

CODE OF ETHICS Volume – I

By :-
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Background

- ▶ ICAI is member of International Federation of Accountants (IFAC)
- ▶ International Ethics Standards Board for Accountants (IESBA) is the Board of IFAC for ethical standards formulation
- ▶ ICAI Code of Ethics, 2009 was the first edition to be converged with provisions of IESBA Code of Ethics (its 2005 edition)
- ▶ ICAI Code of Ethics, 2009 has Parts –A and B. Part-A is based on IESBA Code, and Part-B is based on domestic provisions of India/ICAI
- ▶ ICAI Code of Ethics, 2019 (i.e. Volume-I of revised Code of Ethics) is the revised counterpart of Part-A of ICAI Code of Ethics, 2009 and is based on IESBA Code of Ethics, 2018
- ▶ Volume-I has come into force on 1st July 2020 along with Volumes II and III.

Convergence

- ▶ The term “convergence” refers to taking provisions of IESBA Code of Ethics with modifications, while taking the provisions without any modification refers to “adoption”
- ▶ ICAI Code of Ethics, 2009 and 2019 editions have been converged with provisions of IESBA Code of Ethics. Thus, while taking the provisions of IESBA Code, these have been modified, wherever required, as per domestic position of India /ICAI.
- ▶ The Code of Ethics, as being implemented, has been approved by the Central Council of ICAI.

Compliance

- ▶ Part-A of ICAI Code of Ethics, 2009 (based on 2005 IESBA Code) - issued as a Guideline of the Council.
- ▶ Code of Ethics, 2019 (Volume – I) - also issued as a **Guideline of the Council**. Further, there is change in drafting from “should” to “**shall**”, and requirements are clearly demarcated
- ▶ As a result, the non-compliance of provisions of the Code will be deemed as violation of Clause (1) of Part-II of Second Schedule of the Chartered Accountants Act, 1949:-

“A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he –

(1) contravenes any of the provisions of this Act or the regulations made thereunder, or any guidelines issued by the Council”



Sr.	PARTICULARS	Volume I	Volume -II
1	Approach	Principle based	Rule based
2	Framework	Conceptual framework based on general principles.	Based on legal framework as per CA Act, 1949.
3	Enforceability	Through self-judgement of the Accountant + Proper Documentation. Use of word " shall " has made it more enforceable in new Code.	Inbuilt mechanism for it's enforcement is in place

Volume-I vs Volume-II

Overview of the Structure of Code of Ethics, 2019 (Volume-I)

Part 1 (Applicable to all Professional Accountants)
Complying with the Code, Fundamental Principles and Conceptual Framework

Part 2
Professional Accountants in
Service

Part 3
Professional Accountants in Public Practice

Independence
Standards (Parts 4A & 4B)
Part 4A—Independence for Audits & Reviews
(Sections 400 to 899)
Part 4B—Independence for Other Assurance
Engagements
(Sections 900 to 999)

Glossary (All Professional Accountants)

2009 Code	Volume-I of New/Revised Code 2019
No such provision	Responding to Non-Compliance of Laws and Regulations (NOCLAR)- (Applicability deferred- to be notified again)
No prohibition on Taxation services to Audit clients	Restrictions on Taxation services to Audit clients- (Applicability deferred- to be notified again)
No such provision	Prohibition on Management Responsibilities to the audit clients
Recommendatory 40% restriction on Fees from an audit client	Safeguards on Fees from single client –if its is consecutively for 2 years (Applicability of this provision deferred, and subject to review)
No such provision	Duty of Accountant in case of breach of <i>Independence Standards</i>

Five Most Important Substantive Changes from last edition

2009 Code	Volume-I of New/Revised Code 2019
Independence for Assurance Engagements	Independence requirements for Audit and Review Engagements and other Assurance engagements differentiated
No characterization as Standards	Independence sections re-characterized as <i>“International Independence Standards”</i>
Use of “Should”	Change in the drafting conventions e.g. “should” to “shall”
No such restructuring of Sections	New pattern of structuring of sections – Requirements distinguished
Lack of clarity for each entity	Increased clarity of responsibility for compliance - Firms, network firms, individuals within firms

Five Most Important Structural Changes

Certain Provisions deferred due to Covid-19

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►The Council at its 393rd meeting held on 30th June to 1st July 2020 decided that due to the prevailing situation due to Covid-19, the following provisions of Volume-I of Code of Ethics, 2020 be deferred till further notification :-

- 1. Responding to Non-Compliance of Laws and Regulations(NOCLAR) [Sections 260 and 360]**
- 2. Fees - Relative Size [Paragraphs 410.3 to R410.6]**
- 3. Taxation Services to Audit Clients [Subsection 604]**

Except for aforesaid provisions, all other provisions of new Code of Ethics are applicable w.e.f 1st July 2020.

