

DRAFT FREQUENTLY ASKED QUESTIONS (FAQs)

Formation of Multi-Disciplinary Partnership (MDP) Firms by the Practising Members of The Institute of Cost Accountants of India

FAQ 1: What is meaning of various terms or abbreviations/acronyms used in the guidelines relating to Multi-Disciplinary Partnership (MDP) firms?

For the purpose of these Guidelines,

- " Act" means The Cost and Works Accountants Act, 1959;
- " Regulations" means The Cost and Works Accountants Regulations 1959
- "Institute" means The Institute of Cost Accountants of India
- "Member" means Member of The Institute of Cost Accountants of India
- "CMA" means a Cost Accountant registered with the Institute as its Associate or Fellow Member and holds valid full-time Certificate of Practice.
- "Majority" means majority by number and also by profit share in the MDP firm
- "CA" means a Chartered Accountant registered with the Institute of Chartered Accountants of India as its Associate or Fellow Member and holds valid full-time Certificate of Practice.
- "CS" means a Company Secretary registered with the Institute of Company Secretaries of India as its Associate or Fellow Member and holds valid full-time Certificate of Practice.

FAQ 2: What is Multi-Disciplinary Partnership (MDP) firm?

A Multi-disciplinary Partnership (MDP) firm is a form of partnership that renders multiple services like maintenance of cost records, accounting, auditing, assurance, secretarial, legal, valuation, management etc. under one umbrella. MDP can be formed by a member of the Institute by entering into the partnership with a person who shall be a member of any of the following professional bodies, provided the laws governing such other professionals permits the formation of multi-disciplinary partnership firms.

- (A) The Institute of Chartered Accountants of India
- (B) The Institute of Company Secretaries of India
- (C) The Bar Council of India
- (D) Institution of Engineers, or an Engineer from a University or an institution established or recognized by law
- (E) The Indian Institute of Architects
- (F) The Institute of Actuaries of India

FAQ 3: What are the laws governing the Members of the Institute to enter into partnership with the members of other professional bodies?

As per provisions contained in Section 2(2) of the Cost and Works Accountants Act, and Clauses (4) & (5) of Part-I of the First Schedule to the Act, read with Regulation 111C of the Cost and Works Accountants Regulations, a member of the Institute holding valid Certificate of Practice, is permitted to enter into partnership with any of the following professionals:

- (a) Chartered Accountant, member of the Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (XXXVIII of 1949);
- (b) Company Secretary, member of the Institute of Company Secretaries of India, established under the Company Secretaries Act, 1980 (No. 56 of 1980);
- (c) Advocate, member of the Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);
- (d) Engineer, member of the Institution of Engineers, or Engineering from a University established by law or an institution recognized by law;
- (e) Architect, member of the Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);
- (f) Actuary, member of the Institute of Actuaries of India, established under the Actuaries Act, 2006 (No. 35 of 2006);
- (g) Any other professional body or institution outside India whose qualifications relating to cost accountancy are recognized by the Council under sub-section (2) of Section 38 of the Act.

FAQ 4: Whether a Chartered Accountant can become partner in MDP of Professionals in Practice registered with the Institute?

The Chartered Accountants Regulations, 1988

Regulation 53A -Other professional bodies

- (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 recognised 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.

Regulation 53B - Membership of professional bodies for partnership

- (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.

The Chartered Accountants Act, 1949

Section 2(2) of the Act prescribes that 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...||

Hence, a Chartered Accountant is permitted to become partner in an MDP of Professionals in Practice that is registered with the Institute of Cost Accountants of India.

FAQ 5: Whether a Company Secretary can become partner in MDP of Professionals in Practice registered with the Institute?

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);
- (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 Institute of Engineers or Engineering from a University established by law or an institution recognized by law;
- (e) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);

- (f) The Institute of Actuaries of India established, under the Actuaries Act, 2006 (No. 35 of 2006);
- (g) Professional bodies or institutions outside India whose qualifications relating to Company Secretary recognized by the Council under Sub-section (2) of Section 38 of the Act.]

Hence, a Company Secretary is permitted to become partner in an MDP of Professionals in Practice that is registered with the Institute of Cost Accountants of India.

However, the Institute of Company Secretaries is yet to issue the related guidelines and regulations enabling its members to form or join as partner in an MDP firm.

