

Professional Ethics and Liabilities of Auditors

Fundamental Principles

(a) Fundamental Principles – Sec. 100

(1) Integrity:

A professional accountant should be straightforward & honest in all professional and business relationships.

(2) Objectivity:

A professional accountant should not compromise professional or business judgments because of bias, conflict of interest or undue influence of others.

(3) Professional Competence and Due Care:

A professional accountant

- Has a continuing duty to attain and maintain professional knowledge and skill required to ensure that client receives competent professional service;
- Should act diligently & in accordance with applicable technical & professional standards.

(4) Confidentiality:

A professional accountant should respect confidentiality of information acquired as a result of professional and business relationships.

(5) Professional Behaviour:

A professional accountant should

- Comply with relevant laws and regulations and
- Avoid any conduct that might discredit the profession.

(b) Compliance With the Fundamental Principles - Sec. 110

A professional accountant might face a situation in which complying with one fundamental principal conflict with complying with one or more other fundamental principles. In such a situation, the accountant might consider consulting, with:

- (1) Others within the firm or employing organisation.
- (2) Those charged with governance.
- (3) Institute
- (4) Legal counsel.

However, such consultation does not relieve the accountant from the responsibility to exercise professional judgment to resolve the conflict.

(c) Integrity - Sec. 111

- A professional accountant shall comply with principle of integrity, which requires an accountant to be straightforward and honest in all professional and business relationships.
- Integrity implies fair dealing and truthfulness.
- A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the accountant believes that the information:

- (1) Contains a materially false or misleading statement;
- (2) Contains statements or information provided negligently; or
- (3) Omits or obscures required information where such omission or obscurity would be misleading.

If a professional accountant provides a modified report, he will not be considered to be in breach of matters referred above.

- When a professional accountant becomes aware of having been associated with information described above, the accountant shall take steps to be disassociated from that information.

(d) Objectivity - Sec. 112

- A professional accountant shall comply with principle of objectivity, which requires an accountant not to compromise professional or business judgment because of bias, conflict of interest or undue influence of others.
- A professional accountant shall not undertake a professional activity if a circumstance or relationship unduly influences the accountant's professional judgment regarding that activity.

(e) Professional Competence and Due Care - Sec. 113

- A professional accountant shall comply with the principle of professional competence and due care, which requires an accountant to:
 - (1) Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent professional service, based on current technical and professional standards and relevant legislation; and
 - (2) Act diligently and in accordance with applicable technical and professional standards.

(f) Confidentiality - Sec. 114

A professional accountant shall comply with the principle of confidentiality, which requires an accountant to respect the confidentiality of information acquired as a result of professional and employment relationships. An accountant shall:

- Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an immediate or a close family member;
- Maintain confidentiality of information within the firm or employing organisation;
- Maintain confidentiality of information disclosed by a prospective client or employing organisation;
- Not disclose confidential information acquired as a result of professional and employment relationships outside the firm or employing organisation without proper and specific authority, unless there is a legal or professional duty or right to disclose;
- Not use confidential information acquired as a result of professional and employment relationships for the personal advantage or for advantage of a third party;
- Not use or disclose any confidential information, either acquired or received as a result of a professional or employment relationship, after that relationship has ended; and
- Take reasonable steps to ensure that personnel under his control, and individuals from whom advice and assistance are obtained, respect confidentiality.

(g) Professional Behaviour - Sec. 115

- A professional accountant shall comply with the principle of professional behaviour, which requires an accountant to comply with relevant laws and regulations and avoid any conduct that the accountant knows or should know might discredit the profession.
- A professional accountant shall not knowingly engage in any employment, occupation or activity that impairs or might impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the fundamental principles.
- Conduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.
- When promoting himself and his work, a professional accountant shall not bring the profession into disrepute. A professional Accountant is required to conduct his affairs in a manner that he remains outside the boundaries of professional and other misconduct.
- A professional accountant shall be honest and truthful and shall not make:
 - (1) Exaggerated claims for the services offered by, or the qualifications or experience of, the accountant; or
 - (2) Disparaging references or unsubstantiated comparisons to the work of others.
 - (3) Any direct or indirect measures to advertise any professional/other facts which are in violation of Advertisement Guidelines issued by the Council of the Institute from time to time.
- Professional accountant should ensure that the contents of an advertisement are true to the best of his knowledge and belief, and are in conformity with the Advertisement Guidelines, and be aware that the Institute does not own any responsibility, whatsoever, for such contents or claims by him.

