

## CODE OF ETHICS OF ICAI – A STUDY

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The Code of of ICAI is a comprehensive document which is now to be considered by Chartered Accountants as gospel for professional conduct, irrespective of the CA being in service or in public practice. This paper winds through the entire Code along with the related clause in the CA Act and the guidelines of ICAI as it stands today. Simple examples are given for some of the paras to highlight its relevance.

- The ICAI publication on Code of Ethics mentions the following sentences in different places, conveying the same meaning and intent.
- *"Ethics is a state of Mind. Professional ethics is a matter of conscience and determination of what's right and wrong.*
- *Pride of Service in preference to personal gain.*
- *Fundamental principles are - Integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.*

**Example for Ethics:** Whether a member, who is the statutory auditor of a company, can let out property owned by his HUF to the said company?

*It would be advisable to avoid such transaction from an independence perspective.*

### **How the CA Code has evolved?**

The evolution of the Code of Ethics dates back to the year 1963, roughly 14 years after the formation of ICAI. Till then the code of ethics was adhered by the members "on their own volition", than in the form of a Code from the Institute.

- First edition -1963 was a guide on professional ethics.
- Second edition- 1966 incorporated council decisions under various circumstances till that time, in professional ethics and discipline.
- Third edition - 1969 brought in code in consonance with the CA Act 1964 and notification on misconduct based on various decisions of the disciplinary committee.
- Fourth edition - 1971 relaxation in publicity such as publishing in group headings in telephone directory, appearance in radio and television and films, getting appointed in national and local positions of importance, attending conferences, writing articles , letters to press, lien on documents belonging to clients, prohibition on acceptance as cost auditor, accepting audit and also being an employee of the cost auditor, attesting financial statements of entities in which his relatives have substantial interest.
- Fifth edition - 1976 incorporated amendments based on periodic council decisions.
- Sixth edition – 1980 had no major inclusions.
- Seventh edition- 1985 incorporated the design and printing of invitation cards, holding of directorship, appointment and change in auditors, handling clients' money were codified.
- Eighth edition - 1988 The revised CA Regulations 1987 which replaced the 1964 regulations and the advent of mandatory auditing and accounting standards were codified.
- Ninth edition - 2001 codified web site creation.
- Tenth edition - 2005 photos, Government tender applications etc. were codified

- Eleventh edition - 2009 and its reprinted version in 2010 adopted for the first time the International Federation of Accountants (IFSC) CoR as part A of Indian CoE.
- Twelfth edition - 2019 was in alignment with the new Companies Act 2013, Key Audit Partner, Public Interest Entity, Long association of personnel, relative, immediate family, close family, Non-compliance of Law and Regulations (NOCLAR), CA in service, inducements, bribery, corruption, rotation of auditor and rotation of partner, defining management responsibilities, threats created by certain tax services, fee from audit client and related entities exceeding 15% of total fees of the firm for two consecutive years, assurance engagements were codified.

The Volume 1 of the **present 12<sup>th</sup> edition of Code of Ethics** from the Institute has following modules.

- Part 1 - Deals with fundamental principles and conceptual frame work applicable to professional accountants.
- Part 2- deals with **professional accountants in service** such as in employment, engaged or contracted in an executive or non-executive capacity in commerce, trade, industry, service, public sector, education, not for profit sector, regulatory or professional bodies. This also includes professionals holding relationship with auditing firms and also in employment.
- Part 3 deals with **professional accountants in public practice** and providing professional services.
- Part 4A deals with professional accountants in **practice and the "Independence standards" in audit and review engagements.**
- Part 4B deals with **"independence standards" in engagements which are not in the nature of "audit and review" engagements.**
- The code has three distinct elements viz.
- Requirements designated as "R" with the word "shall" added as suffix and
- "R" with the word "may" as suffix and
- Application material.
- *"R" with suffix "shall" means obligation on a professional accountant or firm to comply with the specific provision of the code.*
- *"R" with "may" provides specific exception to a requirement, meaning permission to take a particular action in certain circumstances. Similarly "might" after "R" also denotes possibility of a matter arising in a specified situation.*
- *"Application material" is intended to help the professional accountant to understand how to apply conceptual framework to a situation.*

The important issues covered in Part 1 pertaining to Professional Accountant framework in general.

- Part 1 Section 100- Complying with the Code in general and breach of the code.
- R110 - Fundamental Principles.
- Fundamental principles are-
- Sec 111 Integrity,
- Sec 112 objectivity,
- Sec 113 professional competence and due care,
- Sec 114 confidentiality and

- Sec 115 professional behaviour.
- Sec 120 - Conceptual Framework. It deals with **identifying threats**, evaluating the threats and address the threats by eliminating or reducing them to an acceptable level.

Who has to assess threats?

What's is expected of a professional accountant without distinction of the person being in service or in public practice?

