

1st DRAFT (27 Aug'20)

APPROVED BY DAAB
(On 26 Aug'20)

The Digital Accounting and Assurance Board (DAAB) of The Institute of Chartered Accountants of India (ICAI) invites comments on a new Forensic Accounting and Investigation Standard (FAIS) on – Preface.

Comments are most helpful if they indicate a clear rationale and, where applicable, provide a suggestion for alternative wording.

Comments can be Submitted at

<https://forms.office.com/Pages/ResponsePage.aspx?id=DOHFOzhjoU6NJ-O1tggEOvuF6SRz25pIvVExBjm2K8JUOUtHWTRHSke2UEJSTFdGWFYIS0IXN1c5NC4u>

Last date for sending comments is September 30, **2020.**

PREFACE TO THE FORENSIC ACCOUNTING AND INVESTIGATION STANDARDS

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1 Introduction and Objectives

- 1.1 This Preface to the Forensic Accounting and Investigation Standards facilitates the understanding of the scope and authority of the pronouncements issued by the Digital Accounting and Assurance Board (DAAB), under the authority of the Council of the Institute of Chartered Accountants of India.
- 1.2 The Forensic Accounting and Investigation Standards (referred to as "FAIS" or the "Standards") at a broad level seek to provide:
- (a) The Professionals with the minimum standards for undertaking forensic accounting and investigation (FAI) assignments;
 - (b) The Users of FAI services with an indication of the quality of service that can be expected from such engagements;
 - (c) The Regulators and Governmental agencies with an appreciation of what can be expected from FAI services; and
 - (d) To everyone, guidance on matters of implementation and related practical issues.
- 1.3 The Standards are intended to be principle-based, rather than rule based, thereby providing ample room for professional judgment when applying such principles to unique situations and under specific circumstances. The unique nature of forensic assignments would necessitate that the application of forensic accounting and investigative skills, together with the use of digital forensic tools, may vary depending on the nature of specific engagements.

2 Digital Accounting and Assurance Board

- 2.1 The Council of the Institute of Chartered Accountants of India (ICAI or the "Institute"), constituted the Digital Accounting and Assurance Board (DAAB) as a non-standing Board of the ICAI, for fostering a cohesive global strategy on aspects related to digital accounting and assurance.
- 2.2 The Terms of reference of the Digital Accounting and Assurance Board are summarised as follows.
- Arising out of digital era and its consequences:

- (a) to identify, deliberate and highlight issues in Accounting (including valuation) and Assurance (including internal audit) in the Digital World, and security aspect of data and technology;
- (b) to act as a facilitator by engaging through relevant committees of ICAI; and wherever necessary with standard setters, Government, Regulators, industry and other accounting bodies in the world; and suggest to the relevant Committee(s) in Institute, the required changes in Accounting Standards, Assurance Standards and Valuation Standards;
- (c) to develop knowledge base through position papers, create on line platform, including an annual conference/ round table preferably, on areas identified with a view to raise awareness in all stakeholders, the issues and opportunities arising from these trends; and
- (d) to enable setting up a Global Digital Accounting and Assurance Board, as India initiative so that ICAI gets recognition as the global thought leader in Accounting and Assurance in digital world.

3 Framework Governing Forensic Accounting and Investigations

- 3.1 Each of the Standards operate within a pre-defined framework which governs the professions of Forensic Accounting and Investigations (FAI). The framework seeks to ensure a consistent application of Basic Principles, Best Practices and Standards to achieve a high level of quality, consistent with the variety of objectives driven by the different types of forensic accounting and investigation services.
- 3.2 The FAIS Framework is an overarching document to be read along with this Preface. It consists of the following four key elements:
 - (a) Basic Principles of FAI;
 - (b) Key Concepts;
 - (c) Standards on FAI; and
 - (d) Guidance.
- 3.3 These four components are based on the foundation of Code of Ethics. This Framework is explained in a separate document titled ***“Framework Governing Forensic Accounting and Investigations”***.

4 Forensic Accounting and Investigation Standards (FAIS)

- 4.1 The Forensic Accounting and Investigation Standards are a minimum set of requirements that apply to all members of the ICAI when performing assignments in forensic accounting and investigation for any entity.
- 4.2 The FAI profession is continuously evolving and different stakeholders apply different criteria for selecting and engaging forensic accounting and investigation professionals. In some instances, due to the immense workload, such professionals are engaged as full-time employees of the entity. As a result, and due to the absence of any legal mandates, FAI assignments may be conducted by members in Practice, Industry or by professionals other than Chartered Accountants. While all the members of the ICAI are mandated to apply the FAIS, the ICAI recommends the adoption of the FAIS by non-members who are performing FAI assignments, to ensure a consistent approach and quality in the discharge of their professional duties.

