

**COMPLIANCE WITH ETHICAL STANDARDS**  
**PUNE Branch of WIRC of ICAI 28 APRIL, 2024**

By

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## Meaning of word “ETHICS” as per Wikipedia ICAI Code of Ethics Volume II

- Wikipedia - Branch of *philosophy* that involves **systematizing, defending, and recommending concepts of right and wrong conduct.**
- ICAI - *No booklet of this nature can achieve the object of outlining every possible act which may or may not constitute sound ethical conduct* because the practice of professional ethics is largely a matter of **conscience** and the determination of members to distinguish between what is right and wrong.
- Is a state of the mind, and there may be some act which, though it may not **strictly fall** under one of the items of the Schedules, may be one which may not be proper by any moral or ethical standards.

# Meaning of word “ETHICS” / ICAI Code of Conduct

Oxford Dictionary- “Ethics” (noun) “ the *moral principles* that govern a *person’s behaviour* or how an activity is conducted”. Oxford Dictionary  
“Ethical” (adjective) “ decent, fair, good, honest, just, moral, noble, principled, righteous, upright, virtuous”

A distinguishing feature of accountancy profession is to accept responsibility in Public Interest

“Ya Esha Supteshu Jagrati” – Awakening those who asleep

Websites – [disc.icai@org](mailto:disc.icai@org), [www.icai.org](http://www.icai.org)

# ICAI Code of Ethics Volume-2

- In the larger interests of the Institute, the Council strongly **encourage / urge** all members to search their hearts and conscience whenever in doubt, and thereby assist towards the maintenance of high principles of professional conduct established by the Council.
- The highest standards of ethical behaviour can only evolve from the conduct of members and the **Council feels sure** that whenever members are **confronted** with **two interpretations** on a matter relating to professional conduct-**one ethical and the other legalistic**-they would adopt the **stricter interpretation** than the more liberal one, **even though** the latter may be **perfectly legal**.
- The exercise of the highest ethical standards, which ensures the progress of our Institute, is in the hands of the members themselves.

# Code of Ethics

- ICAI has established an Ethical Standards Board.
- Objective as found on ICAI website is :

*“ The objective of Ethical Standards Board is to set up ethical standards for chartered accountants, converge with the **International best practices on ethics, subject to local laws**, thereby enhancing the quality and consistency of services provided by chartered accountants and **strengthening the public confidence** in the profession”.*

- Revised (12<sup>th</sup> edition ) of Code of Ethics has been made mandatory wef 01.07.2020

# Five Fundamental Principles of Ethical Standards

- **Integrity:** Honesty and straightforwardness in professional and business relationships.
- **Objectivity:** Avoid the impact of biases on your judgement, decision making or allow undue influence on others or yourself.
- **Professional competence and due care:** Maintain professional knowledge and skill at the standard expected by a member of the public when seeking professional advice, or the standard of work and output by an employer. This includes *keeping up to date with current trends and technical standards*

# Five Fundamental Principles of Ethical Standards

- **Confidentiality:** Respect the right of your clients and employer to have personal details and information kept secure, private and confidential.
- **Professional behaviour:** Compliance with laws and regulations relevant to where you live and do not behave *in a way that reflects badly on you, your business or employer and the profession.*

\*INDEPENDENCE\*



- The fundamental principles of ethics establish the standard of behaviour expected of a professional accountant.
- Code of Ethics (CoE) is not restrictive
- CoE does not hampers growth
- It increases credibility of a member
- It distinguishes a profession from business

# Authority attached to documents issued by ICAI

SR. NO	PARTICULARS	REMARKS	
1.	Statements	Mandatory	Must be followed while discharging "Attest" function Deviation must be disclosed
2.	Accounting Standards	Mandatory w.e.f notified by ICAI	Standards over-ride statements once standard is made mandatory
3.	Auditing Standards	Mandatory	Same as above
4.	Guidance notes	Recommendary	A member should ordinarily follow except where in the circumstances he feels not to do so

