

Guidelines for Formation of Multi-disciplinary Partnership as per the Chartered Accountants Act, 1949

Introduction

The complexity of business has increased manifold and reliance on technology has resulted in a greater demand for specialists. There has been a swift increase in cross border movement of goods and services. The complex supply chains, ownership structures and transactions have added a further layer to the business environment in which many entities operate. The financial reports have also become far more complex.

Accounting standards have also become more complex to suit the environment as business transactions are more challenging due to new products, services and financial instruments that are continuously emerging in our global economy. Besides, these changes and trends, the objective of the audit, remains the same rather the expectations have increased substantially. Moreover, sometimes financial information is prepared in accordance with the rules for some industries, which often requires the expertise of specialists.

In order to meet the expectation of the society in today's rapidly evolving environment, and to keep pace with the technology, with increased use of tools such as data analytics, block chain and artificial intelligence, the audit profession has to be agile. This would require employing a range of skilled professionals with diverse backgrounds to meet the expectation of stakeholders.

Meeting these demands requires a diverse skill base. A multi-disciplinary approach, drawing on deep methodology and frameworks for assurance, combined with specialist and subject matter expertise, possess the bandwidth to meet this need and will be increasingly vital as the market continues to evolve towards integrated thinking in the years to come.

The multi-disciplinary partnership is one of the best mechanisms to develop the skills, expertise and consistency needed for quality audits. As the name denotes, a multi-disciplinary firm is one which provides both audit and other services by the same firm which shall be provision of complete package of services by the firm. The growth of multi-disciplinary firms is congruent to the fast pace of change and specialized nature of businesses. Globally also countries like Germany, Australia, UK and Other European countries have adopted the multi-disciplinary partnership model with different conditions.

The provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations 1988, as amended, permit the members of the Institute of Chartered Accountants of India ("The Institute") to form multi-disciplinary partnership firms with specified professionals (company secretary, cost accountant, advocate,

actuary, architect, engineer). These Guidelines are being issued by the Council of the Institute as Guidelines of the Council within the meaning of Clause 1 of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The purpose of these Guidelines is to enable the members of the Institute to form multi-disciplinary partnership firms. These Guidelines are as follows:

1. Short Title and Commencement

- These Guidelines shall be known as “Guidelines for Formation of Multi-disciplinary Partnership (MDP)” as per the Chartered Accountants Act, 1949.
- These Guidelines shall come into force from 8th July 2021*.

2. Definitions

In these Guidelines, unless the context otherwise requires:-

- Act – Act means the Chartered Accountants Act, 1949.
- Regulations – Regulations means the Chartered Accountants Regulations, 1988.
- Multi-disciplinary Partnership Firm of Chartered Accountants (MDP CAs) in Practice means the firm which has been approved to practice in its name by the Council of ICAI under Regulation 53B read with Regulation 190 of the Regulations.

All words and expressions used herein and not defined in these Guidelines but defined in the Act or the Regulations shall have the meanings respectively assigned to them in the Act or the Regulations as the case may be.

3. Objective

The objective of these Guidelines is to guide the chartered accountants in practice for entering into partnership with the members of the professional bodies as prescribed in Regulation 53B of the Regulations.

4. Right to Enter into Partnership

Section 2(2) of the Act prescribes as follows:

“A member of the Institute shall be deemed “to be in practice”, when individually or in partnership with chartered accountants in practice, or in partnership with members of such other recognised professions as may be prescribed...”

5. Applicability

These Guidelines shall apply only for MDP CAs in Practice as partnership firm along with the members of the professional bodies prescribed under Regulation 53B of the Regulations.

* Please refer notification no. 1-CA(7)/197/2021 dated 8th July 2021 published in the Gazettee of India.

6. Professionals Prescribed for Entering into Partnership

The members of following professional bodies have been permitted to become a partner under Regulation 53B of the Regulations as on date:

- a) Company Secretary, member, The Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980;
- b) Cost Accountant, member, The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- c) Advocate, member, Bar Council of India established under the Advocates Act, 1961;
- d) Engineer, member, The Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;
- e) Architect, member, The Indian Institute of Architects established under the Architects Act, 1972;
- f) Actuary, member, The Institute of Actuaries of India, established under the Actuaries Act, 2006.

