

## **Frequently Asked Questions (FAQs) on Multi-disciplinary Partnership Firm of Chartered Accountants in Practice (MDP CAs in Practice)**

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### **Q1. What is meaning of the term “MDP CAs in Practice?”**

**Response:** “MDP CAs in Practice” is abbreviation of the term “Multi-disciplinary Partnership Firm of Chartered Accountants in Practice”.

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 Chartered Accountants Regulations, 1988.

### **Q2. Whether MDP CAs in Practice can be formed as a company?**

**Response:** As per Section 25 of the Chartered Accountants Act, 1949,

#### **Companies not to engage in accountancy**

(1) No company, whether incorporated in India or elsewhere, shall practise as chartered accountants.

*Explanation* – For the removal of doubts, it is hereby declared that the “company” shall include any limited liability partnership which has company as its partner for the purposes of this section.

(2) If any company contravenes the provisions of sub-section (1), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer thereof who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

Hence, MDP CAs in Practice cannot be formed as a company.

### **Q3. What are permissible modes for formation of MDP CAs in Practice?**

**Response:** There are two permissible modes:

- Partnership as per the Indian Partnership Act, 1932.
- Limited Liability partnership as per the Limited Liability Partnership Act, 2008.

**Q4. Which Regulation of the Chartered Accountants Regulations, 1988 cover partnership aspect? With whom CAs can enter into partnership in terms of provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988?**

**Response:** Regulation 53B of the Chartered Accountants Regulations, 1988 covers partnership aspect. The provisions of Section 2(2) of the Chartered Accountants Act, 1949, Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53B of the Chartered Accountants Regulations, 1988 permit CAs to enter into partnership with the members of following professional bodies:

- (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.

**For details about entering into partnership with above mentioned professionals, please refer the specific questions given below.**

**Q5. Whether company secretary can become partner in MDP CAs in Practice?**

**Response:** 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.**

### **Q6. Whether cost accountant can become partner in MDP CAs in Practice?**

**Response:** 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.**

**Q7. Whether advocate can become partner in MDP CAs in Practice?**

**Response:** 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 Chartered Accountants Regulations, 1988, 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.**

**Q8. Whether engineer can become partner in MDP CAs in Practice?**

**Response:** 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.**

**Q9. Whether architect can become partner in MDP CAs in Practice?**

**Response:** 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.**

## **Q10. Whether actuary can become partner in MDP CAs in Practice?**

**Response:** 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.**

**Q11. Whether any person other than those prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988 can be a partner in MDP CAs in Practice?**

**Response:** Any person other than those prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988 cannot be a partner in MDP CAs in Practice.

**Q12. Whether MBA can become partner in MDP CAs in Practice?**

**Response:** As per Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53B of the Chartered Accountants Regulations, 1988, MBA cannot become partner in MDP CAs in Practice.

**Q13. Whether partners of MDP CAs in Practice can also practice in their individual names?**

**Response:** As on date, the Chartered Accountants Act 1949 read with the Chartered Accountants Regulations, 1988 does not prohibit the same, at the same time, it is the discretion of MDP CAs in Practice to permit its partners to practice in their individual capacity. In case partnership deed is silent on this aspect, the provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations 1988 shall apply.

**Q14. How the fees will be shared among the partners of MDP CAs in Practice?**

**Response:** The sharing of fees will be decided among the partners as agreed among themselves and prescribed in the partnership deed.



**Q15. How the disputes among the partners will be settled?**

**Response:** The disputes among the partners will be settled as agreed among the partners and prescribed in the partnership deed. Otherwise provisions of the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008, as may be applicable, will apply.

**Q16. How to verify professional qualifications of partners who are not the members of ICAI?**

**Response:** It is the duty of MDP CAs in Practice to submit the documentary evidence in case of partners who are not the members of ICAI. These documentary evidence needs to be attested by a CA in practice who is not related to the MDP CAs in Practice. It is the duty of the CA 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.

**Q17. Whether there is any need to obtain the permission of the other professional bodies for implementation of provisions of MDP CAs in Practice?**

**Response:** There is no need to obtain permission of the other professional bodies prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988.

**Q18. Whether a CA partner of MDP CAs in Practice can become partners in other firms or engage in other occupation?**

**Response:** A CA partner of MDP CAs in Practice can become partners in other firms or engage in other occupation as agreed among the partners as per their partnership deed. In case of a partner who is a chartered accountant, for his engagement in any other business or occupation or part time employment, the provisions of Regulations 190A and 191 of the Chartered Accountants Regulations, 1988 shall apply. In case of a partner other than a chartered accountant, the provisions of the relevant Act along with its Regulations or Rules shall apply.

