

CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS

1. PREFACE

This Preface has been approved by the Council of the Institute of Accountants in Malawi.

1. The Institute of Chartered Accountants in Malawi, a member of the International Federation of Accountants (IFAC), is committed to the IFAC's broad objective of developing and enhancing a coordinated worldwide accountancy profession with common standards. In working towards this objective, IFAC develops guidance on ethics for professional accountants. IFAC believes that issuing such guidance will improve the degree of uniformity of professional ethics throughout the world.
2. As an obligation of its membership, the Institute of Chartered Accountants in Malawi (ICAM) is obliged to support the work of IFAC by (a) informing its members of every pronouncement developed by IFAC, and (b) implementing those pronouncements, when and to the extent possible under local circumstances.
3. ICAM has determined to adopt the IFAC Code of Ethics for Professional Accountants (2016 Edition) as the ethical requirements in Malawi.
4. An explanatory foreword will be issued on the status of each additional IFAC pronouncement on ethics that is adopted by the Council of ICAM. Where the Council of ICAM deems it necessary, it may develop additional ethical requirements on matters of relevance in Malawi not covered by an IFAC pronouncement.
5. Members of ICAM are expected to comply with the ethical requirements issued by ICAM. Apparent failure to do so may lead the Ethical and Investigations Committee or another relevant Committee to investigate the member's conduct. If prima facie evidence is established that a member may be guilty of improper conduct he or she will be referred to ICAM's Disciplinary Committee.
6. It is not practical to establish ethical requirements that apply to all situations and circumstances professional accountants may encounter. Professional accountants should therefore consider the ethical requirements as the basic principles they should follow in performing their work. The Council defines improper conduct as any act or conduct which:
 - (a) is discreditable to a member or derogatory to the Institute and the profession or
 - (b) is contrary to any ethical statement including forewords adopted by the Council and which have become applicable to members.
7. The Council will refer any formal complaints received by it to the Ethics and Investigations Committee who have the power to investigate such cases and may if deemed necessary, refer such cases to the Disciplinary Committee for further action. Procedures for appeal are as laid down in the Institute's Articles of Association and the Public Accountants and Auditors Act (the Act).
8. Any member of the Institute or registered trainee may be guilty of improper conduct if before or after his admission to the Institute's membership, among other things, he:
 - (a) contravenes or fails to comply with any provision of the Act with which it is his duty to comply;
 - (b) contravenes or fails to comply with any provision of any other Act with which it is his duty to comply in his capacity as an accountant and auditor to an undertaking or in doing work of a type commonly performed by a registered accountant or auditor;

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- (c) commits any offence involving dishonesty and in particular (but without prejudice to the generality of the foregoing) theft, fraud, forgery or uttering a forged document, perjury, bribery or corruption.
- (d) is dishonest in the performance of any duties devolving upon him in relation to:
 - (i) any work of a type commonly performed by a registered accountant and auditor; or
 - (ii) any office of trust which he has undertaken or accepted.
- (e) without reasonable cause or excuse, and subject to the proviso to Section 19 (7) of the Act, fails to perform any work or duties commonly performed by a registered accountant and auditor with such degree of care and skill as in the opinion of the disciplinary committee may reasonably be expected;
- (f) with intent to evade or to assist any other person to evade any tax, duty, levy, or rate whatsoever (whether the same be payable to the Government or to a local authority or to any other body or authority);
 - (i) knowingly or recklessly prepares or makes, or assists any other person to prepare or make any false statement (whether such statement be oral or in writing); or
 - (ii) knowingly or recklessly prepares or maintains any false book of account or other records.
- (g)
 - (i) fails to maintain in an account or accounts with institution or institutions registered in terms of the Banking Act (Cap. 44:01) or the Building Societies Act (Cap. 31:01) separate from his own account and appropriately designated (which account or accounts may be a general account in his names or specific accounts operated in the names of relevant clients or any other person to whom he is accountable), all moneys which shall come into his possession or under his control in the course of his professional practice and for which he is liable to account to a client or any other person; or
 - (ii) fails, in the case of property other than money which shall come into his possession or under his control in the course of his professional practice and for which he is liable to account to a client or any other person (including, but without limitation, trust property which is expressly registered in the name of an accountant and auditor in public practice and any other person, in his or their capacity as administrators, trustee, curator or agent as the case may be), to maintain such records as in the opinion of the Disciplinary Committee may reasonably be expected to ensure that such property can readily be identified as being the property of such client or other person;

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- h. divulges to any third party, whether orally, in writing or otherwise, any confidential information which he may have obtained in the course of professional relations with any client or employer including any information obtained by him as to the business affairs, the trade secrets or the technical methods or processes of such client or employer, unless such client or employer (or in the case where such client or employer is deceased, the executor of his estate) has expressly consented to such information being so divulged or unless the accountant and auditor in good faith divulges it to the Disciplinary Committee in order that the Disciplinary Committee may consider whether it should exercise any of the powers, duties or functions vested in it by the Articles of the Institute;
- (i) makes or fixes, or attempts to make, fix or recover, or enters into an agreement or associates himself in any way with any other person for the purpose of making, fixing or recovering any fee, charge or other consideration for professional services or services of a type commonly performed by a registered accountant or auditor which have been or are to be rendered by him, which whether wholly or in part, is any way contingent upon the results of such services.