- Threats to compliance with the fundamental principles is expected to be addressed by the all professional accountants.
- In audit, the auditor is expected to evaluate the threats to compliance on "independence standards" prescribed by ICAI.

**Example of threats:** In making a decision to accept or continue with an assignment, what is the significance of documentation?

*When threats to independence that are not clearly insignificant are identified, and the firm decided to accept or continue the assurance engagement, the decision should be documented. The documentation should include a description of the threats identified and the safeguards applied to eliminate or reduce the threats to acceptable level.*

The important issues covered in Part 2 Member in Service and Part 3 – Member in Public Practice is tabulated here.

Part 2 – M in S		Part 3 – M in PP	
Section	Particulars	Section	Particulars
200	Conceptual framework	300	Conceptual framework
210	Conflicts of interest	310	Conflicts of Interest
220	Preparation and presentation of information	320	Professional appointments
230	Acting with sufficient expertise	321	Second Opinions
240	Financial Interests, Compensation and Incentives linked to financial reporting and decision making	330	Fees and Other Types of Remuneration (Also referred in Part 1 Clause 1 to 4 of CA Act)
250	Inducements, including gifts and hospitality	340	Inducements, including gifts and hospitality.

260	Responding to NOCLAR	350	Custody of Client assets
270	Pressure to Breach the Fundamental Principles	360	Responding to NOCLAR

The presenter would like to share few examples taken from the CA Institute Monthly journals, for better appreciation of the importance of those sections. This paper does not deal with all sections in detail. The same can be read from the Institute's publication on Code of Ethics. Before that we need to understand the arrangement of the CA Act, 1949 covered in Volume II of the Code of Ethics. The table here gives a quick look on the same.

#### Volume II of Code of Ethics

According to Section 22 of the Act, the expression "professional or other misconduct" shall be deemed to include any act or omission provided in any of the Schedules. A member is liable to Disciplinary Action u/s 21, if he is found guilty of any professional or other misconduct.

Schedule	Part	Particulars	Clauses
First	I	Professional misconduct of members in practice	12
	II	Professional misconduct of members in service	2
	III	Professional misconduct of members generally	3
	IV	Other misconduct of members generally	2
Second	I	Professional misconduct of members in practice	10
	II	Professional misconduct of members generally	4
	III	Other misconduct of members generally	1

### Tabulation of the First and Second Schedule of the Act:

Areas	M in PP	M in S	All CAs
Fees and profits sharing and commission arrangements	Part I of First Schedule – Clause 2, 3	Part II of First Schedule – Clause 1, 2	-
Advertisement	Part I of First Schedule – Clause 6, 7	-	-
Confidentiality	Part I of Second Schedule – Clause 1	Part II of Second Schedule – Clause 2	-
Non-compliance of Council's requirements	-	-	Part III of First Schedule – Clause 2 Part II of Second Schedule – Clause 3
Guilty for any civil or criminal offence	-	-	Part IV of First Schedule – Clause 1 Part III of Second Schedule – Clause 1

### Brief description of Sections of the Code:

- Section 200- Conceptual framework
- Sec 210 - Conflicts of interest  
**Example:** *What are the measures available to Professional Accountants in case of conflict of interest arises?*  
*A professional accountant shall not allow a conflict of interest to compromise professional or business judgment.*  
*A professional accountant shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying: (a) The nature of the relevant interests and relationships between the parties involved; and (b) The activity and its implication for relevant parties.*
- Sec 220 - Preparation and presentation of information to Management and Those Charged with Governance, Investors and lenders or other creditors, Regulatory bodies.
- Sec 230 - Acting with sufficient expertise, evaluating threats.  
**Example:** *Whether a professional Accountant in service should undertake those tasks for which he does not have sufficient specific training or experience?*

*A professional accountant shall not intentionally mislead an employing organisation as to the level of expertise or experience possessed. Further the principle of professional competence and due care required that a professional accountant only undertake significant tasks for which the accountant has, or can obtain, sufficient training or experience.*

- Sec 240- Financial interests, Compensation and incentives linked to financial reporting and decision making. Self-interest is considered as very critical threat.

**Example:** *Whether a member being the retainer of a client can also be the auditor of the said client or group entity of said client?*

*No. A member being retainer of a client cannot be the auditor of the said audit client or group entity of client.*

**Example:** *What are the circumstances that create threats when a professional Accountant has financial interest?*

*A professional accountant shall not manipulate information or use confidential information for personal gain or for the financial gain of others.*

**Examples of circumstances that might create a self-interest threat include situations in which the professional accountant or an immediate or close family member:**