Threats, Evaluation of Threats and Safeguards

(a) Threats Involved

(1) Self-interest Threats:

The threat that a financial or other interest will inappropriately influence a professional accountant's judgment or behaviour.

(2) Self-review threats:

The threat that a professional accountant will not appropriately evaluate the results of a previous judgment made; or an activity performed by the accountant, or by another individual within the accountant's firm or employing organisation, on which the accountant will rely when forming a judgment as part of performing a current activity.

(3) Advocacy threats:

The threat that a professional accountant will promote a client's or employing organisation's position to the point that the accountant's objectivity is compromised.

(4) Familiarity threats:

The threat that due to a long or close relationship with a client, or employing organisation, a professional accountant will be too sympathetic to their interests or too accepting of their work.

(5) Intimidation threats:

The threat that a professional accountant will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the accountant.

(b) Safeguards

Safeguards are actions, individually or in combination, that professional accountant takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.

Examples of Safeguards

- Safeguards vary depending on the facts and circumstances. Examples include:
- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted might address a self-interest threat.
- Having an appropriate reviewer who was not a member of the team, review the work performed or advise as necessary might address a self-review threat.
- Using different partners and engagement teams with separate reporting lines for the provision of non-assurance services to an assurance client might address self-review, advocacy or familiarity threats.
- Involving another firm to perform or re-perform part of the engagement might address self-interest, self-review, advocacy, familiarity or intimidation threats.
- Separating teams when dealing with matters of a confidential nature might address a self-interest threat.

Non-compliance with Laws and Regulations(NOCLAR)

(a) Meaning of NOCLAR

NOCLAR comprises of acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by:

- A client / professional accountant's employing organisation;
- TCWG / Management of a client or employing organisation;
- Other individuals working for or under the direction of a client / employing organisation.

(b) Examples of laws and Regulations

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

(c) Applicability of NOCLAR

Applicability of NOCLAR has been restricted to:

- Audits assignment of entities listed in India having NW \geq 250 Cr. (In case of members in practice) and
- Senior Professional Accountants (KMP), being employees of listed entities:
Senior Professional Accountants in service are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organization's human, financial, technological, physical and intangible resources.

NOTE:

- NOCLAR will be applicable if a professional accountant is made aware of noncompliance or suspected non-compliance in the course of providing a professional service to a client. He is not required to investigate, nor responsible for ensuring complete compliance.
- A professional accountant is expected to apply knowledge and expertise, and exercise professional judgment. However, he is not expected to have a level of knowledge of laws and regulations greater than that which is required to undertake the engagement.
- Matters that are clearly inconsequential, or relating to personal misconduct pertaining to business activities of the client not covered.
- Disclosure of the matter would be precluded if contrary to law or regulation.

(d) Responsibility of the senior professional accountants in service relating to NOCLAR

Senior Professional Accountants in service are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organization's human, financial, technological, physical and intangible resources.

Steps to be taken in responding:

- (1) Obtaining an Understanding of the Matter:** If, during the course of carrying out professional activities, a senior professional accountant becomes aware of any information relating to NOCLAR or suspected NOCLAR, he / she should obtain an understanding of the relevant matter.
- (2) Addressing the Matter:** If the senior Chartered Accountant identifies or suspects that non-compliance has occurred or might occur, he shall, discuss the matter with the immediate superior, if any.
- (3) Determining whether further action is needed:** Senior Chartered Accountant shall assess appropriateness of the response of the accountant's superiors, if any, and TCWG.
Further action that the senior professional accountant might take includes:
 - Informing the management of the parent entity of the matter, if the employing organisation is a member of a group,
 - Disclosing matter to an appropriate authority as specified under respective law, or
 - Resigning from the employing organisation.
- (4) Seeking Advice:** Senior Chartered Accountant might consider consulting internally; Obtaining legal advice to understand the accountant's options and the professional or legal implications of taking any particular course of action; or consulting on a confidential basis with the Institute.