FAQ 6: Whether an Advocate can become partner in MDP of Professionals in Practice registered with the Institute?

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, Advocate, Member of the Bar Council of India established under the Advocates Act, 1961 are permitted to enter into a partnership.

However, as per Rule 2 of Chapter III of Part VI– “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, an Advocate cannot enter into partnership with any other professional i.e. an Advocate cannot become a partner in the MDP.

FAQ 7: Whether an Engineer can become partner in MDP of Professionals in Practice registered with the Institute?

Bye Laws of the Indian Institute of Engineers

Membership

Clause 44 - Corporate Members shall comprise of Fellows, Members, and Associate Members. These are elected and approved under clause 47, 48,& 49 respectively.

Clause 67 (a) - Every Fellow, Member and Associate Member is, and is entitled to describe himself as a Chartered Engineer, and in using that description after his name as C.Eng.(I) shall place it after that designation of the class in the Institution to which he belongs, stated in accordance with the following abbreviated forms, namely, F.I.E., M.I.E., A.M.I.E.

Clause 67 (b) - A Fellow or Member or Associate Member practising in partnership with any person who is not a Fellow or Member or Associate Member under the title of a firm shall not use or permit to be used after the title of such firm the designation Chartered Engineer

or Chartered Engineers, or described or permit the description of such firm in any way as Chartered Engineers.

Clause 67 (e) - Every member entitled to describe himself as a Professional Engineer can use that description after his name as P.Eng.

Professional Engineers

Clause 75 - In the light of the authority vested by the Royal Charter for certifying the competency of engineers, the Council of The Institution of Engineers (India) may at its discretion, approve that a person fulfilling the educational, technical and other experience criteria as prescribed by it, shall be entitled to describe himself as a 'Professional Engineer'. The procedure and methodology of certification of competency of such a Professional Engineer shall be as formulated and approved by the Council from time to time.

All India Council for Technical Education Act, 1987

Section 2(g) - "technical education" means programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare.

Section 2(h) - "technical institution" means an institution, not being a University which offers courses or programme of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions.

Section 2(i) - "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a University under section 3 of that Act.

University Grants Commission Act, 1956

Section 2(f) - "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.

Section 3 - The Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institutions as if it were a University within the meaning on clause (f) of section 2.

Hence, an Engineer, who is a member of the Institution of Engineers, or qualified from a University established by law or an institution recognized by law can become partner of the MDP.

FAQ 8: Whether an Architect can become partner in MDP of Professionals in Practice registered with the Institute?

The Architects Act, 1972

Section 2(a)– "architect" means a person whose name is for time being entered in the register.

Section 2(c)– "Indian Institute of Architects" means the Indian Institute of Architects registered under the Societies Registration Act, 1860 (21 of 1860).

Section 2(b)– "Council" means the Council of Architecture constituted under section 3.

Section 2(e)– "register" means the register of architects maintained under section 23.

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

Constitution of the Indian Institute of Architects

Clause 4 (a)- CATEGORY OF MEMBERS: 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 of the Indian Institute of Architects

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.

Council of Architecture (COA)

The Council of Architecture (COA) has been constituted by the Government of India under the provisions of the Architects Act, 1972. The Act provides for registration of Architects, standards of education, recognized qualifications and standards of practice to be complied with by the practicing architects. The Council of Architecture is charged with the responsibility to regulate the education and practice of profession throughout India besides maintaining the register of architects. For this purpose, the Government of India notified the following Rules/Regulations:

- Council of Architecture Rules, 1973
- Council of Architecture Regulations, 1982
- Council of Architecture (Minimum Standards of Architectural Education) Regulations, 2020
- Architects (Professional Conduct) Regulations, 1989

Regulation 2 of the Architects (Professional Conduct) Regulations, 1989

(1) Every architect, either in practice or employment, subject to the provisions of the Central Civil Services (Conduct) Rules, 1964 or any other similar rules applicable to an Architect, he shall [follow the professional code of conduct & services]

(2) In a partnership firm of architects, every partner shall ensure that such partnership firm complies with the provisions of the sub-regulation (1).

Subject to compliance with the abovementioned Rules & Regulations, a member of the Indian Institute of Architects and having his name entered in the Register maintained by the Council of Architecture can become a partner in the MDP.

FAQ 9: Whether an Actuary can become partner in MDP of Professionals in Practice registered with the Institute?