Professional Accountant (hereinafter referred to as “PA” in the presentation)

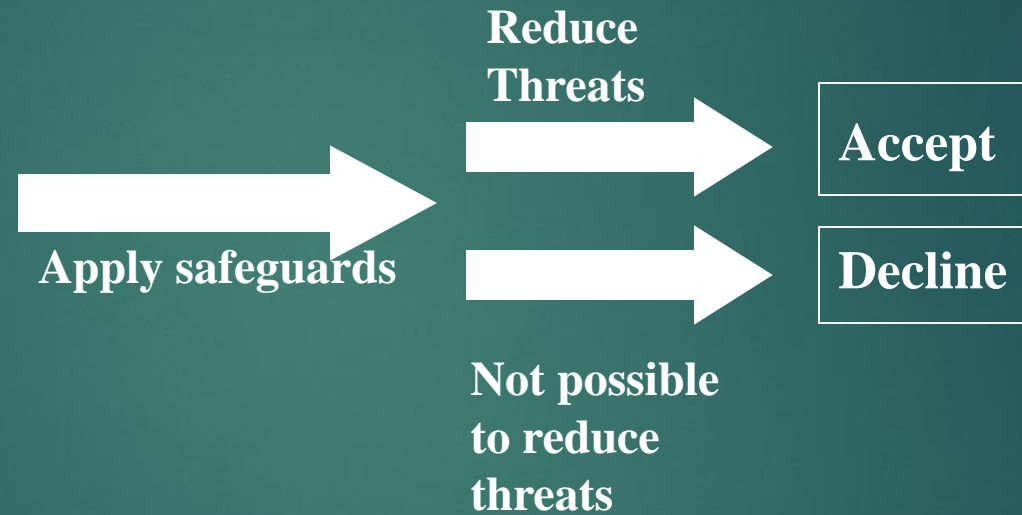
- ▶ IESBA Code of Ethics uses the term “Professional Accountant”
- ▶ Same term was adopted in 2009 edition of the Code , also continued in 2019 (Volume-I) of the Code of Ethics
- ▶ Defined in the Code of Ethics as **“An individual who is a member of the Institute of Chartered Accountants of India.”**
- ▶ IESBA Code of Ethics uses the term “professional accountants in business” implying members who are employees. Modified to “professional accountant in service” in our Code in line with usage in Chartered Accountants Act, 1949

Fundamental principles for all members

- (a) Integrity:** Should be straightforward and honest
- (b) Objectivity:** Must not allow bias/ conflict of interest/undue influence of others to override professional judgments.
- (c) Professional Competence and Due Care:** Should provide competent professional service based on current developments in practice, legislation and techniques.
- (d) Confidentiality:** Should respect the confidentiality of information
- (e) Professional Behaviour :** Should comply with relevant laws and regulations and should avoid any action that discredits the profession.

Conceptual Framework Approach

Threat Evaluation



New Pattern of Structuring of Each Section

- ▶ No such structuring of Sections in 2009 Code.
- ▶ In new/revised Code, each section is structured, where appropriate, as follows:-
 - ▶ Introduction – sets out the subject matter addressed and introduces the requirements and application material in the context of the conceptual framework.
 - ▶ Requirements - Designated by the Letter “R” – Includes the word “**shall**” which imposes an obligation on PA to comply. The requirements contain general and specific obligations w.r.t the subject matter addressed
 - ▶ Application material – Designated by the letter “A” - Provides context, explanations , suggestions for actions , or matters to consider, illustrations and other guidance to assist in complying with the requirements

Responding to Non-Compliance with Laws and Regulations (NOCLAR) - Sections 260 and 360 - New Provision (The applicability of NOCLAR has been deferred till further notification)

- Refers to any act of omission or commission, committed by a client or employer contrary to prevailing laws or regulations.
- Recognizing that such a situation can often be a difficult and stressful one for the PA, and accepting that he has a prima facie ethical responsibility not to turn a blind eye to the matter, NOCLAR was introduced to help guide the PA in dealing with the situation and in deciding how best to serve the public interest in these circumstances.

