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AUDIT-95

CA Final & CA Inter Audit

Abki Baar Audit Mei Exemption Paaar!



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AIR 5,6,32

*Free Revision
Videos &
Notes*

Brief about Author

- All India Ranker at all 3 levels of CA
- Scored 95 Marks in Audit - Highest marks in history of ICAI till Nov 23
- Articleship at KPMG, Mumbai in Statutory Audit Domain
- Industrial Training at DBS Bank

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Professional Ethics

ICAI's Motto - 'Ya Esha Supteshu Jagrati' is adopted from **Kathopanishad** & it denotes 'eternal vigilance' - **awakening when world is asleep**

Overview of Code of Ethics

- | | |
|--|---|
| <ul style="list-style-type: none"> • <u>Part 1</u> - Complying with Code, Fundamental Principles & Conceptual Framework • <u>Part 2</u> - Professional Accountants in Service including those who are in public practice due to their relationship with firm as employee • <u>Part 3</u> - Professional Accountants in Public Practice | <ul style="list-style-type: none"> • <u>Part 4A</u> - Independence for Audit & Review Engagements • <u>Part 4B</u> - Independence for Assurance Engagements Other than Audit & Review • <u>Each section</u> of Code is structured as Introduction, Requirements & Application • <u>Code of Ethics vs L&R</u> - L&R prevails |
|--|---|

Fundamental Principles - Code of Ethics of ICAI

1. Integrity - Subsection 111

- **Straightforward & honest** in all professional relationships & fair dealing & truthfulness
- **Not knowingly** be associated with reports where he **believes** that info -
 - Contains materially **false or misleading** statement
 - Contains statement provided **negligently** or
 - **Omits** required info & it would be **misleading**
 - If he provides **modified report** for above matters, then he is **not in breach**
- When he is associated with above info, he shall take **steps to be disassociated** from that info

2. Objectivity - Subsection 112

- **Not compromise** professional judgment due to **bias, conflict** of interest or **undue influence** of others

3. Professional Competence & Due Care - Subsection 113

- **Attain & maintain** professional **knowledge & skill** as required
- **Act diligently** as per technical & professional standards
- Diligence means to act as per **requirements of assignment**, carefully, thoroughly & on **timely** basis

4. Confidentiality - Subsection 114

- Not disclose info **acquired from client or employer** (including **Prospective or Ex**)
- **Not use** confidential info for **personal advantage** or 3rd party's advantage
- Circumstances when Accountants are required to disclose confidential info are
 - Disclosure is required by **law**
 - Disclosure is permitted by law & **authorized by client** or employing org
 - There is **professional duty** to disclose, when **not prohibited** by law -
 - To comply with **technical & professional** standards
 - To comply with requirements of **Peer Review or Quality Review**
 - To respond to inquiry or **investigation by regulatory body**
 - To protect his professional interests in **legal proceedings** or
- Considerations in deciding whether to disclose confidential info
 - If **interest of 3rd party** is harmed
 - Whether all relevant **info is known** &
 - Proposed **type** of disclosure & **to whom**
 - Whether parties to communicate are **appropriate recipients**

5. Professional Behaviour - Subsection 115

- **Comply with L&R** & avoid conduct that **discredit profession** (3rd Party Test)
- He shall **not make** -

<ul style="list-style-type: none"> • Ensure that those working under his authority have appropriate training & supervision • Aware users of his services, of inherent limitations in services 	<ul style="list-style-type: none"> ○ Exaggerated claims for anything ○ Disparaging (downgrading) references to work of others ○ Violates Ad Guidelines of Council
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<ul style="list-style-type: none"> • In situation when complying with 1 fundamental principles conflict with others. He should consult with - Others within firm or employing org, TCWG, ICAI, Legal counsel • However, it does not relieve him from responsibility to exercise professional judgment to resolve conflict or to disassociate from matter creating conflict, unless prohibited by L&R 	
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Threats to Principles

<p>1. Self-interest threat</p> <ul style="list-style-type: none"> • Financial or other interest will inappropriately influence Accountant's judgment or behaviour • <u>E.g. of Threats during professional service</u> <ul style="list-style-type: none"> ○ Direct financial interest in client ○ Close business relationship with client ○ Access to confidential info that can be used for personal gain ○ Quoting low fee & difficult to perform services as per standards for that price ○ Discovering significant error when evaluating service by member of his firm • <u>E.g. of Threats during professional activity</u> <ul style="list-style-type: none"> ○ Holding financial interest in, or receiving loan or guarantee from, employing org. ○ Participating in incentive arrangements by employing org. ○ Having access to assets for personal use ○ Being offered gift from supplier of employing org <p>2. Intimidation threat</p> <ul style="list-style-type: none"> • Deterred from acting objectively due to pressures, including undue influence • <u>E.g. of Threats during professional service</u> <ul style="list-style-type: none"> ○ Threatened with dismissal from engagement due to disagreement about matter ○ Pressured to agree with client's judgment as client has more expertise on matter 	<p>3. Advocacy threat</p> <ul style="list-style-type: none"> • Promote client's or employing org's position to point that his objectivity is compromised • <u>E.g. of Threats during professional service</u> <ul style="list-style-type: none"> ○ Acting as advocate for client in disputes with 3rd parties ○ Lobbying in favour of legislation for client ○ Promoting interests/shares of client • <u>E.g. of Threats during professional activity</u> <ul style="list-style-type: none"> ○ Manipulating info in prospectus to obtain favourable financing <p>4. Familiarity threat</p> <ul style="list-style-type: none"> • Due to long/close relationship with client/employing org, he will be too sympathetic to their interests • <u>E.g. of Threats during professional service</u> <ul style="list-style-type: none"> ○ Having close family member who is director or officer of client ○ Director or officer of client having recently served as EP ○ Audit team member having long association with client • <u>E.g. of Threats during professional activity</u> <ul style="list-style-type: none"> ○ He is responsible for FR of employing org when close family member makes decisions affecting FR ○ Having long association with individuals making business decisions <p>5. Self-review threat</p> <ul style="list-style-type: none"> • Not appropriately evaluate results of previous judgment made or activity
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<ul style="list-style-type: none"> ○ Being informed that planned promotion will not occur unless he agrees with inappropriate a/cing treatment ○ Accepting gift from client & threatened that such acceptance will be made public • <u>E.g. of Threats during professional activity</u> <ul style="list-style-type: none"> ○ He or close family member facing threat of dismissal over disagreement about - <ul style="list-style-type: none"> ▪ Application of a/cing principle ▪ Way in which financial info is to be reported ○ Individual attempting to influence decision-making process of Accountant 	<p>performed by himself or by another individual within his firm or employing org</p> <ul style="list-style-type: none"> • <u>E.g. of Threats during professional service</u> <ul style="list-style-type: none"> ○ Issuing assurance report on effectiveness of financial systems after implementing systems ○ Having prepared original data that are subject matter of assurance engagement • <u>E.g. of Threats during professional activity</u> <ul style="list-style-type: none"> ○ Determining appropriate a/cing treatment for business combination after performing feasibility study supporting purchase decision
<p>Evaluation of Threats - if it is at acceptable level</p> <ul style="list-style-type: none"> • <u>Acceptable level</u> - Level at which Accountant using reasonable & informed 3rd party test would conclude that he complies with fundamental principles <p>Addressing Threats If threats are not at acceptable level, he shall eliminate/reduce them by -</p> <ul style="list-style-type: none"> • Declining specific professional activity • Eliminating circumstances creating threats • Applying safeguards to reduce threats 	<p>Safeguards - Actions that accountant takes to reduce threats to acceptable level</p> <p><u>E.g. of safeguards include -</u></p> <ul style="list-style-type: none"> • Assign additional time & qualified personnel • Having appropriate reviewer, not team member, review work performed • Using diff partners & teams with separate reporting lines for non-assurance services to assurance client • Involving another firm to perform/re-perform engagement • Separating teams when dealing with confidential matters
<p><u>Membership of ICAI</u></p>	
<p>Types of Members of ICAI</p> <ul style="list-style-type: none"> • Associate Member - Entitled to use letters A.C.A. after his name • Fellow Member <ul style="list-style-type: none"> ○ Associate who is in continuous practice in India for at least 5 years ○ Associate who possesses such qualification experience equivalent to 5 years of continuous practice ○ Entitled to use letters F.C.A. after his name <p>Disabilities for Membership</p> <ul style="list-style-type: none"> • Not attained age of 21 years • Unsound mind as adjudged by competent court 	<p>Removal of Name from Register</p> <ul style="list-style-type: none"> • Who is dead • From whom request received for Removal • Who has not paid fee • Who is found to have any disabilities mentioned above <p>Restoration of Membership</p> <ul style="list-style-type: none"> • If member is removed from Register for non-payment of fee, then on receipt of application & fee, he may be entered again in Register • <u>Effective date for restoration of membership</u> <ul style="list-style-type: none"> ○ Application made within same year of removal - From date on which it was removed (Same case for COP Restoration)

