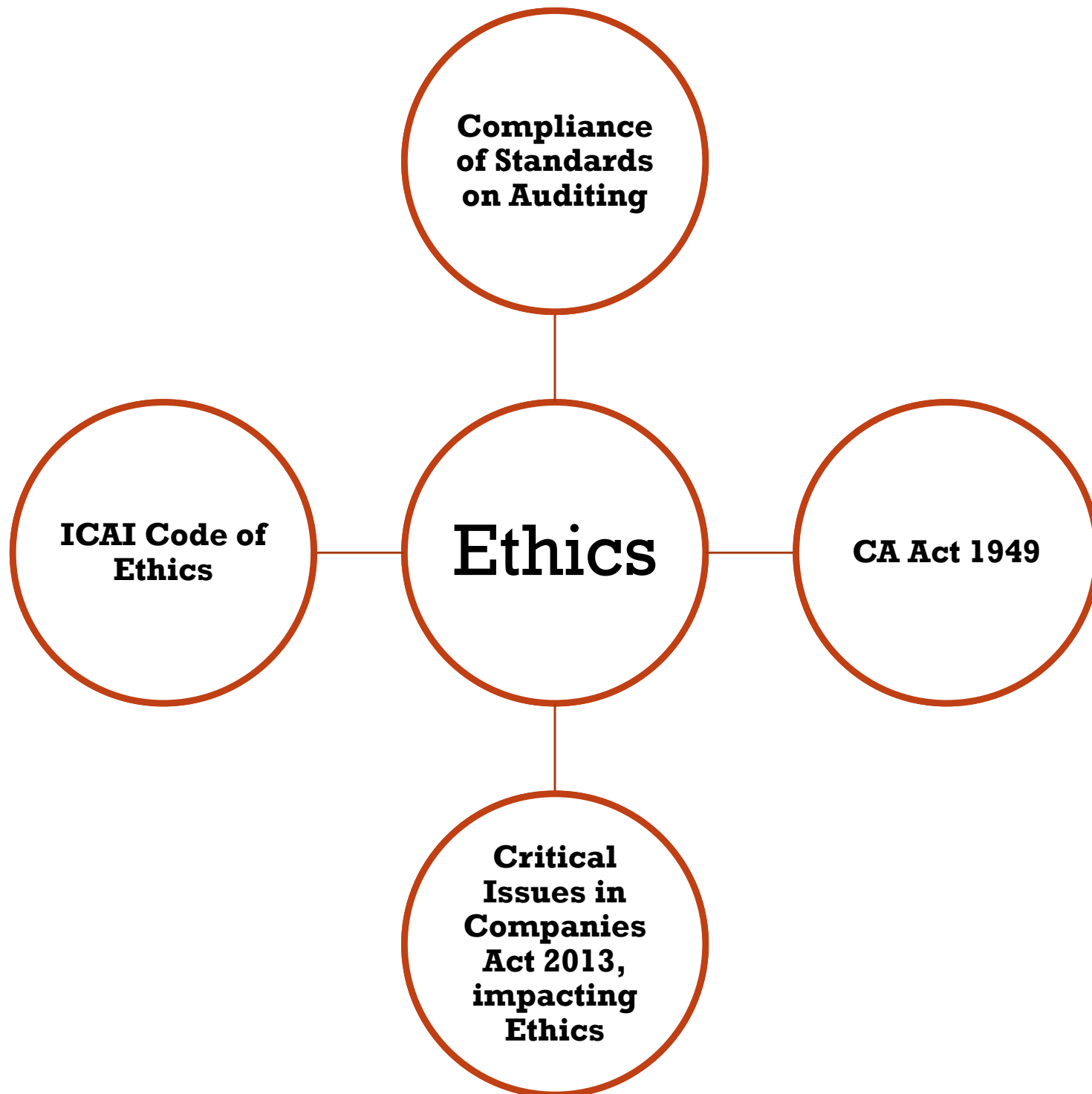




**Code of Ethics – Critical Issues**

**CA R S Balaji B.Com., FCA**



- Ethics signify how people act in order to make the  
‘right’ choice  
and  
practice ‘good’ behaviour.

- Ethics are the foundation of the accounting profession.
- Working to the highest standards of ethics and professionalism allows the public, investors and regulators to have confidence in Chartered Accountants.