The Actuaries Act, 2006

Section 2(1)(a) - "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.

Section 2(1)(h) - "Institute" means the Institute of Actuaries of India constituted under Section 3.

Section 2(1)(i) - "Member" means an individual whose name appears in the register of members maintained by the Institute.

Section 2(2) - 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).

Section 9 - Certificate of practice -

(1) No member of the Institute shall be entitled to practice unless he fulfils the qualifications as may be specified and obtains from the Council a certificate of practice.

(2) A member who desires to be entitled to practice shall make an application in such form and pay such annual fee for certificate of practice as may be specified and such fee shall be payable on or before the first day of April in each year.

(3) The certificate of practice obtained under sub-section (1) may be cancelled by the Council under such circumstances as may be specified.

Section 10 - Members to be known as Actuaries –

Every member of the Institute in practice shall, and any other member may, use the designation of an Actuary and no member using such designation shall use any other description whether in addition thereto or in substitution therefor:

Provided that nothing contained in this section shall be deemed to prohibit any such member from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute, whether in India or elsewhere, as may be recognized in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Actuaries.

Section 50 - Maintenance of more than one offices by Actuary –

(1) Where an Actuary in practice or a firm of such Actuaries has more than one offices within or outside India, each one of such offices shall be in the separate charge of a fellow member of the Institute:

Provided that the Council may in suitable cases exempt any Actuary in practice or firm of such Actuaries from the operation of this sub-section.

(2) Every Actuary in practice or a firm of such Actuaries maintaining more than one office shall send to the Council a list of offices and the person in charge thereof and shall keep the Council informed of any changes in relation thereto.

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—

(1) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or

(2) pays by way of remuneration to an employee, 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

(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, an Actuary who does not hold certificate of practice may be permitted by the Central Government or the Council to become a partner in an MDP of Professionals in Practice.

FAQ 10: Whether a MBA can become partner in MDP of Professionals in Practice registered with the Institute?

As per provisions contained in Section 2(2), & Part I, Clause (4) of First Schedule to the Cost and Works Accountants Act, 1959 read with Regulation 111C of the Cost and Works

Accountants Regulations, 1959, a MBA cannot become partner in an MDP of Professionals in Practice registered with the Institute.

FAQ 11: Whether any other professional can become partner in MDP of Professionals in Practice registered with the Institute?

Any other professional other than those prescribed in Regulation 111C of the Cost and Works Accountants Regulations, 1959 cannot become partner in an MDP of Professionals in Practice registered with the Institute.

FAQ 12: What is the authority of the Guidelines notified by the Institute for formation of MDP firms?

The Guidelines for formation of Multi-Discipline Partnership firms of the Institute of Cost Accountants of India have been issued by the Council of the Institute to enable Members of the Institute to form Multi-disciplinary Partnership (MDP) firms as prescribed in Section 2(2), & Part I, Clause (4) of First Schedule to the Cost and Works Accountants Act, 1959 read with Regulation 111C of the Cost and Works Accountants Regulations, 1959.

In order to operationalize abovementioned provisions relating to the formations of MDPs, Council of the Institute has already recommended insertion of the following Regulation in the CWA Regulations, 1959.

Regulation 111D : A member in practice may form multi-disciplinary firm with the member of other professional bodies as prescribed under regulations 111B and 111C in accordance with the regulating guidelines of the Council for functioning and regulation of such multidisciplinary firm.

FAQ 13: What is the objective of the Guidelines notified by the Institute for formation of MDP firms?

The objective of issuance of the Guidelines for formation of MDP Firm by the Members of the Institute is to guide the Cost Accountants in practice for entering into partnership with the members of other professional bodies as prescribed in Regulation 111C of the Cost and Works Accountants Regulations, 1959. These guidelines also lay down the framework for the Institute to regulate the formation and operation of MDPs.

FAQ 14: Is there any enabling provision in the CWA Act 1959 permitting a practising member of the Institute to form or join an MDP firm?

Yes. Section 2(2) of the CWA Act 1959 prescribes such a provision according to which “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.....***

FAQ 15: Does a Member of the Institute require to hold full time certificate of practice to become a partner of anMDP firm?

Yes. A Cost Accountant desirous of forming an MDP or becoming Partner in any other MDP needs to be an Associate or Fellow Member of the Institute and must hold valid full-time Certificate of Practice.