<ul style="list-style-type: none"> • Undischarged insolvent • Being discharged insolvent, has not obtained, from court, certificate stating that his insolvency was caused by misfortune without any misconduct on his part • Convicted by court whether in/outside India, of offence involving moral turpitude & punishable with imprisonment or offence committed by him in his professional capacity unless, he has either been granted pardon or CG has removed disability • Removed from membership due to guilty of misconduct • Failure on his part to disclose fact that he suffers from any of above disabilities would constitute professional misconduct 	<ul style="list-style-type: none"> ○ Removal of name under orders of Board of Discipline or Disciplinary Committee or Appellate Authority or High Court - As per such orders ○ In other cases - From Date of application receipt <p>Penalty for Falsely Claiming to be Member Any person who -</p> <ul style="list-style-type: none"> • Not being member of ICAI <ul style="list-style-type: none"> ○ represents that he is member of ICAI or ○ uses designation CA • Being member of ICAI, but not having COP, represents that he is in practice • Shall be punishable on first conviction with fine upto Rs. 1000 & on subsequent conviction with imprisonment upto 6 months or with fine upto Rs. 5,000 or with both • Failure to pay fine - rigorous imprisonment for 3 months
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Chartered Accountants in Practice (CAiP)

<p>Significance of COP</p> <ul style="list-style-type: none"> • No CA is allowed to practice unless he has COP • CA not in practice is precluded from accepting engagement to provide services prescribed for CA, even though, it does not require special qualifications • Council is of view that - <ul style="list-style-type: none"> ○ Once a person becomes member, he is bound by CA Act. When he appears before Income-tax Tribunal as Income-tax representative, he can appear only as CA. He cannot set CA Act at naught (no importance) by contending that even though he is suspended from practice, he is entitled to practice in some other capacity ○ CA can have no other capacity separable from his capacity to practice as member ○ Digital Consultancy Representation is allowed <p>Cancellation of COP - If</p> <ul style="list-style-type: none"> • Name of COP holder is removed from Register or • COP was issued on basis of incorrect info or by mistake or 	<p>Members - Deemed to be in Practice - If he</p> <ul style="list-style-type: none"> • Does practice of accountancy or • Offers to perform/performs auditing of transactions or records or preparation or certification of statements or • Provides professional services for a/cing, presentation or certification of financial facts or • Provides other services that are provided by CAiP. E.g. 'service with armed forces' • In his professional capacity & neither in personal nor in capacity as employee, acts as liquidator, trustee, executor, administrator, arbitrator, receiver, adviser or representative for costing, financial or taxation matters or appointed by CG or SG or Court or other legal authority or acts as Secretary unless his employment is on salary-cum-full-time basis (Regulation 191) <p><u>Explanation -</u></p> <ul style="list-style-type: none"> • CA who is salaried employee of CAiP shall be deemed to be in practice only for purpose of training Article Assistants
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- Member has **ceased to practice** or
- Member has **not paid annual fee** for COP till **30th September**
- If COP is cancelled, holder shall **surrender it to Secretary**

Co. not to Engage in Accountancy

- Term "Co." include **LLP which has Co. as its partner**
- No Co. whether or not Indian, shall practice as CA
- If any Co. **contravenes** above then, every director, manager & officer, who is knowingly party to such contravention, shall be punishable with fine on **first conviction upto Rs 1,000** & on **subsequent conviction upto Rs 5,000**

CAiP Prohibited from using Designation other than CA

- CAiP cannot use any designation other than CA, nor any other description
- CA who is **not in practice** & does **not use** designation of **CA**, may use any **other description**
- Merchant Banker/Advisor to Co. issue - In Co.'s offer docs & Ad for capital issue, **Name & Address of CA or Firm** can be mentioned under "Advisor/Consultant to Issue", provided it not appears prominently. However, **cannot** be mentioned in **his visiting cards**
- CAs who are Directors in Co., Members of Political Parties, Member of Parliament, Municipal Councillor, holding positions in orgs are not permitted to mention these positions
- CA **cannot designate** himself as **Cost Accountant**, but can use letters **A.C.M.** or **F.C.M.** after his name
- **Not allowed** to state himself as Income-tax Consultant, Cost Accountant, CS, Cost Consultant, Mgt Consultant or **Corporate Lawyer, Cybersecurity Expert**
- CA **cannot** use 'CPA' on visiting cards
- CAiP may practice as CS/Cost Accountant. But he shall **not use designation** of such Institute **simultaneously with "CA"**
- Permitted
 - To mention **membership of foreign institute** of Accountancy, which is recognized through **Memorandum of**

- **Act of setting up establishment** will be considered to be in **practice** even though no client is served
- Section 144 of Co Act, 2013 - Auditor shall provide to Co. only such other services as approved by BOD or audit committee, but not following services (whether directly or indirectly to **Co. or its holding Co. or subsidiary Co.**) -
 - A/cing & book-keeping services
 - Design & implementation of financial info system
 - Outsourced financial services
 - Internal audit
 - Actuarial services
 - Investment advisory services
 - Investment banking services
 - Mgt services
 - Other services as prescribed

Mgt Consultancy & other Services

- CAiP is **permitted** to provide "Mgt Consultancy & other Services"
- It does not include - Statutory audit, tax representation or consulting or liquidator, trustee, executor, administrator, arbitrator or receiver
- It includes -
 - Financial Mgt planning
 - Capital structure planning
 - Working capital Mgt
 - Project reports & feasibility studies
 - Tax implications of above 4 services
 - Cash flow statements, profitability, sources & application of funds
 - Budgeting
 - Inventory Mgt & storage
 - Market research & demand
 - Price-fixation
 - Mgt a/cing systems & cost control
 - Control methods & Mgt reporting
 - **Personnel recruitment & selection**
 - **Executive & Wage incentive plans**
 - Mgt & operational audits
 - Valuations of shares & business (**Not P&M**) & Amalgamation, Registered Valuer
 - Business Policy, corporate planning & Org growth
 - Org structure, development of HR, training, job evaluation

Understanding/Mutual Recognition Agreement. E.g. South African Institute of CAs (SAICA), Institute of Certified Public Accountants (CPA Ireland) & Institute of CAs in England & Wales (ICAEW)

- "Insolvency Professional" or "Registered Valuer" on his visiting card & letter head

Maintenance of Branch Offices

- If CAiP or Firm has more than 1 branch in India, **each branch** should be in **separate charge of a CA**
- Failure will constitute professional misconduct
- CA **in-charge of branch** of another firm should be **associated** with him/firm either as **partner** or as **paid assistant** (must be full-time employment)
- CA in charge of branch shall be **actively associated** with such branch - **Reside** at place of Branch/**Attend branch** for **atleast 182 days** in year
- CA is allowed to put **name-board** at place of **residence** with designation '**CA**', provided it is name-board of individual member & **not of firm**
- Exemption from having separate in-charge for members practicing in hill areas. Conditions are
 - Allowed to open temporary offices in plains **for upto 3 months** in year (any 3 months)
 - **Regular office** need **not be closed** during this period & all correspondence can be made there
 - **Name board** of firm at temporary office should **not be displayed** at times **other than** above **permitted period**
 - Temporary office should **not** be **mentioned** in letterheads, visiting cards or other docs **as place of business**
 - **Before** starting of every winter, **inform ICAI** about **opening & closing** of temporary office by registered post
- Exemption from having separate in-charge for second office, when -
 - Both offices are located in **same accommodation**
 - Second office is located in **same city** as first office
 - Second office is located **within distance of 50 km. from municipal limits** of city of first office

- Systems analysis & computer related services & EDP
- Advisor to issue, including -
 - Drafting prospectus & listing agreement
 - Publicity budget, selection of bankers, brokers & underwriters
 - Selection of Registrars, printers & advertisers
 - Advice on post issue activities
 - **Broking, Underwriting & Portfolio Mgt are not permitted**
- Investment counselling
- Registrar to issue/for transfer of shares
- Quality Audit
- Environment Audit
- Energy Audit
- Recovery Consultant in Banking Sector
- Insurance Financial Advisory
- Insolvency Professional
- Admin Services - require little professional judgment & are clerical in nature. Like Word processing services, preparing admin forms for client approval, submitting forms as instructed by client, monitoring statutory filing dates & advising client. E.g. Functions of GST practitioner

KYC Norms for CAiP

- **Mandatory** to all assignments (including consultancy)
- If Client is Individual
 - General Info
 - Name
 - PAN No. or Aadhar No
 - Business Description
 - Copy of last Audited FS
 - Engagement Info
 - Type of Engagement
- If Client is Corporate Entity (Additional)
 - General Info
 - Address of Entity
 - Name of Parent Co. in case of Subsidiary
 - Regulatory Info
 - Co. PAN No.
 - Co. Identification No.
 - Directors' Names & Addresses
 - Directors' Identification No.
- If Client is Non-Corporate Entity (Additional)
 - Partner's Names & Addresses (with PAN/Aadhar/DIN No.)