- *Has a motive and opportunity to manipulate price sensitive information in order to gain financially, Holds a direct or indirect financial interest in the employing organization and the value of that financial interest might be directly affected by decisions made by the accountant, is eligible for a profit-related bonus and the value of that bonus might be directly affected by decisions made by the accountant.*
  - *Holds, directly or indirectly, deferred bonus share rights or share options in the employing organization, the value of which might be affected by decisions made by the accountant.*
  - *Participates in compensation arrangements which provide incentives to achieve targets or to support efforts to maximize the value of the employing organization's shares. An example of such an arrangement might be through participation in incentive plans which are linked to certain performance conditions being met.*
- Sec 250- Inducements, including gifts and hospitality, entertainment, political or other donations, appeals to friendship and loyalty, employment and other commercial opportunities, preferential treatment, rights or privileges.
  - **Example:** *Can a CA in service accept or agree to accept any part of fees, profits or gains from a lawyer, a CA or broker or agent or customer of such company, firm or person by way of commission or gratification?*
  - *No. A CA in service accept or agree to accept any part of fees, profits or gains from a lawyer, a CA or broker or agent or customer of such company, firm or person by way of commission or gratification. (FS- Part II Clause 2 of CA Act)*
  - Sec 260- Responding to non-compliance with laws and regulations in case of employment with listed entities on frauds, corruption and bribery, money laundering, terrorist financing and proceeds of crime, securities market and trading, banking and other financial products and services, tax and pension liabilities and payments, environment protection, public health and safety.
  - Sec 270- Pressure to breach the fundamental principles such as conflict of interest, report misleading financial results to investors, analysts, lenders, pressure from elected officials on

public sector accountants, from colleagues, from superiors, suppress internal audit report containing adverse findings.

### **Part 3 - Professional accountants in public practice:**

- Sec 300- Conceptual framework
- Sec 310 - Conflict of Interest taking into consideration the nature of professional service, size of the firm, size and nature of client base, structure of the firm like number of geographic locations etc.
- Sec 320- Professional appointments- Client engagement and acceptance, nature of business, complexity of operations, requirement of the engagement, purpose nature and scope of work to be performed, knowledge of relevant industry, experience with regulatory and reporting requirements, quality control policies internally.  
**Example:** *Whether there are any Know Your Client (KYC) norms to be followed by members in practice?*  
*Yes, members in practice are required to follow KYC norms, which are mandatory w.e.f 01.01.2017. These are applicable for all attest functions.*  
*"Attest functions" for this purpose include services pertaining to audit, review, agreed upon procedures and compilation of financial statements.*
- Sec 321- Second opinion from existing or predecessor accountant, describing limitations surrounding the opinion, providing copy of opinion.
- Sec 330- Fees and other types of remuneration in line with the scope, nature of engagement, basis of determining the fees, independent and third-party review of the work, fee prescribed by any engaging agency. **(Extensively covered in First Schedule Part 1 Clause 1 to Clause 12 of CA Act, 1949).**

**Example:** *Can a CA in practice allow any person to practice in his name as a CA?*

*No. A CA in practice is prohibited to allow any person to practice in his name as CA unless such person is also a CA in practice and is in Partnership with or employed by him. (FS- Part I Clause 1 of CA Act)*

**Example:** *Can a CA in practice enter into partnership with a practising CA of a recognised foreign professional body for sharing fee of their partnership within India?*

*Yes. It is permitted, provided they share fees of the partnership business both within India and outside India. (FS- Part I Clause 1 of CA Act)*

**Example:** *What are the safeguards available to address threats resulting from too low fees? The following safeguards may be applied to address a self – interest threat resulting from quoting too low fees:*

- a. Adjusting the level of fees or the scope of the engagement.*
- b. Having an appropriate reviewer review the work that is performed properly despite of low fee.*

**Example:** *Whether a Professional Accountant may pay or receive a referral fees or commission?*

*It is not prohibited for a member in practice to charge Referral fees, being the fees obtained by a member in practice from another member in practice in relation to referring a client to him.*

*But it may create a self- interest threat to compliance with the principles of objectivity and professional competence and due care if a professional accountant pays or receives a referral fee relating to a client.*

**Example:** *Can a member share profits with the widow of his deceased partner?*

*Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing fees or otherwise for the specified period. (FS- Part I Clause 2 of CA Act)*

**Example:** *Can there be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm?*

*No, there could not be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm. Payment of goodwill to the widow is of the firm and to enable such payments to be made in instalments provided the agreement of the sale of goodwill contains such a provision. These payments even if they are spread over the specified period should not be linked up with participation in the earnings of the firm. (FS- Part I Clause 2 of CA Act)*

**Example:** *Can a practising CA secure any professional business through the services of a person who is not his employee or partner?*

*No. A CA in practice is prohibited from securing any professional business, either through the services of a person who is not an employee of such CA, or who is not his partner. (FS- Part I Clause 5 of CA Act)*

**Example:** *Whether it is permissible for a member to mention himself as GST consultant?*

*No. It is not permissible for a member to mention himself as GST consultant.*

**Example:** *Whether a Firm of Chartered Accountants can use catchwords/ catchphrases on its website, Letter heads and visiting cards?*

*The mention of catchwords/ catchphrases on Firm's website, Letter heads and visiting cards is not permissible in view of the provisions of clauses (6) and (7). (FS- Part I Clause 6 of CA Act)*

