

Understanding and implementing important concepts across FAIS

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The FAIS have been made mandatory w.e.f. 1st July 2023

The mandatory nature of the FAIS implies that while carrying out any FAIs, it shall be the duty of the **Professional** to ensure that they comply with the Standards, as read with this Preface, the Framework Governing FAIS, and the Basic Principles of FAI.

Preface to the Forensic Accounting and Investigation Standards, Para 5.2

The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect.

If you wish to converse with me,
define your terms.

- Voltaire

Framework Governing Forensic Accounting and Investigations – Key Concepts

<https://www.udemy.com/course/audit-forensic-data-analysis-with-ms-excel/?referralCode=AF020D66AFA4ECECFD08>

Framework Governing Forensic Accounting and Investigations

Professional

A professionally qualified accountant, carrying membership of a professional body, such as the ICAI, who undertakes **forensic accounting and investigation** assignments using accounting, auditing and investigative skills.

Source: Framework Governing Forensic Accounting and Investigations- Para 3.1

Certified Members

The CFE Code of Professional Standards shall apply to all certified Members of the Association of Certified Fraud Examiners (ACFE).

Source: CFE CODE OF PROFESSIONAL STANDARDS INTERPRETATION AND GUIDANCE

Framework Governing Forensic Accounting and Investigations

Forensic Accounting

Forensic Accounting is gathering and evaluation of evidence by a professional to interpret and report findings before a Competent Authority.

Source: Framework Governing Forensic Accounting and Investigations– Para 3.2.1

Forensic Accounting

Forensic accounting is the use of professional accounting skills in matters involving potential or actual civil or criminal litigation, including, but not limited to, generally acceptable accounting and audit principles; the determination of lost profits, income, assets, or damages; evaluation of internal controls; fraud; and any other matter involving accounting expertise in the legal system.

Source: ACFE

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Source: ACFE

Forensic Accounting and Investigation Standard No.110

Nature of Engagement

Forensic Accounting

Forensic Accounting aims to highlight any accounting or **legal violations, regulatory deviations or contractual breaches** through ascertainment of facts and gathering of evidences admissible before a Competent Authority. The focus area is critical examination of transactions, funds and balances in the books of account or with third parties.

Source: Forensic Accounting and Investigation Standard No. 110: – Para 4.2

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Source: ACFE

Posers - Which of these engagements would be Forensic Accounting engagements as per FAIS?

- Inquiry and reporting on Financial Statement manipulations.
- Inquiry and reporting on Diversion of the funds.
- Inquiry and reporting on Money laundering.
- Inquiry and reporting on Insider Trading.
- Inquiry and reporting on Tax Evasion.
- Inquiry and reporting on Related / Associated / linked party transactions.
- Valuations and Estimations of losses or damages.

Forensic Accounting and Investigation Standard No.110

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Source: ACFE

Framework Governing Forensic Accounting and Investigations

Investigation

Investigation is the systematic and critical examination of facts, records and documents for a specific purpose.

Source: Framework Governing Forensic Accounting and Investigations– Para 3.2.2

Fraud Examination

“Fraud examination” is defined to mean any engagement or assignment, a substantial purpose of which involves the prevention, detection, investigation or resolution of fraud or fraud-related conduct.

Source: ACFE

Poser - What is Investigation as per FAIS / Fraud Examination as per ACFE?

- To investigate allegations of fraud or fraud-related conduct
- During a professional engagement, evidence of fraud is detected and the professional is either directed by the client, required by rule or chooses on their own to follow up on such evidence;
- An employer directs a professional to conduct an internal audit based on allegations of fraud by an employee or vendor;
- To conduct a fraud risk assessment or evaluation of antifraud controls;
- A professional is engaged to serve as an expert in a litigation case in which questions of fraud or fraud-related conduct are at issue.

Series 100 Standards – Key Concepts

Sr. No.	FAIS No.	Subject Matter
1	110	Nature of Engagement
2	120	Fraud Risk
3	130	Laws & Regulations
4	140	Applying Hypotheses

FAIS 120: Fraud Risk

FRAUD INDICATORS

The fact that fraud is usually concealed, can make it very difficult to detect.

Nevertheless, the Professional may identify events or conditions that indicate an incentive or pressure to commit fraud (the motive) or provide the situations to perpetrate one (the opportunity).

For example, frauds are generally driven by a motive to gain, combined with the exploitation of a weakness in the system and rationalized as acceptable.

FAIS 130: Laws & Regulations

DIRECT IMPACT LAWS



☐ Despite all laws being an integral part of the engagement, certain laws are specifically applicable to FAI engagements. These laws form an essential basis for the Professional to conduct the engagement.