- o CA having 2 offices shall have to declare, which of them is his main office & thus his **professional address**

Schedules to Act

Schedule	Part	Applicability	Clauses	Type of Misconduct
First	I	CA in Practice	12	Professional Misconduct
	II	CA in Service	2	
	III	All CA	3	
	IV	All CA	2	Other Misconduct
Second	I	CA in Practice	10	Professional Misconduct
	II	All CA	4	
	III	All CA	1	Other Misconduct

How to Present Answers for Clauses

1. Write Clause No. & Explain Clause
2. Copy Facts of the case from question
3. Link Facts with Clause
4. State your Conclusion

Note - If confused b/w multiple clauses - **Mention All Clauses**

First Schedule

Part 1 - Professional Misconduct in relation to CAiP

Intro Line - CAiP is deemed to be guilty of professional misconduct if he -

Clause (1) Allows anyone to practice in his name unless such person is also CAiP & his partner or employee

Above clause safeguards public against unqualified accountant practicing as qualified accountants

Clause (12) Allows person who is not CAiP or CA who is not his partner to sign on his behalf or on behalf of his firm, any Balance Sheet, P/L, report (professional opinion) or FS

Power to **sign routine docs** on which professional opinion or authentication is not expressed are **permitted to be delegated** -

- Issue of **audit queries** during audit
- Asking for info or issue of **questionnaire**
- Letter forwarding **draft observations/FS**
- Initiating & **stamping of vouchers & schedules** prepared for audit
- Acknowledging & carrying on **routine correspondence with clients**
- Issue of memorandum of **cash verification & physical verification** or recording results in books of clients
- Issuing **acknowledgements for records** produced
- Raising of **bills & issuing acknowledgements** for money receipts
- Attending to **routine matters in tax** practice (subject to Section 288 of Income Tax Act)

- Any other matter of **office administration** & routine work of practice

Note -

- Sign/Issuance of Any **Certificate** is **not a routine work** and cannot be delegated
- If authority to sign docs given above is delegated by CA or firm, then fact that docs are not signed by him is not defence to him or to firm in professional misconduct
- If CA, while signing doc is required to disclose his name, then he should do so. If there is no such statutory requirement, then he may sign in name of firm

Clause (2) Pays or Agrees to pay, directly or indirectly, any share, commission or brokerage in fees or profits of his professional business, to anyone other than CA or partner or retired partner or legal representative of deceased partner or member of professional body having qualification as prescribed, for providing such professional services in or outside India

Qualifications Prescribed (Regulation 53A) - CS, CMA, Actuary, Engineering, B.Tech, Architect, Law, Advocate & MBA

- CA giving % of audit fees from Co-operative Societies to SG - **Allowed**
- CA giving % of fees as office allowance - **Not Allowed (substance over nomenclature)**
- CA giving % of fees to Poor Article - **Not Allowed**
- Share of Profit/Sale of Goodwill -
 - Partnership Firm - Legal Representative of deceased partner can **continue to receive** share of firm, **only if deed provides**. Same is applicable even when all partners die at same time
 - Proprietorship Firm -
 - **No sharing of fees** b/w Legal Representative & Purchaser of Goodwill on death of Proprietor
 - Goodwill Payments may be made in **instalments**, if sale **agreement** provides
 - Goodwill can be sold/transferred to another CA if **sale is completed within 1 year** of death
 - **Name** of firm will be kept in **abeyance** (not removed) only **upto 1 year** from death
 - Legal heir has to **obtain permission of Council** within 1 year of Death
 - If **dispute b/w legal heir - inform ICAI** within 1 year about dispute - Name is reserved for 1 year from dispute settlement
 - Selling Practice/Right to Use Firm Name = Sale of Goodwill

Clause (3) Accepts or agrees to accept part of profits of professional work of non-CA

- Exception - Regulation 53A, Referral fees from CAiP
- Registered Valuer is not an exception

Clause (4) Enters into partnership, in or outside India, with person other than CAiP or member of professional body having qualifications as prescribed or non-resident who is entitled to register as CA or who is recognized by CG or Council

- Qualification Prescribed (Regulation 53B) - Same as Regulation 53A except MBA
- CAiP cannot form multi-disciplinary partnerships until Regulators of other professions also permit partnership with CAs

Clause (5) Secures any professional business either from non-employee or non-partner or by means not open to CA except as per clauses (2), (3) & (4)

Acts of partners & employees for securing professional work are subject to Clauses (6) & (7)

Clause (6) Solicits professional work, directly or indirectly by circular, Ad, personal communication or interview or by any other means

Exception

- CA securing professional work from another CAiP or
- Responding to tenders or enquiries - CAiP shall not respond to tender for services that are exclusively reserved for CAs. E.g. Audit & attestation services unless minimum fee is prescribed in tender or unless services are open to other professionals as well. "Minimum fee" should commensurate with size, value, volume, manpower requirement & nature of work

Forms of soliciting work are

- EMD/Security Deposit - **Permitted**. However, Cost sheet must be maintained by CA responding to tenders, for details of costs being incurred for number of persons involved, hours to be spent, etc
- Ad of Coaching may amount to indirect solicitation violating Clause (6). However, they may put **sign board** mentioning **name** of coaching, **contact** details & **subjects** taught only, outside their coaching premises. For size & type of sign board, Guidelines as applicable to Firms would apply
- Ad in press prohibited - Also not permitted to circulate **letters to possible clients**. Personal canvassing or canvassing for clients of previous employer through employees is also not permitted.

Exceptions are -

- CA **requesting another CAiP** for professional work
- CA **advertising changes in partnerships or dissolution of firm or change in address** of practice & contact numbers, provided they are limited to facts & consideration given to appropriateness of area of distribution of newspaper or magazine & number of insertions
- CA is **permitted** to issue **classified Ad in journal/newsletter of ICAI** to give info for sharing professional work or for seeking partnership or salaried employment of accountancy nature, provided it only contains CA's name, address or contact number, fax number, e-mail & address of social networking sites. Mere factual position of experience & area of specialization, to seek response to Ad, are permitted
- Application for empanelment - Many institutions prepare panels of CAs for allotment of audit & other work. If existence of such panel is in knowledge of CA, he can request such org to place his name on panel. However, he is **prohibited to make roving enquiries** by applying to any such org for having his name included in such panel. Permitted to **quote fees on enquiries** received from such org
- Publication of Books, Articles or Presentation - **Prohibited** for CA to mention, in his book or article or presentation, any **professional attainment**, whether his or his firm's. However, he **may indicate** designation "**CA**" & **name of firm**
- Issue of Greeting Cards or Invitations - Not permitted to issue them indicating CA's professional designation, status & qualifications etc. However, designation "**CA**" & **Name of firm can be used** in greeting cards, invitations for marriages & religious ceremonies & invitations for inauguration of his office, change in office premises & change in contact numbers, provided they are **sent only to clients, relatives & friends of member** concerned. **Ad is not permitted** for above
- Ad for Silver, Golden, Platinum or Centenary celebrations - Not permitted to advertise events organised by Firm. However, Ad for above may be published in **newspaper or newsletter**

- Sponsoring Activities
 - **Not permitted** to sponsor event. However, permitted for event conducted by Programme Organizing Unit of ICAI having prior approval of Continuing Professional Education Directorate
 - CAs sponsoring **CSR** activities may mention their individual **name with prefix "CA"**. However, mention of **Firm name or CA Logo is not permitted**
- Sharing Firm Profile with Prospective Client - **Not permitted unless** it is in response to Proposed client's **specific query**
- TV or Movie Credits - Ensure that exhibition of name of CA/Firm is not made differently as compared to other entries in credits
- Soliciting professional work by making roving enquiries - Not permitted to address letters, emails or circulars specifically to persons who are likely to require services of CA
- Scope of Auditor's representation u/s 140(4) of Co. Act - Wording of his representation should be such that, apart from opportunity not being abused to secure needless publicity, it does **not** amount to **soliciting for his continuance** as auditor. Letter should merely set out in **dignified manner** how he has been **acting independently & conscientiously** & may indicate, his **willingness to continue** as auditor
- Acceptance of professional work by CA from client introduced to him by another CA - **Not accept**. If client comes to him directly, he should ask client that it should come through other CA dealing generally with his original work
- Giving Public Interviews - Ensure that such interviews are not highlighting their professional attainments. Any detail must be given only as response to specific question, & of factual nature only
- Ads under Box numbers in newspapers - **Prohibited**
- Educational Videos - May be uploaded on internet, **no reference** should be made **to Firm** wherein he is partner/proprietor. Also, it should not contain **contact details or website** address
- CA wrote letters to Army Canteens giving details about him & his experience, his partner & office & norms for charging audit fees - **Guilty** under Clauses (5) & (6)
- CA sent letters to other CAs claimed to be **pioneer in liaisoning with govt depts** as expertise for getting clearances - **Guilty** under clause (6)

Website of CA Firms

- Standard format of Website is not given to provide independence to Members
- Ensure that Website **run on "pull" model & not "push" model** to ensure that person who wishes to locate CAs would only have access to info & info should be provided only on specific "pull" request
- Ensure that none of info contained in Website be circulated except on specific "pull" request
- Not issue any circular or any Ad to solicit people to visit Website
- **Permitted** to mention Website address on **professional stationery & email**
- Following info is allowed to be displayed on Websites -
 - Member/Trade/Firm name
 - **Year of establishment**
 - Member/Firm's Address (both Head Office & Branches), Tel. No, Fax No, E-mail ID