FAQ 16: Can an MDP be constituted in form of a Company? What are the permissible modes to form an MDP?

Section 26 of the Cost and Works Accountants Act provides as under:

Companies not to engage in cost accountancy.

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

(2) Any contravention of the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction to five thousand rupees.

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.

In view of above, an MDP cannot be formed as a company. It also cannot be formed as a society or trust. An MDP can be constituted only in the following two modes:

1. Partnership Firm as per the Indian Partnership Act, 1932
2. Limited Liability Partnership Firm as per the Limited Liability Partnership Act, 2008

FAQ 17: How does an MDP decide the sharing of profit and functions of each partner?

MDP shall decide the share of profits, functions, powers, authorities, duties, rights, responsibilities, & liabilities of each partner among themselves and resolution of any disputes among the partners on mutually agreed terms as per the partnership deed.

FAQ 18: How does an MDP decide the sharing of fees among its partners?

MDP shall decide the share of fees among its partners on mutually agreed terms as per the partnership deed.

FAQ 19: Does an MDP need to be registered with the Institute of Cost Accountants of India?

Yes. All those MDP firms wherein CMA partners are in majority, by number and also by profit share, would require to be registered with the Institute. All other MDPs can also register with the Institute or with any other Institute whose members are in majority. There would be no need for multiple registration of an MDP with all such professional Institutions whose members are joining the said MDP as its partners.

FAQ 20: What is the procedure for registering an MDP with the Institute?

1. As per the prescribed procedure an application for registration of a new firm as MDP shall be made in Form MDP-I and an application for conversion of an existing firm to MDP shall be made in Form MDP-II.

2. All documents submitted along with the application form shall be self-attested by the respective professional.
3. Every MDP shall be given a new Registration Number. It will have distinct name [trade name or firm name] which shall be approved by the Institute in accordance with Regulation 108 on *Prior approval of the Council to use own name or trade name or firm name* of the Regulations.
4. It is the duty & responsibility of each partner to certify the truth and validity of (a) his degree(s) obtained from the recognized Institute/University; and (b) his certificate of membership as well as certificate of practice of its prescribed professional body.
5. Each partner shall be solely & personally liable for any false declaration in this regard.
6. Every partner who is a member of any other institute or professional body should obtain consent of such institution/body allowing him to become a partner in an MDP registered with the Institute.
7. All MDPs wherein CMAs are partners, whether in majority or not, shall use the suffix "MDP of Professionals in Practice" after its name.

FAQ 21: How to verify professional qualifications of partners who are not the members of the Institute of Cost Accountants of India?

It is the duty of MDP to submit the documentary evidence in case of partners who are not the members of the Institute. These documentary evidence needs to be self-attested by the respective professional. It is the duty & responsibility of each partner to certify the truth and validity of (a) his degree(s) obtained from the recognized Institute/University; and (b) his certificate of membership as well as certificate of practice of its prescribed professional body.

FAQ 22: Is it required to take the consent of the Institute by a member before joining a registered MDP?

Yes. In case a member of the Institute wants to join an MDP that is registered with any other Institute and wherein CMA partners are in minority, he needs to pre-inform & take consent of the Institute in this regard. An application for obtaining the Institute's consent to join an MDP registered with any other professional Institute shall be made in Form MDP-III. All other professionals should take consent of their respective Institute before joining any MDP as its minority partner. The details of such partnerships shall be disclosed by the member while renewing his membership/COP annually.

FAQ 23: What is the procedure for making changes in the constitution of an already registered MDP firm with the Institute?

As per the prescribed procedure any change in the MDP's partners by way of admission, retirement, or death or in the details of its partners or in its particulars/constitution shall be informed to the Institute in Form MDP-IV within 30 days of such change. It would be the

responsibility of the continuing partners to satisfy the conditions as prescribed under Regulation 108 (6) of the Regulations that provides as under:

Regulation 108 (6) of CWA Regulations - Any subsequent change in the particulars submitted in appropriate Form shall be informed to the Council by the Cost Accountant or the firm of Cost Accountants so as to reach the Council within thirty days from the date on which the change is effected.

FAQ 24: Can an existing firm be converted into an MDP?

Yes. An existing firm can be converted into an MDP and an application for conversion of an existing firm to MDP shall be made in Form MDP-II.

