

12.1 Disciplinary Directorate:

- The Council shall, by notification, establish a Disciplinary Directorate headed by an officer of the Institute designated as Director (Discipline) and such other employees for making investigations in respect of any information or complaint received by it.
- On receipt of any compliant or information along with the prescribed fee, the Director (Discipline) shall arrive at a prima facie opinion on the occurrence of the alleged misconduct.
- Where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct as mentioned in the First Schedule, he shall place the matter before the Board of Discipline and where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct as mentioned in the Second Schedule or in both the Schedules, he shall place the matter before the Disciplinary Committee.
- In order to make investigations under this Act, the Disciplinary Directorate shall follow such procedure as may be specified.
- Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or, as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."

12.2 Board of Discipline:

- **The Council shall constitute a Board of Discipline consisting of:**
  - ◊ A person with experience in law and having knowledge of disciplinary matters and the profession, to be its presiding officer.
  - ◊ Two members one of whom shall be a member of the Council elected by the Council and the other member shall be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
  - ◊ The Director (Discipline) shall function as the Secretary of the Board.
- The Board of Discipline shall follow summary disposal procedure in dealing with all cases before it.
- Where the Board of Discipline is of the opinion that a member is guilty of a professional or other misconduct in First Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take anyone or more of the following actions, namely:
  - ◊ Reprimand the member.
  - ◊ Remove the name of the member from the Register up to a period of three months.
  - ◊ Impose such fine as it may think fit, which may extend to Rs. 1 lakh.
- The Director (Discipline) shall submit before the Board of Discipline all information and complaints where he is of the opinion that there is no prima facie case and the Board of Discipline may, if it agrees with the opinion of the Director (Discipline), close the matter or in case of disagreement, may advise the Director (Discipline) to further investigate into the matter.

12.3 Disciplinary Committee:

- **The Council shall Constitute a Disciplinary Committee consisting of:**
  - ◊ The President or the Vice-President of the Council as the Presiding Officer and
  - ◊ Two members to be elected from amongst the members of the Council and
  - ◊ Two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
- Provided that the Council may constitute more Disciplinary Committees as and when it considers necessary.
- The Disciplinary Committee, while considering the cases placed before it, shall follow such procedure as may be specified.
- Where the Disciplinary Committee is of the opinion that a member is guilty of a professional or other misconduct in Second Schedule or both the schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take anyone or more of the following actions, namely: -
- Reprimand the member.
- Remove the name of the member from the Register permanently or for such period, as it thinks fit.

- Impose such fine as it may think fit, which may extend to Rs. 5 lakhs.
- The allowances payable to the members nominated by the CG shall be such as may be specified.

12.4 Authority, Disciplinary Committee, Board of Discipline and Director (Discipline) to have powers of Civil Court: For the purposes of an inquiry under this Act, the Authority, the Disciplinary Committee, Board of Discipline and the Director (Discipline) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely.

- Summoning and enforcing the attendance of any person and examining him on oath;
- The discovery and production of any document; and
- Receiving evidence on affidavit.

13. Appellate Authority [Section 22]:

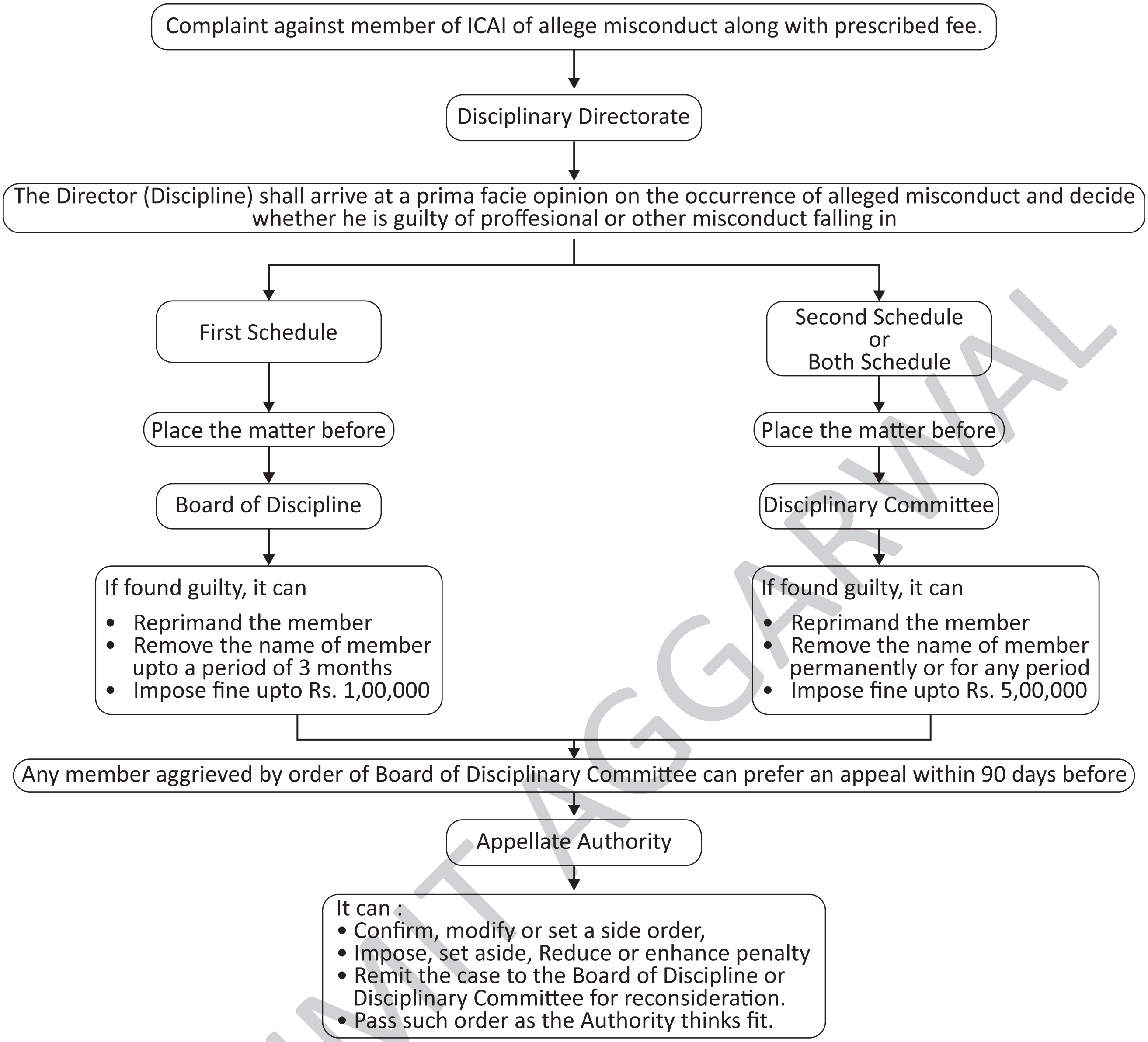
13.1 Constitution of Appellate Authority:

- The CG shall, by notification, constitute an Appellate Authority consisting of-
  - ◊ A person who is or has been a Judge of a High Court, to be its Chairperson;
  - ◊ Two members to be appointed from amongst the persons who have been members of the Council for at least one full term and who is not a sitting member of the Council;
  - ◊ Two members to be nominated by the CG from amongst persons having knowledge and practical experience in the field of law, economics, business, finance or accountancy.
- The Chairperson and other members shall be part-time members.

13.2 Appeal to Authority:

- Any member of the Institute aggrieved by any order of the Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in section 21, may within 90 days from the date on which the order is communicated to him, file an appeal to the Authority.
- It may be noted that the Director (Discipline) may also appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority, if so authorised by the Council, within 90 days.
- The Authority may also entertain any such appeal after the expiry of the said period of 90 days, if it is satisfied that there was sufficient cause for not filing the appeal in time.
- The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee and may: -
  - ◊ Confirm, modify or set aside the order.
  - ◊ Impose any penalty or set aside, reduce, or enhance the penalty imposed by the order.
  - ◊ Remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or
  - ◊ Pass such other order as the Authority thinks fit.

Provided that the Authority before passing such order, shall give an opportunity of being heard to the parties concerned.



14. Quality Review Board [Section 28]:

14.1 Establishment of Quality Review Board [Section 28A]:

- The CG shall by notification, constitute a Quality Review Board consisting of a Chairperson and ten other members.
- The Chairperson and member of the board shall be appointed from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy.
- Five members of the Board shall be nominated by the Council and other five members shall be nominated by the Central Government.

14.2 Functions of Board [Section 28B]: The Board shall perform the following functions, namely:

- To make recommendations to the council with regard to the quality of services provided by the member of the institute.
- To review the quality of services provided by the members of the institute including audit services; and
- To guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.
- Procedure of Board [Section 28C]: The board shall meet at such time and place and follow in its meetings such procedure as may be specified.

14.3 Terms and Conditions of services of Chairperson and Member of the Board, and its Expenditure [Section 28D]:

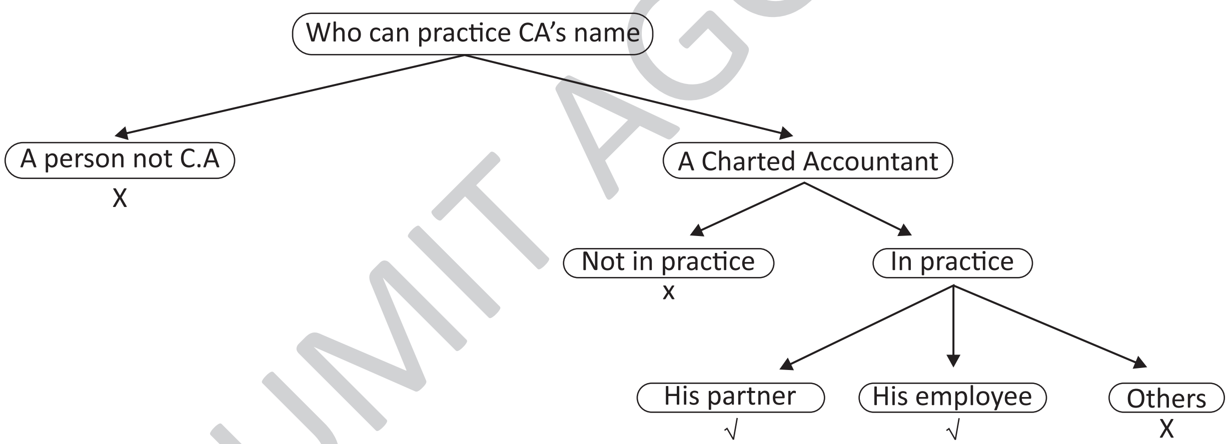
- The terms and conditions of service of the chairperson and the member of the Board and their allowances shall be such as may be specified.
- The expenditure of the Board shall be borne by the Council.

23B First Schedule to the Chartered Accountant Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006)

	Part I	Part II	Part III	Part IV
Misconduct	Professional	Professional	Professional	Other
Applicability	CAs in practice	CAs in service	CAs in general	
No. of Clause	12	2	3	2

Part I of First Schedule (Applicable for CA in practice)

Clause 1: CA in practice shall be deemed to be guilty of professional misconduct if he allows any person to practice in his name as a chartered accountant unless such person is also a CA in practice and is in partnership with or employed by him.



Clause 2:

- CA in practice shall be deemed to be guilty of professional misconduct if he Share his fees or profit of his professional business through commission or brokerage (directly or indirectly) to any person other than:
  - ◊ a member of the institute, or
  - ◊ a partner, or
  - ◊ a retired partner, or
  - ◊ The legal representative of a deceased partner, or
  - ◊ a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); 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.
- Objective of this clause is that practicing CA should get his professional work, not through services of agent or 3rd parties, but due to his own competent.
- CA can't engage in any business other than the profession of CA unless permitted by the Council for the same.
- Where government or government authority require the auditor to deposit a percentage of their audit fees in the state treasury, for recovering administrative and other expenses, auditor can do so [Council's

Decision]

- **For the purpose of clause (2), (3) and (5) of Part I of First Schedule to the Act, The Council has prescribed the following professional bodies:**
  - ◊ The Institute of Company Secretaries of India;
  - ◊ The Institute of Cost and Works Accountants of India;
  - ◊ Bar Council of India;
  - ◊ The Indian Institute of Architects;
  - ◊ The Institute of Actuaries of India.
- **For the purpose of clause (2) and (3) of Part I of First Schedule to the Act, the following shall be the persons qualified in India, namely:**
  - ◊ Company Secretary
  - ◊ Cost Accountant
  - ◊ Actuary
  - ◊ Bachelor in Engineering
  - ◊ Bachelor in Technology
  - ◊ Bachelor in Architecture
  - ◊ Bachelor in Law
  - ◊ Master in Business Administration

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited Liability Partnership (LLP).

<u>Allowability of profit sharing in case of death of a partner/proprietor of firm</u>

Death of Partner: Where, there are two or more partner and one of them dies, the widow or legal representative of the deceased partner can continue to receive a share of profit of the firm, only if the partnership agreement contains a specific provision to that effect.

Death of Proprietor (Sale of goodwill): There cannot be any fee sharing between the widow or the legal representative of the proprietor of a single member firm and the purchaser of goodwill of the Firm, on the death of the sole proprietor of that firm. Widow / legal representative of the deceased proprietor can receive payment for goodwill of the concern even in installment, provided that there is no linkage between such payment and the participation in the earning of the firm.

On death of sole proprietor, the firm name will be kept in abeyance by ICAI for one year so that widow of deceased can sell goodwill of the firm to another eligible CA. Such Sale must be completed within 1 year from death of sole proprietor & after sales another CA (Purchaser) can use the firm name. In case of dispute as to legal heir of deceased proprietor, intimation of dispute to be received by ICAI within one year of death of proprietor, on receipt of intimation within time, ICAI will keep the name of firm in abeyance till one year from the settlement of dispute.

Clause 3: CA in practice shall be deemed to be guilty of professional misconduct if he accept or agree to accept any part of profits of professional work from a person, who is not a member of the institute. However he can accept from:

- Member of such professional bodies or other persons having qualification as referred to in Clause 2 of Part I of First Schedule.

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited Liability Partnership (LLP).

Clause 4:

- CA in practice shall be deemed to be guilty of professional misconduct if he enters into partnership with any other person except:
  - ◊ CA In practice; or
  - ◊ a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); or

◊ The resident members of the institute residing abroad but entitled to be registered as a member of institute u/s 4(1) (v); or
◊ Whose qualifications are recognized by Central Government/council for purpose of permitting such partnership.

- However, partnership between member of the institute and members of foreign professional bodies are permissible provided members of such bodies are eligible for the membership of the institute.
- Prescribed qualifications of a eligible partner who is not a member of ICAI [Regulation 53B new amendment]
  ◊ Company Secretary
  ◊ Cost Accountant
  ◊ Actuary
  ◊ Bachelor in Engineering
  ◊ Bachelor in Architecture
  ◊ Advocate

This amendment has enabled members of the Institute to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner and thereby also going in sync with the concept of Limited Liability Partnership (LLP).

COUNCIL GUIDELINES FOR CONVERSION OF CA FIRMS INTO LLPS
(Guidelines No.1-CA (7)/03/2011, dated 4th November, 2011)

In terms of the Council decision dated 14 July, 2011, following guidelines for conversion of CA firms into LLPs and constitution of separate LLPs by the practicing CAs have been finalized which are applicable for conversion of CA firms into LLPs or formation of new LLPs by the members in practice of the Institute subject to the provisions of the Limited Liability Partnership (LLP) Act, 2008 and Rules & Regulations framed there under:-

(A) Conversion of CA firms into LLPs

- All existing CA firms who want to convert themselves into LLPs are required to follow the provisions of Chapter-X of the Limited Liability Partnership Act, 2008 read with Second Schedule to the said Act containing provisions of conversion from existing firms into LLP.
- In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the ICAI by the Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
- If the proposed name of LLP of CA firm resemble with any other non-CA entity as per the naming Guidelines under LLP Act and its Rules, the proposed name of LLP of CA firms 'may include the word 'Chartered Accountant' or 'Chartered Accountants', as the case may be in the name of the LLP itself and the Registrar, LLP may allow the same name, subject to compliance to Rule 18(2) (xvi) of LLP Rules as referred above.
- For the purpose of registration of LLP with ICAI under regulation 190 of the CAs Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
- The names of the CA firms registered with the ICAI shall remain reserved for the partners as one of the options for LLP names subject to the provisions of LLP Act, Rules and Regulations framed there under.
- These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
- The registration number (with minimum 6 numbers) of LLP with ICAI, shall remain the same Firm Registration Number (FRN) allotted to the firm before the conversion by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and "C' for Central Region.
- Introduction of LLP, shall not affect the existing regulations in force as regards the name allotment to CA firms.

(B) Constitution of separate LLPs

- All members of ICAI in practice who want to constitute separate LLPs are required to follow the provisions of the Limited Liability Partnership Act, 2008 read with the Rules framed there under.
- In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the ICAI by Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
- For the purpose of registration of LLP with ICAI under regulation 190 of the Chartered Accountants Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other, particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
- These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
- The registration number with minimum 6 number ‘of LLP with ICAI, shall be like the Firm Registration Number being allotted to the firms by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and 'C' for Central Region.
- The provisions of CA Act, 1949, Chartered Accountants Regulations, 1988 and Code of Ethics issued by ICAI shall be applicable to all partners of the LLP jointly and severally.
- In case of any dispute in respect of these guidelines, the same shall be referred to the committee of the Institute and the decision of that committee shall be final and binding on the members of the Institute.

Clause 5: CA in practice shall be deemed to be guilty of professional misconduct if he secures any professional business:

- Through service of a person who is not an employee/partner of such CA or
- By means not open to a CA.