NOCLAR – Applicability

(The applicability of
NOCLAR has been
deferred till further
notification)

For now, limited application of NOCLAR has been prescribed in Code of Ethics as against comprehensive application of NOCLAR to all assignments/employees in the IESBA Code. – **The applicability of NOCLAR have been deferred for now till further notification**

Applicable only to listed entities.

Applicable to only audit assignments.

In case of PA's in service, applicable to employees of listed entities

NOCLAR – Scope of Laws and Regulations

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(The applicability of NOCLAR has been deferred till further notification)

- Laws and regulations that have a nexus to PA's professional training and expertise, i.e.:-
 - ❖ Laws and regulations that have a direct effect on the determination of material amounts and disclosures in the financial statements
 - ❖ Other laws and regulations, compliance with which may be fundamental to the entity's business and operations or to avoid material penalties.
- Examples of laws and regulations required to be addressed are :- Fraud, corruption and bribery, Money laundering, terrorist financing and proceeds of crime, Securities markets and trading, etc.

NOCLAR – Other Salient Points

(The applicability of
NOCLAR has been
deferred till further
notification)

- ▶ Following matters are not in scope of NOCLAR:-
 - ▶ Matters clearly inconsequential
 - ▶ Personal misconduct unrelated to the business activities of the client or employer
 - ▶ Non-compliance other than by the client or employer, or those charged with governance, management or other individuals working for or under the direction of the client or employer
- ▶ **PA required to address NOCLAR only when, and if, he encounters the same in the course of providing a professional service**
- ▶ Appropriate authority for the purpose of disclosure will depend on the nature of the matter. For example, the appropriate authority would be SEBI in the case of fraudulent financial reporting

Independence Standards

- ▶ 2009 Code has Section 290 i.e. “Independence – Assurance Engagements”
- ▶ 2019 Code (Volume – I) based on 2018 IESBA Code has Independence Standards as under :-
 - ▶ Part 4A : Independence for Audit and Review Engagements
 - ▶ Part 4B : Independence for Assurance Engagements other than Audit and Review
- ▶ Characterized as “ Independence Standards”, as against “Section” earlier.
- ▶ Most bulky change as a number of similar provisions/compliances are common to both Parts 4A and 4B but given separately in the Code under both parts

Breaches of the Code (Section 400.80 - 400.89) – New Provision

- ▶ Mechanism of self-correction prescribed in the Code in case the PA on his own discovers an unintentional violation
- ▶ Mentions steps to be taken in case of breach of Independence Standards i.e. Parts 4A and 4B. A PA who identifies a breach shall evaluate significance of breach and its impact on PA's ability to comply with the fundamental principles.
- ▶ If a firm concludes that a breach of a requirement in this Part has occurred, it shall take prescribed steps therein e.g.:
 - ▶ End, suspend or eliminate the interest that created breach
 - ▶ Consider applicable legal or regulatory requirements and apply them

- ▶ Not mentioned in ICAI Code of Ethics, 2009
- ▶ Used in 2019 Code (Volume-I) . Defined as under:-
 - ▶ **“The Engagement partner, the individual responsible for the engagement quality control review, and other audit partners, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Depending upon the circumstances and the role of the individuals on the audit, “other audit partners” might include, for example, audit partners responsible for significant subsidiaries or divisions.”**

Key Audit Partner

Firm Rotation (Section 550)

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2009 edition of Code of Ethics contains requirements relating to partner rotation. (No Firm rotation requirements exist in this code)



Companies Act, 2013 has stipulated Firm rotation



Under the revised code, partner rotation will co-exist along with Audit Firm rotation (wherever prescribed by a statute)



2019 Code incorporates Firm rotation requirements vide a separate section (550) to make the guidance comprehensive for members

Changes in Partner Rotation (Section R 540.5 – R 540.23)

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2009	2019 (Volume-I)
7-year time-on	No change
2-years cooling-off	5-years cooling-off: EP 3-years cooling-off: EQCR 2-years cooling-off: all other KAPs

Partner Rotation (Section 540)

- ▶ New incorporations in 2019 Code
- ▶ Under Companies Act, 2013, partner rotation is done on behest of Company only.
- ▶ In case of Companies, where members of Company prescribe a shorter time on period , such shorter period shall prevail
- ▶ Similarly, partner rotation requirements prescribed by certain regulators such as RBI, certain NBFCs, etc. shall prevail