- Nature of **services** rendered (only on specific "pull" request)
- Partners - Name, Year of Qualification, Mobile, Email, **Area of Qualification on "pull" request**
- Details of Employees - Name, Designation, **Area of experience on specific "pull" request**
- Job vacancies for CA (including articleship)
- **No. of article assistants (only on specific "pull" request)**
- **Nature of assignments handled on "pull" request.** Names of clients & fee charged cannot be given
- **Note** - Disclosure of **names of clients/fees** charged is **permitted only if required by regulator** provided such disclosure is only to extent of requirement & is made only till member works under such Regulator/such requirements are in force. If such disclosure is made, ensure that it is also mentioned on website [in italics], below such disclosure, that "**This disclosure is in terms of requirement of [name of regulator] having jurisdiction in [name of country] vide [Rule under which disclosure is required by Regulator]**"
- Display of **Passport style photograph** is **permitted** (not Framed photo)
- Members may include articles, professional info, bulletin boards, professional updation & matters of professional interest on website. Educational videos on topics of professionals are permitted
- Chat rooms can be provided to permit chatting amongst CAs & b/w Firms & its clients. **Confidentiality should be observed.** Firms can provide document Mgt facility with distinct log in & password facility to clients to access copies of their docs on Firm website
- Firm can provide link of its social networking site. However, it should not solicit people to visit or like their page on social networking site
- Members/firms can provide online advice to their clients who specifically request for advice
- Details in Website should be so designed that it does not amount to soliciting professional work
- Website should ensure secrecy of matters of clients handled through Website
- **No Ad** in any nature will be permitted on Website
- Website should be befitting profession of CAs & should not have info which is unbecoming of CA
- Website may provide link to Website of ICAI, its Regional Councils & Branches & Govt./Regulatory authorities/other Professional Bodies
- Website **address should be as near as possible to individual name/trade name/firm name.** But it should not amount to soliciting professional work
- Website should mention info which is not at material variance from info as per ICAI's records

Online 3rd Party Platforms

Non-CAs' firms have set up their own websites providing advisory services on areas where CAs are involved. **Only consultancy & advice can be provided** through such websites by CAs, with condition that **contact** address of CA is **not provided** nor such website contains any **ad of professional achievements** except stating that he is CA. Name of firm with **suffix "CA"** would **not be permitted**

Publication of Name or Firm Name in Telephone or other Directories published by Telephone Authorities or Private Bodies

May have entries either by making special request or additional payment with restrictions -

- Entry should not appear in any other **section** except that of '**CAs**'
- Member/firm should belong to city for which directory is being published
- Order of entries should not be in any manner other than **alphabetical**
- Entry should not be made in prominent manner giving impression of publicity
- Entries should be **open to all CAs/firms** in particular city where directory is published
- Members can also include their names in trade/social directories

Application based Service provider Aggregators

Not permitted for CA to list himself with online Application based service provider Aggregator, wherein other category like businessmen, technicians, maintenance workers, event organizers etc. are also listed

Specialised Directories for limited circulation

- Name, description & address of member/firm may appear in directory or list of members of particular body in which names are listed **alphabetically**.
- In addition, member may, **directorships held** & personal details & may state his outside interests. He should not give names of his clients

Exemptions

- Exemption for publication of name & address of member/firm, with description CA, in Ad appearing in press in following circumstances, provided Ad is not displayed more prominently than usual for such ads or name of member/firm with designation CA appears in type not bolder than Ad -
 - Ad for **recruiting staff** in member's own office
 - Ad inserted on behalf of **client requiring staff** or to acquire or dispose of business or property
 - Ad for **sale of business/property** by CA acting in professional capacity as **trustee, liquidator or receiver**
- When advertising for staff/article assistants, CAs should **avoid** expression such as "**well-known firm**". Ads should not contain any promotional element nor that services offered by CA are superior to those offered by other CAs

Clause (7) Advertises his professional attainments or services, or uses any designation other than CA on professional docs, visiting cards, letter heads or sign boards unless it is degree of University established by law in India or recognized by CG or Council

Provided that CAiP may advertise through write up stating service provided by him or his firm & particulars of his firm subject to following Guidelines

- No exaggerated claims for services offered or qualifications or experience
- Not make any disparaging (downgrading) references to work of others
- Not be of nature that may bring profession into disrepute
- Not contain testimonials or endorsements or names of clients (both past & present) or fees charged
- Not contain any info about achievements (except awards given by CG or SG or Regulatory bodies) or any position held, or accreditation
- Monogram of any kind or use of catch words is not permitted
- Membership No./FRN should be mentioned
- **Not be of font size exceeding 14**
- Not be violative of CAs Act, 1949, CAs Regulations, 1988, Code of Ethics, 2020 or any Guideline
- Date of setting-up practice/firm - Not permitted on letter heads & professional docs but permitted on website
- Practice as Advocate - CAiP may practice as advocates if permitted by Bar Council, but in such case, they should not use designation 'CA' for matters involving practice as advocate. For other matters, they should use designation 'CA' but they should **not use designation 'CA' & 'Advocate' simultaneously**
- Practice as CS/CMA - CAiP may practice as CS/CMA. However, shall **not use such designations simultaneously** with "CA". If permission is granted to CAiP to also hold COP of Sister Institute (CS,CMA)/Bar Council, such member be treated as member in full-time practice

- Mention of Firm name except on Professional Docs - Not Permitted for Firm to use designation 'CA' except on professional docs, visiting cards, letter heads or sign boards & under Clause (6)
- Notice in Press relating to Success in Examination - Candidate's name & address, school & local background, examination passed with details of any prize, **name of principal, firm & town in which principal practices** may be published
- Reports & Certificates - Ensure that extent & manner of publication of certificates are limited. He should use letterhead of his Firm for issuing reports & certificates
- Appearance of CAs on Electronic Media (including Internet) - CAs may appear on TV, films, internet & radio or give lectures & may give their name & **Firm name** & describe themselves as CAs. Special qualifications or knowledge directly relevant to subject matter of programme may also be given. However exaggerated claim or any kind of comparison is not permitted
- Publicity is permitted for positions of local or national importance. Mention of Membership of ICAI is desirable. CA should aim to achieve publicity for ICAI. Members giving talks or lectures or attending conference shall describe themselves as CAs only when they are acting in their capacity as CAs. However, **reference to firm should not be given** (allowed in above point)
- Organising Training, Seminars for his staff- CAiP may also invite staff of other CAs & clients to attend same. However, undue importance should not be given to name of CA in any booklet issued
- Writing Articles or Letters to Press - On subjects connected with profession, may give names & use description CAs
- Size of Sign Board for Office - Use of glow signs or lights on large-sized boards as is used by traders or shop-keepers is not permitted
- Prospectus/Public Announcement with detail of Director - CA should ensure that such announcements do not advertise his professional attainments & do not amount to solicitation of professional work. Use of 'CA' is permitted. However, his expertise, specialisation & knowledge in any particular field are not published with his name. Particulars about directorships held by him in other Co. can be given, but name of firm in which he is partner, should not be given
- Use of Logo - Logos unconnected with first letter of name of firm or its partners or proprietors would not be permitted. Use of logo/monogram of any kind/form/style/design/colour etc. on any display material or media is prohibited
- QR Code on Visting Card - **Permitted** if it only contains info allowed on a visiting card
- Member is allowed to print names of all firms on personal letter head in which he is a partner

Clause (8) Accepts position as auditor previously held by another CA without first communicating with him in writing

When inquiring retiring auditor, proposed auditor should find out if there are any reasons why he should not accept appointment -

Valid Reasons - Change of venue of business & local CA is preferred or where partner retires or dies or where temperaments clash or client has some good reasons to feel dissatisfied

Invalid Reason - Professional reasons for not accepting audit would be -

- **Non-compliance of Sections 139 & 140** of Co. Act as mentioned in Clause (9)
- **Non-payment of undisputed Audit Fees** (except Sick Units) - Provision for audit fee in FS signed by both auditee & auditor along with other expenses incurred by auditor, shall be considered as "undisputed audit fee" & "sick unit" shall mean unit registered for **atleast 5 years**, which has at end of any FY accumulated losses => net worth (Assume existence for 5 years if not given in Ques)
- Issuance of **qualified report**

In 1st 2 cases, auditor who accepts audit would be guilty of professional misconduct

In 3rd case, he may accept audit if he is satisfied that attitude of retiring auditor was not proper & justified. However, if he feels that retiring auditor had qualified report for good & valid reasons, he should refuse to accept audit

Note -

- If Previous Auditor is unavailable to accept payment of undisputed audit fees & it is not possible to transfer payment electronically, Incoming Auditor may advise client to **purchase Demand Draft** for undisputed Audit Fees & may accept Audit after verifying same. It will be duty of Incoming auditor to ensure payment of undisputed Audit Fees to retiring auditor at earliest possibility
- Correct procedure when prospective client wants to change his auditor to you - Ask client if retiring auditor is informed of intention to change. If yes, then communication should be addressed to retiring auditor. If no as client is not willing to make 1st move, then ask him reason for proposed change. If not a valid reason, don't accept audit. If decided to accept audit then address communication to retiring auditor
- If retiring auditor fails to respond to communication of incoming auditor, then incoming auditor can accept appointment after **waiting for reasonable time**
- Mere posting of letter "**under certificate of posting**" is **not sufficient** as Member has **no positive evidence of delivery** of communication. Following are permitted -
 - Communication by letter sent through "Registered Post Acknowledgement due" or
 - By hand against written acknowledgement or
 - Acknowledgement of communication from retiring auditor's vide email registered with ICAI or his last known official email or
 - UDIN generated on UDIN portal
- Premises found Locked - Written on Acknowledgement Due shall be deemed as been delivered to retiring auditor
- Firm not found at given Registered address - If address of communication is same as registered with ICAI on date of dispatch, letter will be deemed to be delivered, unless retiring auditor proves that it was not really served & that he was not responsible for such non-service
- Communication required for all kinds of audit - Requirement for communicating with previous auditor being CAiP would apply to all types of Audits viz., Statutory Audit, Tax Audit, GST Audit, Internal Audit, Concurrent Audit etc. This clause is applicable for replacement positions and not parallel positions, so Internal Auditor is not required to communicate to Statutory Auditor
- Communication in case of Assignments done by other professionals (Non-CA) - It would be healthy practice to communicate