5 Mandatory Nature of Framework and Standards

- 5.1 The Council of the ICAI will, at an appropriate time in the future, decide to make the FAIS mandatory in a phased manner.
- 5.2 The mandatory status of the FAIS implies that while carrying out any forensic accounting and/or Investigations, it shall be the duty of the ICAI member to ensure that they comply with the Standards, as read with this Preface, the Framework Governing FAIS, and the Basic Principles of FAI.
- 5.3 If, for any reason, a member is unable to comply with any of the requirements of the FAIS, or if there is a conflict between the Standards and other mandates, such as a statutory or regulatory requirement, the FAI report (or such similar communication) should draw attention to the material departures therefrom along with appropriate explanation.

6 Standard Setting Process

- 6.1 The Digital Accounting and Assurance Board (DAAB) develops and if appropriate, revises the FAIS. Exposure Drafts are released to various interest groups and public at large for their inputs, feedback and comments. DAAB reviews the comments and thereafter places the FAIS before the Council of the ICAI for its deliberation. The FAIS, once approved by the Council, are issued.
- 6.2 The detailed process is explained under **Annexure 1**.

7 Contents of the Standards

- 7.1. The FAIS shall be principle based and clearly outline the objective of the Standard, along with essential requirements for its compliance. Forensic Accounting and Investigation professionals shall apply their best judgement in the implementation of FAIS on the basis that “spirit of law will prevail over the letter of law”. Implementation and Technical guides issued by the Board would provide guidance and clarification in this regard, and will be recommendatory in nature.
- 7.2. Each Standard will follow a fixed six Section approach as follows:
 - 7.2.1 **Introduction:** To provide a brief background and scope of the Standard and its applicability.
 - 7.2.2 **Objective:** Reasons for issuing the Standard and why it is required/essential.
 - 7.2.3 **Requirements:** The desired outcome and what is critical to ensure compliance with the Standard.
 - 7.2.4 **Explanatory Comments:** Certain parts of the Standard which needs to be elaborated, including defining key words and terms.
 - 7.2.5 **Documentation for Compliance:** To indicate the nature of documentation required to demonstrate compliance with the requirements.
 - 7.2.6 **Effective Date:** Date from which the Standard is to be applied and made mandatory.
- 7.3. The FAIS, as and when issued, will be classified, and numbered in a series format, as follows:
 - 7.3.1 **100 Series:** Standards on Key Concepts
 - 7.3.2 **200 Series:** Standards on Practice Management
 - 7.3.3 **300-400 Series:** Standards on Executing FAI Assignments
 - 7.3.4 **500 Series:** Standards on Specialised Areas
 - 7.3.5 **600 Series:** Standards on Quality Control.

8 Guidance

- 8.1. Guidance Notes on FIAS are primarily designed to provide guidance on matters of implementation or clarification on their applicability in certain circumstances.
- 8.2. The DAAB may issue the following guides (as appropriate):

- 8.2.1. Implementation Guide: Best practices, methodologies, or approach on how best to apply the prescribed accounting and investigative procedures to achieve the objectives of the FAIS.
- 8.2.2. Technical Guide: Clarifications as to what extent the FAIS applies in a certain situation, or in a specific industry or under unusual circumstances, considering the technical or operational uniqueness of the same, and how best to achieve the objectives of the FAIS
- 8.3. The Implementation and Technical Guides are recommendatory in nature. The Forensic Accounting and Investigation professional should ordinarily follow these recommendations except where, under specific circumstances, it may not be necessary or appropriate to do so.

9 Effective Date

- 9.1. This Preface is applicable for all engagements beginning on or after a date to be notified by the Council of the ICAI.

ANNEXURE 1**DETAILS OF THE STANDARD SETTING PROCESS****1. Selection of Topics and Timelines:**

The Digital Accounting and Standards Board (DAAB), on a continuous basis, and in consultation with its key stakeholders, keeps identifying the broad areas in which the FAIS need to be formulated (including the review and revision of prevailing FAIS) and prepares a priority list with time lines for the issuance of the FAIS.