# Past & Future

- Working towards evolving a dynamic and contemporary Code of Ethics and ethical behavior for members while retaining the **long cherished ideals** of **“excellence, independence, integrity”** as also to protect the dignity and interest of the members
- In the **emerging scenario** of the globalized world, it is a challenging task to maintain with the **edge of competitiveness, excellence and professionalism.**

# Lanphire vs. Phippos (1838)

- Every person who enters into a learned profession undertakes to bring to the exercise of it, a reasonable degree of care and skill.
- He does not undertake, if he is an attorney, that at all events he shall gain his case, nor does a surgeon undertake that he will perform a cure, nor does he undertake to use the highest degree of skill.
- There may be persons who have a higher education and greater advantages than he has, but he undertakes to bring a **fair, reasonable and competent degree of skill.**

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graph TD; CA[Chartered Accountant] --- C[Conformance]; CA --- P[Performance]
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**Chartered  
Accountant**

**Conformance**

**Performance**

# **Basic Pillars**

- 1. Integrity & Objectivity,**
- 2. Independence**
- 3. Confidentiality**
- 4. Skills & Competence**



- Is it mandatory to Comply with **Code of Ethics**

# Duties of Auditor: Sec 143 (9), (10)

1. Auditor Shall comply with **Auditing Standards**.
2. Central Government may prescribe such standards recommended by ICAI, in consultation and after examining by NAFRA **[National Financial Reporting Authority]**

# Requirements of SA 200-

- **Ethical Requirements [Para 14, A.15, A.16]**
- The Auditor shall comply with relevant **ethical requirements**, including those pertaining to **independence**, relating to Financial Statement audit engagements.
- Fundamental Principles of Ethics include – (a) Independence, (b) Objectivity, (c) Professional Competence and Due Care, (d) Confidentiality, and (e) Professional Behaviour.
- Independence comprises both independence **of mind**, and independence **in appearance**.

- **What will happen if Ethics is not followed?**
- **The ICAI Code of Ethics has mandatory compliance provisions. Hence non-compliance of the same shall be treated as misconduct under section 22 of the Chartered Accountants Act, 1949**

# Sec 22 of the CA Act

- Professional Misconduct is an act or omission as defined in **First Schedule** and **Second Schedule** of the CA Act.

# **Professional Misconduct & Other Misconduct**

# Schedules to the CA Act

## First Schedule

**I. Professional Misconduct of Member in Practice**

**II. Professional Misconduct of Member in Service**

**III. Professional Misconduct of Members Generally**

**IV. Other Misconduct of Members Generally**

## Second Schedule

**I. Professional Misconduct of Members in Practice**

**II. Professional Misconduct of Members Generally**

**III. Other Misconduct of Members Generally**

# Disciplinary Matters

Complainant

Director (Discipline)

Board of Discipline  
Sec.21A

Form an  
Opinion

Disciplinary  
Committee  
Sec. 21B

**First Schedule**

Reprimand

Remove the name (upto 3m)

Penalise  $\leq$  Rs.1Lac

**Second Schedule or  
both the Schedules**

Reprimand

Permanent Removal

Penalise  $\leq$  Rs. 5Lacs



# Schedules to the CA Act

First Schedule

Second Schedule

4 Parts

3 Parts

12

2

3

2

10

4

1

# Nature of Misconduct:

Sch.	Part	Particulars	Aspect covered	Clauses
First	I	P. M (Practice).	<b>Independence and Conduct of Members vis-à-vis co-professionals and other professionals.</b>	12
First	II	P.M (Service).	<b>Integrity and Trustworthiness aspects of Members in service.</b>	2
First	III	P.M (General).	<b>Falsity, Misrepresentation and Responsibility to the Institute.</b>	3
First	IV	Other Misconduct (General).	<b>Bringing disrepute to the profession or ICAI.</b>	2
Second	I	P. M (Practice).	<b>Performance of the Professional Assignments.</b>	10
Second	II	P.M (General).	<b>Compliance with CA Act and Regulations, and Council Directions.</b>	4
Second	III	Other Misconduct of Members (General).	<b>Guilty of offence punishable with imprisonment exceeding 6 months.</b>	1

# **First Schedule – Part I (12 clauses)**

CI	Particulars
1	Allows any person to practice in his name as a Chartered Accountant
2	Pays or allows or agrees to pay or allow, any Share, Commission or Brokerage in the Fees or Profits of his professional business
3	Accepts or agrees to accept any part of the profits of the professional work

CI	Particulars
4	Enters into Partnership, in or outside India with any person other than Specified Persons
5	Secures, any professional business by means which are not open to a Chartered Accountant.
6	Solicits Client or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means.