# THE CHARTERED ACCOUNTANTS ACT, 1949

SECTION	TITLE
SECTION 2	Members who are deemed to be in Practice
SECTION 2	Significance of the Certificate of Practice
SECTION 7	Practising Member is prohibited to use designation(s) other than 'Chartered Accountant'
SECTION 8	Disabilities for the purpose of membership
SECTION 20	Removal from the Register
SECTION 21	Procedure in Inquiries for Disciplinary Matters relating to misconduct of the members of the Institute

# THE CHARTERED ACCOUNTANTS ACT, 1949

SECTION	TITLE
SECTION 22	Conduct of the members in any other circumstances
SECTION 24	Penalty for falsely claiming to be a Member etc.
SECTION 25	Companies not to engage in Accountancy
SECTION 26	Unqualified persons not to sign documents
SECTION 27	Maintenance of Branch Offices
SECTION 22	Conduct of the members in any other circumstances

The expression “*professional or other misconduct*” within the meaning of Section 22 of the Chartered Accountants Act, 1949 shall be deemed to include any

- ***act(s) or***
- ***omission(s)***

*provided in any* of the two Schedules viz the First Schedule and the Second Schedule to the Act

## Authorities to implement CoE :

The Chartered Accountants (Amendment) Act 2006 came into force wef 08th August 2006

**Sec 21** : Disciplinary Directorate established.

Director Discipline to give opinion as to whether a member is *prima facie* guilty on the complaint / any information received by him.

If guilty under First Schedule ---- Reference to Board of Discipline [BoD]

If guilty under Second or both Schedules ----- Reference to Disciplinary Committee. [DC]

**Sec 21 A** – Board of Discipline - Consists of three persons – an outsider i.e. a person with experience in law and having the knowledge of disciplinary matters and profession; and two members of the Council of which one is Central Govt nominee

## **Authorities to implement CoE :**

**Sec 21B** – Disciplinary Committee. Consists of **five** members. President or Vice-President as presiding officer plus **two** Central Council Members and **two** nominees of the Central Govt. (Not necessarily Central Govt nominees on the Council). The nominees to have experience in the field of law, economics, business, finance or accountancy.

**Appellate Authority** : Secs 22A to 22G. The Central Govt is to constitute the Appellate Authority. Aggrieved person to appeal. Aggrieved person may be a member of ICAI or Director Discipline

## **Powers of the Authorities :**

**Board of Discipline :** One or more of the following punishments can be awarded

- a) Reprimand the member;
- b) Removal upto three months;
- c) Fine upto ` 1.00 lakh.

**Disciplinary Committee :** One or more of the following punishments can be awarded

- a) Reprimand the member;
- b) Removal for such period as it thinks fit;
- c) Fine upto ` 5.00 lakhs.



# Principles of Enquiry

1. Action for misconduct can be initiated either on receiving a complaint or information from any source. *Suo moto* action by Council is also possible.
2. Council is not concerned with complainant's behaviour or conduct.
3. Complaint once lodged cannot be ordinarily withdrawn except with the permission of BoD/DC.
4. Committee has authority to punish individual member and not the firm or an outsider.

# Principles of Enquiry

5. The Complainant intends to withdraw the complaint or does not pursue it or remains absent, the Respondent is not automatically absolved. The Council takes the complaint to its logical conclusion by stepping into the shoes of the Complainant.
6. Complaint to be filed within seven years from the date of occurrence.
7. Compensation payment by the Respondent will not absolve him.
8. Complainant need not prove that he is aggrieved or has suffered a loss.
9. No time limit for disposal of a complaint.

# Who are the Complainants ?

1. Govt – Income Tax Dept, ROC, MCA, SFIO, Police, RBI etc.
2. Normally user of our services viz clients, financial institutions, banks etc. Disputes between Directors / partners.
3. Staff members, article trainees, professional brothers. Even there are instances where members have complained against their present or ex-partners.
4. Private complaints mainly out of ego, rivalry for "arm-twisting" purposes. Even in one case a lady member has complained against her ex-husband!