2. Formation of Study Group to Draft Standards:

In the preparation and drafting of the FAIS, the DAAB is assisted by a Study Group (SG) of professionals selected by the DAAB. In the formation of the SG, provision is made for the participation of a cross section of members of the Institute. In certain situations, the DAAB may also consider having expert professionals on the SG, who need not necessarily be members of the ICAI. The SG is generally chaired by a member of the DAAB and convened by the DAAB. The SG is responsible for preparing and finalizing the Exposure Draft of the Standard and prepares it for review and approval of the DAAB.

3. Review of Exposure Draft of FAIS by the Digital Accounting and Assurance Board (DAAB):

The Exposure Draft (ED) of the Standard is put up to the DAAB for their review, deliberation, and approval. Post deliberations of the DAAB, changes are made to the draft, and the final ED is made ready for exposure with a wide set of stakeholders. While formulating the FAIS, the DAAB takes into consideration the applicable laws, customs, business environment in India. The DAAB also, where appropriate, takes into consideration the international practices in Forensic Accounting and Investigation, to the extent they are relevant and applicable to the conditions existing in India.

4. Exposure Draft Open for Comments for 30 days:

The Exposure Draft of the proposed Standard is issued for comments by the members of the Institute. The ED is also open for comments by non-members, including the regulators and other such bodies as well as the general public. The ED may also be published in the monthly Journal of the Institute and hosted on the website of the Institute wherefrom it is downloadable free of charge for comments by the members and other professionals and the public. The ED is also circulated to all the members of Council of the ICAI, the Institute's past Presidents, Regional Councils, and the branches of the Institute for their comments. The Exposure Draft is also circulated to other external stakeholders as listed in **ANNEXURE 2.**

The Exposure Draft is normally open for comments for a period of at least 30 (thirty) days from the date exposed, but this time may be extended if necessary.

5. Finalization and Submission to ICAI Council:

After taking into consideration the comments received on the Exposure Draft, the DAAB will update the draft of the proposed Standard, take inputs of the SG (if appropriate), and finalize the Standard for consideration by the Council of the Institute.

6. ICAI Council Deliberates and Approves FAIS:

The Council of the Institute will consider the final draft of the proposed FAIS and if necessary, modify the same.

7. FAIS Issued with Final Changes:

The FAIS will then be issued under the authority of the Council of the Institute, who may also mandate the date it would be effective for implementation.

ANNEXURE 2**LIST OF STAKEHOLDERS FOR INPUTS ON EXPOSURE DRAFTS**

- 1) The Ministry of Corporate Affairs
- 2) The Ministry of Home Affairs
- 3) The Reserve Bank of India (RBI) – Including Regional Offices
- 4) The Securities and Exchange Board of India (SEBI)
- 5) The Comptroller and Auditor General of India (CAG)
- 6) The Controller General of Accounts (CGA)
- 7) The National Cyber Coordination Centre (NCCC)
- 8) The National Crime Records Bureau (NCRB)
- 9) The Central Bureau of Investigation (CBI)
- 10) The Enforcement Directorate (ED)
- 11) The Economic Offences Wing (EOW)
- 12) The Serious Frauds and Investigations Office (SFIO)
- 13) National Company Law Tribunal (NCLT)
- 14) Insolvency and Bankruptcy Board of India (IBBI)
- 15) Computer Emergency Response Team- (CERT)
- 16) The Insurance Regulatory and Development Authority (IRDA)
- 17) The Data Security Council of India
- 18) The Central Board of Direct Taxes
- 19) The Central Board of Excise and Customs
- 20) The Institute of Cost Accountants of India
- 21) The Institute of Company Secretaries of India
- 22) Recognised Stock Exchanges in India
- 23) The Indian Banks' Association
- 24) The Standing Conference of Public Enterprises
- 25) The National Bank for Agricultural and Rural Development
- 26) The Indian Institute(s) of Management (Various)
- 27) The Telecom Regulatory Authority of India
- 28) The Central Registrar of Co-operative Societies
- 29) Industry bodies/associations, such as, The Confederation of Indian Industry, The Associated Chambers of Commerce and Industry, The Federation of Indian Chambers of Commerce and Industry, etc.
- 30) State Police Agencies and Cyber Crime Cells
- 31) Any other body considered relevant by the Digital Accounting and Assurance Board, keeping in view the nature and requirements of the Forensic Accounting and Investigation Standards.