Cl	Particulars
7	<p>Advertises his professional attainments or services, or uses any designation or expressions other than “Chartered Accountant” on professional documents, visiting cards, letter heads or sign boards.</p>
8	<p>Accepts a position as an Auditor previously held by – (a) another Chartered Accountant, or (b) a Certified Auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing.</p>
9	<p>Accepts an appointment as an Auditor of a Company, without first ascertaining from it whether the requirements of Sec.225 of the Companies Act, 1956, in respect of such appointment have been duly complied with.</p>

CI	Particulars
10	Charges or offers to charge, accepts or offers to accept in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings
11	Engages in any business or occupation other than the profession of Chartered Accountant unless permitted by the Council so to engage.
12	Allows a person not being a Member of the Institute in practice, or a Member not being his Partner, to sign on his behalf or on behalf of his Firm, any Balance Sheet, Profit or Loss Account, Report or Financial Statements.

# Clause 5

- Secures any business,
  - By means which is not open for a CA (or)
  - Through persons other than his employees / Partners
  - Objective Behind this:
    - a CA must seek work through the respect he enjoys, professional skill and talent, his confidence and reputation. He must not seek work through any agency. All forms of canvassing on that account are regarded unethical and are prohibited.



# Clause 6

- **Solicits** professional work (directly or indirectly) by circular, advertisement, personal communication or interview or by any other means.
- **This is because Advertisement is not key to success in the profession. It is the quality of service, which attracts and retain clients.**
- Exceptions:
  - To another CAs
  - Reply to tenders, application to panels, etc (EMD payment is also accepted)
  - Publishing in ICAI classifieds

# Not Permitted Advertisements

- Advertisements for soliciting work
- Advertisements for any part time works
- Personal canvassing
- Insertions which can be interpreted as for soliciting professional work..

# Clause 7

- Advertises
  - his **professional attainments** or services, or
  - uses any designation or expressions other than “CA” on professional documents, visiting cards, letter heads or sign boards .
- Exceptions:
  - A degree of an Indian University or recognised by the CG or
  - A title indicating membership of the ICAI or of any other institution that has been recognised by the CG or recognised by the Council.

# Clause 8

- Accepts a position as an **Auditor** previously held by – another Chartered Accountant, without first communicating with him in writing.
- Note: **The sender must ensure that the recipient receives the communication**

- Should an internal auditor need to communicate with the previous internal auditor?
- Should a tax auditor need to communicate with the previous tax auditor / previous stat auditor?
- Mr X was appointed as auditor on 15.04.2023. He intimates the previous auditor of his appointment, by telecon, on 20.04.2023, the day when he gave his acceptance to the company. Is he guilty?
- What would be your answer if the communication with the previous auditor was on 19.04.2023?

# Compulsory Communication:

- All types of Audits
- Stat. audit
- Internal Audit
- **Tax Audit**
- Concurrent Audit
- Other kind

# Optional Communications

- **Certification**
- **Special Purpose Verification**
- **Liquidator..**

# Clause 9

- Accepts an appointment as an Auditor of a Company, without first **ascertaining** from it whether the requirements of appointment (Sec.224A, 225 of the Companies Act, 1956), in respect of such appointment have been duly complied with.
- **Now it is 139 of the COA 2013.**
- **Also to Comply with SA 210 – Agreeing the terms of Engagement**
- **Engagement Letter format by ICAI**



# Schedules to the CA Act

## First Schedule

1. Professional Misconduct of **Member in Practice**

2. Professional Misconduct of **Member in Service**

3. Professional Misconduct of **Members Generally**

4. Other Misconduct of **Members Generally**

## Second Schedule

1. Professional Misconduct of **Members in Practice**

2. Professional Misconduct of **Members Generally**

3. Other Misconduct of **Members Generally**

## First Schedule - Part 3 – **Applicable to members in general**

- (1) Mis-represents / Acts as a Fellow – when he is not
- (2) **Does not supply the information called for / does not comply with requirements asked for, by the ICAI, etc**
- (3) Giving **false information** while inviting professional work from a CA or through prescribed mode in clause (6)/(7) of first part of First Schedule.