Thus a CA in practice must get professional work due to his own ability and fame but not through using an agent of unfair means.

Securing any professional business through certain categories of non-members as prescribed by the institute is permitted such as CS, ICWA, Advocate, Actuary, and Architect. (Refer clause 2).

Clause 6: A CA in practice is deemed to be guilty of professional misconduct, if he solicits client or professional work, directly or indirectly by circular or advertisement or personal communication or Interview or any other means.

However, he can apply/request/invites/secure professional works from another CA in practice and respond to tenders or inquiries issued by the various users of professional services or organizations and secure professional work as a consequence.

Advertisement: CA in practice generally can’t advertise for soliciting work.

Exception:

- Advertise for change in partnership/address/telephone no. or dissolution of a firm provided – there should be bare statement of fact i.e. no extra publicity, & no of insertions in newspaper should be limited & area of distribution of newspaper/magazine should be limited.
- Classified advertisement (in ICAI’s Journal/Newsletter) for sharing professional work/seeking partnership/ salaried employment of accountancy nature, provided Only CA’s name, address, telephone no., fax, e-mail address is given (not of firm).

Empanelment for allotment of Audit/Professional Work:

- CA can write to concerned organization for having their name on panel maintained by such organizations, provided CA knows that such penal exists (Eg. Empanelment by RBI for Bank Audits).
- CA can quote fee only if enquired by such organization.
- No roving enquires by CA (For Eg. – enquiring the organizations whether they maintain penal or not and enquiring why work is not being allotted to him although his name is on the panel).

- CA can't send printed copies of fee in reply.
- Not allowed to respond for empanelment, requiring registration fee.

Publication of the name of firm in the telephone or other directory: Yes, permit subject to following conditions:

- Entry in separate section of CA.
- Entry in normal types of letters (Not bold/Italic).
- It should appear in local directory of the city in which concerned CA/Firm practices.
- Entry should be logical (alphabetical) order.
- Payment for entry should be reasonable.
- Entries should be open to all CA's.

Note:

- No impression of publicity or advertisement.
- No special request or additional payment by C.A. is allowed.

The following guidelines may also be noted in this regard:

- CA in practice can distribute hand bills containing their name to his clients only. e.g. budget highlight etc, not to any other person.
- CA in practice can write books etc. & get them published & mention his name & his personal/academic details, but can't mention his firm name.
- CA in practice can indicate designation (chartered accountant) name of firm & add on greeting cards, invitation for marriage, religious ceremonies, opening/inauguration of office etc to clients, relatives & close friends only (not to any other person).
- CA in practice can deliver public interviews provided it doesn't result in publicity.
- CA in practice can't use word like Income tax, cost or management consultant etc.
- Member photograph not allowed on visiting cards.
- CA can respond to the tender, and also pay the earnest money deposit as per the terms of tender.

Specific provisions for CA Website: CA in practice can create website in any format, any color as per taste of CA & can mention website address on professional stationery & website should be run on pull mode (i.e. should be accessible only to the person who wants to access it) not on push mode.

- **Following info may be provided in Website:**
  - ◊ Name of member/firm, member/firm address/telephone no./fax/email id.
  - ◊ Partner's name, their qualification, year of qualification,home address, telephone no, email id.
  - ◊ Employee's name and their qualifications.
  - ◊ Job vacancies including articleship.
  - ◊ Passport size photograph of members.
  - ◊ Reference about ICAI/govt. related website.
  - ◊ Date upto which website is updated.
  - ◊ Common logo prescribed by ICAI.
  - ◊ Chat room between client & C.A. or among CA's. However confidentiality should be maintained.
  - ◊ Bulletin board.
- **Following info to be provided in Website on pull request:**
  - ◊ Nature of service rendered.
  - ◊ Nature of assignment handled.
  - ◊ Area of expertise of partners/employee.
  - ◊ No. of articled clerks.
  - ◊ Year of establishment.
- **Following info cannot be provided on Website:**
  - ◊ Logo (other than that prescribed by ICAI).
  - ◊ Name of clients & fee charged.
  - ◊ No photograph (other than passport size photo of member).
  - ◊ No reference/link to any other website (other than ICAI/govt. related).
  - ◊ No advertisement.

Other issue related to Website:

- Address of website should be in the name of CA /CA firm or nearest to & should not be such as results in soliciting the client.
- Listing of CA's website on search engine is allowed, but it should be on criteria such as chartered accountant, Indian CPA or any related field.
- Intimation to ICAI. Presently Information about website is to be provided by CA to ICAI while submitting annual membership fee and form. (Earlier it was required to intimate within 30 days of setting the website).
- A CA can render professional advice through other website (e.g. professional advice on timesofindia.com) provided only CA's name with designation "Chartered Accountant' is given. (i.e. contact address, firm name & professional achievement of CA is not allowed).

Scope of Representation u/s 140 of Co. Act, 2013: If CA is not reappointed as an auditor of a company, or someone else is appointed in his place, then representation to be made by him, should not be with a view to secure publicity or in a nature of solicitation & he can't make derogatory remarks against the company.

Clause 7: CA in practice is deemed to be guilty of professional misconduct if he advertises his professional attainments or services, or use any designation/expression other that chartered accountant on Visiting cards, Letter heads, or Sign boards but he can write down any degree of university established by law in India or recognized by CG or a title indicating membership of ICAI/ any other institution recognized by CG/ Council. (CFA, CMA, CS, CWA, LLB etc)

Other Aspects:

- **Designation:**
  - ◊ A CA in practice cannot use word like Income-tax Consultant or a Cost Consultant or a Management Consultant.
  - ◊ He can use the designation "Chartered Accountant" only on professional documents, visiting cards, letter heads or sign boards.
- **Advertisement in Press:** CA in practice may advertisement in following circumstances:
  - ◊ For recruiting staff/article clerk in the members' own office.
  - ◊ On behalf of clients requiring staff or wishing to acquire or dispose of business or property.
  - ◊ For the sale of a business or property by a member acting in a professional capacity as trustee, liquidator or receiver.

Condition:

- ◊ That the advertisement is not displayed more prominently than is usual for such advertisements or the member or that of his firm with the designation Chartered Accountant(s) appears in type not bolder than the substance of the advertisement.
- ◊ When advertising for staff use of expression such as "a well-known firm" is not allowed.
- ◊ The advertisements should not contain any promotional element nor should there be any suggestion that the services offered by the CA or his firm are superior to those offered by other accountants.

Press note on success of a candidate in exams: Allowed but it should not contain any element of undesirable publicity either in relation to the articled I audit clerk or an employee or the member or the firm with whom he has served. The candidate's name and address, school and local background, examinations passed with details of any prize or place gained, the name of the principal, firm and town in which the principal practices may be published.

- **Appearance on TV/Films/Radio/Press/Seminars:**
  - ◊ He may appear, but 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, to the name and address or services of his firm.
  - ◊ He should not say anything to promote him/his firm. Whatever he say, must be professional & objective.
  - ◊ It is also the duty of CA concerned to ensure that even host should not refer to any such thing.

Training Courses and Seminar: A CA in public practice holding training courses, seminars etc. for his staff may also invite the staff of other professional accountants and clients to attend the same. However, undue prominence should not be given to the name of the CA in any booklet or document issued in connection herewith.

- **Use of Sign Board:**
  - ◊ Cannot use glow sign board or large sized sign boards.
  - ◊ Can use sign board at his residence and have a name and designation as “Chartered Accountant”, but cannot use firm name.
- **Photograph & brief particulars of CA in Magazine:** It is allowed, but no payment is made for such publication and there is no advertisement of professional attainments.
- **Publicity for Appointment of Position of Local/National Importance:** Publicity is permitted for appointments to positions of local or national importance or for the views of members on matters of similar importance. They may mention their member ship with ICAI, but reference to his firm name is not allowed.
- **Date of Establishment of Firm:** Not allowed on letter head etc. However in the Website, the year of establishment can be given on the specific "pull" request.
- **If CA is Member of Parliament or any Other Elected Authority:** Not allowed to use the designation such as 'member of Parliament', Municipal Council or any other functionary in addition to that of Chartered Accountant.
- **If Member of ICAI Advocate also:** Members of the Institute in practice who are otherwise eligible may practice as advocates subject to the permission of the Bar Council but in such case, 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. (Also refer Section 7)
- **Writing Articles:** Members writing articles or letters to the press on subjects connected with the profession may give their names and use the description 'Chartered Accountant'.

GUIDELINES FOR ADVERTISEMENT FOR THE MEMBERS IN PRACTICE

1. 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.

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 ICAI does not own any responsibility whatsoever for such contents or claims by the Writer Member(s) / Firm(s)

2. **Definitions:** "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 included in newspapers, journals, magazines and websites (in Push as well in Pull mode) in accordance with the Guidelines.

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

(A) For Members

- Name Chartered Accountant
- Membership No. with Institute
- Age
- Date of becoming ACA
- Date of becoming FCA
- Date from which COP held
- Recognized qualifications
- Languages known
- Telephone/Mobile/Fax No.
- Professional Address
- Web
- E-mail
- C A Logo
- Passport size photograph

- Details of Employees (Nos. -)
  - ◊ Chartered Accountants
  - ◊ Other Professionals
  - ◊ Articles/Audit Assistant
  - ◊ Other Employees
- Names of the employees and their particulars on the lines allowed for a member as stated above.
- Services provided
  - ◊ ……………..
  - ◊ ………………
  - ◊ ……………….

(B) For Firms

- Name of the Firm Chartered Accountants
- Firm Registration No. with Institute
- Year of establishment.
- Professional Address(s)
- Working Hours
- Tel. No(s)/Mobile No./Fax No(s)
- Web address
- E-mail
- No. of partners
- Name of the proprietor/partners and their particulars on the lines allowed for a member as stated above including passport size photograph.
- C A Logo
- Details of Employees (Nos.)
  - ◊ Chartered Accountants
  - ◊ Other professionals
  - ◊ Articles/Audit Assistants
  - ◊ Other employees
- Names of the employees of the firm and their particulars on the lines allowed for a member as stated above.
- Services provided:
  - ◊ …………..
  - ◊ …………..
  - ◊ …………..

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

- The write-up should not be false or misleading and bring the profession into disrepute.
- The write-up should not claim superiority over any other Member(s)/Firm(s).
- The write-up should not be indecent, sensational or otherwise of such nature which may likely to bring the profession into disrepute.
- The write-up should not contain testimonials or endorsements concerning Member(s).
- The write-up should not contain any other representation(s) that may like to. cause a person to misunderstand and/or to be deceived.
- The write-up should not violate the provisions of the 'Act', Rules made there under and 'The Chartered Accountants Regulations, 1988
- The write-up should not include the names of the clients (both past and present)
- The write-up should not be of font size exceeding 14.
- The write-up should not contain any information other than stated in Para 3 herein above.
- The write-up should not contain any information about achievements / award or any other position held.

GUIDELINES FOR MEMBERS HOLDING CERTIFICATE OF PRACTICE ON ACCEPTANCE OF DIRECTORSHIPS IN

COMPANIES

- The prospectus or public announcements issued by these companies often publish descriptions about the Chartered Accountant's expertise, specialization and knowledge in any particular field or add appellation or adjectives to their names.
- 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.
- It is advisable for a member that as soon as he is appointed as a director on the Board, 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 public 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.
- The use of the expression 'Chartered Accountant' is permissible. However, the member must ensure that descriptions about his expertise, knowledge and specialization in any particular field of other appellation or adjectives are not published with his name. Particulars about directorships held by the member in other companies can, however, be given, but the name of the Firm of Chartered Accountants in which the member is a partner, should not be given.

GUIDELINES FOR USE OF EXPRESSIONS SUCH AS 'ASSOCIATES OF 'CORRESPONDENTS OF... ETC. ON LETTER HEADS, VISITING CARDS ETC OF FIRMS OF CA

The use of expressions I words 'in Association with .... 'Associates of 'Correspondents of…..etc., on the stationery letter heads, visiting cards and professional documents etc. of firms of CAs is not permissible in view of the provisions of clause (7) of Part I of the First Schedule to the CAs Act, 1949 irrespective of whether the connection bearing name sought to be used was the name of an Indian firm or a foreign firm.

The Council has not barred entering into such association and the restriction given under the above clause is to bar an advertisement appearing derived from such associations.

Clause 8: A CA in practice is deemed to be guilty of professional misconduct if he accept a position as auditor, previously held by another CA or restricted state auditor without first communicating with him in writing.

CA in practice should not accept audit if there is Non compliance of provisions of Section 139 & 140 of Co. Act, 2013 (Appointment/reappointment/removal/remuneration etc) & nonpayment of undisputed audit fee (except sick unit) (if provision of audit fees has been made and B/S & P&L A/cs signed by auditor & auditee then it is called "undisputed audit fees").

If qualified report was issued by earlier auditor, member may accept audit if attitude of retiring auditor was not proper and justified. Otherwise he should not accept it.

Responsibility of incoming auditor when prospective clients want to appoint you as auditor in place of old one:

- Ask client whether previous auditor has been informed, if yes communicate himself with previous auditor.
- If no, ask client the reason for change, if valid reason, he may accept but after communication with previous auditor, if not valid reasons, then healthy practice not to accept.
- Communication should be through R.P.A.D (Registered post acknowledgement due) or by hand against an acknowledgement in writing.
- Incoming auditor must retain positive evidence that letter has in fact reached the previous auditor.
- Incoming auditor may act if outgoing auditor does not reply within a reasonable time.
- Compulsory communication for all audits (Statutory audit, cost audit, tax audit, concurrent audit, internal audit, govt. audit etc).
- It is healthy practice to communicate (discretionary) for certification work, audit for special purpose like u/s 142 (2A) of I.T. Act, Appointment as liquidator trustee etc or any other professional assignment for which previous professional wasn't CA.
- In case of tight time schedule, he can start audit on the basis of conditional acceptance (i.e. his acceptance is subject to professional objection from outgoing auditor).

- Previous auditor means auditor of latest previous year in which audit was conducted.

Clause 9: CA in practice is deemed to be guilty of professional misconduct if he accept an appointment as auditor of a company without ascertaining from it whether requirement of Section 225 of the Co Act 1956 (Section 140 of Co. Act, 2013) in respect of such appointment have been duly complied with (Recall the provision for appointment of Co Auditor like Board resolution, GM resolution, CG approval etc).

Mere getting compliance certificate from the management is not sufficient, but he has to verify the relevant records to ascertain, whether the company has complied with the relevant provision of Co. Act.

Clause 10: CA in practice is deemed to be guilty of professional misconduct, if he charges or offer to charges fees, which are based on % of profit or contingent upon the findings, or results of such employment except as permitted under any regulations made under this act.

Exception: However, CA in practice can charge % basis in following cases:
- Receiver/liquidator – as % of realization/disbursement of assets.
- Auditor of co-operative society – as % of paid up capital/working capital/ gross net income/profit.
- Valuer for direct taxes & duties purpose – as % of value of property to be valued, If fee is fixed by court, it shall not be treated as contingent.

Clause 11: CA in practice is deemed to be guilty of professional misconduct if he engages himself in any business/occupation other than profession of CA unless permitted by council so to engage. However, he may become a director (Not MD/WTD) of a company provided he/his partner are not auditor of such Co.

Regulation 190A: General Permission granted by council i.e. no specific permission is required in following cases:
- Employment under practicing CA/CA firm
- Private tutorship
- Authorship of books/Articles
- Holding life Insurance agency license (only for the limited purpose of getting renewal commission)
- Holding public elective office (M.P., M.L.A)
- Honorary office of charitable –educational institute
- Notary public, Justice of peace, Special Executive Magistrate & like
- Part time tutorship under coaching organization of institute
- Valuation of paper, paper setter, head- examiner or moderator for any exam
- Editorship of professional journal only
- Acting as Surveyor/loss Assessor under insurance act
- Recovery consultant in the banking sector
- Insurance brokerage only
- Owing agricultural land and carrying out agricultural activity.

Regulation 190A: specific permission is required in following cases:
- Full time/ part time employment in business concerns, provided he/ his relative is not having substantial interest in such concerns
- Full time/part time employment in any NON BUSINESS concerns
- Full time/ part time lectureship for courses other that those relating to ICAI
- Full time/ part time Tutorship under any educational institute other that coaching organization of ICAI
- Interest in family business concern in which interest is due to relationship/inheritance provided not actively participate in its management.
- Interest in educational institution
- Interest in agricultural/ allied activities carried on with help of hired labor
- MD/WTD of a company
- Editorship of journal other than professional journals
- Any other business/profession if executive committee considers that permission may be granted

Notification with respect to Regulation 190A: Any member engage in any other business or occupation, in terms of general or specific permission granted, shall not be entitled to perform any attest function except in the following cases:
- Authorship of books/Articles

- Holding life Insurance agency license (only for limited purpose of getting renewal commission)
- Holding public elective office (M.P., M.L.A)
- Honorary office of charitable –educational institute
- Notary public, Justice of peace, Special Executive Magistrate & like
- Part time tutorship under coaching organization of institute
- Recovery consultant in the banking sector
- Engagement as lecturer in an University, affiliated college, educational institute, coaching organization, private tutorship, provided the direct teaching hours developed to such activities taken together do not exceed 25 hours a week
- Valuation of paper, paper setter, head- examiner or moderator for any exam
- Editorship of professional journal (not in employment)
- Insurance brokerage
- Acting as Surveyor/loss Assessor under insurance act
- Any coaching assignment organized by the institute, it regional councils and branches of regional councils
- Engagement in any other business or occupation permitted by the executive committee from time to time
- A member who is not entitled to perform attest function shall not be entitled to train articled clerks

Whether a Member in Practice can be a Director: A member in practice can be a Director Simplicitor, Promoter/Promoter Director, Subscriber to the MOA and AOA of any company including a Board Management Company. Thus, members are not required to obtain specific permission in such cases, irrespective of whether he and/or his relatives hold substantial interest in that Company. It is to be noted that a member in practice can be Promoter/Promoter Director/Subscriber to MOA and AOA of a company irrespective of whether the objects of the company include area which fall within the scope of the profession of Chartered Accountancy.