**Example:** *Which designation can be mentioned by a member in practice empanelled as Insolvency professional on his visiting cards, letter heads and other communication?*

*A member in practice empanelled as Insolvency professional can mention "Insolvency Professional" on his visiting cards, letter heads and other communication, as this is recognised by the Central Government. Mention of any other nomenclatures/ designations, including membership of any IPA is not allowed.*

**Example:** *Can a member/ Firm of CAs print his/its vision and values behind the visiting cards?*



*No, since such printing of vision and values behind the visiting cards may result in solicitation and violation of the provisions of clause 6 of Part 1 of CA Act. (FS- Part I Clause 6 of CA Act)*

**Example:** *Whether a CA who is appointed as tax auditor for conducting special audit under the Income tax Act, 1961, by the IT Authorities is required to communicate with statutory authorities?*

*Yes. The Council direction prescribes that it would be a healthy practice if a tax auditor appointed for conducting special audit under the Income Tax Act, 1961 communicates with the members who has conducted the statutory audit. (FS- Part I Clause 8 of CA Act)*

**Example:** *Whether communication by the incoming auditor is mandatory with the previous auditor in respect of various audit assignments, like the concurrent audit, revenue audit, tax audit and special audits, etc?*

*Yes, the requirement for communicating with the previous auditor would apply to all types of audits. (FS- Part I Clause 8 of CA Act)*

**Example:** *Whether a CA can accept an appointment as auditor of a company without first ascertaining from it whether the requirements of the Companies Act, in respect of such appointment have been duly complied with?*

*No. A CA in practice shall be deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without ascertaining from it whether the requirements of Section 139, 140 of the Companies Act, 2013 in respect of such appointment have been duly complied with. (FS- Part I Clause 9 of CA Act)*

**Example:** *Whether a joint auditor will be responsible for the work done by other joint auditors?*

*In respect of audit work divided among the joint auditors, each joint auditor is responsible only for the work allocated to him including proper execution of the audit procedures. However, on the other hand, all the joint auditors are jointly and severally responsible for the work which is not inter-se divided among the auditors. (SS- Part I Clause 2 of CA Act)*

- Sec 340- Inducements, including gifts and hospitality, entertainment, political or other donations, appeals to friendship and loyalty, employment and other commercial opportunities, preferential treatment, rights or privileges.

A professional accountant shall not offer, or encourage others to offer, any inducement that is made, or which the accountant considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the behaviour of the recipient or of another individual.

- Sec 350 Custody of client assets only after due inquiries about source of assets, related legal and regulatory obligations, keeping the assets separately from the firm, use only for the designated purpose, ready to account for assets, income, dividends and gains to individuals entitled to the accounting.

**Example:** *What are the safeguards available to a Professional Accountant in Public practice in respect of Custody of Client Assets?*

*A professional accountant entrusted with money or other assets belonging to others shall:*

- (a) *Comply with the laws and regulations relevant to holding and accounting for the assets.*

- (b) *Keep the assets separately from personal or firm assets.*
- (c) *Use the assets only for the purpose for which they are intended; and*
- (d) *Be ready at all times to account for the assets and any income, dividends, or gains generated, to any individuals entitled to that accounting.*

- Sec 360- Responding to Non-compliance with laws and regulations during the course of audit engagements of listed entities (NOCLAR).
- The critical aspects mentioned are on frauds, corruption and bribery, money laundering, terrorist financing and proceeds of crime, securities market and trading, banking and other financial products and services, tax and pension liabilities and payments, environment protection, public health and safety.

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

*Yes, a member of the Institute shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not comply with the requirements asked for by the Institute. (FS- Part III Clause 1 of CA Act)*

**Example:** *Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?*

*Yes. A member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading. (SS- Part I Clause 5 of CA Act)*

**Example:** *Whether a member in practice will be liable if he fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity?*

*Yes. A member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity. (SS- Part I Clause 6 of CA Act)*

**Example:** *Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report?*

*Yes. The action of the member in signing two balance sheets on two different dates for the same financial year will constitute professional misconduct. (SS- Part I Clause 5 of CA Act)*

**Example:** *Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exception are sufficiently material to negate the expression of an opinion?*

*Yes. A member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exception are sufficiently material to negate the expression of an opinion. (SS- Part I Clause 6 of CA Act)*

**Example:** *Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or*

*any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false?*

*Yes. A member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false. (SS- Part II Clause 3 of CA Act)*