**Q19. Whether profit sharing with non-CAs is allowed under the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988?**

**Response:** The relevant provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 are given below.

“Part I: Professional misconduct in relation to Chartered Accountants in Practice” of the First Schedule to the Chartered Accountants Act, 1949

*A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-*

Clause (2): pays or allows or agrees to pay or allow, directly or indirectly, 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 a 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.

*Explanation* – In this item, “partner” includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;

Clause (3): accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this Part;

“Regulation 53A- Other professional bodies” of the Chartered Accountants Regulations, 1988,

(1) For the purposes of Items (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be a member of any of the following professional bodies, namely:-

- (a) The Institute of Company Secretaries of India established under the Companies Act, 1980 (No.56 of 1980);
- (b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);
- (c) Bar Council of India established under the Advocates Act, 1961 (No.25 of 1961);
- (d) The Indian Institute of Architects established under the Architects Act, 1972 (No.20 of 1972);
- (e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No.35 of 2006).

(2) The membership of the professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 shall also be taken into consideration for the purposes of Items (2), (3) and (5) of the Part I of the First Schedule to the Act.

(3) For the purposes of Items (2), (3), (4) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely:-

- (i) Company Secretary within the meaning of the Company Secretaries Act, 1980;
- (ii) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;
- (iii) Actuary within the meaning of the Actuaries Act, 2006;
- (iv) Bachelor in Engineering from a University established by law or an Institution recognized by law;
- (v) Bachelor in Technology from a University established by law or an institution recognised by law;
- (vi) Bachelor in Architecture from a University established by law or an institution recognised by law;
- (vii) Bachelor in Law from a University established by law or an institution recognised by law;
- (viii) Master in Business Administration from Universities established by law or technical institutions recognised by All India Council for Technical Education.

Hence, as per Clauses 2 and 3 of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Regulation 53A of the Chartered Accountants Regulations, 1988, profit sharing with non-CAs is allowed.

**Q20. Which provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 cover partnership aspect?**

**Response:** Section 2(2) of the Chartered Accountants Act, 1949, Clause 4 of Part I of First Schedule to the Chartered Accountants Act, 1949 and Regulation 53B of the Chartered Accountants Regulations, 1988 cover partnership aspect. These provisions are given below.

Section 2(2) of the Chartered Accountants Act 1949,

*“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...”*

“Part I: Professional misconduct in relation to Chartered Accountants in Practice” of the First Schedule to the Chartered Accountants Act, 1949

*A chartered 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 chartered 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 (v) 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 53B - Membership of professional bodies for partnership” of the Chartered Accountants Regulations, 1988,

(1) For the purposes of entering into partnership under Item (4) 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) 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.

(2) Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.

**Q21. Which Regulation of the Chartered Accountants Regulations, 1988 cover profit sharing aspect?**

**Response:** Regulation 53A(1) of the Chartered Accountants Regulations, 1988 covers profit sharing aspect with the members of prescribed professional bodies and Regulation 53A(3) covers profit sharing aspect with the persons having prescribed professional qualifications. These Regulations allow profit sharing even without entering into a partnership.

**Q22. Whether the list of persons mentioned in Regulation 53A (which covers profit sharing) and Regulation 53B (which covers partnership) of the Chartered Accountants Regulations, 1988 is same?**

**Response:** No, Regulation 53A shall apply for a CA in practice or a firm of CA in practice who want to share fees or accept sharing of fees from the members of prescribed professional bodies or persons having prescribed professional qualification

even without entering into a partnership. Regulation 53B shall apply to a CA in practice or a firm of CAs in practice who want to enter into a partnership with members of prescribed professional bodies. MBAs are not covered in the list of persons mentioned in Regulation 53B of the Chartered Accountants Regulations, 1988.

**Q23. Whether there is any ratio or number prescribed for different partners of MDP CAs in Practice?**

**Response:** There is no such ratio or number prescribed under the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988. However, to be eligible to undertake statutory audit under the Companies Act, 2013, MDP CAs in Practice should have majority of CA partners. In this regard, please refer the specific question given below.

**Q24. Can MDP CAs in Practice be formed where majority of partners are non-CAs as prescribed under Regulation 53B of the Chartered Accountants Regulations, 1988?**

**Response:** Yes, there is no such restriction imposed either in the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988. However, to be eligible to undertake statutory audit under the Companies Act, 2013, MDP CAs in Practice should have majority of CA partners. In this regard, please refer the specific question given below.

**Q25. Is MDP CAs in Practice eligible for statutory audit under the Companies Act 2013 in case majority of its partners are non-CAs?**

**Response:** Section 141 of the Companies Act 2013 states as under:

*Eligibility, Qualifications and Disqualifications of Auditors*

(1) 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.