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# Reasons

1. Members do many things in too much of 'good faith.'
2. Lack of basic documentation.
3. Work should not only be done but it should be seen that it is done. Faintest of ink is stronger than the strongest of memories.
4. Tax considerations override accounting & auditing principles.
5. Lack of communication skills. Difficulty in saying 'No' to unjustified demands.
6. ***A mindset - Someone else can do the work ?***
7. Greed.
8. Blind faith on software. No application of mind while delivering report / certificate as the case may be.

## FIRST SCHEDULE

### PART-I Professional Misconduct in relation to Chartered Accountants in practice

Clause-1	Practice by non-chartered accountant
Clause-2	Shares fees with non-Member
Clause-3	Accepts fees from non-Member
Clause-4	Enters into partnership with non-Member
Clause-5	Secures professional business through non-employee/non-partner or unlawful means
Clause-6	Solicits professional work

## FIRST SCHEDULE

### PART-I Professional Misconduct in relation to Chartered Accountants in practice

Clause-7	Advertises professional attainment
Clause-8	Fails to communicate with outgoing auditor
Clause-9	Non - Compliance of Section 225 of the Companies Act, 1956 (Sections 139 and 140 of Companies Act, 2013)
Clause-10	Charging fees based on percentage/ contingency
Clause-11	Engages in any other occupation
Clause-12	Allows non - Member/non-partner to sign documents on his behalf

## FIRST SCHEDULE

### PART-II Professional Misconduct in Relation to Members of the Institute in Service

Clause-1	Shares his emoluments with others
Clause-2	Accepts commission or gratification from a lawyer etc. engaged by the employee

# FIRST SCHEDULE

## PART-III Professional Misconduct in Relation to Members of the Institute generally

Clause-1	Acts falsely as FCA
Clause-2	Does not supply information to the Institute and its other functionaries
Clause-3	Gives false information under Clause (6) and (7) of the First Schedule



## FIRST SCHEDULE

### PART-IV Other Misconduct of Members in General

- |          |   |
|----------|---|
| Clause-1 | Becomes guilty of any offence punishable with imprisonment for less than 6 months |
| Clause-2 | Bring disrepute to the profession/Institute as a result of his action             |

## SECOND SCHEDULE

### PART-I Professional Misconduct in relation to chartered accountants in Practice

Clause-1	Discloses information acquired without client's consent
Clause-2	Certifies/submits report without examining the related records
Clause-3	Permits to use name for vouching the accuracy of future contingent earnings
Clause-4	Opines on Financial Statement where substantial interest involved
Clause-5	Fails to disclose any material fact in Financial Statement

## SECOND SCHEDULE

### PART-I Professional Misconduct in relation to chartered accountants in Practice

Clause-6	Fails to report a known material misstatement appearing in Financial Statement
Clause-7	Performs professional duties without due diligence/grossly negligent
Clause-8	Fails to obtain sufficient information for expressing an opinion
Clause-9	Fails to invite attention to any material departure from the generally accepted procedure of audit
Clause-10	Keeps client's money without opening separate bank account

## SECOND SCHEDULE

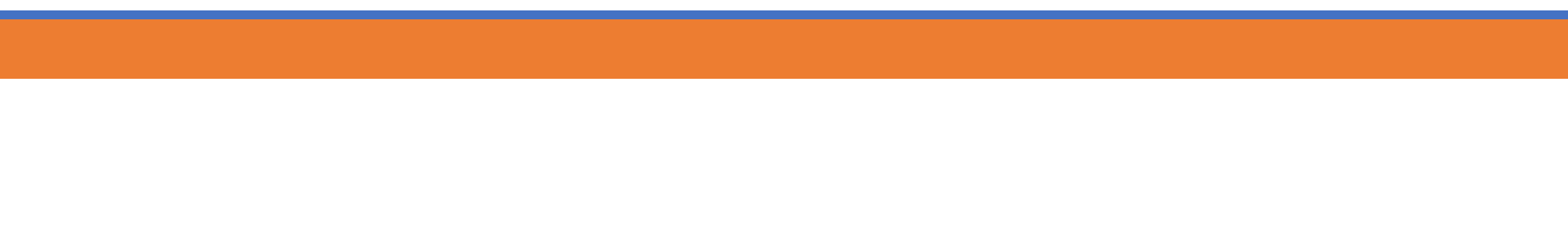
### PART- II Professional Misconduct of Members of the Institute generally