The rule shall not apply to fees or taxes by the proper authority in respect of the compulsory liquidation or the receivership of any company or other property or the administration of the estate of a deceased or insolvent person or persons under other legal disability;

- (j) except with the consent of his client, directly or indirectly stipulates for or receives from any third party (other than a person registered as an accountant and auditor under the Act and engaged in public practice, or a person practising as an accountant and auditor outside Malawi) any reward for anything done by him in the course of or in connection with the services rendered by him to such client;
- (k) permits his name to be used in connection with any estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the estimates;
- (l) solicits by personal canvass, by correspondence, by circulars, by offering or paying a reward or any other means, professional work or any other work of a type commonly performed by a registered accountant and auditor;

Provided however that:

- (i) nothing in this rule contained shall prohibit a registered accountant and auditor from agreeing or being a party to the preparation, issue, circulation, distribution, publication or making by the Institute of which he is a member of any document, advertising or oral statement (which is not in conflict with the Institute's Articles of Association or rules of professional conduct) in such manner as the Institute may approve nor shall this rule prohibit an accountant and auditor from issuing, circulating, distributing, publishing or making such document advertising or statement to such persons and in such manner as the Institute has so approved;
- (ii) nothing contained in this rule shall prevent a registered accountant and auditor from sending a letter to another accountant and auditor who is engaged in public practice informing the latter of the services the first mentioned accountant and auditor can offer or informing the latter orally of the services he can offer;

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- (iii) an accountant and auditor may inform a person or persons for whom he performs work of a continuing nature, either orally or in writing, of other services he can offer either personally or through a firm or through a company.
- (m) seeks either before or during the period of a registered training contract to impose any restraints whatever on the individual concerned applying after the date of termination of the contract or enforces, or threatens or attempt to enforce any such restraint after such date;
- (n) directly or indirectly stipulates for or receives from a trainee who is or has been serving under a registered training contract or from any other person any payment, reward, compensation or consideration for agreeing to the cancellation of such a registered training contract;

Provided that:

- (i) it shall not be deemed a breach of this rule if an accountant and auditor requires to be or is reimbursed in respect of disbursements actually made by him in connection with the registration of a training contract which is subsequently cancelled and of which disbursements he is able to produce proof to the satisfaction of the Disciplinary Committee;
 - (ii) schemes of bonding by or analogous to those of government in respect of the provision of training abroad shall not be taken to constitute a breach of this rule.
- (o) fails to reply to correspondence within a reasonable period of time without reasonable cause or excuse;
 - (p) fails to pay membership fees of the Institute by due date without reasonable cause or excuse;
 - (q) allows to be issued circulars or other documents in contravention to guidelines contained in this Code and its explanatory forewords;
 - (r) fails to comply with the requirements of Section 210 of the Code and its explanatory foreword on conditions for superseding another accountant;
 - (s) fails to discharge his financial obligations;
 - (t) conducts himself in a manner which is discreditable on the part of an accountant and auditor which tends to bring the profession of accounting into disrepute or which contravenes or is not in keeping with the intentions expressed in other statements of Professional Ethics adopted by the Institute.
9. The duty to monitor the activities undertaken by members is undertaken in Malawi by the Ethics and Investigations Committee and the Disciplinary Committee of ICAM. The Malawi Accountants Board can act where ICAM fails to do so. In certain cases the Public Accountants and Auditors Act (Cap. 53:06) requires that findings be brought to the attention of the Malawi Accountants Board and in exceptional circumstances to the attention of the Attorney General and the Supreme Court.
10. The date from which members are expected to observe pronouncements on ethics is set out in the explanatory forewords.

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2. FOREWORDS

In adopting the IFAC Code of Ethics for Professional Accountants the Council of ICAM has issued a series of explanatory forewords that set out the status and effective date of each section of the IFAC Code.

2.1 Section 100 – Introduction and Fundamental Principles

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are requested to observe this section of the Code in respect of professional services performed in Malawi.

2.2 Section 110 – Integrity

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.3 Section 120 – Objectivity

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.4 Section 130 – Professional Competence and Due Care

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 130.2 - In Malawi periods of work experience in specified work environments are prescribed in the Public Accountants and Auditors Act and the Articles of Association of ICAM.