(a) Partnership with Company Secretary

As per Section 2(1)(c) of the Company Secretaries Act, 1980, “Company Secretary” means a person who is a member of the Institute;

As per Section 2(2) of the Company Secretaries Act, 1980, *Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed, he, in consideration of remuneration received or to be received,—*

- (a) *engages himself in the practice of the profession of Company Secretaries to, or in relation to, any company; or*
- (b) *offers to perform or performs services in relation to the promotion, forming, incorporation, amalgamation, reconstruction, reorganization or winding up of companies; or*
- (c) *offers to perform or performs such services as may be performed by—*
 - (i) *an authorised representative of a company with respect to filing, registering, presenting, attesting or verifying any documents (including forms, applications and returns) by or on behalf of the company,*
 - (ii) *a share transfer agent,*
 - (iii) *an issue house,*
 - (iv) *a share and stock broker,*
 - (v) *a secretarial auditor or consultant,*
 - (vi) *an adviser to a company on management, including any legal or procedural matter falling under the Capital Issues (Control) Act, 1947 (29 of 1947), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Companies Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), any of the rules or bye-laws made by a recognised stock exchange, the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Foreign Exchange Regulation Act, 1973, (46 of 1973), or under any other law for the time being in force.*
 - (vii) *issuing certificates on behalf of, or for the purposes of, a company; or*
- (d) *holds himself out to the public as a Company Secretary in practice; or*

- (e) *renders professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; or*
- (f) *renders such other services as, in the opinion of the Council, are or may be rendered by a Company Secretary in practice;*

and the words "to be in practice" with their grammatical variations and cognate expressions, shall be construed accordingly.

Clause 4 of Part I of First Schedule to the Company Secretaries Act, 1980 – Professional misconduct in relation to Company Secretaries in Practice

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he—

- (4) *enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships;*

Regulation 168B of the Companies Secretaries Regulations, 1982– Membership of Professional body for Partnership

- (1) *For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-*
 - (a) *The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);.....*

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Company Secretaries of India.

(b) Partnership with Cost Accountant

As per Section 2(1)(b) of the Cost and Works Accountants Act, 1959, “Cost Accountant” means a person who is a member of the Institute.

As per Section 2(2) of the Cost and Works Accountants Act, 1959, Save as otherwise provided in this Act, a member of the Institute shall be deemed “to be in practice” when, individually or in partnership with one or more members of the Institute in practice or in partnership with members of such other recognised professions as may be prescribed he, in consideration of remuneration received or to be received,—

- (i) engages himself in the practice of cost accountancy; or
- (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words “to be in practice”, with their grammatical variations and cognate expressions, shall be construed accordingly.

Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

Clause 4 of Part I of First Schedule to the Cost and Works Accountants Act, 1959 – Professional misconduct in relation to Cost Accountants in Practice

A Cost Accountant in Practice shall be deemed to be guilty of professional misconduct, if he—

- (4) enters into partnership, in or outside India, with any person other than a cost accountant in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

**Regulation 111C of the Cost and Works Accountants Regulations, 1959 –
Membership of professional bodies for partnership**

(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies namely:—

(a) Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);.....

As per Section 6(1) of the Cost and Works Accountants Act, 1959, No member of the Institute shall be entitled to practise, whether in India or elsewhere, unless he has obtained from the Council a certificate of practice.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Cost Accountants of India.

(c) Partnership with Advocate

As per Section 2(1)(a) of the Advocates Act, 1961, “*Advocate*” means an advocate entered in any roll under the provisions of this Act.

As per Clause (c) of Regulation 53B of the Regulations, it is permitted to enter into a partnership with Advocate, Member of the Bar Council of India established under the Advocates Act, 1961.

However, as per Rule 2 of Chapter III of Part IV– “Conditions for Right to Practice” of the Bar Council of India Rules, 1975,

An Advocate shall not enter into a partnership of any other arrangement for sharing remuneration with any person or legal Practitioner who is not an Advocate.

Hence, unless the Bar Council of India Rules, 1975 are amended, MDP CAs in Practice shall not enter into partnership with an Advocate who is the member of the Bar Council of India.

(d) Partnership with Engineer

Indian Institute of Engineers:

Member of Indian Institute of Engineers means, Member as elected and approved under clause 48 of the bye laws of the Indian Institute of Engineers.

Engineer from University Established by Law:

As per the University Grants Commission Act, 1956

Section 2(f) defines "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act.

Hence, MDP CAs in Practice shall be permitted to enter into partnership with Engineer, who is a member of the Institution of Engineers, or Engineer from a University established by law or an institution recognized by law.

(e) Partnership with Architect

As per Section 2(a) of the Architects Act, 1972, “Architect” means a person whose name is for time being entered in the register.