FAQ 25: If an existing firm is converted into an MDP, will its registration number change?

Yes. Every MDP shall be given a new Registration Number. It will have distinct name [trade name or firm name] which shall be approved by the Institute in accordance with Regulation 108 of the Regulations.

FAQ 26: Can an MDP be appointed as Cost Auditor?

An MDP registered with Institute of Cost Accountants of India having CMA partners in majority shall be allowed to be appointed as cost auditor under section 148 of the Companies Act 2013. Accordingly, an MDP shall not be eligible for appointment as cost auditor under the Companies Act 2013 in case majority of its partners are non-CMAs.

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

"Majority criteria" for computing eligibility of MDP for the purpose of appointment as cost auditor under the Companies Act, 2013 shall be calculated on the basis of number of partners and also by profit share, on the date of appointment and the MDP shall maintain such majority throughout the period till its appointment remains in-force.

FAQ 27: Can a CMA partner of an MDP be allowed to engage in any other professional assignment?

No. A CMA partner of an MDP shall not be permitted to engage in any other business, occupation or profession other than what is permitted under Regulation 111 read with the general or specific resolution of the Council, of CWA Regulations, 1959. Similarly, no other partner of an MDP shall be permitted to engage in any other business, occupation or profession other than that permitted as per the Rules/Regulations of the respective professional body of which they are members.

FAQ 28: What is the Majority Criteria for the purpose of appointment as Cost Auditor?

"Majority criteria" for computing eligibility of MDP for the purpose of appointment as cost auditor under section 148 of the Companies Act 2013 and the Rules made thereunder shall be calculated on the basis of number of partners and also by profit share, on the date of appointment and the MDP shall maintain such majority throughout the period till its appointment remains in-force.

In case of any failure to comply with this condition, necessary disciplinary action as per the Act and Regulations shall be taken on all the partners who are CMAs.

FAQ 29: Whether any ratio or number prescribed for different partners of MDP?

There is no such ratio or number prescribed under the Cost and Works Accountants Act, 1959 or the Cost and Works Accountants Regulations, 1959. However, to be eligible to undertake cost audit under the Companies Act, 2013, MDP should have majority of CMA partners.

FAQ 30: Can MDP be formed where majority of partners are non-CMAs?

There is no such restriction imposed either in the Cost and Works Accountants Act, 1959 or the Cost and Works Accountants Regulations, 1959. However, to be eligible to undertake cost audit under the Companies Act, 2013, MDP should have majority of CMA partners.

FAQ 31: Can an MDP conduct financial audit under the Companies Act, 2013?

An MDP satisfying the eligibility criteria under section 141 of the Companies Act, 2013 can conduct statutory financial audit of a company.

FAQ 32: Can an MDP conduct secretarial audit under the Companies Act, 2013?

An MDP satisfying the eligibility criteria under section 204 of the Companies Act, 2013 can conduct secretarial audit of a company.

Only a member of the Institute of Company Secretaries of India holding certificate of practice (company secretary in practice) can conduct Secretarial Audit and furnish the Secretarial Audit Report to the company. In case of a firm of Company Secretaries, the Secretarial Audit Report should be signed by the partner under whose supervision the Secretarial Audit was conducted.

FAQ 33: Whether a professional is allowed to become partner in more than one MDP?

Yes. Presently, a CMA or CA, holding Certificate of Practice, is allowed to become partner in more than one professional firm of CMAs or CAs respectively. On the same lines, they would be allowed to become partner in more than one MDP and also in other non-MDP firms.

FAQ 34: Whether partners of MDP of Professionals in Practice registered with the Institute can also practice in their individual names?

As on date, the Cost and Works Accountants Act 1959 read with the Cost and Works Accountants Regulations, 1959 does not prohibit the same. At the same time, it is the discretion of MDP of Professionals 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

Cost and Works Accountants Act 1959 and the Cost and Works Accountants Regulations, 1959 shall apply.

FAQ 35: Can a registered MDP be a partner in another registered MDP?

No. An MDP neither by its trade name or firm name shall not be allowed to become partner in another Firm, LLP, or MDP nor will it be allowed to become shareholder in any company.

FAQ 36: What will be the legal position of Insolvency & Bankruptcy Code, 2016 on a registered MDP?

