

EXPOSURE DRAFT

APPROVED BY DAAB

(7 Oct'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 – **Evidence and Documentation**

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=DOHF0zhjoU6NJ->

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Last date for sending comments is November 09, 2020.

FORENSIC ACCOUNTING AND INVESTIGATION STANDARD No. 320

EVIDENCE AND DOCUMENTATION

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This Forensic Accounting and Investigation Standard Number 320, on “Evidence and Documentation,” issued by the Council of the Institute of Chartered Accountants of India (ICAI) should be read in conjunction with the “Preface to the Forensic Accounting and Investigation Standards”, the “Framework Governing Forensic Accounting and Investigation Standards” and “Basic Principles of Forensic Accounting and Investigations” issued by the Institute.

1 Introduction and Scope

- 1.1 Considering the nature of Forensic Accounting and Investigation (FAI) engagements, the engaging parties often take a legal recourse for concluding the matters. Therefore, the Professional is expected to collect appropriate evidence and maintain required documentation. This Forensic Accounting and Investigation Standard (FAIS or the "Standard") outlines the understanding and the requirements of subject matter.
- 1.2 **"Evidence"** refers to the information, written or oral, or contained in electronic form, relied upon by the Professionals to arrive at the conclusions on which the Professional's report is based. Evidence includes both information collected from underlying entity records and processes, information collected from other sources, public or private documentation, analysis of data, testimony, spoken recollections, hearsay information and information from other investigation activities and testing procedures, to the extent admissible in the courts of law.
- 1.3 **"Documentation"** refers to the aggregate of all evidences collected along with the written record of work procedures performed and conclusions reached and reported. It includes electronic records and correspondence in digital format, and incorporates details of project plan, engagement team composition, analysis conducted, document reviewed, quality review, etc.
- 1.4 **Scope:** This Standard applies to all FAIS engagements. However, the manner in which the evidence is to be gathered from the performance of investigation activities and testing procedures (e.g., Data analytics, conducting interviews, collection and review of electronically stored information, etc.) are not subject matter of this FAIS and the Professional shall refer to the relevant Standard on those subject matters.

This standard is not meant to cover situations wherein the Professional provides expert witness services in any proceeding before a court of law, arbitration or adjudicating authority. In such case, the Professional shall refer the separate Standard on Expert Witness.

2 Objectives

- 2.1 The objectives of the Evidence and Documentation Standard are to ensure that:
- (a) the Professional collects appropriate, reliable and sufficient evidence, which can stand on its own and does not require any follow-up clarification or additional information to arrive at the same conclusion as drawn by the Professional.
 - (b) adequate documentation is prepared and maintained to:

- (i) Facilitate a review and confirmation of procedures performed by the Professional; and
- (ii) Validate the findings and support the basis on which observations are made and conclusions are drawn.

3 Requirements

- 3.1 Professional shall obtain evidence from reliable sources and ensure that evidence collected through various procedures are complementary and relevant to the objectives of the assignment (refer Para 4.1).
- 3.2 Professional shall obtain relevant and appropriate evidence, admissible in the court of law, to support the basis of findings which allows reliable conclusions to be drawn from those findings (refer Para. 4.2).
- 3.3 Professional shall record all evidence collected and shall maintain written or digital documentation explaining the manner in which the evidence was gathered, reviewed, documented and stored.
- 3.4 Professional shall ensure that complete and sufficient documentation is maintained which contains details of the procedures performed, analysis conducted, findings and observations derived from the procedures, evidence relied on in the reports. Where documentation is in digital or some other format, it should be reproducible as hard-copy documents for admissibility in a court of law (refer Para. 4.3).
- 3.5 The ownership and custody of the documentation shall remain with the Professionals. Where work is entrusted to a third party a mechanism shall be drawn to ensure that all evidences and documentation are readily available to the Professional (refer Para. 4.4).

4 Explanatory Comments

- 4.1. **Reliability of Evidence (refer Para 3.1):** The reliability of the evidence depends on its source (e.g., internal from the entity or external third party) and its type and completeness. In cases where the Professionals have doubts on the reliability of evidence or its source, they shall evaluate the necessity of identifying additional corroborative evidence and the need to modify or extend the procedures in order to resolve those doubts.
- 4.2. **Relevance of Evidence (refer Para 3.2):** Professional shall ensure that the evidences collected through various sources are relevant to the objectives of the assignment and are appropriate considering their importance to the subject

matter. Professional shall ensure that the evidences, on the basis of which conclusions are drawn in the report, are admissible in the court of law.

- 4.3. **Nature of Documentation (refer Para 3.4):** Documentation shall be complete and comprehensive. For example, it could, where relevant, consist of details of procedures performed, purpose and outcome of such procedure, information relied on, source of the information, chain of custody maintained, minutes of the meetings conducted during the course of the assignment, signed testimony of a witness, data analytical procedures performed, methodology followed for sample selection, document review and review of electronically stored data, key correspondence (including e-mail communication) with respect to the assignment.

Documentation shall be maintained in a logical manner with appropriate references to the observations forming part of the report. All documentation shall be retained in accordance with the legal requirements and Professional's retention policy.

- 4.4. **Ownership and Custody of Documentation (refer Para 3.5):** Both ownership and custody of the investigation documentation shall remain with the Professionals. Where part of the assignment is outsourced to an external service provider or an Expert, documentation requirements of FAIS 230 (on "Using the work of an Expert" are complied with (refer Para 5 of that Standard).
- 4.5. Considering the quasi-legal nature of investigation assignments, Professionals shall consider applicability of the privileged nature of the engagements and accordingly ensure that the details of evidence and documentation is shared only with those who have authorised access to them.

5 Documentation for Compliance

- 5.1 Detailed working paper including details of evidences relied on in the investigation report, quality check procedures implemented, name of the reviewer, etc as detailed in this standard.
- 5.2 Chain of custody for physical and digital evidence.

6 Effective Date

- 6.1 This Standard is applicable for all engagements beginning on or after ... (a date to be notified by the Council of the ICAI).