- Lack of time in acceptance of Govt Audits - If there is no time to wait for reply from outgoing auditor, **incoming auditor may give conditional acceptance** of appointment & commence work immediately after he has sent communication to previous auditor. In his acceptance letter, he should state that his acceptance is subject to professional objections from previous auditors & that he will decide about his final acceptance after receiving info received from previous auditor
- Joint auditor with earlier auditor - It is necessary for new auditor appointed to act jointly with earlier auditor to communicate with such earlier auditor
- Special Audit under Income Tax Act, 1961 - It would be healthy practice if Tax Auditor conducting special audit under Income Tax Act communicates with Statutory Auditor

Clause (9) Accepts appointment as auditor of Co. without first ascertaining whether requirements of Section 139 & 140 of Co. Act for appointment is complied with

It is **not sufficient to accept certificate from Mgt of Co. that above sections are complied**. Incoming auditor should verify records of Co. & ascertain as to whether Co. has complied with above sections. If Co. is not willing to allow incoming auditor to verify records, he should not accept audit

- First auditor of Co. is appointed by BOD within 30 days of date of registration of Co.
- If BOD unable to appoint as above - Appointed by Members in meeting
- Casual vacancy is filled by BOD. However, non-acceptance of appointment by CA does not constitute casual vacancy to be filled by BOD. In such case, it will be deemed that no auditor was appointed in AGM & hence existing auditor shall continue to be auditor of Co.
- Resignation of auditor - Appointed by Members in General Meeting of Co.
- Removal of auditor before expiry of his term - Special resolution at General Meeting after obtaining previous approval of CG by Co.
- If AGM is adjourned - Retiring auditor will continue to hold office till adjourned meeting is held & business listed in agenda of meeting is concluded. If new auditor is appointed at original meeting (which is adjourned) such auditor can assume office only after conclusion of such adjourned meeting
- If AGM is adjourned without appointing auditor - no special notice for removal of retiring auditor received after adjournment can be acted upon by Co., since special notice should be given to Co. before meeting

Guidelines for Ethical Standards Board for looking into cases of Removal of Auditors -

- If auditor **resigns** - Send **communication to BOD & ICAI** giving reasons. Incoming auditor shall, before accepting appointment, obtain copy of such communication from BOD
- If auditor willing but **not reappointed** - File with **ICAI copy of statement sent to Mgt** for circulation among members. Incoming auditor shall, before accepting appointment, obtain copy of such communication from Co.
- Ethical Standards Board may call for further info as it may require
- Above procedure is also followed in case of Govt & other statutory authorities

Clause (10) Charges or offers to charge for any professional employment, fees based on % of profits or contingent upon findings or results of employment, except as permitted under regulations

Exemption - Regulation 192

- **Receiver or Liquidator** - % of realization or disbursement of assets
- **Auditor of co-operative society** - % of paid-up capital or working capital or gross or net income
- **Valuer for direct taxes & duties** - % of value of property valued

- **Fund raising services** - % of fund raised (getting loan sanctioned is not fund raising)
- **Debt recovery services** - % of debt recovered
- **Cost optimisation** - % of benefit derived
- **Insolvency Professional & Non-Assurance Services** to Non-Audit Clients

Clause (11) Engages in business or occupation other than CA profession unless permitted by Council Permitted to be Director Simplicitor (Non-Executive) of Co. (Not being MD or WTD & is required only in Board Meetings & not paid any remuneration except for attending meetings) unless he or his partners are auditor of co.

Regulation 190A - Permission granted generally

- Employment under CAIP or firms
- Private tutorship
- Authorship of books & articles (**not necessarily Professional**)
- Editorship of **professional** journals. E.g. Company Audit Journal
- Holding of Life Insurance Agency License for limited purpose of getting **renewal commission**
- Attending classes & appearing for any examination
- Holding of public elective offices such as M.P., M.L.A. & M.L.C.
- Honorary office leadership of charitable-educational or other non-commercial orgs
- Acting as Notary Public, Justice of Peace, Special Executive Magistrate & like
- Part-time tutorship under coaching org of ICAI
- Valuation of papers, acting as paper-setter, head-examiner or moderator, for any examination
- Acting as Surveyor & Loss Assessor under Insurance Act
- Acting as recovery consultant in banking sector
- Owning agricultural land & carrying out agricultural activity

Specific & Prior (before engaging) approval of Council -

- Full-time or part-time employment in business provided that he/his relatives do not hold "substantial interest" in such business (20% or more)
- Full-time or part-time employment in non-business concern
- Office of MD/WTD provided that he/his relatives do not hold substantial interest in such concern (substantial interest condition is not to be complied for being 'Director Simplicitor') - even if person is not designated as MD/WTD, he can be deemed to be MD/WTD if he is entrusted with whole or substantially whole of Mgt of affairs of Co.
- Interest in family business & is not actively managed by him
- Interest in educational institution
- Part-time or full-time lectureship for courses other than ICAI's examinations conducted under ICAI or Regional councils or their branches
- Part-time or full-time tutorship under educational institution other than coaching org of ICAI
- Editorship of journals other than professional journals
- **Other business** for which Executive Committee may grant permission

Note

- Trading in **Commodity** (not equity/currency) **Derivatives** requires **Special Permission**
- "**Relative**" means **husband, wife, brother or sister or any lineal ascendant or descendant** of member
- **Substantial Interest** -
 - In case of Co., if => **20% voting power** is owned by member or by any of following persons -
 - 1 or more relatives of member
 - Any concerns in which any persons referred above has substantial interest

- In other cases, if member or persons referred above are entitled to => **20% of profits**
- Auditor of Subsidiary Co. cannot be Director of its Holding Co.
- Member is permitted to be promoter/signatory to MOA & AOA
- Such promoter/signatory is permitted to be Director Simplicitor of that Co.
- **Teaching hours should not exceed 25 hours per week** to be able to undertake attest functions
- Receiving Royalty from Website - Requires Special Permission
- CA was partner in 2 business firms & MD in 2 Co. & holding COP without permission of ICAI - Guilty under Clauses (4) and (11)

CAiP in HUF doing business - CA can acquire interest in family business in any manner - as proprietary firm, as partnership firm or HUF as its Karta or member

- He needs to provide evidence that interest in family business was due to inheritance/succession/partition of family business &
- Also, that he was **not actively engaged** in business & that business concern was not created by him
- CAiP engaged as Karta, will be within limit if he **makes investments from funds of HUF only**, provided, he is not actively engaged in Mgt of said business

Part II - Professional misconduct in relation to CA in service

Intro line - CA in service shall be deemed to be guilty of professional misconduct, if he being employee of any Co., firm or person -

Clause (1) Pays or agrees to pay directly or indirectly to any person any share in emoluments of employment undertaken by him

Permitted - Sharing among relatives, dependents, friends etc., if payment is not consideration for job procurement or retainerhip

Clause (2) Accepts or agrees to accept any part of fees or profits from lawyer, CA or broker engaged by Co., firm or person or agent or customer of such Co., firm or person by way of commission or gratification

Note - In Clause 1&2, he will be guilty of misconduct irrespective whether he was in whole-time or part-time employment or holding COP along with employment

Part III - Professional misconduct in relation to CA generally

Intro Line - CA, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he -

Clause (1) Not being fellow of Institute, acts as fellow of Institute

Clause (2) Does not supply info called, or does not comply with requirements asked, by Institute, Council or Committee, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or Appellate Authority

E.g. of Misconduct under this clause

- While applying for COP, did not fill in info about his engagement in other business
- Failure to furnish info of relationship with multi-national accounting firm in India

- Failed to reply to letters of ICAI asking him to confirm date of leaving service

Clause (3) While inviting professional work from another CA or while responding to tenders or enquiries or while advertising through write up, or anything provided in Clauses (6) & (7) of Part I of 1st Schedule, gives info knowing it to be false

Part IV - Other misconduct for CAs generally

Intro Line - CA is expected to **maintain highest standards of integrity** even in his **personal affairs** & any deviation from these standards calls for disciplinary action. CA, whether in practice or not, shall be deemed to be guilty of other misconduct, if he -

Clause (1) is held guilty by any civil or criminal court for offence which is punishable with imprisonment for term not exceeding 6 months

Clause (2) in opinion of Council, brings disrepute to profession or ICAI through his action whether or not related to his professional work