#### Part 4A and Part 4B

Particulars	Part 4A – Independence of audit and review engagements	Part 4B – Independence of assurance engagements
Conceptual framework	Sec 400	Sec 900
Fees	Sec 410	Sec 905
Compensation and Evaluation policies	Sec 411	-
Gifts and hospitality	Sec 420	Sec 906
Actual and threatened litigation	Sec 430	Sec 907
Financial interests	Sec 510	Sec 910
Loans and guarantees	Sec 511	Sec 911
Business relationships	Sec 520	Sec 920
Family and personal relationships	Sec 521	Sec 921
Recent service with audit/ assurance client	Sec 522	Sec 922
Serving as a Director or Officer of an Audit/ Assurance Client	Sec 523	Sec 923
Employment with an Audit/ Assurance Client	Sec 524	Sec 924
Temporary Personnel assignments	Sec 525	-
Long association of personnel with an Audit/ Assurance Client	Sec 540	Sec 940

Auditor Rotation	Sec 550	-
Provision for Non-assurance services to an Audit/ Assurance client	Sec 600	Sec 950
Reports that include a restriction on use and Distribution (Audit/ Assurance engagements)	Sec 800	Sec 990

Brief description - Part 4A – Independence for Audit and review engagements

- Sec 400 – Conceptual framework
- Sec 410 – Fees – When a significant part of fees due from an audit client remains unpaid for a long time, the firm shall determine: (a) Whether the overdue fees might be equivalent to a loan to the client; and (b) Whether it is appropriate for the firm to be re-appointed or continue the audit engagement.

**Example:** *Is there a prohibition on continuing with audit assignment if fees of the earlier years has not been paid in case of the continuing auditor?*

*There is no bar in signing the financial statements if fees of the earlier years has not been paid in case of the continuing auditor.*

*As per paragraph 410.7 A1, a self-interest threat might be created if a significant part of fees is not paid before the audit report for the following year is issued.*

- Sec 411 – Compensation and evaluation policies – What proportion of compensation or evaluation is based on the sale of services, the role of the individual on the audit team, and whether the sale of such non-assurance services influences promotion decisions. An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the audit team member.
- Sec 420 – Gifts and hospitality - The requirements set out in Section 340 relating to offering or accepting inducements do not allow a firm, network firm or audit team member to accept gifts and hospitality where the intent is to improperly influence behaviour even if the value is trivial and inconsequential.
- Sec 430 – Actual or threatened litigation - The relationship between client management and audit team members must be characterized by complete candour and full disclosure regarding all aspects of a client's operations. Adversarial positions might result from actual or threatened litigation between an audit client and the firm, a network firm or an audit team member.
- Sec 510 – Financial interests - a direct financial interest or a material indirect financial interest in the audit client shall not be held by the firm or a network firm; An audit team member, or any of that individual's immediate family Any other partner in the office in which an engagement partner practices in connection with the audit engagement, or any of that other partner's immediate family; or Any other partner or managerial employee who provides non-audit services to the audit client, except for any whose involvement is minimal, or any of that individual's immediate family.

**Example:** *What are the factors relevant in evaluating level of threat created by holding financial interest in an Audit client?*

*Factors that are relevant in evaluating the level of a self-interest threat created by holding a financial interest in an audit client include:*

- *The role of the individual holding the financial interest.*
  - *Whether the financial interest is direct or indirect.*
  - *The materiality of the financial interest.*
- Sec 511 – Loans and guarantees - A firm, a network firm, an audit team member, or any of that individual's immediate family shall not make or guarantee a loan to an audit client unless the loan or guarantee is immaterial to: The firm, the network firm or the individual making the loan or guarantee, as applicable; and the client.
  - Sec 520 – Business relationships - A firm, a network firm or an audit team member shall not have a close business relationship with an audit client or its management unless any financial interest is immaterial and the business relationship is insignificant to the client or its management and the firm, the network firm or the audit team member, as applicable.

**Example:** *What are the examples of Close Business Relationships arising from a commercial relationship or common financial interest?*

*Examples of a close business relationship arising from a commercial relationship or common financial interest include:*

- *Having a financial interest in a joint venture with either the client or a controlling owner, director or officer or other individual who performs senior managerial activities for that client.*
  - *Arrangements to combine one or more services or products of the firm or a network firm with one or more services or products of the client and to market the package with reference to both parties.*
- Sec 521 – Family and personal relationships - An individual shall not participate as an audit team member when any of that individual's immediate family: (a) Is a director or officer of the audit client; (b) Is an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion; or (c) Was in such position during any period covered by the engagement or the financial statements.
  - Sec 522 – Recent service with an Audit client - The audit team shall not include an individual who, during the period covered by the audit report: (a) Had served as a director or officer of the audit client; or (b) Was an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.
  - Sec 523 – Serving as a director or officer of an Audit client - A partner or employee of the firm or a network firm shall not serve as a director or officer of an audit client of the firm. Further, as per Section 141(3) (b) of the Companies Act, 2013, an officer or employee of the company or a person who is a partner, or who is in the employment, of an officer or employee of the company, shall not be eligible for appointment as an auditor of a company.