(5) Determining Whether to Disclose the Matter to an Appropriate Authority: Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation.

(e) Documentation Requirements in NOCLAR

Revised Code requires professional accountants to document the following:

- How management / TCWG have responded to the matter.
- Course of action the accountant considered, the judgments made and decisions that were taken, having regard to the reasonable and informed third party test.
- How accountant is satisfied that responsibility of public interest has been fulfilled.

NOCLAR V/S SA 250

BASIS	NOCLAR	SA 250
Applicability	NOCLAR is applicable on professional accountants in service and in practice.	SA 250 is applicable only on Audit engagements
Scope		SA 250 deals with auditor's responsibilities for: (a) Laws having direct effect on determination of material amounts and disclosures in the F.S. and (b) Laws & regulations that do not have direct effect on determination of the amounts and disclosures in the F.S., but compliance with which may be fundamental to the operating aspects of the business.
Coverage	SA 250 does not define stakeholders.	NOCLAR is related to effect of noncompliance on investors, creditors, employees as also the general public.

Membership of the Institute

(a) Types of members - Sec. 5

(1) Associate Member:

Any person, whose name has been entered in the Register of members, shall be deemed to have become an Associate of the Institute and shall also be entitled to use the letters A.C.A. after his name.

(2) Fellow Member:

- An associate member who has been in continuous practice in India for at least 5 years,

- A member who has been an associate for a continuous period of not less than 5 years and has experience equivalent to the experience normally acquired as a result of continuous practice for a period of 5 years as a Chartered Accountant.

Such members shall be entitled to use letters F.C.A. after his name.

(b) Particulars to Be entered into Register of Members - Sec. 19

- Full name, date of birth, domicile, residential and professional address;
- Date of entry of name in the Register;
- Qualifications;
- Whether the member holds a COP; and
- Any other prescribed particulars.

(c) Disabilities - Sec. 8

A person shall not be entitled to have his name entered in or borne on the Register if he :

- has not attained the age of 21 Years at the time of his application; or
- is of unsound mind and stands so adjudged by a competent Court; or
- is an undischarged insolvent; or
- being a discharged insolvent, has not obtained from the Court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or
- has been convicted by a competent Court, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless he has been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability; or
- has been removed from membership of the Institute being found guilty of professional or other misconduct:

Provided that a person who has been removed from membership for a specified period, shall not be entitled to have his name entered in the Register until the expiry of such period.

(d) Removal of name from Register of Member - Sec. 20

- The Council may remove from the Register the name of any member of the Institute -
 - (1) who is dead; or
 - (2) From whom a request has been received to that effect; or
 - (3) who has not paid any prescribed fee required to be paid by him; or
 - (4) Who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in Sec. 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.
- The Council shall remove from the Register the name of any member in respect of whom an order has been passed under this Act removing him from membership of the Institute.
- If the name of any member has been removed from the Register due to non-payment of prescribed fees, then, on receipt of an application, his name may be entered again in the Register on payment of the arrears of annual fee and entrance fee along with such additional fee, as determined, by the Council.

➤ **Restoration to Membership - Reg. 19**

- Council may, on an application in the appropriate Form, received from a member whose name has been removed from the Register for non-payment of fees, restore his name, if he is otherwise eligible to such membership, on his paying the arrears of annual membership fee, entrance fee and additional fee determined by the Council under the Act.
- Restoration shall be with effect from the date on which the application and fee are received.

Provided that if application for restoration and requisite fees is received within same year of removal, Council may restore with effect from date on which it was removed from Register.

Provided further that the restoration of a member's name which was removed under the orders of the Board of Discipline or the Disciplinary Committee or the Appellate Authority or the High Court shall be affected only in accordance with such orders.