Restrictions on Activities During Cooling-off (w.r.t Partner Rotation – Section 540)

- ▶ New Introductions in the 2019 Code
- ▶ Prohibition on consulting with engagement team regarding technical or industry-specific issues, transactions or events
- ▶ Prohibition on leading or coordinating the professional services provided by the firm to the audit client, or overseeing the relationship of the firm with the audit client
- ▶ Prohibition on undertaking any other role or activity that would result in the individual: (i) Having significant or frequent interaction with senior management or those charged with governance; or (ii) Exerting direct influence on the outcome of the audit engagement.

Management Responsibilities (Sections 607 – 608)

- Does not find mention in Code of Ethics, 2009. In 2019 edition (Volume-I), there is a new section dealing with 'Management Responsibilities'. As per the same, **the firm shall not assume a management responsibility for an audit client.**
- However, providing advice and recommendations to assist the management of an audit client in discharging its responsibilities is not assuming a management responsibility. Providing administrative services to an audit client does not usually create a threat. Examples of administrative services include:-
 - Word processing services.
 - Preparing administrative or statutory forms for client approval.
 - Submitting such forms as instructed by the client.
 - Monitoring statutory filing dates and advising an audit client of those dates

Non - Assurance Services (Sections 600 / 950)

- Providing non-assurance services (NAS) to audit clients might create threats to compliance with the fundamental principles and threats to independence.
- Most Prohibitions on Non-Assurance Services to Audit Clients are the same as there were in 2009 Code
- Specific NAS to Audit Clients are discussed on subsequent slides

Non - Assurance Services (Sections 600 / 950)

- ▶ **Accounting and Bookkeeping services (Sub-Section 601)**
 - Prohibited by ICAI to Audit Clients
 - Prohibited in Companies Act to Audit Clients
 - Volume-I contains guidance on what constitutes Accounting and Bookkeeping
- ▶ **Administrative Services (Sub-Section 602)**
 - Permitted to Audit Clients
 - Now part of MCS Guidelines under Section of 2(2) of Chartered Accountants Act, 1949
- ▶ **Valuation Services (Sub-Section 603)**
 - Part of MCS Guidelines
 - (xv) Valuation of shares and business and advice regarding amalgamation, merger and acquisition.
 - Volume-I prescribes threats and safeguards in providing the valuation services to Audit Clients

Non - Assurance Services (Sections 600 / 950)

- **Internal Audit Services (Broadly similar to 2009 Code) –Sub-Section 605**
 - Prohibited by ICAI to Audit Clients
 - Prohibited in Companies Act to Audit Clients
 - Volume-I contains guidance on what constitutes Internal Audit
- **Information Technology systems (Broadly similar to 2009 Code) –Sub-Section 606**
 - When providing , shall ensure certain things like the client acknowledges its responsibility for establishing and monitoring a system of internal controls;
- **Litigation support systems (Broadly similar to 2009 Code) –Sub-Section 607**
 - Examples are Assisting with document management, Acting as witness and Calculating estimated damages
 - Should take provide safeguards if provides a litigation support services 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

Non - Assurance Services (Sections 600 / 950)

- ▶ **Legal Services (Broadly similar to 2009 Code) –Sub-Section 608**
 - Might create self-review or Advocacy Threats
 - A Partner or employee of the firm shall not serve as General Counsel for legal affairs of audit client

- ▶ **Corporate Finance Services (Broadly similar to 2009 Code) –Sub-Section 610**
 - A firm shall not provide corporate finance services to audit client that involve promoting, dealing in, or underwriting the audit client's shares
 - Firm shall not provide corporate finance advice to audit client where the effectiveness of such advice depends on a particular accounting treatment or presentation in the financial statements on which the firm will express an opinion and
 - (a) The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
 - (b) The outcome or consequences of the corporate finance advice will have a material effect on the financial statements on which the firm will express an opinion.