As per Section 2(e) of the Architects Act, 1972, “register” means the register of architects maintained under Section 23.

As per Section 2(c) of the Architects Act, 1972, “Indian Institute of Architects” means the Indian Institute of Architects registered under the Societies Registration Act, 1860 (21 of 1860).

As per Clause 4 of the Constitution and Bye Laws of the Indian Institute of Architects,

4. CATEGORY OF MEMBERS:

(a) Unless and until the Bye-Laws otherwise provide there shall be seven category of Members of the Institute termed respectively Honorary Fellow, Fellow, Associate, Licentiate, Retired Fellow, Retired Associate and Retired Licentiate. These expressions shall respectively bear the meanings attached thereto by the Bye-laws.

Bye-Laws 1. Interpretation:

“MEMBERS OF THE INSTITUTE” means any person who has been admitted to the Membership of the Institute, whether a Fellow, Associate, Licentiate or Hon. Member, all of whom may hereafter be referred to as Members.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Indian Institute of Architects.

(f) Partnership with Actuary

As per Section 2(1)(a) of the Actuaries Act, 2006,

"Actuary" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees' benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression "actuarial science" shall be construed accordingly.

As per Section 2(1)(i) of the Actuaries Act, 2006, *"Member"* means an individual whose name appears in the register of members maintained by the Institute.

As per Section 2(1)(h) of the Actuaries Act, 2006, *"Institute"* means the Institute of Actuaries of India constituted under Section 3.

As per Section 2(2) of the Actuaries Act, 2006,

Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

- (i) engages himself in actuarial profession; or*
- (ii) offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or*
- (iii) renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or*
- (iv) is in employment of a person engaged in one or more of the activities mentioned in clauses (i), (ii) and (iii) above,*

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression "company" includes a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956).

As per Part I of the Schedule to the Actuaries Act, 2006, Professional misconduct in relation to members of the Institute in practice,

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he—

(3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India.

Hence, MDP CAs in Practice shall be permitted to enter into a partnership with a member of the Institute of Actuaries of India who does not hold certificate of practice. However, MDP CAs in Practice shall not be permitted to enter into a partnership with a member of the Institute of Actuaries of India who holds certificate of practice.

Members of Other Professional Bodies

Members of any professional bodies or persons having prescribed qualification other than as specifically prescribed under Regulation 53B of the Regulations, shall not be admitted into partnership as on date. For example, members having post graduate qualification in management or approved valuer or approved insolvency professional or information technology professional shall not be admitted as a partner in MDP CAs in Practice.

7. Forms of Constitution

MDP CAs in practice can be constituted as a partnership firm as per the Indian Partnership Act, 1932 or as a limited liability partnership firm as per the Limited Liability Partnership Act, 2008.

8. Registration with the Institute

(a) Registration of MDP CAs in Practice with the Institute is mandatory.

(b) *Application Form:*

MDP CAs in Practice, if it is a new firm to be constituted, then for the approval of its trade name or firm name shall apply to the Council in Form 117 as prescribed under Regulation 190 of the Regulations and the conditions for its name and all other conditions as prescribed under that Regulation shall apply.

MDP CAs in Practice, if it is a new firm to be constituted or an existing CA in practice or a CA firm is intending to admit any of the members of the professional bodies as prescribed under Regulation 53B of the Regulations, then it shall submit the details prescribed in Form 18 as prescribed under Regulation 190 of the Regulations.

MDP CAs in Practice shall have distinct name which shall be approved by the Institute. To distinguish MDP CAs in Practice from other firms of chartered accountants, the suffix “multi-disciplinary partnership firm of chartered accountants in practice” shall be used after the name of MDP CAs in Practice.

The registration number of MDP CAs in Practice shall contain the abbreviation “MDP” to distinguish it from registration number of other firms of chartered accountants.

(c) *Verification of Partners:*

It is the duty of MDP CAs in Practice to submit the documentary evidence in case of partners who are not the members of the Institute of Chartered Accountants of India. Above documentary evidence needs to be attested by a chartered accountant in practice who is not related to the MDP CAs in Practice.

It is the duty of the chartered accountant who attests the above documentary evidence to verify:

- The truth and validity of the certificate of membership of the prescribed professional bodies or the degree of the recognized University in case of engineering graduate.

- On the date of entering into multi-disciplinary partnership firm of chartered accountants in practice, the members of other professional bodies are having valid membership with the prescribed professional body.