A Director Simplicitor means an ordinary or simple director who fulfils the following conditions:
- He is required to attend the Board meetings only;
- Not entitled to any remuneration except the sitting fees; and
- Devote his time for the company only to attend Board meetings and not for any other purposes.

Clause 12: CA in practice is deemed to be guilty of professional misconduct if he allows a person, not CA or CA but not his partners, to sign on his/his firm 's behalf any BS, P&L, Report or Financial statements. Hence Only CA or his partner can sign BS, P&L, Report or financial statement. However power to sign routine documents may be delegated, where professional opinion is not required e.g. questionnaire, routine correspondence with client, bills for fee etc.

Part II of First Schedule (Applicable for CA in service)

Clause 1: CA in service is deemed to be guilty of professional misconduct, if he pays or allow or agrees to pay directly/indirectly to any person, any share in emoluments of employment undertaken by him.

Clause2: CA in service is deemed to be guilty of professional misconduct, if he accepts or agree to accept any part of fee, profit or gains from a lawyer/CA/broker engaged by such employer or agent/customer of such employer by way of commission or gratification.

Part III of First Schedule (Applicable for CA in general)

Clause1: A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he not being FCA but acts himself as FCA. [Also see section 24]

Clause 2: A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he does not supply information called for, or does not comply with the requirements asked for, by the institute, council or any of its committees, Director (Discipline), Board of Discipline, disciplinary committee, quality review board or the appellate authority.

Clause 3: A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he while inviting professional work from another CA or while responding to tenders or inquiries, or while advertising through a write-up, or anything as provided in clause 6 & 7of Part -1 of the first schedule, give information knowing it to be false.

Part IV of First Schedule (Applicable for CA in general)

Clause 1: A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term <= 6 months (if > 6 months, then it is covered in Clause 1 of part III of Second Schedule).

Clause 2: A member of the institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he, in the opinion of the council, brings dis-repute to the profession or the institute as a result of his action whether or not related to his professional work.

Example:

Where, a CA retains the books of accounts and documents of the client and fails to return these to the client on request without a reasonable cause.

- Where, a CA uses the services of his article or audit clerk for purposes other than professional practice.
- Not replying within a reasonable time and without a good cause to the letter of the public authorities.
- Where a CA had adopted coercive methods on a bank for having a loan sanctioned to him.
- Where, a CA as a member of council, misappropriate of ICAI's money.
- Where, a CA makes a material mis-respresentation.
- Where, a CA dishonor of cheque issued by CA.

No.	Question Bank	Exam	Marks	Clause	Refer Point/ Ans.
1	Do you approve of the following? If not, why? Mr. Qureshi, Chartered Accountant, in practice died in a road accident. His widow proposes to sell the practice of her husband to Mr. Pardeshi, Chartered Accountant, for Rs 5 lakhs. The price also includes right to use the firm name- Qureshi & Associates. Can widow of Qureshi sell the practice and can Mr. Pardeshi continue to practice in that name as a proprietor?	N04	4	Clause 2 of Part I of First Schedule	Ans-1
2	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto. "K, a practicing Chartered Accountant gave 50% of the audit fees received by him to L, who was not a Chartered Accountant, under the nomenclature of office allowance and such an arrangement continued for a number of years."	M12	4	Clause 2 of Part I of First Schedule	Ans-2
3	Discuss the following with reference to the Chartered Accountants. Act, 1949 and schedules thereto: "Mr. Q, a Chartered Accountant in practice as a proprietor died in a road accident. His widow sold the practice of her husband to another Chartered Accountant in practice for Rs. 5 lakhs. The price also included right to use the firm name of Mr. Q."	N02 N12	4	Clause 2 of Part I of First Schedule	Ans-3

4	"Mr. X who passed his CA examination of ICAI on 18th July, 2013 and started his practice from August 15, 2013. On 16th August 2013, one female candidate approached him for articleship. In addition to monthly stipend, Mr. X also offered her 1% profits of his CA firm. She agreed to take both 1% profits of the CA firm and stipend as per the rate prescribed by the ICAI. The Institute of Chartered Accountants of India sent a letter to Mr. X objecting the payment of 1% profits. Mr. X replies to the ICAI stating that he is paying 1% profits of his firm over and above the stipend to help the articled clerk as the financial position of the articled clerk is very weak. Is Mr. X Liable to professional misconduct?"	N13	4	Clause 2 of Part I of First Schedule	Ans-4
5	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A Chartered Accountant practicing in India enters into partnership with: (a) A Certified Public Accountant in New York. (b) A Chartered Accountant from the Institute of Chartered Accountants in England and Wales in London and in each case, the members concerned take the profits earned in their own country. Will it make any difference, if an Indian Chartered Accountant is practicing outside India and becomes a partner with the aforesaid accountants"	N00	4	Clause 4 of Part I of First Schedule	Ans-5
6	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "An advertisement was Published in a Newspaper containing the Photograph of Mr. X,-A member of the institute wherein he was congratulated on the occasion of the opening ceremony of his office."	N09	4	Clause 6 of Part I of First Schedule	Ans-6
7	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "Mr. X, a Chartered Accountant and the proprietor of X & Co., wrote several letter to the Assistant Registrar of Co-operative Societies stating that though his firm was on the panel of auditors, no audit work was allotted to the firm and further requested him to look into the matter."	N09	4	Clause 6 of Part I of First Schedule	Ans-7
8	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: "PQR and Associates, Chartered Accountants have their website and on the letterhead of the firm it is mentioned that "Visit our website: PQR. com". In the website the nature of assignments handled, names of prominent clients and fees charged is also displayed."	N10	4	Clause 6 of Part I of First Schedule	Ans-8
9	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. Sodhi, a Chartered Accountant in practice, who is proposed to be removed as the auditor of a company makes unsubstantiated and derogatory remarks against the management of the company in his representation u/s 140 of the Companies Act, 2013." (Modified as per New Co. Act, 2013)	M11	4	Clause 6 of Part I of First Schedule	Ans-9

10	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "A letter is sent by a Chartered Accountant in practice to the Ministry of Finance inquiring whether a panel of auditors is being maintained by the Ministry and if so to include his name in the panel (CV enclosed)."	M11	4	Clause 6 of Part I of First Schedule	Ans-10
11	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto. "M, a practicing Chartered Accountant sent a letter to another firm of Chartered Accountants, claiming himself to be a pioneer in lisoning with Central Government Ministries and its allied Departments for getting various Government clearances for which he had claimed to have expertise and had given a list of his existing clients and details of his staff etc."	M12	4	Clause 6 of Part I of First Schedule	Ans-11
12	Comment on the Auditor's liability in the following cases: "X & Co. Chartered Accountants, informed selected multinational organizations, who are not their clients that Mr. Y, the former partner-in-charge of Taxation of one of the largest accounting firms of the world, had joined them as a partner."	N99	4	Clause 6 of Part I of First Schedule	Ans-12
13	As a practicing Chartered Accountant do you approve the following? If not, why? A partner of a firm of Chartered Accountants during a T.V. interview handed over a bio data of his firm to the chairperson. Such bio data detailed the standing of the international firm with which the firm was associated. It also detailed the achievements the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio data during the interview.	N01	4	Clause 6 of Part I of First Schedule	Ans-13
14	Discuss the following with reference to the Chartered Accountants. Act, 1949 and schedules thereto: "M/s XYZ, a firm in practice, develops a website "xyz.com". The colour chosen for the website was a very bright green and the website was to run on a "push" technology where the names of the partners of the firm and the major clients were to be displayed on the website."	N02	4	Clause 6 of Part I of First Schedule	Ans-14
15	Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: Mr. Z, a Chartered Accountant wrote several letters to Government Department, pointing out seniority of his firm, sending his life sketch and stating that he had a glorious record of service to the country as well as to the organization of accountancy profession with a view to get the audit work.	N03	4	Clause 6 of Part I of First Schedule	Ans-15
16	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "M/s XYZ, a firm of Chartered Accountants created a website "www.xyzindia.com". The Website besides containing details of the firm and bio data of the partners also contains the photographs of all the partners of the firm."	M05	5	Clause 6 of Part I of First Schedule	Ans-16

17	Comment on the following with reference to the Chartered Accountants Act, 1949, Code of Ethics and Schedules to the Act: XYZ & Associates, a firm with 5 partners developed a website www. xyzassociates.com. The website also contained a link to "All India Chartered Accountants Association", a Voluntary association where X, a partner of the firm is currently the Vice-President.	M06	4	Clause 6 of Part I of First Schedule	Ans-17
18	Comment on the following with reference to the Chartered Accountants Act, 1949, Code of Ethics and Schedules to the Act: M/s. LMN, a firm of Chartered Accountants responded to a tender from a State Government for computerization of land revenue records. For this purpose, the firm also paid Rs. 50,000 as earnest deposit as part of the terms of the tender.	M06	5	Clause 6 of Part I of First Schedule	Ans-18
19	Comment on the following with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. S, a Chartered Accountant published a book and gave his personal details-as the author. These details also mentioned his professional experience and his present association as partner with M/s RST, a firm."	N05	5	Clause 6 of Part I of First Schedule	Ans-19
20	Mr. Honest, a Chartered Accountant in practice, wrote two letters to M/s XY Chartered Accountants a firm of CAs; requesting them to allot him some professional work. As he did not have a significant practice or clients he also wrote a letter to M/s ABC, a firm of Chartered Accountants for securing professional work. Mr. Clever, an another CA, informed ICAI regarding Mr. Honest's approach to secure the professional work. Is Mr. Honest wrong in soliciting professional work?	N13	4	Clause 6 of Part I of First Schedule	Ans-20
21	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: A chartered accountant in practice created his own website in attractive format and colours and circulated the information contained in the website through E-mail.	M07	5	Clause 6 of Part I of First Schedule	Ans-21
22	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A practicing Chartered Accountant uses a visiting card in which he designates himself, besides as Chartered Accountant, as ' (a) Tax Consultant (b) Cost Accountant."	N00	4	Clause 7 of Part I of First Schedule	Ans-22
23	Examine whether there is professional misconduct in the following circumstances: "A chartered accountant in practice appearing on television on budget proposals was introduced to the viewers, on the basis of the bio-data furnished by him, as the senior most partners of M/s Tick and Tag, a leading firm of chartered accountants established in Delhi in 1948."	N98	5	Clause 7 of Part I of First Schedule	Ans-23
24	Comment with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "H, a Chartered Accountant in practice is a partner in 3 firms. On the personal Letter Heads of H, names address of all the 3 firms are mentioned".	M06 M09	4	Clause 7 of Part I of First Schedule	Ans-24

25	Is there any misconduct on the part of a Chartered Accountant in the following circumstances: The offer document of a listed company in which Mr. D, a practicing Chartered Accountant is a director mentions the name of Mr. D as a director along with his various professional attainments and spheres of specialization.	M02	4	Clause 7 of Part I of First Schedule	Ans-25
26	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: XY & Co. a firm of Chartered Accountant having 2 partners X & Y, one in charge of Head Office and another in charge of Branch at a distance of 80 kms, puts up a name-board of the firm in both premises and also in their respective residences.	N07	5	Clause 7 of Part I of First Schedule	Ans-26
27	Mr. Nigal, a Chartered Accountant in practice, delivered a speech in the national conference organized by the Ministry of Textiles. While delivering the speech, he told to the audience that he is a management expert and his firm provides services of taxation and audit at reasonable rates. He also requested the audience to approach his firm of chartered accountants for these services and at the request of audience he also distributed his business cards and telephone number of his firm to those in the audience. Comment.	N13	4	Clause 7 of Part I of First Schedule	Ans-27
28	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "Mr. Kishore, a Practicing Chartered Accountant was appointed by the Central Government to carry out a special audit u/s 233A of the Companies Act, 1956. He accepted the appointment and proceeded with the work without communicating to the statutory auditor of the company."	M11	4	Clause 8 of Part I of First Schedule	Ans-28
29	Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: W, a Chartered Accountant has sent letters under certificate of posting to the previous auditor informing him his appointment as an auditor before the commencement of audit by him.	N03	4	Clause 8 of Part I of First Schedule	Ans-29
30	Comment on the following with reference to the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 and schedules thereto: BC & Co, a firm of Chartered Accountants, accepted an assignment for audit under State level VAT Act, without any prior communication with the previous auditor.	M08	4	Clause 8 of Part I of First Schedule	Ans-30
31	Mr. X, a Chartered Accountant accepted his appointment as tax auditor of a firm u/s 44AB, of the Income-tax Act, and commenced the tax audit within two days of his appointment since the client was in a hurry to file Return of Income before the due date. After commencing the audit, Mr. X realized his mistake of accepting this tax audit without sending any communication to the previous tax auditor. In order to rectify his mistake, before signing the tax audit report, he sent a registered post to the previous auditor and obtained the postal acknowledgement. Will Mr. X be held guilty under the CA Act?	M03	6	Clause 8 of Part I of First Schedule	Ans-31

32	Give your comments with reference to the Chartered Accountants Act, and schedules thereto: "Mr. A, a Chartered Accountant was the auditor of 'A Limited'. During the Financial year 2007-08, the investments appeared in the Balance Sheet of the company of Rs 10 lakhs and was the same amount as in the last year. Later on, it was found that the company's investments were only Rs 25,000, but the value of investments was inflated for the purpose of obtaining higher amount of Bank loan."	N09	4	Clause 2,7,8 of Part I of First Schedule	Ans-32
33	Comment on the Auditor's liability in the following cases: "X & Co. Chartered Accountants were informed by True & Co. Ltd. that they have been appointed as auditor of the company in place of ABC & Co., who have been removed, subject however to the approval of the shareholders in the ensuing Annual General Meeting. X & Co. accepted the appointment and commenced the work without their appointment being approved by shareholders of the company."	N99	4	Clause 9 of Part I of First Schedule	Ans-33
34	Can a Practicing Chartered Accountant be held guilty of professional Misconduct under the following circumstances? Give your views with reasons in brief: P, a Chartered Accountant had accepted appointment as an auditor of QRS Company Limited without ascertaining from the Company whether the requirement of Sections 224 and 225 of the Companies Act had been complied with. However, he realized this defect only after acceptance. (Now Section 139 to 142 of Co. Act, 2013)	N03	4	Clause 9 of Part I of First Schedule	Ans-34
35	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules there to: "CA X was appointed as the Auditor of ABC Ltd. for 2007-08. Since he declined to accept the appointment, the Board of Directors appointed CA Y as the auditor in the place of CA X, which was also accepted by CA Y."	N08	4	Clause 9 of Part I of First Schedule	Ans-35
36	As a practicing Chartered Accountant do you approve the following? If not, why? The Chairman of an Audit Committee of a Bluechip Company, who is a Chartered Accountant asked the firm in which he was previously a partner to quote their fee on a success fee basis so as to ensure that a professional work is assigned to such firm.	N01	4	Clause 10 of Part I of First Schedule	Ans-36
37	Examine whether there is professional misconduct in the following circumstances: " A chartered accountant acting as liquidator of a company: (i) charged fees as a percentage of realization of assets and . (ii) refused to hand over accounting records and valuables of the company in liquidation to the successor appointed by the Court."	N98	5	Clause 10 of Part I of First Schedule	Ans-37
38	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules there to: "CA D, a Chartered Accountant prepared a project report for one of his clients to obtain bank finance (long-term) of Rs. 50 lakhs from a Commercial Bank. Consequent to the sanction of the loan by the bank CA D raised a bill for his services @ 2% of the loan sanctioned."	N08	4	Clause 10 of Part I of First Schedule	Ans-38

39	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: "Mr. A, a practicing Chartered Accountant, took over as the executive chairman of Software Company on 1.4.2010. On 10.4.2010 he applied to the Council for permission."	M10	3	Clause 11 of Part I of First Schedule	Ans-39
40	Give your comments with reference to Chartered Accountants Act, 1949 and schedules thereto: Mr. B is a practicing Chartered Accountant holding a valid certificate of practice. He accepted the appointment as Director of the Green World Co. Ltd. Mr. C, a partner of Mr. B is statutory auditor of the said company.	N10	4	Clause 11 of Part I of First Schedule	Ans-40
41	State your views on the following: "A Chartered Accountant in practice holding Law Degree can practice both as a Chartered Accountant and as a Lawyer."	N99	4	Clause 11 of Part I of First Schedule	Ans-41
42	"A Chartered Accountant holding certificate of practice and having four articled clerks registered under him accepts appointment as a full-time lecturer in a college. Also he becomes a partner with his brother in a business. Examine his conduct in the light of C.A. Act, 1949 and the regulations there under"	M00	4	Clause 11 of Part I of First Schedule	Ans-42
43	Give your comments with reference to Chartered Accountants Act, 1949 and Schedules thereto. "Mr. B, a practicing Chartered Accountant as well as a qualified lawyer, was permitted by the bar council to practice as a lawyer also. He printed his visiting card where he mentioned his designation as Chartered Accountant and Advocate."	M13	4	Clause 11 of Part I of First Schedule	Ans-43
44	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A Chartered Accountant in practice takes up the appointment as Managing Director of a Public Limited Company."	N00 M07	4	Clause 11 of Part I of First Schedule	Ans-44
45	"Mr. J started his practice as Chartered Accountant in 1996. During 1999, he got an offer for the post of Chief Accountant of a Software Development Company, as a full time employee, for a salary of Rs 60,000 per month. On accepting this offer, Mr. J converted his practice into a partnership firm by taking a fresh Chartered Accountant as his partner. Mr. J neither intimated the Institute nor obtained permission from the Institute about his employment. Will Mr. J be held guilty under the CA Act?"	M03	6	Clause 11 of Part I of First Schedule	Ans-45
46	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto: "Mr. J.J. a practicing Chartered Accountant engages himself as part time finance manager of Quick Return Securities Ltd. He is of the view that as both functions are independent, he need not take permission from the Institute."	N06	4	Clause 11 of Part I of First Schedule	Ans-46