E.g. of Misconduct under this clause

- Concurrent auditor of bank used his influence to get loan & thereafter failed to repay loan
- Retains books of a/c & docs of client & fails to return without reasonable cause
- Makes material misrepresentation
- Uses services of his article assistant for other than professional practice (election campaigning)
- Conviction by competent court of law for any offence under Sec 8 (v) of CAs Act 1949
- Misappropriation of money by office-bearer of Regional Council of ICAI
- Not replying within reasonable time & without good cause to letter of public authorities
- Assessment records of IT Dept belonging to client were found in almirah of bed-room of CA
- Where CA had adopted coercive methods on a bank for having a loan sanctioned to him
- Offering free service in return to sanction of loan
- Cheque dishonoured due to insufficiency of fund (if other reason like 'refer to drawee' - not guilty)
- Withdraw money from bank which does not belong to him
- Advising unethical practice to client

Second Schedule

Part I - Professional Misconduct in relation to CAiP

Intro line - CAiP shall be deemed to be guilty of professional misconduct, if he -

Clause (1) Discloses Info acquired in professional engagement to any person other than his client without consent of his client or otherwise than as required by law

- SA 200** also state that auditor should respect **confidentiality** of info acquired
- CA's duty not to disclose continues **even after completion** of his assignment
- Disclosure is **allowed** if required as **performance of professional duty**. E.g. submitting info to exchange control authorities

- In other disclosures, Consent of client should be given by competent person. E.g. In **sole proprietorship** - By Proprietor or his attorney, In **Partnership** - By Any partner. In **Co.** - By MD if such powers of BOD are delegated to him, but if not delegated, by means of Board resolution
- Disclosure allowed to CG within 60 days of fraud knowledge as per **section 143(12)**

Clause (2) Certifies or submits in his name or firm name, report on examination of FS unless such examination is made by him or by partner or employee in his firm or by another CAiP

Clause (3) Permits his name or firm name to be used with estimate of earnings contingent upon future transactions in manner which may lead to belief that he vouches for accuracy of forecast

CA can participate in preparation & review of financial forecasts, provided he **indicates in his report sources of info, basis of forecasts & major assumptions** made & so long as he does **not vouch for accuracy of forecasts**. Same opinion would also apply to projections. (**Refer SAE 3400 for details**)

Clause (4) Expresses his opinion on FS of enterprise in which he, his firm, or partner in his firm has substantial interest (20%)

- Applicable to **all Attest Functions** (not on Mgt consultancy services like cost evaluations)
- "FS" in ethics include reports & certificates & attest function but not include statements prepared purely for info of their employers & not meant to be submitted to any outside authority
- CA should maintain same independence as auditor in all spheres of his work
- Members not to write BOA for auditee clients
- Statutory auditor not to be Internal Auditor simultaneously
- Internal auditor not to be Tax auditor simultaneously
- Internal Auditor not to be GST Auditor simultaneously
- Cooling off period - CA shall not accept audit of Co. for period of **2 years** from date of completion of his tenure or resignation as Director
- Members should satisfy if his appointment is as per statute/deed/instrument constituting entity
- If appointment is to be authorised by regulatory authorities, then member must satisfy whether such authorities have authorised appointment of auditor

Not Permitted

- Certify FS of employer or of concern under same Mgt, even holding COP unless permitted by law
- By himself or in his firm name -
 - Accept Auditor ship of college, if he is working as part-time lecturer in college
 - Accept Auditor ship of Trust where his partner is either employee or trustee of Trust
- To audit where relative has substantial interest
- To audit where member is Director, officer or employee of Co.
- To audit where member is not holding above position in Co., but holding security/interest in Co. or its subsidiary/holding/associate/subsidiary of such holding Co.
- To audit where partner of member is officer or employee of Co.
- To audit where partner of member is holding any security or interest in Co. or its subsidiary or holding or associate Co. or subsidiary of such holding Co.
- To audit where relative of member is director or KMP
- To audit where relative of member is holding any security or interest in Co., or its subsidiary, or holding or associate Co. or subsidiary of such holding Co., if face value exceeds Rs 1 Lakh
- To audit if client is relative of member

Clause (5) Fails to disclose material fact known to him which is not disclosed in FS, but disclosure is necessary in FS where he is concerned with FS in professional capacity

E.g. of Misconduct under this clause -

- CA failed to report about non-creation of sinking fund as per Debenture Trust Deed & didn't make clear that amounts shown towards sinking fund were borrowed from managing agents of Co.
- CA ignored non-disclosure of loan from EPF
- Auditor of EPF disclosed contraventions to Trustees of fund but not to members of fund
- Auditor commented upon irregularities in Trust in confidential report given to trustees, but did not mention about irregularities in his audit report to members

Clause (6) Fails to report MM known to him to appear in FS with which he is concerned in professional capacity

- CA represented Co. before tax authorities & submitted info to authorities on behalf of client, which were false & misleading - These statements are based on data provided by Co. CA had only submitted them acting on instructions of his client - Not Guilty

Clause (7) Does not exercise due diligence or is grossly negligent in conduct of his professional duties

It is a vital clause which gets attracted whenever it is necessary to judge whether accountant has honestly discharged his duties. The expression **negligence covers** a wide field & extends **from frontiers of fraud to collateral minor negligence**

E.g. of Misconduct under this clause

- Not completing audit work & not submitting audit report in due time
- Fail to indicate mode of valuation of investments in shares required by Co. Act
- Conducted Stock audit without visiting site, relied on Mgt reports
- Wrongly certified increase in Paid up share capital of Pvt Ltd Co (Clause 7,8 & 9)
- Issued turnover certificate without checking books & docs but relying on article clerk
- Issued certificate of consumption of Raw material based on minutes of BOD (clause 2 & 7)
- Issued incorrect certificate of export of Onions
- Issued report subject to separate notes (No audit report is issued with Notes)
- Failure to examine cash balance & passbook i.e. basic audit procedure
- Wrong audit report issued to School, claimed correction slip sent but couldn't prove
- Issued 2 certificates of circulation for 1 daily newspaper (clause 7 & 8)
- Material prior period adjustment made to a/c - auditor didn't exercise due diligence + wrong opinion insufficient info + didn't follow SA - Clause 7,8 & 9
- Failed to check a forged signature which he could have checked
- Shared password of his digital signature certificate with client
- CA failing to give disclosure about Contingent Liabilities in FS (clauses 6 & 7)
- Issuing clean reports on balance sheet without examining accounts
- Failed to confirm value of investments & simply relied on Mgt representation
- Digitally signed form without verifying genuineness
- Certified circulation figures based on MIS Report without examining BOA
- Did not exercise reasonable skill & care & performed work in casual & haphazard manner

Clause (8) Fails to obtain sufficient info which is necessary for expression of opinion or its exceptions are sufficiently material to negate expression of opinion (disclaimer of opinion)

E.g. of Misconduct under this clause

- Issued certificate of circulation of periodical without going into details - Clause (7) & (8)
- CA not stated his limitations/assumptions in his certificates - Clause (7) & (8)
- Transaction b/w ABC Firm & B developers reported in books of ABC Construction - Clause 6, 7 & 8
- Issued false certificates for exports for consideration without verifying docs - Clauses 2, 7 & 8
- Audited BOA with investment of Rs 10L but real value was 25k - Clauses 2, 7, 8

Clause (9) Fails to invite attention to any material departure from generally accepted procedure of audit applicable to circumstances

- If auditor fails to verify cash when it is material, it is not sufficient for him to merely state in his report giving qualifications that he did not verify cash. He should indicate clearly reasons why he was unable to perform audit as per generally accepted procedures
- Audit of Listed Co. - Auditors should hold valid certificate issued by Peer Review Board
- FRN & Membership No. - Mention in all reports & certificates
- UDIN - UDIN is mandatory on all Corporate/Non-Corporate Audit, Attest & Assurance Functions. E.g. all kinds of certification, GST & Tax Audit Reports

E.g. of Misconduct under this clause

- CA didn't conduct sample checking of bank a/c of Co & didn't do vouching & depended on work of Article Assistant - Clause 7,8 & 9
- CA didn't check bank column totals, didn't verify contra entries, test checked when no internal check present, didn't check Bank reconciliations - Clause 7,8 & 9

Clause (10) Fails, to keep moneys of his client, other than fees or remuneration or money meant to be expended, in separate banking account immediately or, to use such moneys for intended purposes within reasonable time

- **Advance** received by CA against services to be rendered does **not fall under this Clause**
- Money intended to be **spent within reasonably short time need not** be put in separate bank account
- Moneys received by CA, in his **capacity as trustee, executor, liquidator**, etc. must be put in **separate bank account immediately**

E.g. of Misconduct under this clause

- Refund voucher issued by Income Tax dept in name of client credited to CA's a/c - Clause 7 & 10
- CA acting as financial advisor to client converted his own a/c to joint a/c with client without his consent & fraudulently discharged 3 FDs in client's name - Clause 10 & Other Misconduct

Part II - Professional misconduct for CAs generally

Intro line - CA, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he -

Clause (1) Contravenes any provisions of this Act or regulations or guidelines issued by Council

E.g. of Misconduct under this clause

- All misconducts in relation to Articles of Firm
- CA not having COP issued certificate
- Described himself as Investment Consultant Public Accountant in private circular to clients
- Took loan from firm where article & his father were interested

- Having agreement to pay stipend to articles annually
- Accepted audit even when undisputed audit fees not paid to earlier auditor
- Conducted more tax/statutory audits than prescribed limit

Clause (2) Being employee of any Co., firm or person, discloses confidential info acquired during employment except as & when required by law or except as permitted by employer

Applicable whether whole/part-time employment or carrying on practice along with employment