Non - Assurance Services (Sections 600 / 950)

- ▶ **New prohibitions of recruiting services in Volume-I (Sub-Section 609):-**
 - ▶ **Enhanced general description of recruiting services**
 - ▶ **Clearer guidance on types of recruiting services prohibited**
 - ▶ **New provisions to help avoid assuming management responsibilities when providing recruiting services–Similar to IT and internal audit**
 - ▶ **Prohibition on providing certain recruiting services now applies to all entities –Searching for or seeking out candidates**
 - ▶ **Undertaking reference checks of prospective candidates**

Taxation Services to the Audit Clients (Section 604)

- **Code Ethics, 2009**: Taxation to Audit client include compliance, planning, provision of formal taxation opinions and assistance in the resolution of tax disputes. Such assignments are generally not seen to create threats to independence
- **Code of Ethics, 2019 (Volume-I)**: - **This provision i.e. Section 604 has been deferred for now till further Notification**
Further guidance on Taxation matters provided. Generally, it states that providing tax services to an audit client might create a self review or advocacy threat
...see next slide

Taxation Services to the Audit Clients..... Section 604

- **Tax Return preparation** – Usually no threat
- **Tax Calculations for the Purpose of Preparing Accounting Entries (that will subsequently be audited by the Firm)** - Creates a self-review threat
- **Tax Planning /Other Tax Advisory Services** - Might create self-review/advocacy threat-appropriate safeguards to be adopted E.g. Using professionals who are not audit team members to perform the service; having an appropriate reviewer, not involved in providing the service, review the audit work, etc.

Taxation Services to the Audit Clients ...Contd. (Section 604)

- ▶ **Tax Services Involving Valuations-** Might perform only where the result of the valuation will not have a direct effect on the financial statements
- ▶ **Assistance in the Resolution of Tax Disputes -** Might create a self-review or advocacy threat – appropriate safeguards to be adopted – Not to provide if involves acting as advocate for the audit client OR amounts involved are material to the financial statements on which the firm will express an opinion

Safeguards

- ▶ In the Code of Ethics, 2009, safeguards to be considered for threats other than “clearly insignificant” (defined as ‘trivial or inconsequential’)
- ▶ In the new/revised 2019 Code, the application of safeguards required to eliminate threats or to reduce them to ‘an acceptable level’
- ▶ “Acceptable level” defined as a level as the reasonable and informed third party knowing facts would likely conclude that the accountant complies with the fundamental principles.

Safeguards

New Introductions in 2019 Code

- Identified threats must be addressed in one of three ways:-
 - Eliminate circumstances creating the threats;
 - Apply safeguards; or
 - Decline or end the service

- New “step back” requirement for an overall conclusion (R 120.11) : The PA shall form an overall conclusion about whether the actions that the accountant takes, or intends to take, to address the threats created will eliminate those threats or reduce them to an acceptable level.

- Emphasis that if threats cannot be addressed, must decline or end the engagement

Close and Immediate Family

- In Part-A of 2009 Code, “**close family**” and “**immediate family**” were replaced with “relative” (as defined in Section 6 of Companies Act, 1956.)
- In the 2019 edition (Volume –I), for companies, “**relative**” of partner refers to definition given under Section 2(77) of the Companies Act, 2013.
- For clients other than Companies, “**Immediate family**”/ “**close family**”, as appearing in IESBA Code is applicable.
- **Close family** - A parent, child or sibling who is not an immediate family member.
- **Immediate family** - A spouse (or equivalent) or dependent.

- ▶ 2019 edition contains a new term “Public Interest Entity” (PIE)
 - ▶ Enhanced independence requirements for PIE clients in the new Code
 - ▶ PIE is defined as :-
 - A listed entity; or
 - An entity:
 - Defined by regulation or legislation as a public interest entity; or
 - For which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation might be promulgated by any relevant regulator, including an audit regulator.
- For purpose of this definition, it may be noted that Banks and Insurance Companies are to be considered as Public Interest Entities.
- Other entities might also be considered by the Firms to be public interest entities, as set out in paragraph 400.8.