47	Comment on the following with reference to the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 and schedules thereto: M, a Chartered Accountant in practice, 'is the Statutory Auditor of S Ltd. for the year ended 31st March, 2008. In January, 2008, he was appointed as a Director in H Ltd., which is the holding Company of S Ltd.	M08	5	Clause 11 of Part I of First Schedule	Ans-47
48	"CA Prabhu is a leading income tax practitioner and consultant for derivative products. He resides in Mumbai near to the ABC commodity stock exchange and does trading in commodity derivatives. Every day, he invests nearly 50% of his time to settle the commodity transactions. Is C.A. Prabhu liable for professional misconduct?"	N08 N13	4	Clause 11 of Part I of First Schedule	Ans-48
49	Comment on the following with reference to the Chartered Accountants Act, 1949, Code of Ethics and Schedules to the Act: "P; a Chartered Accountant in practice provides Management consultancy and other services to his clients. During 2005, looking to the growing needs of his clients to invest in the Stock Markets, he also advised them on Portfolio Management Services whereby he managed portfolios of some of his clients."	M06	5	Clause 11 of Part I of First Schedule	Ans-49
50	Give your comments with reference to the Chartered Accountants Act, 1949 and Schedules thereto: "CA Smart, a practicing Chartered Accountant was on Europe tour between 15-9-10 and 25-9-10. 0n 18-9-10 a message was received from one of his clients requesting for a stock certificate to be produced to the bank on or before 20-9-10 Due to urgency, CA Smart directed his assistant, who is also a Chartered Accountant, to sign and issue the stock certificate after due verification, on his behalf."	M11	4	Clause 12 of Part I of First Schedule	Ans-50
51	Comment on the following with reference to the Chartered Accountants Act, 1949 and schedules thereto S, a practicing chartered accountant gives power of attorney to an employee chartered accountant to sign reports and financial statements, on his behalf.	M07	5	Clause 12 of Part I of First Schedule	Ans-51
52	Mr. 'A' is a practicing Chartered Accountant working as proprietor of M/s A & Co. He went abroad for 3 months. He delegated the authority to Mr. 'Y' a Chartered Accountant his employee for taking care of routine matters of his office. During his absence Mr. 'Y' has conducted the under mentioned jobs in the name of M/s A & Co. (i) He issued the audit queries to client which was raised during the course of audit. (ii) He issued production certificate to a client under Central Excise Act, 1944. (iii) He attended the Income Tax proceedings for a client as authorized representative before Income Tax Authorities. Please comment on eligibility of Mr. 'Y' for conducting such jobs in name of M/s A & Co. and liability of Mr. 'A' under the Chartered Accountants Act, 1949.	M14	5	Clause 12 of Part I of First Schedule	Ans-52
53	Discuss whether the following actions by a Chartered Accountant would amount to misconduct or not. "A Chartered Accountant in service agrees to entrust the work of investment broker to Mr. X on the specific understanding that 20% of commission Mr. X earns would be paid to him."	N00	4	Clause 2 of Part II of First Schedule	Ans-53

54	Mr. 'C', a Chartered Accountant holds a certificate of practice while in employment also, recommends a particular lawyer to his employer in respect of a case. The lawyer, out of the professional fee received from employer paid a particular sum as referral fee to Mr. 'C'.	M14	4	Clause 2 of Part II of First Schedule	Ans-54
55	"A Chartered Accountant in practice, in spite of repeated requests from the Secretary of the Institute, fails to submit form 18. Is he liable for misconduct?"	M00	4	Clause 2 of Part III of First Schedule	Ans-55
56	Give your comments with reference to the Chartered Accountants Act, and Schedules thereto: "Mr. X, a Chartered Accountant, employed as a paid Assistant with a-Chartered Accountant, firm. On 31st Decembers', 2008 he leaves the services of the firm. Despite many reminders from ICAI he fails to reply regarding the date of leaving the services of the firm."	M10	3	Clause 2 of Part III of First Schedule	Ans-56
57	Mr. 'G', while applying for a certificate of practice, did not fill in the columns which solicite information about his engagement in other occupation or business, while he was indeed engaged in a business.	M14	3	Clause 2 of Part III of First Schedule	Ans-57
58	Comment on the following: " Mr. R, a Chartered Accountant in practice approached Manager of a Nationalized Bank for a loan of Rs 25 lakhs. He has also informed the Manager that if the loan is sanctioned, the Income Tax return of the Manager and staff will be filed without charging any fees, as quid Pro quo for the loan sanctioned".	N11	4	Clause 2 of Part IV of First Schedule	Ans-58

Answer

Ist Schedule To The Chartered Accountants Act, 1949

ANS -1: Sale of Goodwill:

- With Reference to clause (2) of Part I to the first Schedule to CAs Act 1949 the council of the ICAI had an occasion to consider whether the goodwill of a proprietary concern of Chartered Accountant can be sold to another member who is otherwise eligible, after the death of the proprietor,. It laid down that sale is permitted subject to certain conditions.
- It is further resolved that the legal heir of the deceased member has to obtain the permission of the council within a year of the death of the 'proprietor concerned. Thus in the given case and on the facts, the Widow of Mr. Qureshi who has sold the practice for Rs 5 lakhs is nothing but sale of goodwill. Thus the act of Mrs. Qureshi is permissible.

Ans-2:

- As per Clause 2 of Part I of First Schedule to the CAs Act, 1949, a member shall be held guilty if a CA in practice pays or allows or agrees to payer allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualification as may be prescribed, for the purpose of rendering such professional services to time in or outside India.
- In the instant case, Mr. K. a practicing CA gave 50% of the audit fees received by him to Mr. L, who was not a CA, under the nomenclature of office allowance and such an arrangement continued for a number of years. In this case, it is not the nomenclature to a transaction that is material but it is the substance of the transaction, which has to be looked into.

- Conclusion: The CA had shared his profits and therefore, Mr. K was guilty of professional misconduct under the Clause 2 of Part I of First Schedule.

Ans-3:

- The council of the Institute considered the issue whether the goodwill of a proprietary firm of CA can be sold another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. The council resolved that the sale transfer of goodwill in the case of a proprietary firm of chartered accountant to another eligible member of the Institute shall be permitted.
- Thus in the given case, when the widow of Mr. Q sells the practice t another member, it is nothing but goodwill sold to another member. The sale of practice and the right to use the name is also allowed in terms of the above decision of the council. Thus the above act of the widow of Mr. Q is permissible.

Ans-4:

In view of the provision contained in Clause (2) of Part-1 of First Schedule of the CAs act 1949, the objections of the ICAI are correct and reply of Mr. X, stating that he is paying 1 % profits of his firm over and above the stipend to help the articled clerk as the position of the articled clerk is weak is not tenable. Hence, Mr. X is liable to professional misconduct in terms of Clause (2) of Part-1 of First Schedule of the CAs act 1949.

Ans-5:

- **Partnership with a CPA in New York:** Clause (4) of part I to the first schedule to the CAs Act, 1949 specifies that a CA in practice shall be guilty of professional misconduct in case a member of our Institute enters into partnership with any person other than a CA in practice. However, he may inter into partnership with
  - ◊ a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); or
  - ◊ The resident members of the institute residing abroad but entitled to be registered as a member of institute u/s 4(1) (v); or
  - ◊ Whose qualifications are recognized by Central Government/council for purpose of permitting such partnership?

  Thus CA would be guilty of professional misconduct since certified public accountants (CPA) is not recognized by the council/CG for entering in to partnership.
- **Partnership with a Chartered Accountant from ICAEW:** As stated above, it is important that partnership with a member of the foreign professional body is permissible provided inter alia, such bodies are recognised by CG of the council for the purpose of permitting such partnership.
- **Chartered Accountant practicing outside India:** A member of ICAI practicing outside India is not governed by the provisions of the Chartered Accountants Act, 1949 since the provisions of the said Act are not applicable outside India. Accordingly, the question of professional misconduct would not arise if an Indian Chartered Accountant practicing outside India becomes a partner with aforesaid accountants and enters into partnership in that country with a member of the institute of that country. There would be no professional misconduct within the provisions of ICAI Act, 1949 as the applicability of such provisions does not extend to outside India.

Ans-6:

The act of Mr. X will be considered to soliciting professional work by advertisement directly or indirectly. Therefore Mr. X would be held guilty under Clause 6 of Part-1 of the First Schedule to the Chartered Accountants Act, 1949.

Ans-7:

- Mr. X, a Chartered Accountant and proprietor of M/s X and Co, wrote several letters to the Assistant Registrar of Co-operative Societies, requesting for allotment of audit work. In similar cases, it was held that the Chartered Accountant would be, guilty of professional misconduct under clause 6 of Part I of the First schedule to the CAs Act, 1949.
- The writing of continuous letter to ascertain the reasons for not getting the work is quite alright but in given case he requested him to look into the matter will be taken as requesting for allotment. Hence Mr. X will be liable for professional misconduct under clause 6 of Part I of the Act.

Ans-8:

- The Council of the ICAI has issued guidelines for posting the particulars on Website by CAs in practice and firms of Chartered Accountants in practice under Clause (6) of Part I of First Schedule to the CAs Act, 1949.
- According to the guidelines the details in the website should be so designed that it does not amount to soliciting client or professional work. It is permitted to mention the website address on letterhead but soliciting people to visit website is not permitted.
- PQR and Associates letterhead invites to people to visit their website. Similarly the website mentions the nature of assignments, names of the prominent clients and fees Charged. The nature of assignments is permitted for display only on specific 'Pull" request. And the name of clients, the fees charged is not permitted at all.
- PQR & Associates will be held guilty of Professional Misconduct under Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949.

Ans - 9:

- As per the Clause 6 of Part I of the First Schedule to the Chartered Accountants Act, 1949, the unsubstantiated and derogatory remarks against the Management of the Company by Mr. Sodhi, a Chartered Accountant in practice, in his representation u/s 140 of the Companies Act, 2013 tantamount to securing professional work by undignified means.
- The Council of the Institute has clarified that the right to make a representation u/s 225 (3) of the Companies Act, 1956 does not mean that an auditor has any prescriptive right on a lien to an audit.
- The wording of this representation should be such that, apart from the opportunity not being abused to secure needless publicity, it does not tantamount directly or indirectly to canvassing or soliciting for his continuance as an auditor.
- The letter should merely set out in a dignified manner how he has been acting independently and conscientiously through the terms of office and may, in addition, indicate if he so chooses, his willingness to continue as an auditor if reappointed by the shareholder. .
- Thus, Mr. Sodhi is guilty of professional misconduct

Ans-10

- As per the Clause 6 of Part I of the First Schedule to the CAs Act, 1949 a Chartered Accountant in practice shall be deemed to be guilty of misconduct if he solicits clients or professional work either directly or indirectly by a circular, advertisement, personal communication or interview or by any other means.
- Such a restraint has been put so that the members maintain their independence of judgment and may be able to command respect from their prospective clients.
- In case of making an application for the empanelment for the allotment of audit and other professional work, the Council has opined that, where the existence of such a panel is within the knowledge of the member, he is free to write to the concerned organization with a request to place his name on the panel.
- However, it would not be proper for the member to make roving inquiries by applying to any such organization for having his name included in any such panel.
- Therefore, the member is guilty of misconduct in terms of the above provision as he has solicited professional work from the Finance Ministry, by inquiring about the maintenance of the panel.

Ans-11:

- As per Clause 6 of Part I of First Schedule to the CAs Act, 1949 a member shall be held guilty of professional misconduct if a Chartered Accountant in practice solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means.
- Further, as per Central Council Guidelines for Advertisement for the members in practice, write up of the members should not claim superiority over any other Member(s)/Firm(s) and should also not include the names of the clients.
- In the present case, Mr. M, a practicing CA sent the letter to another firm of Chartered Accountants, claiming himself to be a pioneer in liasoning with CG Ministries and its allied Departments for getting various Government clearances for which he had claimed to have expertise and had also given a list of his existing clients and details of his staff etc. which seems to be indirect methods to adventure their professional practice with a view to gain publicity and thereby solicit clients or professional work.
- Hence, Mr. M was guilty of professional misconduct as per Clause 6 of part I of First Schedule of the CAs, Act. 1949.

Ans-12

- Clause (6) of Part I to the first schedule to the CAs Act, 1949, prohibits solicitation of client or performing work either directly or indirectly by circular, advertisement, personal communication or interview or by any 'other means'.
- The issuance of circular to persons who are not clients but may likely require the services of a Chartered Accountant would tantamount to advertisement since it is solicitation of professional work by making roving enquiries. '
- Therefore X & Co's letter stating that Mr. Y joining the firm and that he was the former partner incharge of taxation of the largest accounting firm of the world amounted to advertisement and violation of clause (6) & (7) of part I of first schedule to the Chartered Accountant Act, 1949.

Ans-13

- Clause 6 of Part I of the first schedule to the CAs Act, 1949 prohibits solicitation of client or professional work either directly or indirectly by circular, advertisement personal communication or interview or by any other means since it shall constitute professional misconduct.
- The bio-data was handed over to the chairperson during T.V interview by the CA which included details about the firm and the achievements of the partner as an expert in the field of Taxation.
- The Chair Person simply read out the same in detail about association with the international firm as also the achievements of the partner and his recognition as an expert in field of taxation. Such an act would definitely lead to the promotion of the firm name and publicity there of as well as of the partner.
- Thus, the partner would be held guilty of professional misconduct under Clause (6) of Part I of the first schedule to the Chartered Accountants Act, 1949.

Ans-14:

The council of the ICAI had approved posting of particulars on website by chartered accounts in practice under clause (6) of Part I of first schedule to the CAs Act, 1949 Subject to the prescribed guidelines. The relevant guidelines in the content of the website hosted by MIs XYZ are:-

- No restriction on the colors' used in the website.
- The website are run on a "pull" technology and not a "push" technology.
- Names of clients and fees charged not to be given in the website.

In view of above, MIs XYZ would have no restriction on the colors used in the website but failed to satisfy the other two guidelines. Thus a firm would be liable for professional misconduct since it would amount to soliciting work by advertisement

Ans-15:

- Mr. 'Z' a CA, wrote several letters to Government Department pointing out the seniority of his firm and sending his life sketch and stating that he had rendered glorious service to the country and to the accountancy profession with a view getting the audit work.
- Clause 6 of Part I of first schedule to Chartered Accountants Act prohibits a member not to solicit professional work by means of advertising, Circular, personal communication or interview or by other means.
- Since these letters were clearly in nature of advertising professional attainments, Mr. Z was guilty of professional misconduct- under clause (6) of Part I of first Schedule.

Ans-16:

- As per detailed guidelines of the ICAI Iaid down in Clause (6) of Part I of the First Schedule to the CAs Act, 1949, a Chartered Accountant or the firm can create its own website using any format subject to guidelines.
- However, the website should be so designed that it does not solicit clients or professional work and should not amount to direct or indirect advertisement.
- The guidelines of the ICAI to allow a firm to put up the details of the firm, bio-data of partners and display of a passport size photograph.
- In the present case, all the guidelines seem to have been complied and there appears to be no violation of the CAs Act, 1949 and its Regulations.

Ans-17:

- As per the guidelines laid down under Clause (6) of Part 1 of the First Schedule to the CAs Act, 1949 in respect of websites by CA in practice, it is permitted that website may provide a link to the website of ICAI, its Regional Councils, Branches and Government Departments and other professional Bodies like AICPA, ICAEW, CICA.
- In this case, M/s XYZ Associates provided a link to "All India Chartered Accountants Association" which is not permitted. Hence the firm would be liable for misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Ans-18:

- Under clause (6) of Part I of the first schedule to the Chartered Accountants Act, 1949 lays down guidelines for responding to tenders.
- As per the guidelines if a matter relates to any services other than audit, members can respon to any tender. Further in respect of non-exclusive area, members are permitted to pay reasonable amount towards earnest money/security deposits.
- In the present case, since computerization of land revenue records does not fall within exclusive areas for Chartered Accountants, M/s LMN can respond to tender as well as deposit Rs 50,000 as earnest deposit and shall not have committed any professional misconduct. .

Ans-19

- As per Clause 6 of Part I of first Schedule to CA Act, 1949, a member in practice is deemed to guilty of professional misconduct, if he solicits clients or professional work, either directly or indirectly, by circular, advertisement, personal communication' or Interview or by any other means.
- The Main objective behind it is that professional work should be attained through building confidence providing quality services to the client and the satisfaction of the clients towards the services performed this will maintain the Independency of Chartered Accountant.
- The council states that there should neither be an open soliciting of work nor any impression to that effect. Council also prohibits publication of books or articles, if they indicate his association with a firm of chartered accountants.
- In the Instant case, Mr. S a CA, published the book and mentioned his professional experience and his association as a partner with M/s RST. Therefore Mr. S. has committed the professional misconduct by mentioning that at present he is a partner in M/s RST, a CA firms.