# First Schedule – Part 4

- Shall be guilty of Other misconduct if:
- (1) He is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a **term not exceeding 6 months.**
- (2) in the Opinion of the Council, brings disrepute to the profession or to the Institute as result of his action, whether or not related to his professional work.

# Schedules to the CA Act

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## Second Schedule

1. Professional Misconduct of **Members in Practice**

2. Professional Misconduct of **Members Generally**

3. Other Misconduct of **Members Generally**

Cl	Particulars
1	Discloses information acquired in the course of his professional engagement to any person other than his Client so engaging him, without the consent of his Client, or otherwise than as required by any law for the time being in force.
2	Certifies or submits in his name or in the name of his Firm, a Report of an examination of Financial Statements, unless the examination of such statements and the related records has been made by him, or by a Partner, or an employee in his Firm, or by another Chartered Accountant in practice.
3	Permits his name or the name of his Firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner, which may lead to the belief that he vouches for the accuracy of the forecast.

Cl	Particulars
4	Expresses his opinion on Financial Statements of any business or any enterprises in which he, his Firm or a Partner in his Firm has a substantial interest.
5	Fails to disclose a material fact known to him which is not disclosed in a Financial Statement, but disclosure of which is necessary in making such Financial Statement, where he is concerned with that Financial Statement in a professional capacity.
6	Fails to report a material misstatement known to him to appear in a Financial Statement with which he is concerned on a professional capacity.
7	Does not exercise Due Diligence, or is grossly negligent in the conduct of his professional duties.

Cl	Particulars
8	Fails to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficient material to negate the expression of an opinion.
9	Fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.
10	Fails to keep moneys of his Client other than Fees, or Remuneration, or money meant to expended, in separate Banking Account, or to use such moneys for purposes for which they are intended within a reasonable time.

# Clause 3

- Permits his name or the name of his Firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner, which may lead to the belief that he **vouches for the accuracy of the forecast.**
- **CA To Refer Standards on Assurance Engagement 3400** - The Examination of Prospective Financial Information.



# Guidelines in relation to forecasts:

- CA can prepare forecasts
- He can assist company in preparation
- He can review the forecasts prepared by the company
- Disclosure needs to be made with regard Source of Information, basis of estimates and assumptions made.
- **Should not vouch for its accuracy.**

# Clause 5

- Fails to disclose a material fact
- known to him
- which is not disclosed in a Financial Statement, but disclosure of which is necessary in making such Financial Statement,
- where he is concerned with that Financial Statement in a professional capacity.

# Clause 6

- Fails to report a **material misstatement** known to him to appear in a Financial Statement with which he is concerned on a professional capacity.

# Clause 7

- Does not exercise **Due Diligence**, or is **grossly negligent** in the conduct of his professional duties.

# Duty of the Auditor:

- In re Kingston Cotton Mills - Judgment:
- It is the duty of the auditor to be skillful and to do the audit with care and caution which a reasonable competent, careful and cautious auditor would use.
- What is reasonably competent, care and caution must depend on particular circumstances of the case.
- In the absence of any suspicion, he is only bound to be reasonably cautious and careful.
- **An Auditor is not bound to be a detective.**
- **He is a watch dog and not a bloodhound.**

# Clause 8

- Fails to :
- obtain sufficient information which is necessary for the expression of an opinion, or
- its exceptions are sufficient material to negate the expression of an opinion.

# Clause 9

- Fails to invite attention to any **material departure** from the **generally accepted procedure** of audit applicable to the circumstances.

- **Critical Issues under Companies Act, 2013 – Impacting Ethics**



- **Always ICAI sets the Standards High**
- **Eg.**
- **Disqualification of Auditor**
- **Ceiling Limits**
- **Fraud Reporting**

## Fraud Reporting - Sec 143 (12)

- Only those offences or frauds which involve or are expected to involve individually an amount of “Rs. 1 Crore or more” need to be reported to Central Government
- A fraud that involves an amount lesser than Rs. 1 Crore, needs to be reported to the Board or Audit Committee specifying the following details:
  - (a) Nature of Fraud with description;
  - (b) Approximate amount involved; and
  - (c) Parties involved.