Clause (3) Includes in any info, statement, return or form to be submitted to Institute, Council or Committee, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or Appellate Authority any particulars knowing them to be false

E.g. of Misconduct under this clause

- CA manager in firm applied for admission as fellow to ICAI saying he's partner in firm
- CA in full time employment in Co, while filling bank empanelment form, gave declaration that he was not in any occupation/business/vocation etc
- CA being manager of Co devoting 30 hours per week showed himself as CA in full time practice for employment for Bank branch Audit
- In application for empanelment as auditor of banks submitted to ICAI, included another CA name as partner in firm (who was not actually a partner on date application)

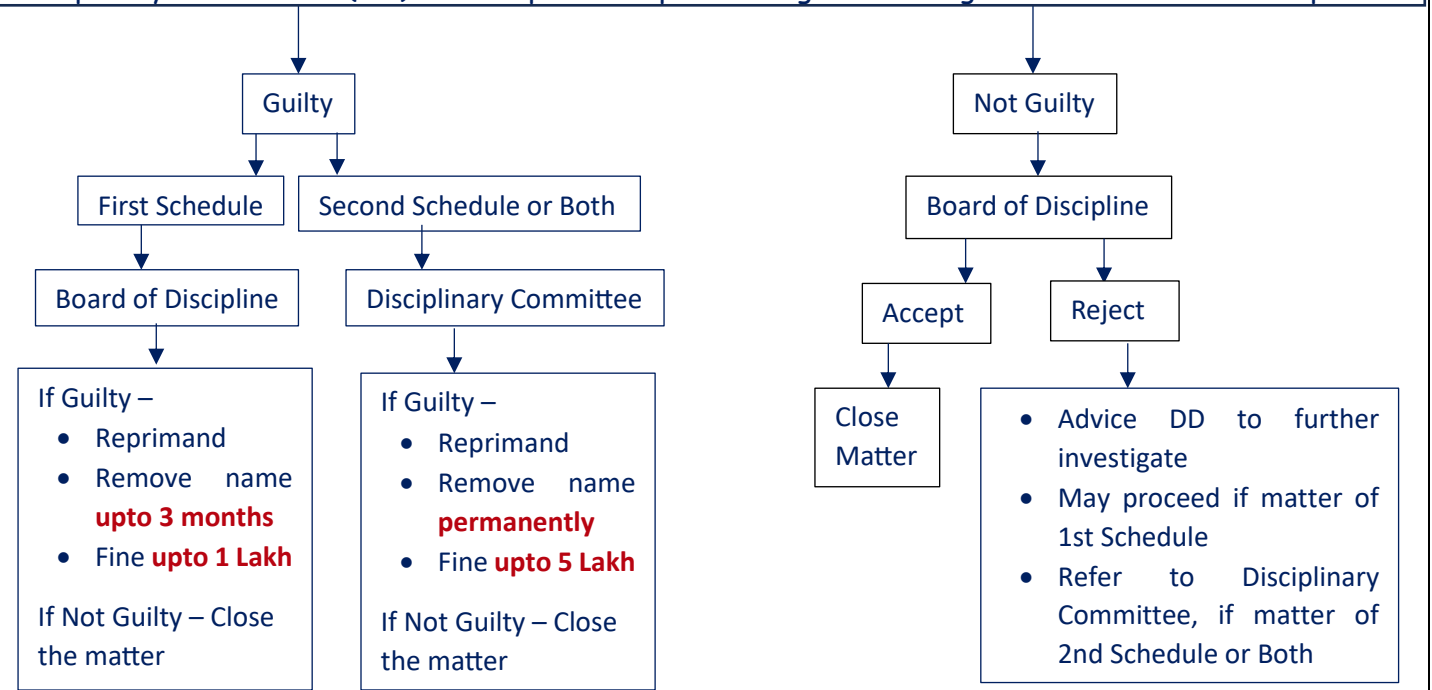
Clause (4) Defalcates or embezzles money received in his professional capacity (SA 240)

Part III - Other misconduct for CAs generally

Clause (1) CA, 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 offence which is punishable with imprisonment for term exceeding 6 months

Disciplinary Procedure

Disciplinary Directorate (DD) on receipt of complaint along with fee against CA - Prima Facie Opinion



Appeal - Any member or Director (Discipline) aggrieved by order of Board or Disciplinary Committee can prefer an appeal **within 90 days**. Appellate Authority can -

- Confirm, modify or set aside order
- Impose, set aside, Reduce or enhance penalty
- Remit case to Board of Discipline or Disciplinary Committee for reconsideration
- Pass such order as it thinks fit

Council Guidelines, 2008

Chapter II - Conduct of Member being employee

CA who is employee shall exercise due diligence & shall not be grossly negligent in conduct of his duties

Chapter V - Maintenance of BOA

CAiP or firm shall maintain for his/its professional practice, proper BOA including -

- **Cash Book**
- **Ledger**

Chapter VI - Tax Audit assignments u/s 44 AB of Income-tax Act

- CAiP shall not accept, in FY, more than **60 tax audits**, provided that in case of firm, 60 tax audits shall be considered for **each partner**
- If any partner is also partner of other firms, number of his tax audits taken for all firms together & also in his individual capacity for such partner shall not exceed 60 in aggregate
- Audits u/s **44AD, 44ADA & 44AE** of Income Tax Act shall **not be counted** for 60 tax audits
- Limit of tax audit may be distributed b/w partners in firm in any manner. E.g. 1 partner can individually sign 600 tax audit reports in case remaining 9 partners are not signing any report
- Joint Tax audit is also counted in 60 tax audits
- Audit of head office & branch offices is regarded as 1 tax audit
- Audit of 1 or more branches of same concern by 1 CAiP is regarded as only 1 tax audit

Chapter VII - Appointment of Auditor in case of non-payment of undisputed fees - Already discussed

Chapter VIII - Specified number of audit assignments

- CAiP shall not hold, at any time, appointment of more than **30 audits whether for Private Co. or Other Co., with exception of One Person Co. & Dormant Co**
- In case of firm, 30 audits is regarded for **each partner** of firm - CAiP, whether in full-time or part time employment elsewhere, or being part time practicing partner of firm shall not be counted
- If any partner of firm of CAiP is also partner of any other firms, number of audits taken for all firms together & also in his individual capacity shall not exceed 30 audits in aggregate
- In computing 30 audits -
 - Joint Audit shall be counted
 - Audit of head office & branch offices of Co. by 1 CA or firm is regarded as 1 audit
 - Audit of 1 or more branches of same Co. by 1 CAiP or by firm is regarded as 1 audit only
 - Number of partners of firm on date of acceptance of audit shall be considered

Chapter IX - Appointment as Statutory auditor

CAiP shall not accept appointment as statutory auditor of Public Sector Undertaking/Govt Co./Listed Co. & other Public Co. having **turnover of Rs 50 crores or more** in year if he accepts any other assignment for same Co. on remuneration, payable to statutory auditors & their associate concern put together, in total **exceeds fee payable for statutory audit** of same Co.

Provided that in case appointing authority/regulatory body specify more stringent condition/restriction, same shall apply

- "Other assignment" include Mgt Consultancy & all other services permitted but shall not include -
 - **Audit** under other statute
 - **Certification** work required to be done by statutory auditors &
 - Any **representation** before authority
- "Associate concern" means any corporate/firm which renders Mgt Consultancy & all other services permitted by Council wherein proprietor/partner of statutory auditor firm/their relative is Director/partner/jointly hold substantial interest in said corporate or partnership

Chapter X - Appointment of auditor when he is indebted to concern

- CAiP/Partner/Firm/relative of such CAiP or partner shall not accept appointment as auditor while indebted to concern or given any guarantee or provided any security for indebtedness of any 3rd person to concern, **for limits fixed in statute & in other cases for amount exceeding Rs 1 Lakh**
- If auditor recovers his fees on **progressive basis - Not Guilty**
- Limits as per Co. Act for indebtedness is 5 Lakhs & for guarantee & security is 1 Lakh

Chapter XI - Directions in case of unjustified removal of auditors

Incoming auditor not to accept appointment as auditor

Chapter XIII - Guidelines on Tenders - Discussed Earlier**Chapter XIV - UDIN - Discussed Earlier****Chapter XV - Guidelines for Networking**

- Judgment as to network shall be made as to whether reasonable & informed 3rd party would conclude that entities are associated in a network
- If larger structure is aimed only at facilitating referral of work - Not network
- If larger structure is aimed at co-operation & sharing common brand name, common system of QC or significant professional resources - Network
- If larger structure is aimed at co-operation & profit or cost sharing among entities - Network
- Sharing of immaterial costs - Not network
- If sharing of costs is limited to development of audit manuals or training - Not network
- Association b/w firm & unrelated entity to jointly provide service or develop product - Not network
- If larger structure is aimed at cooperation & entities share common ownership, control or Mgt or QCS or business strategy or brand name (For E.g. using common brand name along with, its firm name, when partner signs audit report) - Network
- Even though firm does not belong to network & does not use common brand name as part of its firm name, it may belong to network if it makes reference in its stationery or promotional materials as being member of association of firms

- Entity is not deemed to be network firm merely because it co-operates with another entity solely to respond jointly to request for proposal for provision
- If larger structure is aimed at co-operation & entities within structure share significant part of professional resources - Network
- If shared resources are limited to common audit manuals, with no exchange of personnel or client or market info, shared resources are not significant - Not Network