Paragraph 130.3 - ICAM is in full compliance of the IFAC International Education Standard Number 7 which requires that each member body should have a policy on Continuing Professional Development (CPD) for members. ICAM members are required to achieve at least 40 hours of CPD each year or if in public practice 50 hours of CPD.

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2.5 Section 140 – Confidentiality

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 140.7 - The Public Accountants and Auditors Act imposes on members in public practice a duty to report to the directors of a client company where in the course of their work, they are of the view that a material irregularity is happening or is about to happen, resulting in actual or possible loss to owners or creditors. If no satisfactory reply is received within 30 days members are obliged to report the matter to the Malawi Accountants Board through ICAM. In appropriate cases the Malawi Accountants Board is empowered to pass on the information to the Attorney General.

Members should also be aware of their obligations under the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act, the Corrupt Practices Act, and the Exchange Control Act.

2.6 Section 150 – Professional Behaviour

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.7 Section 200 – Professional Accountants in Public Practice – Introduction

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.8 Section 210 – Professional Appointments

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 210.10 - Appointments often tend to change hands following disagreements between an accountant and the directors or controlling shareholders of a client – sometimes over points of accounting principles sometimes over fees. Sometimes the reasons are unknown or are put differently to the outgoing and the incoming accountants.

Where a client wishes to change auditors due to differences with the reporting accountant, the existing reporting accountant should try to resolve the differences. If these cannot be

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successfully resolved and the client insists on going to tender then the existing accountant should not submit a tender.

A member who wishes to participate in a tender for audit services should insist on submitting separately technical and fee proposals.

Tenders can only be called by a client after notice to call for such tenders has been circulated to shareholders.

2.9 Section 220 – Conflict of Interest

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.10 Section 230 – Second Opinions

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.11 Section 240 – Fees and Other Types of Remuneration

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 240.2 - Members are advised to ensure that fee quotations take the form of per diem (per hour) charges in view of the open ended nature of an accountant's appointment. The quotation should also clearly indicate the frequency at which fees will be reviewed.

Paragraph 240.8 - Members should bear in mind that in respect of this section the sharing of a firm's profits with persons not registered as public accountants by the Malawi Accountants Board is prohibited by the Public Accountants and Auditors Act.

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2.12 Section 250 – Marketing Professional Services

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 250.2 - The Council will allow advertising which complies with this section. However solicitation which is the direct approach to potential clients for purposes of offering professional services shall not be permitted.

2.13 Section 260 – Gifts and Hospitality

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.14 Section 270 – Custody of Client Assets

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.15 Section 280 – Objectivity – All Services

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.16 Section 290 – Audit and Review Engagements

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 290.154 - The rotation period for engagement partners and the other individuals responsible for the engagement quality control review is reduced to 5 years in the case of Malawi.

This rule is extended to all publicly accountable entities – including parastatals and financial institutions.

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2.17 Section 300 – Professional Accountants in Business

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.18 Section 310 - Potential Conflicts

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 310.2 - A member who is an employee (other than an employee of a member in public practice) is not permitted to carry on in his own name or on behalf of his employer any business normally carried on by a public accountant.

Members in employment are not to undertake professional work without the written consent of their employers.

Members employed by members in public practice are required to inform their employers and decline to discuss approaches by clients of their employers to accept appointment in their place; on or after leaving such employment they are not permitted directly or indirectly to influence the transfer to any part of professional work undertaken by the employer in question.

A member shall not offer employment directly or indirectly to an employee of another member without first informing the latter, but this does not preclude placing advertisements.

A member shall not criticize to any member of the public the professional work or attainments of any other accountant qualified for admission to the Institute, or qualified except as regards residence. When he believes he has a duty to comment adversely on such matters to a person (other than the public or a court) he is to do so only after making every reasonable effort to discuss the issues with the other accountant concerned to form a view on any valid reasons for the point (s) in question.

2.19 Section 320 – Preparation and Reporting of Information

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

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2.20 Section 330 – Acting with Sufficient Expertise

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted subject to the following explanatory note. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

Paragraph 330.2 - Professional Accountants in business like Professional Accountants in Public Practice are encouraged to achieve CPD hours of not less than 40 per annum to remain up to date and to maintain and acquire new skills necessary to perform in their current and future positions.

2.21 Section 340 – Financial Interests, Compensation and Incentives linked to Financial Reporting and Decision making.

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.

2.22 Section 350 – Inducements

Explanatory Foreword

The Council of ICAM has determined that this section of the Code should be adopted. All members of ICAM are required to observe this section of the Code in respect of professional services performed in Malawi.