- **Standards on Auditing - SA 240**
- **Auditor's Responsibilities relating to Fraud, in an Audit of Financial Statements**
- **W.e.f 01.04.2009**

Fraudulent  
Financial  
Reporting



Misappropriation  
of Assets



Fraud

# Auditors Responsibility - SA 240

1. Evaluate the Possibility of Misstatement

2. Review the Controls including Risk Assessment Procedure done by the Management

**3. Identify Weakness and Communicate to Management and to appropriate authorities based on requirement**

4. Obtain SAAE including Management's Representation

5. Document Procedures performed and Conclusions made

# Disqualifications of Auditor [Sec.141(3)(e)]

## Business Relationship

- Person or Firm having **Business Relationship** (directly or indirectly) with the Company or its Holding / Subsidiary/Associate
- Business Relationship = Any Transaction entered into for a Commercial Purpose.
- Excludes:
  - 1. **Permitted Professional Services [as per Companies Act, CA Act and its Regulations]**
  - 2. Transactions in the Ordinary course of Business at Arm's Length Price.
- Eg. Airlines, Hospitals, Hotels, Telecom, all other Business

## Not to Render Certain Services [Sec.144]

Auditor shall Provide Only those Services approved by Board / Audit Committee.

Even if approved by Board, Auditor shall not provide the following Services **Directly or Indirectly**:

- Accounting and Book Keeping Services,
- Internal Audit,
- **Design and Implementation of any Financial Information System,**
- Actuarial Services,
- Investment Advisory Services,
- Investment Banking Services,
- **Rendering of Outsourced Financial Services,**
- **Management Services,**
- **Any other kind of Services as may be prescribed.**

- **Schedule III** – Disclosure on Audit Fee:
- Payment to Auditors:
  - As Auditors
  - For Taxation Matters
  - For Company Law matters
  - **For Management Services**
  - For Other Services
  - For Reimbursement of Expenses



# Management Consultancy Service

1. Financial Management Planning and Financial Policy determination.
2. Capital Structure Planning & advice regarding raising finance by issue of Capital or by way of borrowings.
3. Working Capital Management.
4. Preparing Project Reports and Feasibility Studies.
5. Preparing Cash Budgets, Cash Flow Statements, Profitability Statements, Statement of Sources and Application of Funds, etc.
6. Budgeting including Capital Budgets and Revenue Budgets.
7. Inventory Management, Material Handling and Storage.
8. Market Research and Demand Studies.
9. Price-Fixation and other management decision-making.
10. Management Accounting Systems, Cost Control and Value Analysis.
11. Control Methods and Management Information and Reporting.
12. **Personnel Recruitment and Selection.**
13. Setting up executive incentive plans, wage incentive plans, etc.
14. Management and Operational Audits.
15. Valuation of Shares and Business.

# Regulations for CA in Practice

- Professional Appointment
- Conflicts of Interest
- Responding to non compliance with Laws and Regulations
- Second Opinions
- Fees and Other Types of Remuneration
- **Marketing Professional Services**
- Gifts and Hospitality
- Custody of Client Assets
- Objectivity—All Services
- Independence—Audit and Review Engagements
- Independence—Other Assurance Engagements

- **Section 250 – Solicitation of Professional Services**
- **When a Chartered Accountant in practice solicits new work through advertising or other forms of marketing, there may be a threat to compliance with the fundamental principles.**
- A Chartered Accountant in practice shall not bring the profession into disrepute **when marketing professional services.**
- The Chartered Accountant in practice shall be honest and truthful, and not:
  - (a) Make exaggerated claims for services offered, qualifications possessed, or experience gained; or
  - (b) Make disparaging references or unsubstantiated comparisons to the work of another.
- If the Chartered Accountant in practice is in doubt about whether a proposed form of advertising or marketing is appropriate, the Chartered Accountant in practice shall consider consulting with the relevant professional body.
- Chartered Accountants in practice should, **while soliciting their services**, follow the Council guidelines issued from time to time

**Thanks for your attention!**

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