Clause-1	Contravenes any of the provisions of the Act/Regulations & Guidelines issued by the Council
Clause-2	Discloses employer's information without permission
Clause-3	Provides false information to the Institute and its different authorities
Clause-4	Defalcates/embezzles money received in professional capacity

## SECOND SCHEDULE

### PART-III Other Misconduct in relation to members of the Institute generally

Clause	Becomes guilty of any offence punishable with imprisonment for more than six months, either in civil or criminal case.
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- CHAPTER-3 Council Guidelines for Advertisement, 2008**
  - CHAPTER-4 Council General Guidelines, 2008**
  - CHAPTER-5 Self-Regulatory Measures Recommended by  
the Council**
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# Recent Decisions Of Ethical Standards Board

- Statutory auditor of an entity is **not permitted** to engage in assignment of **compilation engagement**, of that entity as per SRS 4410 (Standard for compilation engagements)
- Members in practice are allowed to take license/registration of investment advisors from SEBI.
- However, members are ***not allowed*** to engage in services of broking, underwriting, portfolio management and cannot take agency of mutual funds etc.
- The statutory auditor cannot provide ***investment counselling*** services to the audit clients as the same is not permissible in terms of the provisions of Companies Act, 2013.

# Recent Decisions Of Ethical Standards Board

- It is **permissible** for a member in practice to accept the assignment of ***Mystery Audit***. [Organizations engaged in - market research tool used externally by companies to measure quality of service, or compliance with regulation, or to gather specific information about their products and services]
- It is permitted for a member in practice ***to mention position as promoter/Director on the portal of a Company. However, the member cannot mention his professional attainments and the name of the firm*** with which he is associated. There should be no violation of clause (6) and Clause (7) of Part-I of First Schedule to the Chartered Accountants Act, 1949 in doing so
- It is permissible for a member in practice to ***become professional director in the Board of Management of a Co-operative Bank***



# Recent Decisions Of Ethical Standards Board

- It is permissible for a member ***to set up practice in IFSC/GIFT city***

Example - [Financial centre and SEZ in Gujrat]

- It is permissible for a member to render professional services to IFSC units ***from offices outside IFSC.***
- A firm is not permitted to publish its ***vision or mission statement on letter head, visiting card or stationery*** etc. The vision and mission statement may be printed on the **firm profile** and may be provided *in response to a specific request*
- It is not permissible for a member/ firm being the statutory Auditor of a Bank to accept the assignment of ASM of a customer of the same Bank simultaneously. He can accept either of the Assignments at one time.

\*\*Assisted Service Module (ASM) is an overlay on the site's front end that allows an agent to provide real-time customer sales and service support by navigating the same storefront as the customer with which they are interacting

# Recent Decisions Of Ethical Standards Board

- A member in practice cannot be appointed as an *Internal Auditor and Procurement officer simultaneously in an organization*
- It is **permissible** for members in practice to charge fees on a percentage of utilization amount of an educational Institute for certifying the ***amount (utilization) spent by an educational Institute out of grant.***
- It is ***not permissible*** for a member in practice to accept the appointment of statutory audit of the society wherein immediate family member i.e., spouse or dependent, of member *hold honorary position* of one of the managing committee of the institutes governed by the society.

# Recent Decisions Of Ethical Standards Board

- It is ***not permissible*** for a member to use ***Messaging Applications*** to send messages to make people aware about his practice, and mention the services provided therein
- There is **no prohibition** for internal auditor of a company to **acquire/purchase shares** of the said Company.
- There is no conflict of interest in a Chartered Accountant, who is a member of a Trust, being the auditor of the said trust. It is subject to the exception where a particular ***statute governing a Trust prescribes prohibition*** on the member of the Trust to be its Auditor or otherwise where there is conflict of interest as per the provisions of Code of Ethics