(2) 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.

(3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—

(a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;

- (b) an officer or employee of the company;
- (c) a person who is a partner, or who is in the employment, of an officer or employee of the company;
- (d) a person who, or his relative or partner—
  - (i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:  
 Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed;
  - (ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; or
  - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;
- (e) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed;
- (f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;
- (g) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than twenty companies;
- (h) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction;
- (i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.

Explanation.—For the purposes of this clause, the term "directly or indirectly" shall have the meaning assigned to it in the Explanation to section 144.

(4) Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.

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.

**Q26. How the majority of partners will be calculated for the purpose of appointment as statutory auditor under the Companies Act, 2013?**

**Response:** "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.

For example, the number of CA partners in MDP CAs in Practice is more but their aggregate share of profits is lesser than the aggregate share of profits of non-CA partners then it shall not be called majority. Similarly, number of CA partners in MDP CAs in Practice is lesser than the number of non-CA partners in MDP CAs in Practice but their aggregate share of profits is more than aggregate share of profits of the non-CA partners then also it shall be considered as a firm with no majority.

**Q27. Can MDP CAs in Practice undertake Tax Audit engagement?**

**Response:** MDP CAs in Practice can undertake Tax Audit engagement.

**Q28. Whether MDP CAs in Practice can accept other engagement like bank audit, audit of co-operative society?**

**Response:** MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Chartered Accountants Act, 1949 read with Regulation 190A of the Chartered Accountants Regulations, 1988. It can also render services allowed to be performed by other professionals who are its partners.

**Q29. What services can be rendered by MDP CAs in Practice?**

**Response:** MDP CAs in Practice can render all services as prescribed in Section 2(2) of the Chartered Accountants Act, 1949 read with Regulation 190A of the Chartered Accountants Regulations, 1988. It can also render services allowed to be performed by other professionals who are its partners.

**Q30. Can non-CA partner be in-charge of branch office of MDP CAs in Practice?**

**Response:** As per "Section 27 - Maintenance of Branch Offices" of the Chartered Accountants Act, 1949:

- (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.

**Q31. Have the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988 specified foreign qualifications equivalent to CA for purposes of MDP CAs in Practice?**

**Response:** Regulation 53B(2) of the Chartered Accountants Regulations, 1988 states as under:

“Professional bodies or institutions outside India whose qualifications relating to accountancy are recognised by the Council under sub-section (2) of section 29 of the Act.”

As on date, the Council of ICAI has not specified any foreign qualifications equivalent to CA for purposes of MDP CAs in Practice.

**Q32. Which partner of MDP CAs in Practice will be responsible to supply information at the time of registration and supply information which may be required from time to time?**

**Response:** This aspect will be decided among the partners as prescribed in the partnership deed.

**Q33. Can partners of MDP CAs in Practice appoint staff of their choice?**

**Response:** This aspect will be decided among the partners as prescribed in the partnership deed.

**Q34. Partnership deed is having a specific clause that the death or retirement of partners(s) shall not dissolve the MDP CAs in Practice. In case all the CA partners in MDP CAs in Practice are deceased or retired whether the non-CA partners can continue MDP CAs in Practice?**



**Response:** No, to form MDP CAs in Practice, atleast one partner should be a CA holding certificate of practice.

**Q35. Whether partners of MDP CAs in Practice are required to consult each other or can work independently?**

**Response:** This aspect will be decided among the partners as prescribed in the partnership deed.

**Q36. The Company Secretaries (Amendment) Regulations, 2020 have inserted a new regulation 165A “Multidisciplinary Firm” in the Company Secretaries Regulations, 1982. Is parallel change required in the Chartered Accountants Regulations, 1988?**

**Response:** The provisions of Regulation 165A is already explained in detail under Regulation 168A and Regulation 168B of the Company Secretaries Regulations, 1982, which are exactly similar to Regulation 53A and Regulation 53B of the Chartered Accountants Regulations, 1988. Accordingly, there is no need for similar provision either in the Chartered Accountants Act, 1949 or the Cost and Works Accountants Act, 1949 or the Regulations thereunder.

**Q37. What will be extent of liability of partners of MDP CAs in Practice?**

**Response:** The liability of partners of MDP CAs in Practice will be governed by the legislation under which it is constituted i.e. the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008.

**Q38. Whether these provisions cover conversion of existing CA firm into MDP CAs in Practice or these provisions only cover formation of new MDP CAs in Practice?**

**Response:** These provisions cover both cases i.e. conversion of existing CA firm into MDP CAs in Practice as well as formation of new MDP CAs in Practice.