Ans-20:

- As per Clause 6 of Part I of the First Schedule to the CAs Act, 1949, a CA in practice shall be deemed to be guilty of misconduct if he solicits clients or professional work either directly or indirectly by a circular, advertisement, personal communication or interview or by any other means. Provided that nothing herein contained shall be construed as preventing or prohibiting any CA from applying or requesting for or inviting or securing professional work from another chartered accountant in practice. Such a restraint has been put so that the members maintain their independence of judgment and may be able to command respect from their prospective clients.
- In the instant case, Mr. Honest wrote letters only to other Chartered Accountants, M/s XY and M/s ABC requesting them to allot some professional work to him, which is not prohibited under clause (6) as explained above. Thus, Mr. Honest is not wrong in soliciting professional work.

Ans-21:

Since in the present case, the chartered accountant circulated the information contained in the website through E-mail, he is guilty of misconduct under clause 6 of Part I of the First Schedule to the CAs Act, i.e. a chartered accountant in practice is deemed to be guilty of professional misconduct if the solicits client or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means.

Ans-22:

- **Tax Consultant:** Section 7 of CA Act 1949 read with Clause 7 of part I of the first schedule to the said Act prohibits advertising of professional attainments or services of a member. It also restrains a member from using any designation or expression other than that of a chartered Accountant in documents through which the professional attainments of the member would come to the notice of the public. Under the clause, use of any designation or expression other than Chartered Accountant for a CA in practice on professional documents, visiting cards etc. amounts to a misconduct unless it be a degree of a University or a title indicating membership of any other professional body recognized by the CG or the council. Thus it is improper to use designation ''Tax Consultant" Since neither it is a degree of a University established by law in India or recognized by CG nor it is a recognized professional membership by the CG or the council.

- **Cost Accountant:** According to section 7 of the Act read with Clause (7) of part I of the first schedule to the CAs Act, 1949. A Chartered Accountant in practice cannot use any other designation than that of a Chartered Accountant. Nevertheless, a member in practice may use any other letters or descriptions indicating membership of accountancy bodies, which have been approved by the council. Thus it is improper for a Chartered Accountant to state in his documents that he is as Cost Accountant" However, as per Appendix 8 to the Chartered Accountants Act, 1949 the council has resolved that the members are permitted to use letters indicating membership of the institute of Cost and Works Accountants but not the designation "Cost Accountant."

Ans-23:

- Clause 7 of part I of first Schedule to the CAs Act, 1949, prohibits a Chartered Accountant from advertising his professional attainments or services.
- Accordingly the code of conduct states that" members may appear in television and films and agree to broadcast in the Radio or give lectures at forums and may give their names and describe themselves as CAs. 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 service of the firm.
- Therefore, reference to the name of the firm M/s Tick and Tag and use of adjective expressions such as a leading firm of a chartered accountants and "senior most partner are violation of the code of conduct.
- Further, it also states that the practice of stating even the date of setting up the practice by a member must be avoided. Thus reference to the date of establishment of firm in Delhi in 1948 is also against the provisions of CAs Act, 1949. Thus chartered Accountant is guilty of professional misconduct as impugned announcement was made on basis of bio- data given by him.

Ans-24:

As per clause (7) of part -1 of First Schedule, there is no prohibition for printing names of all 3 firms on the personal letter heads in which a member holding certificate of practice is a partner. Thus, H is not guilty of any professional misconduct in the above case.

Ans-25:

- The council of the ICAI has in a communication to members stated that if a public company, in which a CA in practice is a director, issues a prospectus or gives any announcement that gives descriptions about the Chartered Accountants' expertise, specialization and Knowledge in any particular field, it shall constitute a violation of clauses 6 and 7 of Part I of the first schedule to the CA Act, 1949.
- The council has further stated that in such cases the members concerned has to take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also do not directly or indirectly amount to solicitation of clients for professional work by the members.
- Thus in the instant case Mr. D would be held to be guilty of professional mis-conduct and liable for disciplinary action.

Ans-26:

- The council of the Institute has decided that with regard to the use of the name board, there will be no bar to the putting up of a name-board in the place of residence of a member with the designation of chartered accountant provided; it is a name-plate or board of an individual member and not of the firm.
- In the present case partners of X Y & Co., put up a name board of the firm in both offices and also in their respective residences.
- Thus the chartered accountants X & Y are guilty of misconduct. Distance given in the question is not relevant for deciding.

Ans-27:

- Clause 6 of Part I of the First Schedule to the CA Act, 1949 states that a CA in practice shall be deemed to be guilty of misconduct if he solicits clients or professional work either directly or indirectly by a circular, advertisement, personal communication or interview or by any other means.
- Section 7 of the CA Act, 1949 read with Clause 7 of Part I of the First Schedule to the said Act prohibits advertising of professional attainments or services of a member. It also restrains a member from using any designation or expression other than that of a chartered accountant in documents through which the professional attainments of the member would come to the notice of the public.
- Thus, as per clause 7 it is improper to use designation "Management Expert" since neither it is a degree of a University established by law in India or recognised by the CG nor it is a recognised professional membership by the Central Government or the Council.
- Therefore, In present case Mr. Nigal is deemed to be guilty of professional misconduct under both clause (6) and Clause (7) as he has used the designation "Management Expert" in his speech and also he has made reference to the services provided by his firm of Chartered Accountants at reasonable rates. Distribution of cards to audience is also misconduct in terms of Clause 6.

Ans-28:

- Clause 8 of Part I of the first Schedule to the CAs Act, 1949 deems a Chartered Accountant in practice to be guilty of professional misconduct if he accepts a position as auditor previously held by another Chartered Accountant without first communicating with him in writing.
- Whereas, the Council has specifically clarified that it is not necessary for the auditor who is appointed to conduct special audit to communicate with the previous auditor, who had conducted a regular audit for the period covered by special audit. Thus, Kishore is not guilty of professional misconduct.

Ans-29:

According to Clause 8 of Part I of first schedule, letters sent by "w" to the previous auditor informing him of his appointment as an auditor before the commencement of audit by him under certificate of posting is not sufficient to prove communication with the retiring auditor. In the opinion of the council, communication by a letter sent."Registered Acknowledgment Due" or by hand against a written acknowledgment would in the normal course provide positive evidence. Hence 'W" was guilty of professional misconduct under clause (8) of Part I of first schedule to the Chartered Accountant.

Ans-30:

In the instant case, BC & Co. accepted VAT - audit under State Level Act, carried out by another firm of chartered accountants in the previous year, without prior communication with the previous auditor. As per Clause 8 of Part I of First Schedule to the CA Act 1949 a communication is mandatory requirement for all types of audit, if the previous auditor is a chartered accountant. Hence, the firm is guilty of professional misconduct.

Ans-31

- According to Clause 8 of Part I of first schedule to the CA Act, 1949, Mr. X will be held guilty since he has accepted the tax Audit, without first communicating with the previous auditor in writing.
- The object of the incoming auditor communicating in writing with the retiring auditor is to ascertain whether there are any circumstances which warrant him not to accept the appointment.
- The code of ethics further points out that it would also be a healthy practice if, a tax auditor appointed for conducting special audit under the Income- Tax Act, 1961 communicate with member.
- Thus, auditor will be held guilty of professional misconduct. Though Mr. X tried to rectify his mistake after accepting audit but before signing audit report.

Ans-32:

- The primary duty of physical verification and valuation of investments is of the management. However, the auditor's duty is also to verify the physical existence and valuation of investments placed, at least on the last day of the accounting year. The auditor should verify the documentary evidence for the cost/ value and physical existence of the investments at the end of the year. He should not blindly rely upon the Management's representation (MR).
- In the instant case, such non-verification happened for two years. It also appears that auditors failed to confirm the value of investments from any proper source. In given case auditor has simply relied on the

management's representation and has failed to perform his duty.

- Accordingly, Mr. A, will be held liable for professional misconduct under clauses (2), (7) and (8) of Part -1 of the Second Schedule to the Chartered Accountants Act, 1949 in terms of Sections 21 and 22.

Ans-33:

- Under clause (9) of Part I of First Schedule of the CAs Act, 1949, the incoming auditor has to ascertaining whether the company has complied with the provisions of section 140 of the Companies Act, 2013.
- X & Co. had accepted the appointed and commenced the work without first as Curtaining whether the requirements of the Co. Act, 2013, in respect of such appointment had been complied with.
- The council has also issued the guidelines with reference to clause (9) laying down the detailed procedure to be complied with by the incoming auditor before accepting an appointment. Therefore X & CO. had failed to do so and therefore be liable for misconduct under the above clause (9) of Part I of the CA Act, 1949.

Ans-34:

- In the given case "P" a chartered Accountant, before acceptance of his appointment as an auditor has failed to ascertain whether the provisions of Sec. 224 & 225 (Now Section 139 to 142 of Co. Act, 2013) have been complied with by the company.
- The fact that 'P' has realized this defect only after acceptance would not save him from charge of misconduct. It is necessary for the incoming auditor to verify the relevant records of the company to enable him to ascertain whether the provisions of Sec. 224 & 225 (Now Section 139 to 142 of Co. Act, 2013) have been complied with.
- Therefore as per Clause 9 of the Part I of the first schedule to the CA Act, 1949 'P' was guilty of professional misconduct.

Ans-35:

- Board can appoint the auditor in the case of casual vacancy u/ss 224 (5) & 6(a) of the Co Act, 1956. "
- The non-acceptance of appointment by CA X does not constitute a casual vacancy to be filled by the Board.
- In this case, it will be deemed that no auditor was appointed in the AGM.
- Hence the appointment of auditor can be made only by the CG and the Board appointment is defective in law.
- Clause 9 of Part-I of First Schedule of CA Act, states that a CA is 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 140 of the Companies Act, 2013 in respect of such appointment have been fully complied with".
- Hence CA. Y is guilty professional misconduct since he accepted the appointed without verification.

Ans-36:

In given case, the action of firm to quote fees in such a manner on the advice of chairman of audit committee to ensure their appointment could not be accorded approval and the member would be held guilty of professional misconduct under clause (10) of Part I of the CAs Act, 1949.

Ans-37:

- Clause (10) of part I of first schedule to the CAs Act, 1949 prohibits charging of fees which are based as a % of profits or which are contingent upon findings since a professional's opinion should not depend upon the ultimate results. However, proviso to Regulation 192 permits that a liquidator may charge fees as acting as a liquidator a % of realisation of disbursement of the assets. Hence, a Chartered Accountant charging fees as a percentage of realisations of assets is not guilty of professional misconduct.
- The provision of the CAs Act, 1949 are applicable to a Chartered Accountant and nothing could be brought against a Chartered Accountant who is acting as a liquidator of a company. But Section 22 of the CAs Act, 1949 covers instances of professional misconduct which are not specified in schedule to the CAs Act, 1949, Therefore, a chartered accountant who is acting in the capacity of a liquidator would be covered by the provision of the Act. Thus, refusal on the part of the Chartered Accountant to part with records and valuables is wrong and without reasonable cause thus he will be held guilty of 'other misconduct.

Ans-38:

As per Clause 10 of part I to First Schedule to the Chartered Accountants Act CA D is liable for professional misconduct.

Ans-39:

- As per Clause (11) of Part I of Schedule I of the CA Act, 1949 a Chartered Accountant in practice, will be deemed to be of professional misconduct if he engages in any business or occupation other than the- profession of Chartered Accountant unless permitted by the Council so to engage.
- Thus, Mr. A took over as the executive chairman on 01/04/2010 and applied for permission on 10/4/2010, on the basis of these facts he was engaged in other occupation between the period 01/04/2010 to 10/04/2010, without the permission of the Council and therefore is guilty of misconduct in terms of this clause.

Ans-40:

- Clause 11 of Part 1 of First Schedule to the CA Act, 1949 prohibits a member to engage in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage.
- It does not prohibit a Chartered Accountant from being a director of a company, except managing director or a whole time director.
- But if any of the partners is interested in such company as an auditor then he cannot be director of the said company. In the present case Mr. B has accepted the directorship in a Company where his partner Mr. C is an auditor without obtaining specific permission of the council.
- Hence, Mr. B will be held for Professional Misconduct under Clause 11 of Part 1 of First Schedule. Further, the Council of the ICAI has categorically stated that in cases where a member is a director of a company, the firm, in which the said member is a partner, should not express any opinion on its financial statements.
- Clause 4 of Part I of the Second Schedule to the CA Act, 1949 states that expressing an opinion on financial statement of any business establishment in which the auditor, his firm or a partner of his firm has a substantial interest would constitute misconduct unless he discloses the interest in his report. In cases, where a member of the Institute is a director of a company or a firm in which said member is a partner should not express any opinion on its financial statements. Hence Mr. C, a partner of Mr. B, should vacate the office.

Ans-41:

According to clause (11) of part I of first schedule to the CAs Act, a CA is deemed to be guilty of professional misconduct if he engages in any business or occupation other than the profession of chartered accountants unless permitted by the council so to engage. The council of the Institute has formulated Regulations 190 A and 191 granting general permission for certain categories 'of occupation and also providing for prior approval for specified categories of occupation.

The council has clarified that members of the Institute in practice, who are otherwise eligible may practice as advocates subject to the permission of Bar Council but they should not be allowed to use both designations, that is Chartered accountant and Advocate simultaneously. [Section 7 of CA Act, 1949]

Ans-42:

According to clause (11) part I of the first schedule to the Chartered Accountants Act, 1949 A member can accept full-time lectureship in a college only after obtaining the specific and prior approval of the council. As Also becoming a partner in a business with his brother would require specific permission of the council which involves permission from the executive committee of the Institute. Thus, the chartered accountant is liable for professional misconduct since he failed to obtain specific and prior approval of the council in each case.

Ans-43:

- According to Clause (11) of Part I of First Schedule to the CAs Act, 1949 a CA is deemed to be guilty of professional misconduct if he engages in any business or occupation other than the profession of chartered accountants unless permitted by the council so to engage. The council of the Institute has formulated Regulations 190 A and 191 granting general permission for certain categories of occupation and also providing for prior approval for specified categories of occupations.
- The council has also clarified that members of the institution in practice, who are otherwise eligible may practice as advocates subject to the permission of Bar Council but they should not be allowed to use both

designations, that is Chartered Accountant and Advocate simultaneously.

- Thus in given case, Mr. B is guilty of professional misconduct as he has printed his visiting card mentioning his designation as both Chartered Accountant and Advocate.

Ans-44:

- As per Clause (11) of Part I of the first schedule to the Chartered Accountants, 1949 a member of the Institute in practice may hold the office of a managing director or a whole-time Director of a body corporate within the meaning of the Companies Act, provided that the member and or his relatives do not hold substantial interest in such concern and after obtaining the specific and prior approval of the council. Accordingly, in the absence of specific and prior approval chartered Accountant would be held guilty of professional misconduct.

Ans-45:

According to Clause 11 of Part I of first schedule to the Chartered Accountants Act, 1949, Mr. J will be held guilty since he has accepted the full time salaried employment in addition to the practice of chartered Accountancy without obtaining permission of the Institute.

Further, Mr. J will be guilty of professional misconduct under clause (i) of Part II of second schedule to the Chartered Accountants Act, 1949 if he contravenes any of the provision of the Act Since he has failed to inform the Institute.

Ans-46:

In the given case Mr. J.J. a practicing Chartered Accountant is engaging himself as part-time Finance Manager without the permission of the Institute which is misconduct attracted by clause 11 of Part I of First Schedule of the CA Act, 1949.

Ans-47:

- In terms of clause 11 of Part I of the First Schedule to the CA Act, 1949, a CA in practice cannot engage (unless permitted by the council) in any business or occupation other than the profession of Chartered accountant, but he can be a director of a company wherein he or any of his partners is not interested in such company as auditor.
- However, public conscience is expected to be ahead of law and the requirement of independence should be interpreted much more strictly. Members should thus not place themselves in position which would either compromise or jeopardize their independence.
- In view of the above, an auditor of a subsidiary company cannot be a director of a holding company as it will affect his independence.

Ans-48:

- As per clause 11 of Part-I of First Schedule of CA Act, 1949, a CA is deemed to be guilty of professional misconduct if he "engages in any business or occupation other than the profession of Chartered Accountant unless permitted by the Council so to engage".
- However, the Council has granted general permission to the members for certain specific specific occupations. In respect of all other occupations specific permission of the Institute is necessary.
- In the given case CA is engaged in the occupation of trading in derivatives which, is not covered under the general permission. Hence specific permission of the Institute has to be obtained otherwise he will be deemed to be guilty of professional misconduct under clause 11 of Part-I of First Schedule of CA Act, 1949.

Ans-49:

- According to Regulation 190 A of CA Act, 1949 a CA in practice cannot engage in any business or occupation other than the profession of Accountancy. However by a resolution, the council of ICAI may permit him to engage in other services.
- In the opinion of the council of the ICAI, the other service that may be rendered by a Chartered Accountant as described in section 2(2) will include the entire range of management consultancy services. However activity of portfolio management services is not permitted u/s 2 (2).
- Therefore, P, a Chartered Accountant in practice, cannot provide Management Consultancy and other services to his clients. Hence P is guilty of misconduct under Clause 11 of part I of CA Act 1949.