# Recent Decisions Of Ethical Standards Board

- A CA Firm *may register itself on Udyog Aadhar*, a web portal of Ministry Micro, Small and Medium Enterprises
- It is permissible for two or more Chartered Accountants in practice collectively ***to have joint training session for their clients on GST***, and share the fees collected from the clients thereof.
- A Chartered Accountant in practice ***can act as an Authorized Representative of a Foreign Company***, provided he is not the auditor of the said Company

# Recent Decisions Of Ethical Standards Board

- A Chartered Accountant in practice **may** be an **equity research adviser, but he cannot publish retail report**, as it would amount to other business or occupation
- A chartered accountant in practice can provide services *through kiosk( a very small shop or stall in a street)* only if the services provided are professional activities of a practicing chartered accountant, permitted under the Act.
- A Chartered Accountant in practice **may engage** himself as Registration Authority (RA) **for obtaining digital signatures for clients**

# Recent Decisions Of Ethical Standards Board

- A Chartered accountant can hold the credit card of a bank when he is also the auditor of the bank, provided the outstanding balance on the said card **does not exceed Rs 100,000\* beyond the prescribed credit period limit on credit card given** to him. (\*As per the limit of indebtedness existing as on date)
- A Chartered Accountant in practice is **not permitted to accept audit assignment of a bank in case he has taken loan against a Fixed Deposit held by him in that bank**

# Recent Decisions Of Ethical Standards Board

- The Ethical Standards Board in 2013 generally apply the stipulations contained in the then amended Rule 11U of Income Tax generally, wherein statutory auditor /tax auditor cannot be the valuer of unquoted equity shares of the same entity.
- The Board has at its recent meeting (January, 2017) has reviewed the above, and decided that where law prohibits, for instance in the Income Tax Act and the rules framed thereunder, such prohibition on statutory auditor/tax auditor to be the valuer will continue, but where there is no specific restriction under any law, the said eventuality will be permissible, subject to compliance with the provisions, as contained in the Code of Ethics relating to independence.

# Recent Decisions Of Ethical Standards Board

- It is not permissible for **CA Firm to print its vision and values behind the visiting cards**, as it would result in solicitation and therefore would be violative of the provisions of Clause (6) of Part-I of First Schedule to the Chartered Accountants Act, 1949.
- It is **not permissible** for chartered accountants in practice to take agencies of *UTI, GIC or NSDL*.
- It is ***permissible for a member in practice to be a settlor of a trust.***
- A member in practice ***cannot hold Customs Brokers License*** under section 146 of the Customs Act, 1962 read with Customs Brokers Licensing Regulations, 2013 in terms of the provisions of Code of Ethics



# Recent Decisions Of Ethical Standards Board

- A Chartered accountant *in service* may appear as tax representative before tax authorities on behalf of his employer, but not on behalf of other employees of the employer.
- A chartered accountant who is the statutory auditor of a bank cannot for the same financial year accept stock audit/inspection Audit of the same branch of the bank or any of the branches of the same bank or sister concern of the bank, for the same financial year

# Recent Decisions Of Ethical Standards Board

- A CA Firm which has been appointed as the internal auditor of a PF Trust by a Government Company cannot be appointed as its Statutory Auditor
- **A concurrent auditor of a bank 'X' cannot be appointed as statutory auditor of bank 'Y', which is sponsored by 'X'**
- A CA/CA Firm can act as the internal auditor of a company & statutory auditor of its employees PF Fund under the new Companies Act (2013)

**COMPLIANCE WITH ETHICAL STANDARDS**  
**PUNE BRANCH of WRIC of ICAI 28<sup>TH</sup> April, 2024**

Views expressed are my own views and are not in the nature of an  
“advice”

KINDLY REFER

*RELEVANT “STATUTE”,*

*“THE CHARTERED ACCOUNTANTS ACT, 1949”,*

*“OTHER RELEVANT DOCUMENTS “*

**COMPLIANCE WITH ETHICAL STANDARDS**  
**PUNE BRANCH of WRIC of ICAI 28<sup>TH</sup> April, 2024**

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**QUESTION AND ANSWER SESSION**

# ***Thank You!!***

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