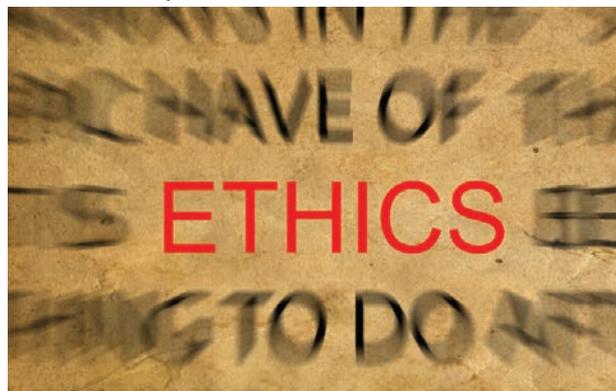


Know Your Ethics

Ethical Issues in Question-Answer Form*



Q. What is 'professional or other misconduct'?

A. Section 22 of the Chartered Accountants Act, 1949 defines professional or other misconduct as follows:-

"For the purposes of this Act, the expression 'professional or other misconduct' shall be deemed to include any act or omission specified 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) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

What constitutes 'misconduct under any other circumstances' has to be determined on case to case basis keeping in view the facts of the circumstances of each case. Fraud, intention to deceive and committing an act which affects the public or society at large could be in the ambit of such misconduct. Following are few examples of 'misconduct under any other circumstances' by a member:-

1. Conviction by a competent Court for an offence involving moral turpitude punishable with imprisonment or for an offence not of a technical nature committed by a member in his professional capacity.
2. Retention of books and documents of the client and failure to return these to the client on request without a reasonable cause.
3. Material misrepresentation e.g. misrepresenting to a firm, while seeking employment as an accountant, that he has worked for three years as a senior assistant with another firm.
4. Publishing an advertisement in a newspaper with malafide intention to malign any person.

5. Using objectionable, derogatory and abusive language or/and making irrelevant, incoherent irresponsible and insane statements in his correspondence with a person.

Q. Can a Chartered Accountant in practice work as a 'Collection Agent/Recovery Agent'?

A. No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant as provided under clause (xxv) of 'Management Consultancy and other Services'; and as Insolvency Professional.

Q. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?

A. No, a Chartered Accountant in practice is not required to obtain any trade license for practicing as a professional. The certificate of practice issued by the Institute is the only requirement from the stand point of the Institute to practice as a Chartered Accountant. It may however be relevant to note that a Government/ Authority may additionally prescribe a requirement on professionals for engaging in practice in the applicable State/area.

Q. Can a member in practice indicate in a book or an article, authored/contributed/published by him, his association with any firm of Chartered Accountants?

A. No, as per Para (e) under Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949 as appearing in the Code of Ethics, 2009 a member is not permitted to indicate in a book or an article, authored/contributed/published by him, the association with any firm of Chartered Accountants. He may contribute to the book/article in his individual name.

Q. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?

A. No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of Chartered Accountants. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 of Code of Ethics, 2009).

* Contributed by the Ethical Standards Board of ICAI

Former ICAI President CA. Kamlesh Vikamsey Appointed Chairperson of External Audit Committee of IMF

The honour and prestige of Indian accountancy profession got a boost at a global stage, when one of its prominent members, veteran former ICAI President CA. Kamlesh Shivji Vikamsey was recently appointed Chairperson of External Audit Committee of International Monetary Fund (IMF) and Deputy Chairperson of Audit Advisory Committee of United National Children's Fund (UNICEF). He is the first Indian to chair IMF Audit Committee. He proactively worked for the cause of Indian accountancy profession as the president of the ICAI for 2005-2006 besides having been the president of Confederation of Asian and Pacific Accountants (CAPA) in 2007-2009. He served as the Vice President of the ICAI for the year 2004-2005 and Vice President of CAPA for 2005-2007. He was also the Chairperson of Audit Advisory Committee of the United Nations Development Programme (UNDP) from 1 July 2014 to 30 June 2015 & Member since 1 July 2010.



Born in Dec 1960 in Mumbai, he obtained B.Com degree from Mumbai University after studying in Podar College in 1981 and went on to become a Chartered Accountant in 1982.

A member of the ICAI with over 40 years of professional standing, CA. Vikamsey was elected to the Council of the ICAI for the first time in 1998, and thereafter, in 2001 and 2004 in which capacity he held various positions in the Committees of the Council of the ICAI. He notably served as the Chairman of the Corporate Laws Committee, Audit Committee, Auditing and Assurance Standards Board and Committee on Financial Markets & Investors' Protection.

A proponent of global outlook for Indian accounting profession, he was the Chairman of Centre of Excellence on Education, Training and CPD of South Asian Federation of Accountants in 2004-2005. He has also been a Board Member of International Federation of Accountants (IFAC) in 2005-2008 and also a member of Planning & Finance Committee of International Federation of Accountants (IFAC) 2006-2008.

He was also a member of Steering Committee of United Nations for Comprehensive Review of Governance and Oversight within the United Nations, and its funds, programme and specialised agencies, appointed by then Secretary General of United Nations Mr. Kofi Annan in 2006.

A prolific speaker on professional topics, he has also co-authored some professional publications. ■

Know Your Ethics

Q. Can a Chartered Accountant provide 'Portfolio Management Services' (PMS) as part of CA practice?

A. No, the Explanation to Clause (xix) of the definition of "Management Consultancy and other Services" expressly bars the activities of broking, underwriting and Portfolio Management. Accordingly, the same cannot be undertaken by a chartered accountant in practice.

Q. Can a Chartered Accountant in practice pay to any person any share, commission or brokerage in the fees or profits of his professional business?

A. No, as per Clause (2) of Part-I of the First Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant shall be deemed to be guilty of professional misconduct if he pays or allows or agrees to pay any share, commission or brokerage in the fees or profits of his professional business, to any person other

than a member of the Institute or a partner or a retired partner or the legal representative of the deceased partner or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Q. Whether a Chartered Accountant in practice empanelled as IP (Insolvency Professional) can mention the same on his visiting cards, letter heads and other communication?

A. A Chartered Accountant empanelled as IP (Insolvency Professional) can mention 'Insolvency Professional' on his visiting cards, letter heads and other communication, as this is a title recognised by the Central Government in terms of Clause (7) of Part -I of First Schedule to The Chartered Accountants Act, 1949. However, other nomenclatures e.g. membership of an IPA should not be mentioned. ■