9. Meaning of MDP CAs in Practice

MDP CAs in Practice constituted under these Guidelines, shall have the same meaning as assigned under Clause (ca) of Section 2(1) of the Act read with Regulation 190A of the Regulations.

10. Services to be rendered by MDP CAs in Practice

MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Act read with Regulation 190A of the Regulations. MDP CAs in Practice can also render services allowed to be performed by other professionals who are its partners.

11. Audit under the Companies Act, 2013

Section 141(1) of the Companies Act, 2013: A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant:

Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.

Section 141(2) of the Companies Act, 2013: Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

Accordingly, MDP CAs in Practice is not eligible for statutory audit under the Companies Act 2013 in case majority of its partners are non-CAs.

In case MDP CAs in Practice is appointed as an auditor to conduct audit of financial statements under the Companies Act 2013, it is the responsibility of MDP CAs in Practice to ensure that majority of its partners are chartered accountants, failing which, necessary disciplinary action as per the Act and the Regulations will be taken on all the partners who are chartered accountants.

'Majority criteria' for the purpose of computing eligibility of MDP CAs in Practice for the purpose of appointment as statutory auditor under the Companies Act, 2013 shall be calculated both on the basis of the number of partners as well as their aggregate share of profits in MDP CAs in Practice so that the majority criteria is clearly established.

It is to be noted that partners of partnership firm have joint and several liability and partners of limited liability partnership have limited liability. Keeping both the aspects into consideration, the above condition for majority shall apply.

Also, with regard to computation of ceiling limits as per Section 141(3)(g) of the Companies Act, 2013 read with the Guidelines of the Council of the Institute, practicing chartered accountant partners alone shall be considered.

12. Share of Profits, Administration, Management and Functional Responsibility

It is the discretion of MDP CAs in Practice to decide the share of profits of each partner among themselves.

The functions, powers, authorities, duties, rights, responsibilities, liabilities and disputes among the partners shall be mutually agreed as per the partnership deed.

13. Reconstitution of MDP CAs in Practice (Admission, retirement, death)

In case of any change in partners (admission, retirement, death) or any change in details of partners, MDP CAs in Practice will be required to submit the necessary particulars to the Institute in Form 18 within 30 days of such change.

It is the responsibility of the continuing partners to satisfy the conditions as prescribed under Regulation 190 of the Regulations in case of admission, retirement and death of partners.

14. Establishment of Branch Office

As per Section 27 of the Act,

- (1) *Where a chartered accountant in practice or a firm of such chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute*

Provided that the Council may in suitable cases exempt any chartered accountant in practice or a firm of such chartered accountants from the operation of this subsection.

- (2) *Every chartered accountant in practice or a firm of such chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.*

By virtue of Section 27 of the Chartered Accountants Act, 1949, only chartered accountants are permitted to be in-charge of the branch offices of MDP CAs in Practice. However, it may be noted that in terms of the proviso given in sub-section (1) of Section

27 of the Chartered Accountants Act, 1949, the Council of ICAI has power to grant exemption from the aforesaid requirement in suitable cases. In case, MDP CAs in practice desires that a non-CA partner be made in-charge of any branch office, it may make request to the Council of ICAI in this regard.

15. Fees for Professional Services

The conditions stipulated under Regulation 192 of the Regulations shall apply to MDP CAs in Practice.

16. Other Business or Occupation

For chartered accountant partners of MDP CAs in Practice, engaged in any other business or occupation or part time employment, the provisions of Regulations 190A and 191 of the Regulations shall apply.

17. Professional Address of the Partners

For the professional address of the partners of MDP CAs in Practice, the provisions of Regulation 187 of the Regulations shall apply.

18. Disciplinary proceedings

Disciplinary proceedings shall be taken on any partner who violated provisions of law:

- (a) If the partner who violated the provisions is a Chartered Accountant, the proceedings shall be taken as per the provisions of the Chartered Accountants Act, 1949.
- (b) If the partner who violated the provisions is a Cost Accountant, the proceedings shall be taken as per the provisions of the Cost and Works Accountants Act, 1949.
- (c) If the partner who violated the provisions is a Company Secretary, the proceedings shall be taken as per the provisions of the Company Secretaries Act, 1980.
- (d) If the partner who violated the provisions is an Architect, the proceedings shall be taken as per the provisions of the Architects Act, 1972.
- (e) If the partner who violated the provisions is an Engineer, the proceedings shall be taken as per the general principles of civil law.
- (f) If the partner who violated the provisions is an Actuary, the proceedings shall be taken as per the provisions of the Actuaries Act, 2006.