Ans-50:

- According to Clause 12 of Part 1 of the First Schedule of the CAs Act, 1949, a Chartered Accountant in practice is deemed to be guilty of professional misconduct "if he allows a person not being a member of the Institute in practice or a member not being his partner to sign on his behalf or on behalf of his firm, any balance sheet, profit and loss account, report or financial statements".
- In such circumstances CA Smart allowed his assistant who is not a partner but a member of the ICAI to sign stock certificate on his behalf and thereby commits misconduct.
- Therefore, CA Smart is guilty of professional misconduct under Clause 12 of part I of First Schedule of the CAs Act, 1949

Ans-51:

- Clause 12 of Part I of the First Schedule to the CAs Act, 1949 as amended by the Chartered Accountants (Amendment) Act, 2006 states that is a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he allows a person not being a member of the Institute or a member not being his partner, to sign on behalf or on behalf of his firm any BS, P&L A/c, report of financial statement."
- This clause is to be read in conjunction with Section 26 of the Chartered Accounts Act, 1949 which stipulates that 'no person other than a member of the Institute shall sign any document or behalf of a Chartered Accountant in his or its professional capacity.
- The term “Financial Statement” for this purpose would cover an examination of the accounts or financial statements given under a statutory enactment or otherwise. Accordingly Mr. S is guilty of professional misconduct under clause 12 of part I of First Schedule and also under clause (1) of Part (II) of second schedule for contravening section 26.

Ans-52:

- As per clause 12 of Part I of the First Schedule of the CA Act, 1949, a CA in practice is deemed to be guilty of professional misconduct “if he allows a person not being a member of the Institute in practice or a member not being his partner to sign on his behalf or on behalf of his firm, any balance sheet, profit and loss account, report or financial statements”.
- The Council has clarified that the power to sign routine documents on which a professional opinion/ authentication is not required to be expressed may be delegated in the following instances and such delegation will not attract provisions of this clause like issue of audit queries during the course of audit, asking for information or issue of questionnaire, attending to routing matters in tax practice, subject to provisions of Section 288 of Income Tax Act etc.
- In the given case, in the light of above provision, Mr. “Y” is right in issuing the query, since the same falls under routine work which can be delegated by the auditor. Therefore, there is no misconduct in this case as per clause 12 of Part 1 of First schedule to the Act.
- Further, issuance of production certificate to a client under Central Excise Act, 1944 by Mr. “Y” being an employee of M/s A & Co., is not a routine work and it is outside his authorities. Thus, CA ‘A’ is guilty of professional misconduct under clause 12 of Part I of First Schedule of the CA Act, 1949.
- In this case, Mr. “Y”, CA employee of the audit firm M/s A & Co. has attended the Income tax proceedings for a client as authorized representative before Income Tax Authorities. Therefore In light of the above provision, there is no misconduct in this case as per clause 12 of Part 1 of First schedule to the Act.

Ans-53:

- clause (2) of part II of the first schedule to the CAs Act, 1949 prohibits acceptance or agreeing to accept any part of fees, profits' or gains from a broker by way of commission or gratification.
- Thus, Chartered Accountant in service would be held guilty of professional misconduct since he entrusted the work to Mr. X earns would be payable to him. It is regardless of the fact that he was in whole time or part time employment or that he was carrying on practice of accountancy along with his employment

Ans-54:

- Referral Fee from Lawyer: According to Clause 2 of Part II of First Schedule of the CA Act, 1949, a member of the Institute (other than a member in practice) shall be guilty of professional misconduct, if he being an employee of any company, firm or person accepts or agrees to accept or person or agent or customer of such company, firm or person by way of commission or gratification.
- In the given case, Mr. C who besides holding a COP is also an employee and by referring a lawyer to the company in respect of a case, he receives a particular sum as referral fee from the lawyer out of his

professional fee.

- Therefore, Mr. C is guilty of professional misconduct by virtue of clause 2 of Part II of First schedule

Ans-55:

Clause (2) of part III of the first schedule requires a member to supply the information called for by the councilor any of its committees. Under this clause, it is misconduct for Chartered Accountant generally, if they do not supply the information called for by the council, hence request from the secretary amounts to a request from the council. Besides, it is also a contravention of the Regulation of the Chartered Accountants Regulations, 1988. Thus failure to submit form 18 (Which deals with Deed of Assignment of Articles where the Articled clerk is a minor) constitutes professional misconduct.

Ans-56:

As per Clause (2) of Part III of the First Schedule of CA Act, a member, whether in practice or not, will 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, Councilor any of its Committees, Director (Discipline), Board of Discipline, disciplinary Committee, Quality Review Board or the Appellate authority. Thus, Mr. X has failed to reply to the letters of the Institute asking him to confirm the date of leaving the service as a paid assistant he is held to be guilty of professional misconduct.

Ans-57:

- In the present case, Mr. "G", a CA while applying for a certificate of practice, did not fill in the columns which solicit information about his engagement in other occupation or business, while he was indeed engaged in a business.
- Details of engagement in business need to be disclosed while applying for the certificate of practice as it was the information called for in the application, by the Institute.
- Therefore, Mr. G will be held guilty for professional misconduct under the clause 2 of Part III of First Schedule of the CA Act, 1949.

Ans-58:

- Clause 2 of Part IV of First Schedule to the CAs Act, 1949 states that member of the Institute, whether in " practice or not, shall be deemed guilty of other misconduct, if he in the opinion of the Council, brings disrepute to the profession or to the Institute as a result of his action whether or not related to his professional work".
- Accordingly, a CA is expected to maintain the highest standards and integrity even in his personal affairs and any deviation from these standards calls for disciplinary action.
- In the present case, the action of Mr. R, a CA in practice offering free service in return to sanction of loan brings disrepute to the profession of a Chartered Accountant. Therefore, in the present case, Mr. R will be held guilty of other misconduct.

26	SHORT NOTES FOR QUICK REVISIOSN

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13 AUDIT OF GENERAL INSURANCE COMPANIES

Topic
Premium
1) Premium: Consideration received by an insurer from the insured under an insurance contract. The premium collections are credited to a separate bank a/c and no withdrawals are normally permitted from that a/c for meeting the general expenditure. The premium receipt, normally arise out of 3 sources, viz., (a) from direct business (b) from reinsurance business (c) the share of co-insurance premium. **2) The objective of Internal Controls over Premium:** (a) correct premium is calculated (b) Premium collected before acceptance of any risk (c) premium is accounted for in an appropriate manner and (d) premium is collected only in respect of such risks which are assumed by the company.
3) Premium Deficiency: Shall be recognised if the sum of expected claim costs and other related expenses and maintenance costs exceeds related unearned premium. **4) Premium Revenue Recognition:** It is based on the risk pattern to which the insurer is exposed. Recognize on the basis of the passage of time, where the risk is evenly spread over the policy period. If not because of the very nature of the risk covered, for example, infrastructure project. In such cases, a deposit premium is paid at the beginning of the policy period and subsequently adjusted. The basis of premium recognition shall be adequately justified and preferably supported by external evidence. **5) No Risk Assumption without Premium:** According to section 64VB of the Insurance Act, 1938, no insurer should assume any risk in India in respect of any insurance business on which premium is ordinarily payable in India, if (a) the premium payable is not received; or (b) the premium payable is not guaranteed to be paid by such person in such manner and within such time, as may be prescribed; or (c) the premium payable is not deposited in advance in the prescribed manner. **6) Verification of Premium:** (a) internal control (b) premium income is recognized as per the guideline laid down by the IRDA (c) no risk until premium is received or premium received in advance (d) Cover notes serially numbered (e) Premium revenue is recognized based on the risk pattern (f) Advance premium accounted for under the head 'Premium Received in Advance'. (g) Verify the collections lodged by agents after BS date (h) verify whether installments falling due have been accounted for as premium income for the year under audit and premium falling due in subsequent period should be recognized as premium received in advance (i) examine the cut off procedures (j) If premium refunded, verify whether the agency commission paid on such premium has been recovered (k) premium is originally recorded at gross amount, i.e. without providing for un-expired risk or re-insurances (l) Compliance to service tax (m) In case of co-insurance, the company's share of premium has been properly recorded. **7) Outstanding Premium:** Verify whether balances in "outstanding premium a/c have been listed, analysed and reconciled (b) check age-wise and sector-wise analysis of outstanding premium (c) whether outstanding premium have been collected. Check the availability of adequate bank (d) guarantee or premium deposit for outstanding premium.
Commission
Commission: Consideration payable for getting the insurance business. No commission can be paid to a person other than it agent. **Internal Controls over Commission:** Commission is paid in (a) in accordance with the rules and regulations (b) in accordance with the agreement with the agent (c) paid to the agent who brought the business (d) legal compliances such as TDS etc. **Verification of Commission:** (a) Check payment entry of commission (b) payment is authorised (c) TDS is deducted (d) test check calculation of commission amount (e) scrutinize agents' ledger for any abnormal entries (f) no commission for direct business (g) obtain MR that all commission has been appropriately adjusted in the accounts.
Operating Expenses Related to Insurance Business (Expenses of Management)
Management expenses, includes all charges whether direct or indirect, including commission payment of all kinds. But, it does not include HO expenses, expenses on shareholder and claim expenses. Following to be noted:

1) All the administrative expenses are broadly classified under 13 heads.
2) Any other expenses are required to be disclosed under the head 'Others'.
3) Any major expenses (Rs. 5 lacs or in excess of 1% of net premium, whichever is higher) are required to be shown separately.
4) Expenses which do not have any direct relation to insurance business are to be shown separately in the P&L A/c. These expenses are first aggregated and then apportioned to the Revenue Account of each class of business on a reasonable and equitable basis.

Reinsurance

Section 101 of the Insurance Act, 1938 provides that every insurer shall reinsure with Indian reinsurers such % of the sum assumed on each policy as may be specified by IRDA with previous approval of CG. The objective of internal controls over reinsurance transaction involves: (a) determination of correct amounts for reinsurance ceded (b) proper valuation of assets and liabilities arising out of reinsurance transactions (c)adherence to legal provisions, regulations and reinsurance agreements.

Verification of Reinsurance Inward

1) Re-Insurance inward underwriting should be as per the norms and guidelines.
2) Verify whether reinsurance inward transactions are as per the arrangements / agreements with reinsurer.
3) Examine the accounting policy of the company.
4) In case of the foreign currency transaction, ensure compliance with AS-11.
5) Whether the outstanding claim figures have been properly obtained and sufficient provision has been made for all the outstanding claims.
6) Check whether provision has also been made for claims incurred but not reported
7) Closing balances of the reinsurer's accounts should be reconciled.

Verification of Reinsurance Outward

1) Reinsurance outward underwriting should be as per the norms and guidelines.
2) Ensure the appropriateness of accounting treatment of reinsurance business given for premium paid to reinsurer and payment of commission.
3) In case of the foreign currency transaction, ensure compliance with AS-11.
4) Verify whether reinsurance outward transactions are as per the arrangements/agreements with company.
5) Verify the confirmations received from reinsurers regarding claims for losses submitted to them.
6) Verify any old outstanding claims paid or outstanding at the end of the year
7) Look into events after BS date which might have significant impact on recovery of claims – paid or outstanding.
8) Check % pattern of gross to net premium, claims paid and outstanding claims to ensure comparative justification.

Claims

1) The components of the cost of claims to an insurer comprise the claims under policies and claim settlement costs.
2) The settlement cost of claims includes surveyor fee, legal expenses, etc.
3) The liability for claims may arise on: (a) direct business (b) inward reinsurance business (c) co-insurance business.
4) The liability also includes future payment in relation to: (a) reported but unpaid claims (b) claims Incurred but Not Reported (IBNR) including inadequate reserve to settle the claims.

Objective of Internal Controls over Claim is to ensure that: (a) proper procedure for processing and payment of claims (b) adequate procedure to identify and investigate suspicious claims (c) reinsurance claims, if any, are duly lodged with the reinsurer (d) monetary thresholds are established for review of claims paid by senior officer (e) significant variance between expected and actual claims are identified and investigated.

Verification of Claims Provisions

1) Provision has been made for all unsettled claims.
2) Provision has been made for only such claims for which the company is legally liable.
3) Events after the BS date have been examined.

4) ‘Average clause’ has been applied in case of under-insurance by parties.
5) In case of co-insurance arrangements, provisions only in respect of its own share of anticipated liability.
6) The claims are provided for net of estimated salvage, wherever applicable.

Verification of Claims Paid

1) Claim paid have been booked only for own share (co-insurance arrangements).
2) If paid on the basis of other co. advise (co-insurance), whether share of premium was also received.
3) Claims communicated after the year end for losses which occurred prior to the year end must be accounted for in the year of audit.
4) Claim payments have been duly sanctioned.
5) Amounts deposited with Court in matters under litigation/arbitration should not be classified as claims paid and treated as advance/deposit till final disposal of such claims. In such cases, full provision should be made for outstanding claims.
6) In case of final settlement of claims, an unqualified discharge letter is obtained.

Investments [Sections 27B, 27C and 27D of the Insurance Act, 1938]

1) Can only invest in approved securities. Other than approved securities, subject to following conditions: (a) investments should not exceed 25% of the total investments; and (b) made with the consent of all the Directors.
2) Should not invest in share or debenture of insurance or investment company in excess of least of the following: (a) 10% of its own total assets (b) 2% of the subscribed share capital or debenture of the investee.
3) Should not invest in share or debenture of a company other than insurance or investment company in excess of least of the following: (a) 10% of its own total assets (b) 10% of the subscribed share capital or debenture of the investee.
4) In case, the insurer has invested in partly paid up shares, the uncalled liability on the share is to be added to the amount invested for the purpose of computing (%) referred above.
5) Cannot invest in the shares or debentures of a private company.
6) Cannot invest fund of the policy-holders outside India, other fund can be invested.
7) Every insurer carrying on the business of general insurance should invest and at all times keep invested its total Investment assets in the following manner:
(a) >= 20% Government Securities
(b) >= 30% (Including (1) above Government Securities and other approved securities
(c) <= 55% Approved Investment & Other Investments (Other investments shall not exceed 25% of Investment Assets)
(d) >= 5% Housing and Loan to State Government
(e) >= 10% Investment in infrastructure

Verification of Cash and Bank Balances

1) Physically verify cash balance at BS date. If not possible, make reconciliation between verification date and BS date.
2) The cheque received but not deposited in bank should be shown as cheque in hand.
3) Test checking for bank transactions.
4) Obtain confirmation for year end bank balance.
5) Verify subsequent realization of all items appearing in bank reconciliation and amounts shown as being in transit.

Verification of Agents’ Balance

1) Includes both the premium accepted and commission payable to them.
2) Verify whether agent’s balance have been listed, analysed and reconciled.
3) Whether there is any old outstanding Dr/Cr balance as at the year end which requires adjustment.
4) Whether recovery of large outstanding in agent balance have been made in post audit period.
5) Doubtful Dr. balance, check whether provisions have been made or not.
6) Verify that agent’s balance do not include employee’s balances and balances of other insurance companies.
7) No credit of commission for business directly procured.
8) General ledger is reconciled with the subsidiary records.

9) Vouch adjustment or payments against old outstanding balance.

Receipts and Payments Accounts

Since R&P a/c has been made a part of FS of an insurer, it is implied that the R&P a/c is also required to be audited. The IRDA Regulations, 2002 require that the auditor of an insurance company should:

1) Whether. the receipts and payments accounts of the insurer is in agreement with the books of accounts and returns.
2) Opinion as to whether, the receipts and payments account has been prepared in accordance with the provisions of the relevant statutes.
3) Opinion as to whether, the receipts and payments account give a true and fair view of the receipts and payments of the insurer.

So it may be said that auditor is not only required to audit the receipts and payments accounts of the insurer but also express an opinion on the same.

Provision for Taxation

1) Specific provision applicable to GIC
2) Computation of profit
3) Compliance with I. Tax Act, 1961
4) Exemption provision relating to TDS
5) Computing income of foreign branches
6) Grossing up of TDS
7) TDS implication on Interest paid/payable
8) Applicability of Wealth Tax Act, 1957
9) Service Tax Collection
10) Sales Tax implication on Sale of Salvage

Unexpired Risks Reserve

Created in respect of policies that do not expire on BS date, and extends beyond that date into the following year during which coverage of risk continue. Provisions:

1) 50% for fire, marine cargo and miscellaneous business
2) 100% for marine hull.

Co-insurance

1) Meaning: Sharing of particular risk by more than one Insurer.

2) Council: Co-Insurance, agreement between Co-insurers entered at the Insurance Council.

3) Lead Insurer: (a) Issue policy documents containing a co-insurance clause (b) collect premium (c) settle claim; and (d) renders statement of a/c to other co-insurers.

4) Co-insurance can be both – (a) Incoming (b) Outgoing.

5) Audit Aspects: (a) Internal Control (b) Review of Co-insurance agreement

6) Incoming Co-insurance:

a) Premium account is credited on the basis of Statement of a/c received from the leading insurer.
b) If no Statement of A/c is received then premium is accounted on the basis of advice received from leading insurer.
c) Examine communication in the post-audit period and obtain WR to the effect that all incoming advices have been accounted for.

7) Outgoing Co-insurance:

a) Scrutinize the transaction relating to outgoing business i.e. where the company is the leader.
b) Verify the transactions with reference to the relevant risks assumed under policies and correspondingly for debits arising to the Co-insurer on account of their share of claims.

Catastrophe Reserve

1) Required to meet future potential liabilities against insurance policies in force.
2) Catastrophe Reserve cannot be created for a specific purpose & shall be created in accordance with norms, if any, prescribed by the Authority.
3) Investment of funds out of catastrophe reserve shall be made in accordance with prescription of the Authority.

4) The auditor should, depending upon the facts of the case, evaluate the adequacy of such a reserve.

Solvency Margin [Section 64VA of the Insurance Act, 1938]

1) **Meaning:** Every insurer is required to maintain an excess of the value of its assets over the amount of its liabilities at all times. The excess is known as 'Solvency Margin'.
2) Solvency margin should be the highest of the following amounts: (a) 50/- Crore Rupees (100/- Crore rupees in case of a reinsurer) (b) a sum equivalent to 20% of net premium income (c) a sum equivalent to 30% of net incurred claims. However such condition may be relaxed by the Authority in certain special circumstances.
3) If not maintain such margin at any time, then have to submit financial plan to the Authority indicating the plan of action to correct the deficiency in the solvency margin.
4) If fails to comply with the requirements of solvency margin, it shall deemed to be insolvent and may be wound up by the Court.