**Example:** *Whether a member can accept audit of a company where the partner of the member is an officer or employee of a company?*

*No. A member is not eligible for appointment as an auditor of a company if partner of such member is an officer or employee of the company.*

- Sec 524 – Employment with an Audit client - The firm shall ensure that no significant connection remains between the firm or a network firm and: (a) A former partner who has joined an audit client of the firm; or (b) A former audit team member who has joined the audit client, if either has joined the audit client as: (i) A director or officer; or (ii) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.
- Sec 525 – Temporary personnel assignments - A firm or network firm shall not loan personnel to an audit client unless: (a) Such assistance is provided only for a short period of time; (b) The personnel are not involved in providing non assurance services that would not be permitted under Section 600 and its subsections; and (c) The personnel do not assume management responsibilities and the audit client is responsible for directing and supervising the activities of the personnel.
- Sec 540 – Long association of personnel (Including partner rotation) with and audit client - Although an understanding of an audit client and its environment is fundamental to audit quality, a familiarity threat might be created as a result of an individual's long association as an audit team member with: (a) The audit client and its operations; (b) The audit client's senior management; or (c) The financial statements on which the firm will express an opinion or the financial information which forms the basis of the financial statements.
- Sec 550 – Auditor Rotation – As per the provisions of concerned laws.
- Sec 600 - Provision for non-assurance services to an Audit Client - A firm or a network firm shall not assume a **management responsibility** for an audit client. Further, under Section 144 of the Companies Act, 2013, where applicable, the restriction also applies to the holding company and subsidiary company of such audit client.

Before a firm or a network firm accepts an engagement to provide a non-assurance service to an audit client, the firm shall determine whether providing such a service might create a threat to independence.

**Example:** *What types of activities will be considered as Management Responsibility?*

*Determining whether an activity is a management responsibility depends on the circumstances and requires the exercise of professional judgment. Examples of activities that would be considered a management responsibility include:*

- *Setting policies and strategic direction.*
- *Hiring or dismissing employees.*
- *Directing and taking responsibility for the actions of employees in relation to the employees' work for the entity.*
- *Authorizing transactions.*
- *Controlling or managing bank accounts or investments.*
- *Deciding which recommendations of the firm or network firm or other third parties to implement.*

- *Reporting to those charged with governance on behalf of management.*
- *Taking responsibility for:*
  - *The preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework.*
  - *Designing, implementing, monitoring or maintaining internal control.*

**Example:** *Whether the internal auditor of a client can accept assignment of accounting for the same client?*

*No. It is prohibitive to undertake the assignments of Internal Audit of a client and tally entry of the accounts, simultaneously being violative of the relevant provisions of the Code of Ethics.*

- Subsection 601 – Accounting and Book keeping services - a firm or a network firm shall not provide to an audit client that is a public interest entity accounting and bookkeeping services including preparing financial statements on which the firm will express an opinion or financial information which forms the basis of such financial statements.
- Subsection 602 – Administrative services - Providing administrative services to an audit client does not usually create a threat.
- Subsection 603 – Valuation services - A firm or a network firm shall not provide a valuation service to an audit client that is not a public interest entity if: (a) The valuation involves a significant degree of subjectivity; and (b) The valuation will have a material effect on the financial statements on which the firm will express an opinion.
- Subsection 604 – Tax services - A firm or a network firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for an audit client that is a public interest entity for the purpose of preparing accounting entries that are material to the financial statements on which the firm will express an opinion.
- Subsection 605 – Internal Audit services - A statutory auditor of an entity cannot be its internal auditor as it will not be possible for him to give an independent and objective opinion. Further, under Companies Act, 2013, where applicable, the restriction also applies to the subsidiary company or holding Company of the audit client.

**Example:** *Whether statutory auditor or internal auditor can accept the assignment of verification of GST reconciliation statement, GST advisory services etc.?*

*Yes. Verification of GST reconciliation statement and GST advisory services can be done by both Internal Auditor and statutory auditor.*

- Subsection 606 – Information technology systems services - When providing IT systems services to an audit client the firm or network firm shall be satisfied that: (a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls; (b) assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, management; preferably within senior (c) makes all management decisions with respect to the design and implementation process; (d) evaluates the adequacy and results of the design and implementation of the system; and (e) is responsible for operating the system (hardware or software) and for the data it uses or generates.

**Example:** *Whether a member in practice owning intellectual property rights of domain names sell those domain names to some entity for earning royalty on the same?*

*No, since the activity of selling domain names for earning Royalty would amount to "other business/ occupation", which is prohibited.*