(e) Penalty for falsely claiming to be a member - Sec. 24

(1) Circumstances imposing penalty:

Any person who:

- (i) Not being Member of ICAI represents that
 - He is a member of Institute, or
 - Uses the designation Chartered Accountant, or
- (ii) Being member of ICAI but not having COP represents that
 - He is in practice, or
 - Practices as CA.

(2) Amount of Penalty:

For First Conviction	Fine upto ₹1,000.
For subsequent conviction	Fine upto ₹5,000 or imprisonment upto 6 Months or both.

Chartered Accountants in Practice

(a) Certificate of Practice - Sec. 6

No member of the Institute shall be entitled to practice (whether in India or elsewhere) unless he has obtained from the Council a certificate of practice.

NOTE:

- Once a person becomes 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.
- A member of ICAI can have no other capacity in which he can take up such practice, separable from his capacity to practice as a member of the Institute.
- A Chartered Accountant, whose name has been removed from the membership for professional and/or other misconduct, during such period of removal, will not appear before the various tax authorities or other bodies before whom he could have appeared in his capacity as a member of this Institute.

(b) Cancellation of CoP - Regulation 10

Certificate Practice (CoP) shall be liable for cancellation, if:

- The name of the holder of the certificate is removed from the Register; or
- The Council is satisfied, after giving an opportunity of being heard to the person concerned, that such certificate was issued on the basis of incorrect, misleading or false information, or by mistake or inadvertence; or
- A member has ceased to practice; or
- A member has not paid annual fee for CoP till 30th day of September of the relevant year.

Where a CoP is cancelled, the holder shall surrender the same to the Secretary

(c) Restoration of CoP - Regulation 11

Council may restore CoP, on an application made in the approved Form and on payment of prescribed fee, w.e.f. the date on which it was cancelled, to a member whose certificate has been cancelled due to non-payment of the annual fee for the CoP and whose application, complete in all respects, together with the fee, is received by the Secretary before the expiry of the relevant year.

(d) Members Deemed to Practice - Sec. 2(2)

A member of the Institute shall be deemed “to be in practice” when individually or in be in partnership with Chartered Accountants in practice, or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received

- Engages himself in the practice of accountancy; or
- Offers to perform or performs service involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or
- Renders professional services or assistance in or about matters of principle or detail 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, are or may be rendered by a Chartered Accountant in practice.

➤ **Management Consultancy and Other Services**

Pursuant to Section 2(2)(iv), the Council has passed a resolution permitting a CA in practice to render entire range of “Management Consultancy and other Services”.

Accordingly, “Management Consultancy and other Services” shall not include the function of statutory or periodical audit, tax representation or tax advice or acting as liquidator, trustee, executor, administrator, arbitrator or receiver, but shall include the following:

- Financial management planning and financial policy determination.
- Capital structure planning and advice regarding raising finance.
- Working capital management.
- Preparing project reports and feasibility studies.
- Preparing cash budget, cash flow statements, profitability statements, statements of sources and application of funds etc.
- Budgeting including capital budgets and revenue budgets.

- Inventory management, material handling and storage.
- Market research and demand studies.
- Price-fixation and other management decision making.
- Management accounting systems, cost control and value analysis.
- Control methods and management information and reporting.
- Personnel recruitment and selection.
- Setting up executive incentive plans, wage incentive plans etc.
- Management and operational audits.
- Valuation of shares and business and advice regarding amalgamation, merger and acquisition; Acting as Registered Valuer under Companies Act, 2013 read with The Companies (Registered Valuers and Valuation) Rules, 2017.
- Business Policy, corporate planning, etc.
- Organisation structure and behaviour.
- Systems analysis and services relating to EDP.
- Acting as advisor or consultant to an issue, including such matters as:
 - (1) Drafting of prospectus and listing agreement and completing formalities with Stock Exchanges, ROC and SEBI.
 - (2) Preparation of publicity budget.
 - (3) Advice regarding selection of various agencies connected with issue.
 - (4) Advice on the post issue activities.