Forms of Network - Network can be constituted as

- Mutual entity which will act as facilitator for constituents of Network. Network itself will not carry out any professional practice
- Partnership firm with maximum 20 partners
- LLP
- Co. (for Mgt consultancy services Co.)
- Firm is allowed to join **only 1 network**
- Firms having **common partners** shall join **only 1 Network**

Approval of Name of Network -

- Network name should be approved by ICAI. To distinguish "Network" from "firm", words "**& Affiliates**" shall be used after name of network & words "& Co." / "& Associates" shall not be used
- Format of application for approval of Name for Network is at **Form 'A'**
- Even after name is approved, it is found to be undesirable then, said name may be withdrawn at any time by ICAI. Provisions for names of Co. in Co. Act shall be applicable in spirit
- ICAI shall **approve or reject** name of Network **within 30 days** from date of receipt of Form
- Mere approval of name shall not entitle Network to carry on practice in its own name

Registration of Network with entities in India -

- ICAI shall **reserve name** of network **for 3 months** from date of approval
- Network shall get itself registered with ICAI by applying in **Form B** within 3 months, failing which name assigned shall stand cancelled
- Registration of Network with ICAI is **mandatory**
- If diff Indian firms are networked with common Multinational A/cing Firm, they shall be considered as part of network

Listing of Network with entities outside India -

- Authorized representative of Indian firm/Member shall file **declaration with ICAI in Form 'D'** for Listing of such Network **within 30 days from** date of entering into Network **arrangement**
- CAs are permitted to join network with entities outside India provided that they join only 1 network & firms having common partners shall join only 1 such network

Change in constitution of registered Network -

- Due to entry or exit from Network, network shall **communicate to ICAI by filing Form 'C' within 30 days** from date of change in constitution

Ethical Compliance -

- If 1 firm of network is statutory auditor of entity then associate [including networked firm] or said firm directly/indirectly shall not accept Section 144 services
- Guidelines of ceiling on Non-audit fees -
 - For Network firm who is doing statutory audit (including its associate concern/firm having common partnership) it shall be same as discussed previously &

- For other firms of **same Network collectively, it shall be 3 times** of fee payable for carrying out statutory audit of same Co.
- If rotation of firms is prescribed by law, no network firm can accept appointment as auditor
- Network may advertise itself to extent permitted by Ad Guidelines. Firms constituting network are permitted to use words "Network Firms" on their professional stationery

Consent of Client -

Effect of registration of network with ICAI will be deemed to be public notice of network & therefore consent of client will be deemed to be obtained

Framework of Internal Byelaws of Network - Bye-laws may contain following -

- Appointment of Managing Committee, from managing partners of member firms. Minimum & maximum number of members of Managing Committee
- Administration of network
- Contribution of membership fees to meet cost
- Identifying partner of member firms to be responsible for assignment (EP)
- Dispute settlement procedures through arbitration & conciliation
- Development of training materials for members of network
- Issue of News-letters for staff & clients
- Development of software for diff types of assignments
- Development & maintenance of data bases
- Library
- Appointment of technical director
- Determining methodology for drawing resources
- Determining compensation to member firms for resources
- Peer review of member firms

Chapter XVI - Logo Guidelines

- Logo consists of letter 'CA' with tick mark inside rounded rectangle with white background
- Letters CA have been put in blue, corporate colour which not only stands out on background but also denotes creativity, innovativeness, knowledge, integrity, trust, truth, stability & depth
- Upside down tick mark typically used by CAs, symbolize wisdom & value of professional
- Green colour in tick mark signifies growth, prosperity, harmony & freshness.
- Use logo as it is. Do not change design & colours. Refrain from rotating or tilting logo

Chapter XVII - Guidelines for Corporate Form of Practice

- CAiP are allowed to hold office of MD, WTD or Manager (**while retaining full time COP**) of corporate provided that it is engaged exclusively in rendering Mgt Consultancy & Other Services
- There is **no restriction** on quantum of **equity holding** of members, either individually/with relatives, in such Co. Such members are **regarded as in full- time practice** & can continue to do attest function either in individual capacity or in Proprietorship/Partnership firm & can also train article assistants
- Name of Mgt Consultancy Co. should be approved by ICAI & Co. has to be registered with ICAI

Ethical Compliance -

- If individual/firm is statutory auditor of entity then Mgt Consultancy Co. shall not accept Section 144 services
- Ceiling on Non-audit fees is applicable for Mgt Consultancy Co.

- Such Co. shall give undertaking that it complies with clauses (6) & (7) of Part-I of 1st Schedule & that it shall render only Mgt Consultancy & Other Services

Recommended Self-Regulatory Measures

Branch Audits

Branch audits should not be conducted by statutory auditors consisting of **10 or more members**, but by local firms consisting of less than 10 members. This restriction not apply -

- Where a/cing records of branches are **maintained at head office** &
- Where **significant operations** of Co. are carried out **at its branch** office

Joint Audit

In case of large Co., practice of associating firm with **less than 5 members** as Joint auditors should be encouraged. If client desires to appoint such firm as joint auditor, senior firm should not object to same

Ratio B/w Qualified & Unqualified Staff

Firm engaged in audit should have **at least 1 member for every 5 non-qualified members** of staff, excluding article assistants, typist, peon & other person not engaged directly in such professional work

Disclosure of Interest by Auditors in other Firms

Auditors should make disclosure of payments received by them for other services through medium of diff firms in which said auditor may be either partner or proprietor

Recommended Minimum Scale of Fees - Relative Size

- For non-Public Interest Entities (E.g. Unlisted Co., Pvt Co.) - Disclosure to ICAI is required if for **2 consecutive years**, gross annual professional fees from audit represent **more than 40% of total fees** of firm
- For public-interest entities (E.g. Listed Co., Bank, Insurance Co.) - Disclosure to ICAI is required if for **2 consecutive years**, gross annual professional fees from audit represent **more than 20% of total fees** of firm
- Charging excessive or low fees does not constitute any misconduct

Exemption from above applicability -

- Where Total Fees received by Firm does **not exceed Rs. 20 lacs**
- Audit of Govt Co., public undertakings, nationalised banks, public financial institutions, regulators or where appointments are made by Govt

Recent Decisions of Ethical Standards Board

- CAiP holding COP is permitted to become member of 'Board of Mgt' in Primary (Urban) Co-operative Banks
- CAiP cannot act as Trademark or Patent Attorney. Professional advice for Intellectual Property Rights is a routine professional work for CAiP and is permitted
- CAiP is not permitted to accept statutory audit of society wherein immediate family member i.e., spouse or dependent, of member hold honorary position of managing committee
- Provision relating to limit of indebtedness to Co. shall apply only to statutory audits
- Firm may register itself on Udyog Aadhar, a web portal of MSME

- There is no prohibition for internal auditor of Co. to purchase shares of said Co.
- CA is not permitted to use Messaging Applications to send messages to make people aware about his practice & mention services provided
- CAiP being Director Simplicitor in a Co. cannot sign ROC Forms of Co. as it is direct conflict of role
- CAiP can act as Authorized Representative of Foreign Co., provided he is not auditor of said Co.
- 2 or more CAiP are permitted to have joint training session for their clients on GST, & share fees collected from clients
- CAiP can provide services through kiosk only if professional services provided are permitted
- CA in service is allowed to take e-return registration if it does not conflict with employment obligation. However, he cannot certify return
- If CAiP is non-executive director in Co., he or Firm in which he is partner, should not accept appointment as statutory auditor of Co. which is joint venture of original Co.
- CAiP may be equity research adviser, but he cannot publish retail report, as it will be other business - advising people is permitted
- There is no conflict of interest in CA, who is member of Trust, being auditor of said trust
- CAiP may be Registration Authority for obtaining digital signatures for clients
- CA can hold credit card of bank when he is also auditor of bank, provided outstanding balance on does not exceed Rs 1 Lakh beyond prescribed credit period limit on credit card given to him
- CAiP can act as mediator in Court
- CAiP is not permitted to audit bank if he has taken loan against FD held by him in that bank
- Statutory auditor/tax auditor cannot be valuer of unquoted equity shares of same entity where law prohibits same, but it is permitted if there is no specific restriction under any law
- CAiP cannot become Financial Advisors and receive fees/commission from Financial Institutions such as Mutual Funds, Insurance Companies, NBFCs etc.
- CA cannot exercise lien over client records for non- payment of his fees
- Firm is not permitted to print its vision & values behind visiting cards
- CAiP is not permitted to take agencies of UTI, GIC or NSDL
- CAiP can be settlor of trust
- CAiP cannot hold Customs Brokers Licence
- CA in service may appear as tax representative before tax authorities on behalf of his employer, but not on behalf of other employees of employer
- CA who is statutory auditor of bank cannot for same FY accept stock audit/inspection audit of any branches of same bank or sister concern of bank, for same FY
- Firm appointed as internal auditor of PF Trust by Govt Co. cannot be appointed as Statutory Auditor
- Concurrent auditor of bank 'X' cannot be appointed as statutory auditor of bank 'Y', which is sponsored by 'X'
- CA/CA Firm can act as internal auditor of Co. & statutory auditor of its employees PF Fund