- Subsection 607 – Litigation support services - If a firm or a network firm provides a litigation support service to an audit client and the service involves estimating damages or other amounts that affect the financial statements on which the firm will express an opinion, the requirements and application material set out in Subsection 603 related to valuation services apply.
- Subsection 608 – Legal services - A partner or employee of the firm or the network firm shall not serve as General Counsel for legal affairs of an audit client.
- Subsection 609 – Recruiting services - When providing recruiting services to an audit client, the firm or the network firm shall not act as a negotiator on the client's behalf. Shall not provide recruiting service in searching for or seeking out candidates; Undertaking reference checks, for positions such as director or officer of the entity, member of senior management who would exert significant influence over the preparation of the accounting records or the financial statements on which the firm will express an opinion.
- Subsection 610 – Corporate finance services - A firm or a network firm shall not provide corporate finance services to an audit client that involve promoting, dealing in, or underwriting the audit client's shares.
- Sec 800 - Reports on Special purpose Financial statements that include a restriction on use and distribution (Audit and Review Engagements)

#### Part 4B – Independence for assurance engagements other than audit and review engagements

- Sec 900 – Conceptual framework
- Sec 905 – Fees - When a significant part of fees due from an assurance client remains unpaid for a long time, the firm shall determine whether the overdue fees might be equivalent to a loan to the client; and whether it is appropriate for the firm to be re-appointed or continue the assurance engagement.
- Sec 906 – Gifts and hospitality - A firm or an assurance team member shall not accept gifts and hospitality from an assurance client unless the value is trivial and inconsequential.
- Sec 907 – Actual or threatened litigation - The relationship between client management and assurance team members must be characterized by complete candor and full disclosure regarding all aspects of a client's operations.
- Sec 910 – Financial interests - A direct financial interest or a material indirect financial interest in the assurance client shall not be held by the firm; or assurance team member or any of that individual's immediate family.
- Sec 911 – Loans and guarantees - A firm, an assurance team member, or any of that individual's immediate family shall not accept a loan, or a guarantee of a loan, from an assurance client



that is a bank or a similar institution unless the loan or guarantee is made under normal lending procedures, terms and conditions.

- Sec 920 – Business relationships - A firm or an assurance team member shall not have a close business relationship with an assurance client or its management unless any financial interest is immaterial and the business relationship is insignificant to the client or its management and the firm or the assurance team member, as applicable.
- Sec 921 – Family and personal relationships - An individual shall not participate as an assurance team member when any of that individual's immediate family: (a) Is a director or officer of the assurance client; (b) Is an employee in a position to exert significant influence over the subject matter information of the assurance engagement; or (c) Was in such a position during any period covered by the engagement or the subject matter information.
- Sec 922 – Recent service with the assurance client - The assurance team shall not include an individual who, during the period covered by the assurance report had served as a director or officer of the assurance client; or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement.
- Sec 923 – Serving as a director or officer of an Assurance client - A partner or employee of the firm shall not serve as a director or officer of an assurance client of the firm.
- Sec 924 – Employment with the assurance client - A familiarity or intimidation threat might be created if individuals have been an assurance team member or partner of the firm who is a *director or officer of the assurance client, an employee who is in a position to exert significant influence over the subject matter information of the assurance engagement.*
- Sec 940 – Long association of personnel with an assurance client.
- Sec 950 - Provision of Non – Assurance Services to assurance clients other than Audit and Review Engagement Clients.
- Sec 960 - Reports that include a restriction on use and Distribution (Assurance Engagements other than Audit and Review Engagements)

### **Council General Guidelines, 2008**

**Chapter I – Preliminary** – These guidelines are applicable to all the members of the Institute whether in practice or not wherever the context so requires.

**Chapter II – Conduct of employee member** – A member who is an employee shall exercise due diligence and shall not be grossly negligent in the conduct of his duties.

**Chapter III – Appointment of a member as Cost Auditor** (Repealed by the Council on 2020)

**Chapter IV – Opinion on Financial statements when there is substantial interest** (Repealed by the Council on 2020)

**Chapter V – Maintenance of books of accounts** – A member in practice or the Firm of CA's of which he is a partner, shall maintain and keep in respect of his/ its professional practice, proper books of account including the following: A) Cash book and B) Ledger.

**Chapter VI- Tax Audit assignments u/s 44AB of IT Act** – A member in practice shall not accept, in a financial year, more than 60 Tax Audit assignments in a financial year.

**Chapter VII – Appointment of Auditor in case of Non-Payment of Undisputed fees** – A member in practice shall not accept the appointment as Auditor of an entity, in case the Undisputed Audit fee of another CA for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid. This prohibition does not apply to a Sick unit.

**Example:** *Whether incoming auditor may accept audit if undisputed audit fees of previous auditor is pending, but the previous auditor has communicated his no objection in spite of pending fees?*

*The incoming auditor should verify with the client that undisputed audit fees of previous is pending. In case of pending undisputed audit fees, incoming auditor should not accept the audit even if previous auditor has given no objection on the same.*

**Example:** *In what circumstances is there bar on accepting audit assignment if fees of earlier Auditor has not been paid in case of change of Auditors?*

*The incoming auditor shall not accept fees for previous audit in case undisputed audit fees of previous auditor is pending. "Undisputed audit fees" is reckoned as "provision for audit fee for carrying out the statutory audit under the Companies Act, 2013 or various other statutes, in accounts signed by both the auditee and the auditor along with other expenses, if any, incurred by the auditor in connection with the audit".*

*In respect of other dues i.e, other than undisputed audit fees, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.*

**Chapter VIII – Specified number of Audit assignments** – A member of the Institute in practice shall not hold at any time appointment of more than the "specified number of audit assignments" of Companies u/s 141 of the Companies Act, 2013. (30 audit assignments whether in respect of private or public companies, with the exception of on-person companies and dormant companies.