**Q39. In case of conversion of existing CA firm into MDP CAs in Practice, whether new FRN will be required?**

**Response:** In case of conversion of existing CA firm into MDP CAs in Practice, new FRN will be required.

**Q40. Whether MDP CAs in Practice will be eligible for empanelment with various agencies?**

**Response:** MDP CAs in Practice will be eligible for empanelment with various agencies provided it satisfies the eligibility criteria for empanelment prescribed by various agencies.

**Q41. Whether networking will be allowed for MDP CAs in Practice?**

**Response:** Networking will be allowed for MDP CAs in Practice provided it satisfies the various conditions prescribed in the “Guidelines for Networking” issued by the Council of ICAI.

**Q42. Whether various guidelines issued by the Council of ICAI from time to time (e.g. advertisement, website, visiting cards, networking) will be applicable to MDP CAs in Practice?**

**Response:** Yes. MDP CAs in Practice will be required to comply with the provisions of the Chartered Accountants Act, 1949, the Chartered Accountants Regulations, 1988 and Rules framed thereunder, Guidelines and directions issued by the Council of ICAI from time to time.

**Q43. Whether non-CA partners of MDP CAs in Practice can be part of the engagement team in terms of definition of the term “engagement team” given in SQC 1 and SA 220?**

**Response:** Definition of the term “engagement team” as per SQC 1 and SA 220 is reproduced below.

*“Engagement team – all personnel performing an engagement, including any experts contracted by the firm in connection with that engagement. The term “engagement team” excludes individuals within the client’s internal audit function who provide direct assistance on an audit engagement when the external auditor complies with the requirements of SA 610 (Revised).”*

Further, definition of the term “personnel” as per SQC 1 and SA 220 is reproduced below.

*“Personnel – partners and staff.”*

From above definitions, it is clear that engagement team includes partners. Accordingly, non-CA partners of MDP CAs in Practice can be part of the engagement team in terms of definition of the term “engagement team” given in SQC 1 and SA 220.

**Q44. How the identity of MDP CAs in Practice will be distinguished from other CA firms?**

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

**Illustration:** A firm consists of partners who are Chartered Accountants in practice (i.e. where all partners are Chartered Accountants) then under Section 7 of the Chartered

Accountants Act, 1949, the firm can use along with its name “Chartered Accountants” as suffix.

But in case of MDP CAs in Practice, since all the partners are not Chartered Accountants, the firm shall be called “Multi-disciplinary Partnership Firm of Chartered Accountants in Practice”.

**Q45. Whether MDP CAs in Practice will be required to comply with provisions of Acts and Rules/Regulations of professional bodies whose members are its partners?**

**Response:** *Clause 1 of Part II of Second Schedule to the Chartered Accountants Act, 1949 – Professional misconduct in relation to members of the Institute generally*

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;

*Clause 1 of Part II of Second Schedule to the Company Secretaries Act, 1980 – Professional misconduct in relation to members of the Institute generally*

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;

*Clause 1 of Part II of Second Schedule to the Cost and Works Accountants Act, 1959 – Professional misconduct in relation to members of the Institute generally*

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;

*Clause 4 of Part III of Schedule to the Actuaries Act, 2006 – Professional misconduct in relation to members of the Institute generally*

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 under clause (i) of sub-section (2) of section 19;

*Clause 2 of Part IV of First Schedule to the Chartered Accountants Act, 1949 – Other misconduct in relation to members of the Institute generally*

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

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

*Clause 2 of Part IV of First Schedule to the Company Secretaries Act, 1980 – Other misconduct in relation to members of the Institute generally*

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

*(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.*

*Clause 2 of Part IV of First Schedule to the Cost and Works Accountants Act, 1959 – Other misconduct in relation to members of the Institute generally*

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

(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

**Hence, MDP CAs in Practice will be required to comply with provisions of Acts and Rules/Regulations of professional bodies whose members are its partners.**

**Q46. Whether a specimen format of partnership deed should be provided?**

**Response:** Partnership firm is an organization based on agreement or arrangement between two or more persons. It is the responsibility of MDP CAs in Practice to draft their own partnership deed satisfying the provisions of the Chartered Accountants Act, 1949, the Chartered Accountants Regulations, 1988 and the provisions of Acts and Rules/Regulations of respective professional bodies.

**Q47. What will be the responsibility of MDP CAs in Practice or its partners for misconduct of a partner?**

**Response:** In case of misconduct of a partner, that partner would be subject to disciplinary mechanism of the respective professional body. Where there is no professional body to deal with misconduct of a partner, general law of the land will prevail. Further, MDP CAs in Practice or other partners of MDP CAs in Practice would not be responsible for misconduct of a partner.