Public Interest Entity

Code of Ethics, 2009

- ▶ Offer of gifts/hospitality ordinarily gives rise to threats to fundamental principles
- ▶ Significance of such threats depend on the nature, value and intent behind the offer.
- ▶ Reasonable and Informed Third Party Test – If its within normal course of business without the specific intent to influence decision making or to obtain information, may conclude that it is acceptable
- ▶ If threats other than significant, must take safeguards
- ▶ Total prohibition in case of Assurance clients (except if inconsequential)

Code of Ethics, 2019 (Volume –I)

- ▶ Inducements elaborated
- ▶ To first see whether prohibited by Laws and Regulations
- ▶ Offering also prohibited
- ▶ Reasonable and Informed Third Party Test – To see whether it is with the intent to improperly influence the behaviour of the recipient or of another individual.
- ▶ Clarifications about appropriate boundaries for offering and accepting of inducements
- ▶ Extended to PAs in service also
- ▶ Total prohibition in case of Audit/Assurance clients to continue

Inducements, Including Gifts and Hospitality (Sections 250 and 340)

Documentation

- 2009 Code requires Firms to document as to their conclusions regarding compliance with independence requirements (290.27)
- In the 2019 Code, the requirements of Documentation given in greater detail. PA encouraged to document:-
 - ❖ When safeguards are applied to address a threat, the firm shall document the nature of the threat and the safeguards in place or applied; and
 - ❖ When a threat required significant analysis and the firm concluded that the threat was already at an acceptable level, the firm shall document the nature of the threat and the rationale for the conclusion.
 - ❖ Documentation relating to NOCLAR
- This documentation is in addition to complying with the documentation requirements under applicable auditing standards

Fees – Relative Size (R 410.4)

- **This provision has been deferred till further Notification . Is also subject to review**
- This new paragraph provides safeguards to be taken if there is Fees dependence of more than 15% on one Audit client.
- There are certain exceptions , where this rule would not apply i.e. Where total Fees of Firm is less than Rs. 5 lacs p.a. , and in the case of audit of government Companies, public undertakings, nationalized banks, public financial institutions or where appointments of auditors are made by the Government.
- The above provisions are subject to review and appropriate clarification to be given through questions and answers

Criteria of Indebtedness (Section 511.3 A1)

- ▶ No concept of materiality of Loans and Guarantee in the IESBA Code of Ethics, 2005 and in ICAI Code of Ethics, 2009
- ▶ The IESBA Code of Ethics, 2018 introduces the concept of materiality of Loans and Guarantees. In determining whether such a loan or guarantee is material to an individual, the combined net worth of the individual and the individual's immediate family members may be considered.
- ▶ Concept adopted in Code of Ethics, 2019 (Volume – I)
- ▶ Has to be read with Chapter X of Council General Guidelines , 2008 , wherein such limit is as specified in statute or Rs. 1,00,000.

Changes in Professional Appointment (Section 320)

New provisions in 2019 Code

- Code of Ethics, 2019 (Volume-I) contains detailed guidance on client and engagement acceptance / changes in professional appointment
- ICAI “Know Your Client” (KYC) Guidelines incorporated – which are mandatory for all attest functions w.e.f 1.1.2017
- In case of change of appointment, if unable to communicate with the predecessor accountant, **the proposed accountant shall take other reasonable steps to obtain information about any possible threats.**
- Communication requirements in case of Audit and Non-Audit Assignments differentiated
- **Duty of predecessor accountant to respond to communication (against the existing Code which is silent on this issue). He shall:-**
 - Comply with relevant laws governing the request; and
 - Provide any information honestly and unambiguously. (R 320.8)

Contingent Fees (Sections 330, 410.9, 905.6)

- ▶ Code of Ethics, 2009 (Paragraph 290.197) - fees based on percentage of profits or contingent upon the findings, or results of such work not allowed (as per Clause 10 of Part-I of First Schedule to CA Act) except as permitted under Regulation 192
- ▶ Code of Ethics, 2019 (Volume – I) mentions general description of Contingent fees and the general prohibition
- ▶ Regulation 192 reproduced – further , the activities where Council has permitted Contingent fees under 192 (h) i.e **“any other service or audit as may be decided by the Council” :-**
- ▶ Charging of Fees by Members enrolled as Insolvency professional rendered either individually or as an entity under Insolvency and Bankruptcy Code, 2016 and rules made thereunder.
- ▶ **Fee for rendering Non-assurance services to non-audit clients**

Applicability of Provisions for Members in Service to Members in Practice (Sections R 120.4, 200.4, R 300.5)

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Preparation and Presentation of Information (Section 220)

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New provisions in 2019 Code

- More comprehensive provisions addressing PAs in service responsibilities when preparing or presenting information
- Prohibition on exercising discretion when preparing or presenting information with intent to mislead or inappropriately influence contractual or regulatory outcomes
- Enhanced guidance to assist PAs in disassociating from misleading information

THANK YOU

- This presentation has been prepared by Ethical Standards Board -