**Chapter-IX – Restrictions on appointment as Statutory Auditor –**

- a) A member in practice shall not accept the appointment as statutory auditor of Public Sector Undertaking(s)/ Government Companies/ Listed Companies and other public companies having turnover of ₹. 50 crores or more in a year if he accepts any other works or assignments or services in regard to the same companies on a remuneration which in total exceeds the fee payable for carrying out the Statutory Audit of the same company.
- b) The above restrictions shall apply in respect of fees for other works or services or assignments payable to the Statutory Auditors and their Associate concerns a\put together.

**Chapter X – Appointment of an Auditor when he is indebted to a concern** – A member of the Institute in practice or a partner of a firm in practice or a firm or a relative of such member or partner shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and on other cases for amount exceeding ₹ 1,00,000.

**Example:** *Whether the limit on loan from the Audit Client mentioned under Chapter X of Council General Guidelines, will apply to loans like Car loans, home loan, etc.?*

*Yes. Indebtedness include eventuality of being indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern. It shall*

*also include loan taken by a member against Fixed Deposit, and include loans like Car loan, home loan, etc.*

**Chapter XI – Directions in case of unjustified removal of Auditors-** A member of the Institute in practice shall follow the direction given, by the Council or an appropriate committee or on behalf of any of them, to him being the incoming auditor not to accept the appointment as auditor, in case of unjustified removal of earlier auditors.

**Chapter XII – Minimum Audit fee in respect of Audit** (Repealed by the Council on 2011)

**Chapter XIII – Guidelines on Tenders** – A member of the institute in practice shall not respond to any tender issued by an organisation or user of professional services in areas of services which are exclusively reserved for CAs, such as audit and attestation services. However, such restriction shall not be applicable where minimum fee of the assignment is prescribed in the tender document itself or where the areas are open to other professionals along with CAs.

**Chapter XIV – Unique Document Identification Number (UDIN) Guidelines** – A member of the Institute in practice shall generate UDIN for all kinds of the certification, GST and Tax Audit reports and other Audit, Assurance and Attestation functions undertaken/ signed by him which made mandatory from the following dates through announcements published on the website of the ICAI at the relevant time:

- ✓ For all certificates w.e.f 1st February 2019.
- ✓ For all GST and Tax Audit reports w.e.f 1st April 2019.
- ✓ For all other Audit, Assurance and Attestation Functions w.e.f 1st July 2019.

**Chapter XV – Guidelines for Networking**

Network – A larger structure a) That is aimed at co-operation and b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand name, or a significant part of professional resources.

**Chapter XVI – Logo Guidelines** – The logo consists of letter CA with a tick mark inside a rounded rectangle with white background. The letters CA have been put in blue, the corporate colour which not only stands out on the background but also denotes creativity, innovativeness, knowledge, integrity, trust, truth, stability and depth. The upside-down tick mark typically used by CAs, has been used to symbolize the wisdom and value of the professional. The green colour in the tick mark signifies growth, prosperity, harmony and freshness. Members can use the new logo published. Do not change the colours, design, including the white background.

**Chapter XVII – Guidelines for Corporate form of practice**

- ✓ The Council decide to allow members in practice to hold the office of MD, WTD or Manager of a body corporate within the meaning of the Companies Act provided that the body corporate in engaged exclusively in rendering Management Consultancy and Other services prescribed by the Council pursuant to powers u/s 2(2)(iv) of the CA Act, 1949 and complies with the conditions as specified by the Council from time to time in this regard.
- ✓ The members can retain full time COP and can continue to do attest function and also entitled to train articled/ audit assistants.
- ✓ The name of the Management Consultancy Company is required to be approved by the Institute and such company has to be registered with the Institute.

- ✓ It may be clarified that no audit practice can be done in corporate form. The consultancy practice is now intended to be permitted in Corporate Form.

**Example:** *Whether a Firm of CAs can undertake the assignment of Management Consultancy Services of a company where a partner of the Firm is a Director Simplicitor?*

*Yes, it is permissible for a Firm of CAs to undertake the assignment of Management Consultancy Services of a company where a partner of the firm is the Director Simplicitor.*

*Tail piece:*

*The conditions and regulations governing the Chartered Accountants is very stringent. Scrupulously following the same is a task by itself. Against the backdrop the activism exhibited by different governing and monitoring agencies on the Chartered Accounts, one has to be very-very vigilant and alert to the happenings in the business, profession and statutory conditions to survive as a CA.*

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