As regards applicability of the provisions of Insolvency & Bankruptcy Code, 2016 on the MDP firm and its partners, the existing legal position would continue i.e. any of its partners can practice as Insolvency Professional, if qualified, but the MDP or all other partners shall not be liable for his actions under the IBC.

FAQ 37: What will be the legal position of The Companies (Registered Valuers and Valuation) Rules, 2017 on a registered MDP?

The existing legal position with respect to applicability of provisions of The Companies (Registered Valuers and Valuation) Rules, 2017 on the MDP firm and its partners would continue i.e. any of its partner can practice as Registered Valuer, if qualified, but the MDP or all other partners shall not be liable for his actions under the said Rules.

FAQ 38: Are the provisions of Section 144 of the Companies Act, 2013 applicable to an MDP?

Yes. While rendering professional services, MDP and all its partners shall ensure strict compliance with the provisions of Section 144 of the Companies Act, 2013. According to the said section an auditor appointed under the relevant provisions of the Companies Act, 2013 shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services, whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:—

- (a) accounting and book keeping services;
- (b) internal audit;
- (c) design and implementation of any financial information system;
- (d) actuarial services;
- (e) investment advisory services;
- (f) investment banking services;
- (g) rendering of outsourced financial services;
- (h) management services; and
- (i) any other kind of services as may be prescribed.

FAQ 39: Who can be the in-charge of the branches of an MDP?

Any partner of an MDP would be permitted to be in-charge of the branch offices of MDP. MDP would itself decide the branch in-charges and take approval of the professional body

with which it is registered. All other professional bodies whose members are partners of the said MDP shall be kept informed.

FAQ 40: What will be the disciplinary mechanism for a partner in an MDP?

In case of any violation of the provisions of law or any misconduct of a partner of an MDP, disciplinary proceedings shall be taken on that partner as per provisions contained in the Act/ Regulations of the respective professional body of whom he is the registered member. Accordingly, violation by a CMA partner will be governed by the disciplinary provisions as prescribed in the CWA Act, Rules & Regulations, 1959.

Where there is no professional body to deal with misconduct of a partner, general law of the land will prevail. Further, MDP or other partners of MDP would not be responsible for misconduct of a partner.

FAQ 41: What will be the disciplinary mechanism against an MDP?

Any action of default initiated against the MDP firm shall be dealt with by the Institute with which the said MDP is registered in accordance with the applicable provisions of the related Act, Rules, and Regulations.

FAQ 42: How the disputes among the partners will be settled?

The disputes among the partners will be settled as agreed among the partners and prescribed in the partnership deed. If not clearly prescribed in the partnership deed, the provisions of the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008, as may be applicable, will apply.

FAQ 43: How will the Experience of an MDP be determined?

Experience of an MDP firm shall be counted from the date of constitution of the firm. However, in case of conversion of an existing firm to MDP, the experience of the MDP shall be counted from the date of registration of the existing firm.

FAQ 44: MDP-A has 15 partners comprising 5 CMAs, 5 CAs, one CS, two Engineers, one Architect and one Actuary. No class of professionals have majority, either by numbers or by percentage share in profits. Where will this MDP be registered? Whether it be allowed to do any statutory financial audit or cost audit or secretarial audit?

MDP-A may get registered with any such Institute in whose case it is complying with the notified guidelines and regulations relating to the formation and operation of MDPs.

In the given situation, MDP-A would not be allowed to do statutory financial audit or cost audit or secretarial audit as it does not comply with the conditions stipulated in the applicable provisions in the Companies Act 2013 and Rules made thereunder.

FAQ 45: MDP-B has 7 partners. Of these, 5 are CMAs with 20% share and 2 are CAs with 80% share. Hence, CMAs are in majority by numbers but minority in share of profits. Where will this MDP be registered? Whether it be allowed to do cost audit?

MDP-B may get registered with any such Institute in whose case it is complying with the notified guidelines and regulations relating to the formation and operation of MDPs.

"Majority criteria" for computing eligibility of MDP for the purpose of appointment as cost auditor under section 148 of the Companies Act 2013 and the Rules made thereunder shall be calculated on the basis of number of partners and also by profit share, on the date of appointment.

Since MDP-B does not comply with this "Majority Criteria", it is not eligible for appointment as cost auditor under section 148 of the Companies Act 2013 and the Rules made thereunder.