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

- Investment counselling in respect of securities.
- Acting as registrar to an issue and for transfer of shares/other securities.
- Quality Audit.
- Environment Audit.
- Energy Audit.
- Acting as Recovery Consultant in the Banking Sector.
- Insurance Financial Advisory Services including Insurance Brokerage.
- Acting as Insolvency Professional in terms of IBC, 2016.
- Administrative Services.
- Administrative services involve assisting clients with their routine or mechanical tasks within the normal course of operations. Such services require little to no professional judgment and are clerical in nature.

Examples of administrative services include:

- (1) Word processing services.
- (2) Preparing administrative or statutory forms for client approval.
- (3) Submitting such forms as instructed by the client.
- (4) Monitoring statutory filing dates, and advising an audit client of those dates.

For example, the functions of a GST practitioner as specified under Rule 83(8) of Central Goods and Services Tax Rules, 2017:

- (1) Furnish the details of outward and inward supplies;
- (2) Furnish monthly, quarterly, annual or final return;
- (3) Make deposit for credit into the electronic cash ledger;
- (4) File a claim for refund;
- (5) File an application for amendment or cancellation of registration;
- (6) Furnish information for generation of e-way bill;
- (7) Furnish details of challan in form GST ITC-04;
- (8) File an application for amendment or cancellation of enrolment under rule 58; and
- (9) File an intimation to pay tax under the composition scheme or withdraw from the said scheme.

NOTE:

- It is necessary to note that a person is deemed to be in practice not only when he is actually engaged in the practice of accountancy but also when he offers to render accounting services whether or not he infact does so. In other words, the act of setting up of an establishment offering to perform accounting services would tantamount to being in practice even though no client has been served.
- Services so specified above need to be correlated with the provisions of Sec. 144 of the Companies Act, 2013 which prohibits an auditor of the company from rendering certain services directly or indirectly to the company or its holding company or its subsidiary company.
- Services prohibited u/s 144:
 - (1) Accounting and book-keeping services;
 - (2) Internal audit;
 - (3) Design and implementation of any financial information system;
 - (4) Actuarial services;
 - (5) Investment advisory services;
 - (6) Investment banking services;
 - (7) Rendering of outsourced financial services;
 - (8) Management services; and
 - (9) Any other kind of services as may be prescribed.

(e) Companies not to engage in accountancy - Sec. 25

- No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.
- If any company contravenes this provision, then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary 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 ₹1,000 and on any subsequent conviction to ₹ 5,000.

NOTE:

- The term “company” shall include any LLP which has company as its partner for the purpose of this section. Hence, LLPs having company as its partner cannot be engaged into practice as per the Chartered Accountants Act, 1949.
- LLPs not having any company as its partner, can be engaged into practicing and thus take audit assignments.

(f) Members to be known as Chartered Accountants - Sec. 7

(1) Using designation of “Chartered Accountants”

- (i) Every member of the Institute in practice shall, and any other member may, use the designation of a “Chartered Accountant”.
- (ii) No member using such designation shall use any other description, whether in addition thereto or in substitution thereof.
- (iii) In case a member has more than one certificate of practice, (subject to permission), for matters involving practice as Chartered Accountant, they should use designation “Chartered Accountant”.

(2) Use of other description

Members are entitled to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess.

(3) Use of Prefix “CA”

All members of the Institute are permitted to use the word ‘CA’ as prefix before their name irrespective of the fact that they are in practice or not.

NOTE:

Merchant Banker / Advisor to an issue:

The members may apply for and obtain registration as category IV Merchant Banker under the SEBI’s rules and regulations and act as Advisor or Consultant to an issue. In client Companies’ offer documents and advertisements regarding capital issue, name and address of the Chartered Accountant or firm of Chartered Accountants acting as Advisor or Consultant to the Issue could be indicated under the caption “Advisor/Consultant to the Issue”. However, the name and address of such Chartered Accountant/firm of Chartered Accountants should not appear prominently.

(4) Maintenance of Branch office - Sec. 27

(1) Office

A Place where a name board is fixed or where such place is mentioned in the letterhead or any other documents as a place of business.