Trade Credit Insurance

1) "Trade Credit Insurance" means insurance of suppliers against the risk of non-payment of goods or services by their buyers who may be situated in the same country (domestic risk) or situated in another country (export risk) against (a) non-payment as a result of insolvency of the buyer (b) non-payment after an agreed number of months after due date (c) non-payment following an event outside the control of the buyer or the seller (political risk cover).
2) Political risk cover is available only in case of buyers outside India and in countries agreed upon at the proposal stage.
3) Following conditions is to be satisfied:

a) Policyholder's loss is non-receipt of trade receivable arising out of a trade of goods or services.
b) Policyholder is a supplier of goods or services in consideration for a fair market value.
c) Policyholder's trade receivable does not arise out of factoring or reverse factoring arrangement or any other similar arrangement.
d) Policyholder has a buyer or customer, who is liable to pay a trade receivable to the policy holder in return for the goods and services received by him from the policy holder, in accordance with a policy document filed with the insurer.
e) Policyholder undertakes to pay premium for the entire policy period.
f) Any other requirement that may be specified by the Authority from time to time.

4) This policy shall not be issued to banks/financiers/lenders or the beneficiary of such policy cannot be a banks/financiers/lenders. Further this policy shall also not applicable to any receivable arising from a financial or consultancy service.

Deposits [Sec. 7 of Insurance Act, 1938]

1) Every insurer shall, in respect of the insurance business carried on by him in India, deposit and keep deposited with the RBI in one of the offices in India a sum equivalent to 3% of total gross premium written in India in any FY.
2) This deposit is to be kept for and on behalf of the GOI.
3) The deposit can be made either by way of cash or investment in approved securities.
4) If securities are deposited, their estimated market value on the date of deposit is to be seen.

22 PEER REVIEW

Topic
Introduction
1) It is a regulatory mechanism for monitoring the performances of professionals for maintaining quality of service expected of them. 2) It was established by ICAI in March, 2002. 3) Under peer review one CA will examine the other CA to judge the quality of attestation work performed by them. 4) The former is known as Reviewer and the latter is known as practice unit/audit firm. 5) The peer review is administered by Peer Review Board (PRB) constituted by ICAI. 6) The Reviewer shall submit his report to PRB and necessary follow up action may be taken by PRB on such report.
Objective of Peer Review - The members of the Institute:
1) Comply with the technical standards laid down by ICAI. 2) Ensure that they have proper system for maintaining the quality of attestation services performed by him. 3) To ensure adherence to various statutory and other regulatory requirements. 4) To enhance the reliance placed by the users of FS for economic decision making.
Scope of Peer Review -The Review shall focus on:
1) Compliance with Technical, Ethical & Professional Standards. 2) Quality of Reporting. 3) System and procedures for carrying out assurance services. 4) Training Programs for staff & appropriateness of infrastructure. 5) Compliance with direction and/or guidelines issued by ICAI (fees to be charged, number of audits undertaken etc.). 6) Compliance with directions and / or guidelines issued by ICAI in relating to article/audit assistants. 7) The entire peer review process is directed at the attestation services which include all those services such as internal audit, concurrent audit etc.
Areas excluded from scope of Peer Reviewer
1) Management Consultancy Engagements 2) Representation before various Authorities 3) Prepare tax returns 4) Providing tax advice 5) Compilation of FS 6) Due diligence 7) Testifying as an expert witness 8) Providing expert opinion.
Technical, Ethical and Professional Standards as per Statement on Peer Review
1) Accounting Standards l Auditing Standard l Engagement standards l Statements l Guidance notes l Standards on Internal Audit l Statements on Quality Control l Notifications / Directions / Announcements / Guidelines / Pronouncements / Professional standards issued from time to time by ICAI. 2) Framework for the Preparation and presentation of financial statements l Framework of statements and Standard on Auditing l Framework for assurance engagements l Standard on Assurance Engagements l Standards on Quality Control and Guidance Notes on related services issued, from time to time, by the ICAI. 3) Provisions of the various relevant statutes/regulations which are applicable in the context of the specific engagements being reviewed including instructions/guidelines/notifications/ directions issued by regulatory bodies.
Applicability of Peer Review
(Refer - Peer Review Chapter)

Peer Review Board

(Refer - Peer Review Chapter)

Eligibility of Reviewer

1) Peer Reviewer: (a) A member of ICAI (b) at least 10 years of experience in practice (c) Currently active in the practice (d) Requisite training as prescribed by the Board (e) Furnish a declaration as prescribed by the Board (f) signed the Declaration of Confidentiality as prescribed by the Board (g) Experience of conducting audit of Level 1 Entities for at least 7 years to be eligible for conducting Peer Review of Level 1 Entities.

2) A Peer Review should not have: Disciplinary action / proceedings pending against him l Been convicted by a Competent Court Whether within or outside India l Been found guilty by the Council or the Disciplinary Board /Committee at any time l Any obligation or conflict of interest in the Practice Unit or its Partners/ Personnel.

3) A Reviewer shall not accept any professional assignment from the Practice Unit for a period of 2 years from the date of appointment.

Peer Review Process

Stage 1: Selection of Practice Unit and appointment of Reviewer

Notification to the PU l Name of the 3 reviewer shall be recommended by the Board to the PU l PU shall select one out of 3 Reviewers & intimate to the Board within 7 days l Board shall intimate to the selected Reviewer and seek his consent within 7 days

Stage 2: Planning

1) After Reviewer consent, the PU shall furnish the following info to Reviewer within 15 days:

a) Complete list of assurance service clients including the nature of service provided and fees charged.

b) A note on the policies, procedure and process generally followed by the PU.

c) Detail of any proceedings against the PU/ its partners/qualified assistant during the preceding 3 year.

2) Reviewer will select the assurance services from sample & inform to PU & give 15 days time to PU to keep the necessary records ready.

3) Reviewer shall also plan for an on-site Review visit which should not extend beyond 7 working days.

4) Entire process of review should be completed within 90 days.

Stage 3: Execution

1) The reviewer should carry out the compliance review of the 5 key controls, i.e., independence, maintenance of professional skills and standards, outside consultation, staff supervision and development and office administration for evaluating the degree of reliance to be placed upon PU.

2) The reviewer is required to adopt a combination of compliance approach and substantive approach in the Review process.

3) A Peer Reviewer collects evidence by applying the following methods: (a) Inspection (b) Observation (c) Inquiry.

Stage 4: Reporting

1) Preliminary Report of Reviewer: Before final report, shall communicate his finding in the preliminary report to the PU.

2) Reply to Preliminary Report: PU will reply in 15 days.

3) Final Clean Report of Reviewer: to be submitted to Board along with his initial findings, response by the PU and the manner in which the responses have been dealt with.

4) Final Modified Report: If Reviewer is not satisfied with the reply. In case of modified report issued, Board shall order for a "follow on" Review after a period of 1 year (which may reduce to 6 months) from the date of issue of modified report.

5) Reviewer can take help of 1 Qualified Assistant who shall be a CA. The name of qualfied assistant to be informed to the board and PU.

6) Strict confidentiality provisions will applicable to all those involved in the peer review process.

Approach of the Reviewer

1) Should gain an understanding of the engagement letter.

2) The number of attestation engagements to be selected requires the exercise of judgement.

3) IF PU does not have policies and procedures for accepting a particular engagement, then reviewer should consider enquiring from the concerned persons about such policies and procedures.
4) The reviewer may follow a combination of compliance procedures and substantive procedures throughout the peer review process.
5) Finally, the reviewer (a) determine that any significant issues, matters, problems that arose during the course of the engagement have been appropriately considered, resolved and documented (b) adequate audit evidence or other relevant evidence in relation to the engagement is obtained to support the reasonableness of the conclusions drawn; and (c) significant decisions relating to the engagement, use of professional judgement, resolution of significant matters have been properly documented.

Inherent Limitations of Review

The reviewer conducts the review in accordance with the Statement on Peer Review. The review would not necessarily disclose all weaknesses in compliance of technical standards and maintenance of quality of attestation services since it would be based on selective tests.

23 PROFESSIONAL ETHICS

23A THE CHARTERED ACCOUNTANT ACT, 1949

Topic

Member deemed to be in Practice (Sec 2)

1) A member of ICAI shall be deemed "to be in practice" When he (individually or in partnership) in consideration of remuneration: Engage him-self in practice of accountancy, or Offer to Perform audit and related services, or Holds himself out to the public as an accountant, or Renders professional services or assistance in or about matters relating to accounting procedure or the recording, presentation or certification of financial facts or data; or Renders such other services as in the opinion of the Council may be rendered by CA in practice.
2) Activities of broking, underwriting and portfolio management are not permitted.
3) **Management Consultancy Services shall not include the functions of:** (a) Statutory or Periodical audit (b) Tax (both direct and indirect taxes) representation or advice concerning tax matters (c) Acting as Liquidator, Trustee, Executor, Administrator, Arbitrator or Receiver.
4) CA who is salaried employee of CA in practice shall be deemed to be in practice for limited purpose of training articled clerk.
5) Once a person become a member of ICAI, he is bound by the provisions of CA Act and its regulations.

Class of Member (Sec 5)

1) ACA: Any person shall on his name being entered in Register of member, become Associate member & can use letter A.C.A. after his name.

2) FCA: On an application, Associate member in continue practice in India for at least 5 years shall be entered in Register of fellow members & can use letters F.C.A. after his name.

Significance of Certificate of Practice (COP) (Sec 6)

A CA not holding Certificate of Practice (COP) can't take up any other work PRESCRIBED for a practicing CA. thus if CA has surrendered his COP due to misconduct he can't appear before taxation authorities etc' (even though he is having law degree) during his removal because once a member becomes a member of the institute; he is bound by the provisions of the CA Act 1949 and regulations made there under. But he can appear in a civil court as advocate because appearing in civil court is not a prescribed service for CA in practice.

Designation (Sec 7)

1) A member in practice cannot use any designation other than Chartered Accountant, but they can use any other letter or description indicating membership of Accounting body (Exp. AICWA, CS)
2) All member (whether in practice or not) can use prefix CA before their name.
3) If member have more than one COP (CA & Advocate), then he/she can't use two designations simultaneously. For matter involving practice as Advocate he should use designation 'ADVOCATE' & for matter involving practice as CA, he should use designation 'CHARTERED ACCOUNTANT'.

Disqualification of Member (Sec 8)

1) Age <21 years at time of application.
2) Unsound mind as per competent court.
3) Un-discharged insolvent.
4) Discharged insolvent but has not obtained a certificate from court stating that his insolvency was due to misfortune without any misconduct on his part.
5) Removed from membership by ICAI due to misconduct.
6) Convicted by competent court of offence involving moral turpitude, or offence not of technical nature, committed by him in his professional capacity, but this disqualification is not attracted if he has been granted a pardon or CG has removed his disability.

Penalty for Falsely claiming to be a Member (Sec 24)

Any person, not being CA, represents that he is CA or any person being CA not having COP, represents that he is in practice as a CA, shall be penalized by Rs. 1000/- and on any subsequent conviction fine upto Rs. 5000/- or imprisonment up to 6 months or both.

Branch Office (Sec 27)

Each office should be in the separate charge of a member of the institute (CA) either as a partner or in whole time employment.
Exception (No separate incharge is needed): Each branch must have separate CA in charge, but in following cases no separate in-charge is required for branch office:
(A) Hill Area:
1) Temporary office only for maximum 3 month a year.
2) The regular office need not be closed during this period.
3) Temporary office address not to be mentioned Visiting cards/letter head etc.
4) Before opening & close of such temporary office inform ICAI.
5) Name board of firm to be displayed at temporary office only for the period allowed as above.
(B) Member can be in-charge of two offices if second office located in same premises in which first office (Head Office) is situated OR in the same city or within 50 Kms from municipal limits of city in which first office (Head Office) situated.

Disciplinary Procedure (Sec 21)

Disciplinary Directorate

1) The Council shall, by notification, establish a Disciplinary Directorate for making investigations in respect of any information or complaint received by it.
2) The Director (Discipline) shall arrive at a prima facie opinion on the occurrence of the alleged misconduct.
3) If professional/other misconduct related to First Schedule –place the matter before the Board of Discipline;
4) If professional or other misconduct related to Second Schedule or in both - place the matter before the Disciplinary Committee.
5) For investigations follow such procedure as may be specified.
6) Where a complainant withdraws the complaint, shall place such withdrawal before the Board of Discipline/ Disciplinary Committee.
7) Close the matter, if there is no prime facie evidence of misconduct.

Board of Discipline

1) Shall, follow summary disposal procedure in dealing with all cases before it.
2) If a member is guilty of a professional or other misconduct in First Schedule, then opportunity of being heard to be given to member before making any order against him and may take following actions, namely: (a) Reprimand the member (b) Remove the name of the member from the Register up to a period of three months (c) Impose such fine as it may think fit, which may extend to Rs. 1 lakh.

Disciplinary Committee

1) Shall, follow such procedure as may be specified for matter placed before it.
2) If a member is guilty of professional or other misconduct in Second Schedule or both the schedule, then opportunity of being heard to be given to member before making any order against him and may take following actions, namely: - (a) Reprimand the member (b) Remove the name of the member from the Register permanently or for such period, as it thinks fit (c) Impose such fine as it may think fit, which may extend to Rs. 5 lakhs.
3) Authority, Disciplinary Committee, Board of Discipline and Director (Discipline) to have powers of civil court.

Appellate Authority (Sec 22)

1) Appeal to be filed within 90 days by any member of the Institute aggrieved by any order of the Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in section 21.
2) Director (Discipline) may also appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority, if so authorised by the Council, within 90 days.
3) The Authority may also entertain any such appeal after the expiry of the said period of 90 days, if it is satisfied.

4) The Authority may revise any order made by the Board of Discipline/the Disciplinary Committee and may: - (a) Confirm, modify or set aside the order (b) modify penalty (c) remit the case to the Board of Discipline/ Disciplinary Committee for further enquiry; or (d) Pass such other order as the Authority thinks fit.
5) Before passing such order, opportunity of being heard shall be given to the parties concerned.

Quality Review Board (Sec 28)

Establishment of Quality Review Board by CG by notification.

Functions of Board:

1) To make recommendations to the council with regard to the quality of services provided by the member of ICAI.
2) To review the quality of services provided by the members.
3) To guide the members to improve the quality of services and adherence to the various statutory and other regulatory requirements.

23 B FIRST SCHEDULE TO THE CHARTERED ACCOUNTANT ACT, 1949

Clause	Part I of First Schedule (Applicable for CA in practice) Topic
1	Guilty of professional misconduct if he allows any person to practice in his name as a chartered accountant unless such person is also a CA in practice and is in partnership with or employed by him.
2	Guilty of professional misconduct if he Share his fees or profit of his professional business through commission or brokerage (directly or indirectly) to any person other than CA, Partner, Retired Partner, legal representative of deceased partner, any other member of professional body (as prescribed) or with such person having such qualficaiton (as prescribed). Note: (1) Widow/legal representative of deceased partner can continue to receive a share of of profit of the firm if partner ship deed so provide. But in case of proprietor ship firm, can only
	receive goodwill from the purchaser of the firm. Goodwill can be receive in installment also if there is no linkage with profit. Proprietor firm name will be kept in abeyance by ICAI for 1 year.
3	Guilty of professional misconduct if he accept or agree to accept any part of profits of professional work from a person, who is not a member of the institute however he can accpet from a member of such professional bodies or other persons having qualification as referred to in Clause 2 of Part I of First Schedule.
4	Deemed to be guilty of professional misconduct if he enters into partnership with any other person except CA In practice; or a member of any other professional body (as prescribed) or member of professional bodies or institutions outside India whose qualification relating to accountancy are recognized by the council); or The resident members of the institute residing abroad but entitled to be registered as a member of institute u/s 4(1) (v); or Whose qualifications are recognized by Central Government/council for purpose of permitting such partnership.
5	CA in practice shall be deemed to be guilty of professional misconduct if he secures any professional business through service of a person who is not an employee/partner of such CA or By means not open to a CA. Securing any professional business through certain categories of non-members as prescribed by the institute is permitted such as CS, ICWA, Advocate, Actuary, and Architect. (Refer clause 2).
6	Guilty of professional misconduct, if he solicits client or professional work, directly or indirectly by circular or advertisement or personal communication or Interview or any other means. However, he can apply/request/ invites/secure professional works from another CA in practice and respond to tenders or inquiries issued by the various users of professional services or organizations and secure professional work as a consequence.
	Exceptions
	1) Advertise for change in partnership/address/telephone no. or dissolution of a firm provided – there should be bare statement of fact i.e. no extra publicity, & no of insertions in newspaper should be limited & area of distribution of newspaper/magazine should be limited.

