

1st DRAFT (15 Dec'20)

FOR REVIEW BY DAAB

(On 21 Dec'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 – **Loans and Borrowings**.

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-O1tggEOvuF6SRz25pIvVExBjm2K8JUOUxBszM4N1VTSFpRUDI5S1c4VEc3RzRLMi4u>

Last date for sending comments is January 28, **2021**.

FORENSIC ACCOUNTING AND INVESTIGATION STANDARD No. 530

LOANS AND BORROWINGS

Contents

	Paragraph(s)
Introduction and Scope	1
Objectives	2
Requirements	3
Explanatory Comments	4
Documentation for Compliance	5
Effective Date	6

This Forensic Accounting and Investigation Standard (FAIS) 530, on “Loans and Borrowings”, 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 ICAI.

1. Introduction and Scope

- 1.1 Engagements involving Loans and Borrowings present unique risks in conducting Forensic Accounting and Investigation (FAI) engagements. While contractual arrangement deviations are one aspect, statutory violations may convert the matter into criminal violations. This imposes additional responsibilities, and the need for due expertise, on the Professional conducting such engagements.
- 1.2 Scope: This standard is applicable to all FAI engagements where Loans and Borrowings have been extended by the Financial Institutions who are in that business, viz., Banks and Non-Banking Financial Companies (NBFCs).

2. Objectives

- 2.1 The objectives of this Standard on Loans and Borrowings is to allow for due focus by the Professional in this area, especially to identify and report:
 - (a) any shortcomings by the loan sanctioning authorities in proper due diligence prior to loan approval;
 - (b) any defaults by the borrower of loan agreement terms and covenants; and
 - (c) the true utilization of the borrowed funds, as per the stipulated terms and conditions.

3. Requirements

- 3.1 The Professional shall, as per FAIS 220 on “Engagement Acceptance and Appointment”, specifically identify and agree the scope and requirements of the engagement with regards to Loans and borrowing, as these would differ for each appointing agency, such as Resolution Professional (RP), Banks, or any other investigating authority. Any areas specifically agreed to be out of scope regarding Loans and Borrowings shall be clearly mentioned in the Letter of Engagement.
- 3.2 In order to validate compliance with loan approval, the Professional shall verify the books of account of the borrower to identify the reasons for default and/or intention of fraud. (refer Para 4.1)
- 3.3 The Professional shall investigate the movement of the borrowed funds from the sanction to the end utilization against the sanctioned purpose and terms. (refer Para 4.2)
- 3.4 The Professional shall make reasonable efforts to collect additional information from various other possible sources which may help in corroborating facts and

held beyond the books of accounts and the information which is made available either by the borrower or appointing agency. (refer Para 4.3)

- 3.5 The Professional shall refer and comply with the requirements of Regulators of Financial Institution and other applicable laws. (refer Para 4.4)

4. Explanatory Comments

4.1. **Books of accounts:** The Professional shall review the audited financial statements, trial balance, cash flow statements of the borrower for the relevant period to identify any discrepancies, mismatches or irregularities. Considering the nature and complexity of the subject matter, the Professional may need to examine all the relevant facts, not limited to account receivables, account payables, sales and purchases in order to identify inflated or undervalued figures prejudicial to the interest of the borrower. The review period may also be extended, prior to the sanction date as agreed with the Stakeholders.

4.2. **Movement of Funds:** The Professional shall look into the money trail and end utilization of funds disbursed by the lenders and identify instances of fund diversion / siphoning off of funds by validating their utilization for purposes other than the sanctioned purposes, or for creation of assets off the books. Professional may examine routing of turnover in the accounts maintained with banks outside consortium and amount of funds routed through member banks vis a vis cash realization and sanction limits.

4.3. **Additional information from other sources:**

- (a) The Professional may need to emphasize on the core controls and principles such as statutory payments and returns matching with balances in books of accounts, verify the related / connected party and/or normal trade transactions which do not seem to be transactions at arm's length, errors and omissions of transactions as may be recorded in the books of accounts etc.
- (b) The Professional may look into the digital footprints of the borrower by using the digital forensics for social media and open searches, gathering market intelligence, field investigations, performing integrity due diligence checks and such other techniques as may deem fit for the engagement purpose.
- (c) As per the terms of engagement, in cases where deem fit and appropriate, the Professional needs to exercise due care to examine possible / perceived nexus between the borrower and sanctioning authority.

- (d) The Professional, if agreed with the Stakeholder, may engage experts in line with FAIS 230 in order to look into areas where Professional may not possess the required knowledge or skills.

- 4.4. The Professional shall be cognizant of the applicable regulations of the Reserve Bank of India (RBI) and other applicable laws as per the FAIS 130 on "Laws and Regulations".

5. Documentation for Compliance

- 5.1 Appointment letter issued by the Stakeholder consisting of scope, objectives and deliverables.
- 5.2 Documents should be maintained and retained as per the FAIS 320 on "Evidences and Documentation" and FAIS 360 on "Reporting Results".
- 5.3 The Professional shall obtain and maintain documents from the Lender, the Borrower and the appointing agency, if provided, as a part of working papers. List of common documents available for the Professionals' reference:

(a) From Lender

- Bank statements along with narrations of all accounts maintained for the review period.
- Stock audit report / special report or any other audit report for the review period.
- Sanction or disbursement letters along with the terms of engagement.
- List of parties whom payments have been made from the Non-Fund based limits.
- Letter of Credit and Letter of Undertaking reports from bank systems, projected financial statements, invoices submitted to the lender etc.

(b) From Borrower

- Books of accounts, in order to verify the utilization of funds.
- Bills and vouchers, in order to verify genuineness of transactions undertaken and booked by the borrower.
- Audited financial statements for the period.
- Photos of Physical verification undertaken for factory / premises.

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).