(2) Use of Name Board at residence

Name board can be put in place of residence of member provided it is a name board of individual member and not of firm.

(3) Requirement of Separate In - Charge

- (i)** If a CA in practice or a firm of CA has more than one office in India, each one of such offices should be in the separate charge of a member of the institute, who may be either partner / employee.
- (ii)** The requirement of Sec. 27 In regard as to a member being in-charge of an office of a CA or a firm of such CAs shall be satisfied only if the member is actively associated with such office.
- (iii)** Such association shall be deemed to exist if member resides in place where office is situated for a period of not less than 182 days in a year or if he attends the office for a period of not less than 182 days in a year.

➤ **Exemption from Separate In-charge**

(i) Members practicing in Hilly area

Members practicing in hilly areas may open a temporary office in plains subject to following conditions:

- Temporary office in plains may be opened for a period not exceeding 3 Months in winter season.
- Name board of firm to be displayed at temporary office only during these 3 months.
- Temporary office should not be mentioned as place of Business on office documents.
- Regular office need not be closed and all correspondence may continue at permanent office.
- Before commencement of every winter and at the close of such temporary office, it shall be obligatory on member to inform ICAI.

(ii) Second office

If it is situated in:

- same premises in which first office is situated, or
- in the same city, or
- within 50 kms. from the **municipal limits of city** in which first office is situated.

NOTE:

Regulation 189 requires that a CA in practice or a firm of such CAs shall inform the Council within one month of the opening or closing of a branch office.

(g) KYC Norms for CA in Practice

- The financial services industry globally is required to obtain information of their clients and comply with KYC norms.
- Keeping in mind highest standards of CA profession in India, Council of ICAI recommended such norms to be observed by the members of the profession who are in practice.

➤ **Norms to be observed by Member in Practice**

(1) Individual Client:

(i) General Information

- Name of the Individual
- PAN No. or Aadhaar Card No. of the Individual
- Business Description
- Copy of last Audited Financial Statement

(ii) Engagement Information

Type of Engagement

(2) Corporate Entity:

(i) General Information:

- Name and Address of the Entity
- Business Description
- Name of the Parent Company in case of Subsidiary
- Copy of last Audited Financial Statement

(ii) Engagement Information:

Type of Engagement

(iii) Regulatory Information:

- Company PAN No.
- Company Identification No.
- Directors' Names & Addresses
- Directors' Identification No.

(3) Non- Corporate Entity:

(i) General Information :

- Name and Address of the Entity
- Copy of PAN No.
- Business Description
- Partner's Names and Addresses (with their PAN / Aadhaar Card / DIN No.)
- Copy of last Audited Financial Statement

(ii) Engagement Information:

Type of Engagement

Disciplinary Procedures

(a) Disciplinary Mechanism - Sec. 21

Flow Chart of Discipline Procedure Mechanism

Complaint against member of ICAI of allege misconduct along with prescribed fee.

Disciplinary Directorate

The Director (Discipline) shall arrive at a prima facie opinion on the occurrence of alleged misconduct and decide whether he is guilty of professional or other misconduct falling in

First Schedule

Place the matter before

Board of Discipline

Second schedule or Both

Place the matter before

Disciplinary Committee

If found guilty, it can

- (i) Reprimand the member
- (ii) Remove name of the member upto 3 months
- (iii) Impose fine upto ₹1,00,000

If found guilty, it can

- (i) Reprimand the member
- (ii) Remove the name of member permanent or for any duration
- (iii) Impose fine upto ₹5,00,000

Any member aggrieved by order of Board of Discipline / Disciplinary Committee can prefer an Appeal within 90 days before

Appellate Authority

- (i) Confirm, modify or set aside the order;
 - (ii) Impose, set aside, reduce or enhance penalty;
 - (iii) Remit case to the Board of Discipline or Disciplinary Committee for reconsideration; or
 - (iv) Pass such order as the Authority thinks fit.

(d) Professional and Other Misconduct - Sec. 22

For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission, as mentioned in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) u/s 21 to inquire into the conduct of any member or firm, under any other Misconduct circumstances.