	2) Classified advertisement (in ICAI's Journal/Newsletter) for sharing professional work/seeking partnership/ salaried employment of accountancy nature, provided Only CA's name, address, telephone no., fax, e-mail address is given (not of firm). 3) CA can write to concerned organization for having their name on panel maintained by such organizations, provided CA knows that such penal exists (Eg. Empanelment by RBI for Bank Audits). CA can quote fee only if enquired by such organization. No roving enquires by CA. can't send printed copies of fee in reply. Not allowed to respond for empanelment, requiring registration fee. 4) Publication of the name of firm in the telephone or other directory is permitted subject to following conditions: (a) Entry in separate section of CA (b) Entry in normal types of letters (Not bold/Italic) (c) It should appear in local directory of the city in which concerned CA/Firm practices (d) Entry should be logical (alphabetical) order (e) Payment for entry should be reasonable (f) Entries should be open to all CA's (g) No impression of publicity or advertisement (h) No special request or additional payment by C.A. is allowed. 5) CA in practice can distribute hand bills containing their name to his clients only. e.g. budget highlight etc, not to any other person. 6) Can write books etc. & get them published & mention his name & his personal/academic details, but can't mention his firm name. 7) Can indicate designation (chartered accountant) name of firm & add on greeting cards, invitation for marriage, religious ceremonies, opening/inauguration of office etc to clients, relatives & close friends only (not to any other person). 8) Can deliver public interviews provided it doesn't result in publicity. 9) Can't use word like Income tax, cost or management consultant etc. 10) Photograph not allowed on visiting cards. 11) Can respond to the tender, and also pay the earnest money deposit as per the terms of tender. 12) If CA is not reappointed as an auditor of a company, or someone else is appointed in his place, then representation to be made by him, should not be with a view to secure publicity or in a nature of solicitation & he can't make derogatory remarks against the company.
	Specific Provisions for CA Website
	1) CA in practice can create website in any format, any color as per taste of CA & can mention website address on professional stationery & website should be run on pull mode (i.e. should be accessible only to the person who wants to access it) not on push mode. **2) Permissible Information:** (a) Name of member/firm (b)member/firm address/telephone no./fax/email id (c) Partner's name, their qualification, year of qualification, home address, telephone no, email id (d) Employee's name and their qualifications (e) Job vacancies including articleship (f) Passport size photograph of members (g) Reference about ICAI/govt. related website (h) Date upto which website is updated (i) Common logo prescribed by ICAI (j) Chat room between client & C.A. or among CA's. However confidentiality should be maintained (k) Bulletin board. **3) Following info to be provided in Website on pull request:** (a) Nature of service rendered (b) Nature of assignment handled (c) Area of expertise of partners/employee (d) No. of articled clerks (e) Year of establishment. **4) Following info cannot be provided:** (a) Logo (other than that prescribed by ICAI) (b) Name of clients & fee charged (c) No photograph (other than passport size photo of member) (d) No reference/link to any other website (other than ICAI/govt. related) (e) No advertisement.
7.	Guilty of professional misconduct, if he advertises his professional attainments or services, or use any designation/expression other that chartered accountant on Visiting cards, Letter heads, or Sign boards but he can write down any degree of university established by law in India or recognized by CG or a title indicating membership of ICAI/ any other institution recognized by CG/Council. (CFA, CMA, CS, CWA, LLB etc)
	Points to Remember
	1) Cannot use word like Income-tax Consultant/Cost Consultant/Management Consultant. 2) Can use the designation "Chartered Accountant" only on professional documents, visiting cards, letter heads or sign boards.

	3) Advertisement in Press permitted for (a) recruiting staff/article clerk (b) on behalf of clients requiring staff or wishing to acquire or dispose of business or property (c) For the sale of a business or property by a member acting in a professional capacity as trustee, liquidator or receiver. **Condition:** (a) Not to be displayed more prominently than is usual for such advertisements (b) Name of member/firm not bolder then the substance of the advt. (c) Expression such as "a well-known firm" is not allowed (d) Should not contain any promotional element. 4) Press note on success of a candidate in exams allowed but it should not contain any element of undesirable publicity. 5) He may appear, TV/films/Radio/Press/Seminars but 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, to the name and address or services of his firm. He should not say anything to promote him/his firm. It is also the duty of CA concerned to ensure that even host should not refer to any such thing. 6) Cannot use glow sign board or large sized sign boards. Can use sign board at his residence and have a name and designation as “Chartered Accountant”, but cannot use firm name. 7) Photograph & brief particulars of CA in magazine is allowed, but no payments is made for such publication and there is no advertisement of professional attainments. 8) Publicity for appointment of position of local/national importance is permitted. They may mention their member ship with ICAI, but reference to his firm name is not allowed. 9) Date of establishment of firm not allowed on letter head etc. However in the Website, the year of establishment can be given on the specific "pull" request. 10) If CA is member of parliament or any other elected authority: Not allowed to use the designation such as 'member of Parliament', Municipal Council or any other functionary in addition to that of Chartered Accountant. 11) If member of ICAI advocate also: Members of the Institute in practice who are otherwise eligible may practice as advocates subject to the permission of the Bar Council but in such case, they should not use designation chartered accountant in respect of the matters involving the practice as an advocate. In e respect of other matters they should use the designation 'chartered accountant' but they should not us the designation 'chartered accountant' and 'advocate' simultaneously. 12) The use of expressions/words 'in Association with .... 'Associates of 'Correspondents of…..etc., on the stationery letter heads, visiting cards and professional documents etc. of firms of CAs is not permissible.
	GUIDELINES FOR Writeup (For Detail Refer Chapter - Professional Ethics - Clause 7)
	GUIDELINES FOR MEMBERS HOLDING COP ON ACCEPTANCE OF DIRECTORSHIPS IN COMPANIES
	1) Members should take necessary steps to ensure that such prospectus/public announcements do not advertise his professional attainments. 2) It is advisable for a member that as soon as he is appointed as a director on the Board, he should specifically invite the attention of the management-of the company to the aforesaid provisions and should 3) Member should request management that before any such prospectus/public announcements mentioning his name, is issued the material pertaining to the member concerned should, as far as practicable be got approved by him. 4) The use of the expression 'Chartered Accountant' is permissible. 5) Member must ensure that descriptions about his expertise, knowledge and specialization in any particular field of other appellation or adjectives are not published with his name. 6) Particulars about directorships held by the member in other companies can be given, but the name of the Firm of Chartered Accountants in which the member is a partner, should not be given.
8	Guilty of professional misconduct if he accept a position as auditor, previously held by another CA without first communicating with him in writing. CA in practice should not accept audit if there is Non compliance of provisions of Section 139 & 140 of Co. Act, 2013 (Appointment/reappointment/removal/remuneration etc) & nonpayment of undisputed audit fee (except sick unit) (if provision of audit fees has been made and B/S & P&L A/cs signed by auditor & auditee then it is called “undisputed audit fees”) If qualified report was issued by earlier auditor, member may accept audit if attitude of retiring auditor was not proper and justified.

	Otherwise he should not accept it.
9	Guilty of professional misconduct if he accept an appointment as auditor of a company without ascertaining from it whether requirement of Sec 225 of the Co Act 1956 (Sec 140 of Co. Act, 2013) in respect of such appointment have been duly complied with.
10	Guilty of professional misconduct, if he charges or offer to charges fees, which are based on % of profit or contingent upon the findings, or results of such employment except as permitted under any regulations made under this act. Exception: (a) Receiver/liquidator – as % of realization/disbursement of assets (b) Auditor of co-operative society – as % of paid up capital/working capital/ gross net income/profit (c) Valuer for direct taxes & duties purpose – as % of value of property to be valued, If fee is fixed by court, it shall not be treated as contingent.
11	Guilty of professional misconduct if he engages himself in any business/occupation other than profession of CA unless permitted by council so to engage. However, he may become a director (Not MD/WTD) of a company provided he/his partner are not auditor of such Co.
	Regulation 190A
	General Permission granted by Council i.e. No specific permission is required in following cases
	(a) Employment under practicing CA/CA firm. (b) Private tutorship. (c) Authorship of books/Articles. (d) Holding life Insurance agency license (only for the limited purpose of getting renewal commission). (e) Holding public elective office (M.P., M.L.A). (f) Honorary office of charitable –educational institute. (g) Notary public, Justice of peace, Special Executive Magistrate & like. (h) Part time tutorship under coaching organization of institute. (i) Valuation of paper, paper setter, head- examiner or moderator for any exam. (j) Editorship of professional journal only. (k) Acting as Surveyor/loss Assessor under insurance act. (l) Recovery consultant in the banking sector. (m) Insurance brokerage only. (n) Owing agricultural land and carrying out agricultural activity.
	Regulation 190A (specific permission is required in following cases)
	(a) Full time/ part time employment in business concerns, provided he/ his relative is not having substantial interest in such concerns. (b) Full time/part time employment in any NON BUSINESS concerns. (c) Full time/ part time lectureship for courses other that those relating to ICAI. (d) Full time/ part time Tutorship under any educational institute other that coaching organization of ICAI. (e) Interest in family business concern in which interest is due to relationship/inheritance provided not actively participate in its management. (f) Interest in educational institution. (g) Interest in agricultural/allied activities carried on with help of hired labor. (h) MD/WTD of a company. (i) Editorship of journal other than professional journals. (j) Any other business/profession if executive committee considers that permission may be granted.
	Notification with respect to Regulation 190A
	Any member engage in any other business or occupation, in terms of general or specific permission granted, shall not be entitled to perform any attest function except in the following cases
	1) Authorship of books/Articles. 2) Holding life Insurance agency license (only for limited purpose of getting renewal commission) Holding public elective office (M.P., M.L.A). 3) Honorary office of charitable –educational institute Notary public, Justice of peace, Special Executive

	Magistrate & like Part time tutorship under coaching organization of institute. 4) Recovery consultant in the banking sector Engagement as lecturer in education sector, private tutorship, provided the direct teaching hours developed to such activities taken together do not exceed 25 hours a week. 5) Valuation of paper, paper setter, head- examiner or moderator for any exam. 6) Editorship of professional journal (not in employment). 7) Insurance brokerage. 8) Acting as Surveyor/loss Assessor under insurance act. 9) Any coaching assignment organized by the institute, it regional councils and branches of regional councils. 10) Engagement in any other business or occupation permitted by the executive committee from time to time. **Note:** A member who is not entitled to perform attest function shall not be entitled to train articled clerks.
12	Guilty of professional misconduct if he allows a person, not CA or CA but not his partners, to sign on his/ his firm 's behalf any BS, P&L, Report or Financial statements. Hence Only CA or his partner can sign BS, P&L, Report or financial statement. However power to sign routine documents may be delegated, where professional opinion is not required e.g. questionnaire, routine correspondence with client, bills for fee etc.

Clause	**Part II of First Schedule (Applicablefor CA in practice)** **Topic**
1	Guilty of professional misconduct, if he pays or allow or agrees to pay directly/indirectly to any person, any share in emoluments of employment undertaken by him.
2	Guilty of professional misconduct, if he accepts o any part of fee, profit or gains from a lawyer/CA/broker engaged by such employer or agent/customer of such employer by way of commission or gratification.

Clause	**Part III of First Schedule (Applicable for CA in practice)** **Topic**
1	Guilty of professional misconduct, if he not being FCA but acts himself as FCA.
2	Guilty of professional misconduct, if he does not supply information called for, or does not comply with the requirements asked for by ICAI.
3	Guilty of professional misconduct, if he giving false information while inviting professional work from another CA or while responding to tenders/inquiries/advertising.

Clause	**Part IV of First Schedule (Applicable for CA in practice)** **Topic**
1	Guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term <= 6 months (if > 6 months, then it is covered Clause 1 of part III of Second Schedule).
2	Guilty of professional misconduct, if he, in the opinion of the council, brings dis-repute to the profession or the institute as a result of his action whether or not related to his professional work. **Example:** 1) Retains the books of accounts and documents of the client and fails to return these to the client on request without a reasonable cause. 2) Uses the services of his article or audit clerk for purposes other than professional practice. 3) Not replying within a reasonable time and without a good cause to the letter of the public authorities. 4) Adopted coercive methods on a bank for having a loan sanctioned to him. 5) As a member of council, misappropriate of ICAI's money.

	6) Makes a material mis-respresentation. 7) Dishonor of cheque issued by CA.

23 C	SECOND SCHEDULE TO THE CHARTERED ACCOUNTANT ACT, 1949

Clause	Part I of Second Schedule (Applicable for CA in practice) Topic
1	Guilty of professional misconduct if he discloses information acquired in course of his professional engagement to any person other than his client, but he may disclose if permitted by his client or required by any law. **(A) Duty of CA in relation to unlawful act by Client** 1) CA has no duty to inform tax authorities about tax frauds made by his client, but it is also not duty of CA to shield him from consequences of frauds. Hence it is responsibility of the CA to advise his client in a persuasive way not to involve in tax frauds by impressing upon him that, disclosure by client may entail only penalties but non-disclosure may result even in imprisonment. 2) If, CA informs tax authorities about his disassociation from matter, authorities may start investigation. 3) If tax authorities summon CA for examining him on oath or for production of books of accounts, he should take legal expert opinion. **(B) Duty of CA where Fraud related to Past Year's Returns Accounts** 1) Where client was represented by another CA, then he should advise client to disclose. However he may continue to act for current year. 2) Where client was represented by him only, then he should advise client to disclose, if he refuse to disclose, then he should disassociate himself with the client and then report to tax authorities that accounts etc previously reported by him are unreliable & thus he is disassociating himself with client. (But he should not disclose exact fraud done by his client). **(C) Duty of CA where Fraud related to Current Year's Returns Accounts** 1) If current year's returns accounts are being prepared by him, he should advise to client to disclose in current year's return accounts. If client refuse, disassociate himself with return and prepare audit report accordingly (qualified/adverse). 2) If fraud relate to current year's returns accounts, but CA's assignment is dispensed with before return/ audit report, then no further duty upon him.
2	Guilty of professional misconduct if, he certifies or submits, in his/his firm's name a report of an examination of FS unless examination is done by him, his partner, his employee or another CA in practice.
3	1) Guilty of professional misconduct if he permits his/his firm's name to be used, in connection with an estimate of earning contingent upon future transactions, in a manner which may lead to the belief that he vouches for the accuracy of forecast. 2) However, CA can participate in preparation of financial forecasts & their review if he clearly indicates in his report Source of information, Basis of forecasts & major assumptions and should not vouch for the accuracy of the forecast.
4	Guilty of professional misconduct if he expresses his opinion on FS on which he/his firm/partner has a substantial interest even if he discloses the interest in his report. **Points to Remember:** 1) If CA is employee, he can't audit of FS of employer. 2) If writing books of a/c then can't do audit of same enterprise. 3) Internal auditor can't accept statutory audit. 4) If CA/his partner/his relative is a director/having substantial interest, then he can't accept audit of such business/company. 5) If CA or his partner or his relative is having substantial interest in business/enterprises, then he can't accept audit of such business/enterprises. 6) Note: Relative means spouse, brother, sister, father, mother, son & daughter (Same as per AS-18).

5	Guilty of professional misconduct if he fails to disclose material facts known to him, which is not disclosed in a financial statement, but disclosure of which is necessary in making to make the financial statement not misleading, where he is concerned with that financial statement in a professional capacity.
6	Guilty of professional misconduct if he FAILS to disclose a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity.
7	Guilty of professional misconduct, if he does not exercise due diligence, or grossly negligent in the conduct of his professional duties. **Example:** 1) Given clean report and after that Special Audit revealed irregularities. 2) Adopted arbitrary valuation of closing stock and no verification at all was done by him. 3) Fail to point out contravention of requirements of schedule III of the Companies Act. 4) Failure to detect fraud committed by accountant, which could have been detected, if he had properly checked cash book. 5) Has signed, two BS on two different dates for the same FY, the first one with a clean report and the second one with a qualified report. Because he later on issued a clean report and did not refer the fact of having previously issued a qualified report, in lieu of which a clean report was being issued. 6) Guilty of professional misconduct if, he fails to obtain sufficient information which is necessary for the expression of an opinion.
	Would be guilty under this clause, if he performed his work so recklessly as to give his report without looking into the books of a/c of a Co. & on the basis of the work of the internal auditor whose opinion turned out to be false.
9	Guilty of professional misconduct if he fails to invite attention to any material departure from generally accepted audit procedures applicable to the circumstances. If for any reason, he is unable to comply with technical standards/guidance note etc, he should mention this in his report.
10	1) CA in practice is deemed to be guilty of professional misconduct if (a) he fails to keep money of his client (other than fees or remuneration or money meant to expended) in separate banking a/c or (b) he fails to use such money for purposes for which they are intended within a reasonable time. 2) CA should use such money strictly as per clients' instructions. 3) If, it is intended to be spent within reasonable short time than need not be put in a separate bank A/c.

Clause	**Part II of Second Schedule (Applicable for CA in general)** **Topic**
1	Guilty of professional misconduct, if he contravenes any of the provisions of this act/regulations/guidelines issued by the council. **Points to Remember:** 1) Should not accept more that specific tax audit assignment (60) 2) Stipend to be paid to every article on monthly basis. 3) A C.A. can't take loan from any enterprise in which article is interested. However he may accept the same from any enterprise where in article's relative is interested. But it must not be taken as a consideration for admitting the article into firm. 4) Should not accepts auditor ship if he is indebted/given any guarantee for limits fixed in the statute and in other cases >10000/-. 5) Now, no premium can be accepted by C.A from article for taking him as a articled clerk. 6) Notification issued earlier w.r.t. minimum audit fees has been withdrawn by ICAI. Thus, at present, there is no restriction on minimum fee (w.e.f. 7th June' 2011). 7) Guilty of professional misconduct; if he accepts statutory auditor ship of PSU/ listed Co./ Govt. Co. or other Public Co. having turnover of Rs. >=50 crores and accepts any other work or services with regard to same undertaking on a remuneration which in total exceeds the statutory audit fees.

2	Guilty of professional misconduct, if he, being an employee, discloses confidential information .
3	Guilty of professional misconduct, if he, include false data in any info/statement etc to be submitted to ICAI knowing them to be false.
4	Guilty of professional misconduct, if he defalcates or embezzles money received in his professional capacity.

Clause	**Part III of Second Schedule (Applicable for CA in general)** **Topic**
1	Guilty of professional misconduct, if he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term > 6 months. (If <6 month then covered in Clause I of Part IV of Ist Schedule).