☐ As an example, there are certain statutes with provisions relating to white collar crime, corruption and money laundering, and certain contract or company related laws with specific provisions concerning frauds and irregularities. The Professional is expected to have a basic understanding of these direct impact laws to plan and conduct the engagements

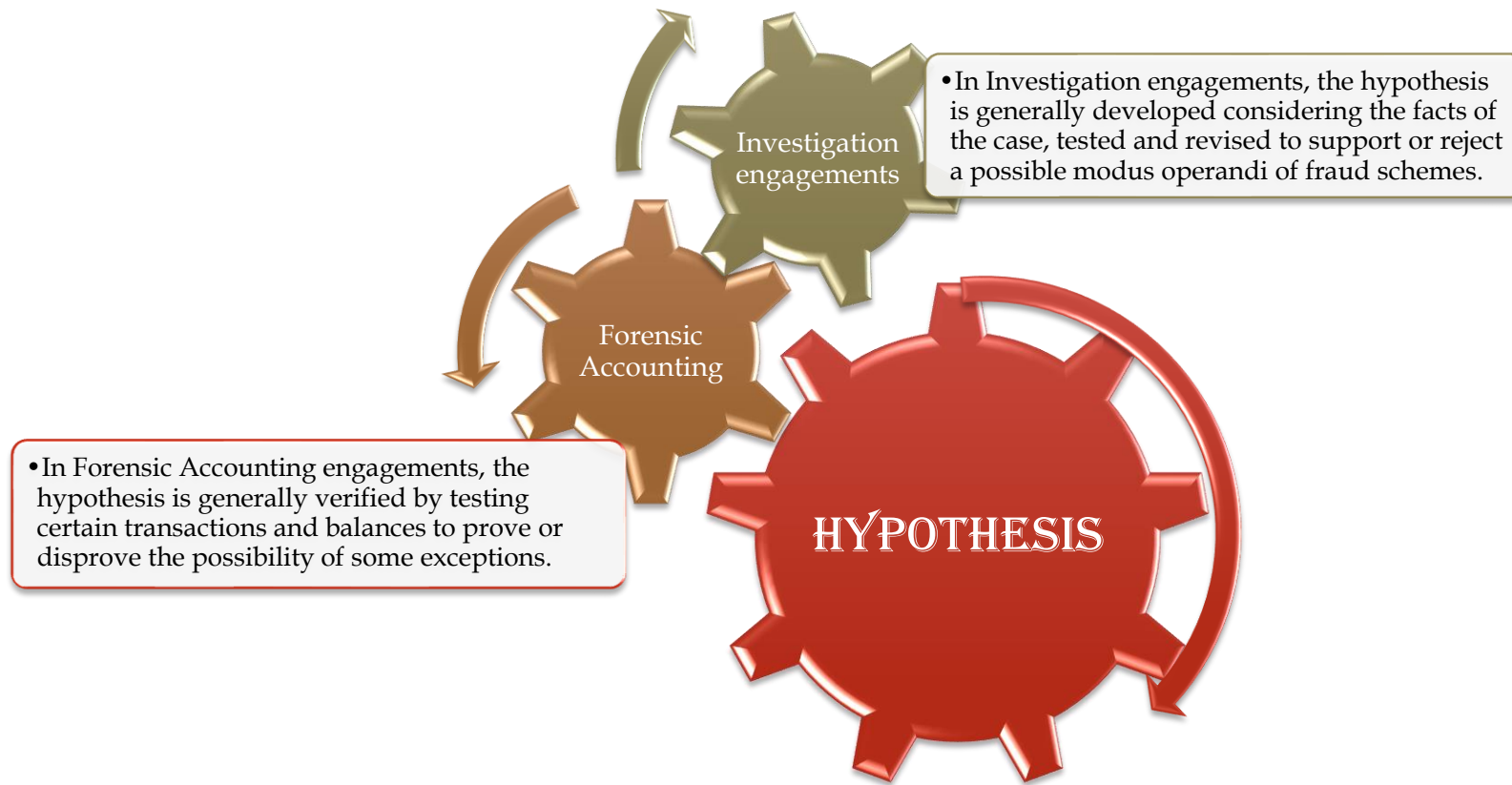
ENGAGEMENT SPECIFIC LAWS



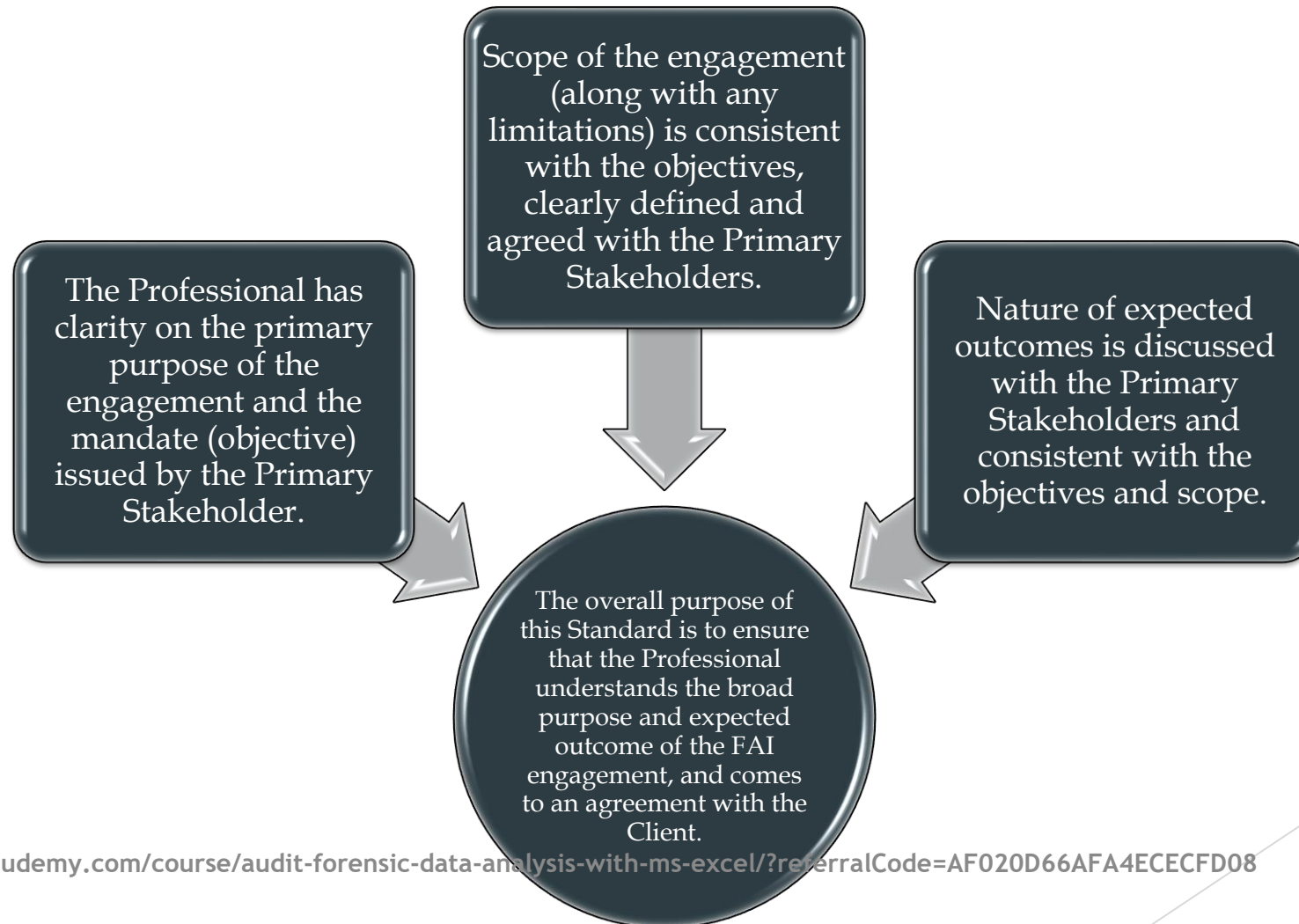
☐ In addition to the directly impacting laws mentioned above, there are certain specific laws which apply when engagements are planned and executed. These engagement specific laws shall govern the overall conduct of the engagements in such situations.

☐ As an example, there are certain statutes with provisions concerning the information technology environment, privacy of individuals, some laws concerning insolvency and bankruptcy which codify the manner in which FAI procedures need to be conducted to gather evidence and laws concerning how evidence needs to be admissible before a Competent Authority. The Professional is expected to have a basic understanding of these engagement specific laws for proper conduct of work procedures.

FAIS 140: Applying Hypotheses



FAIS 210: Engagement Objectives



FAIS 220: Engagement Acceptance & Appointment

Procedures for Engagement Assessment

- Preliminary procedures shall be conducted by the Professional prior to accepting a proposed engagement to understand the requirements and scope of the engagement. These procedures shall be directed towards making an assessment as to whether the Basic Principles of Forensic Accounting and Investigations are adhered to. Examples of such procedures include an evaluation of independence, preliminary capability assessment with available resources and skills, complexity of relevant laws and regulations as well as any constraints or scope limitations. A determination shall also be made of the need to source appropriate skilled resources and time limitations specified for completion.

Due diligence of engagement

- The Professional shall, through discussion with the Stakeholders and a review of available information, conduct an assessment of the engagement risks. Where the engagement risks are substantial with limited mitigations or safeguards, and the risk assessed is above the acceptable levels, the Professional may choose not to accept the engagement, and communicate the reasons for this action.

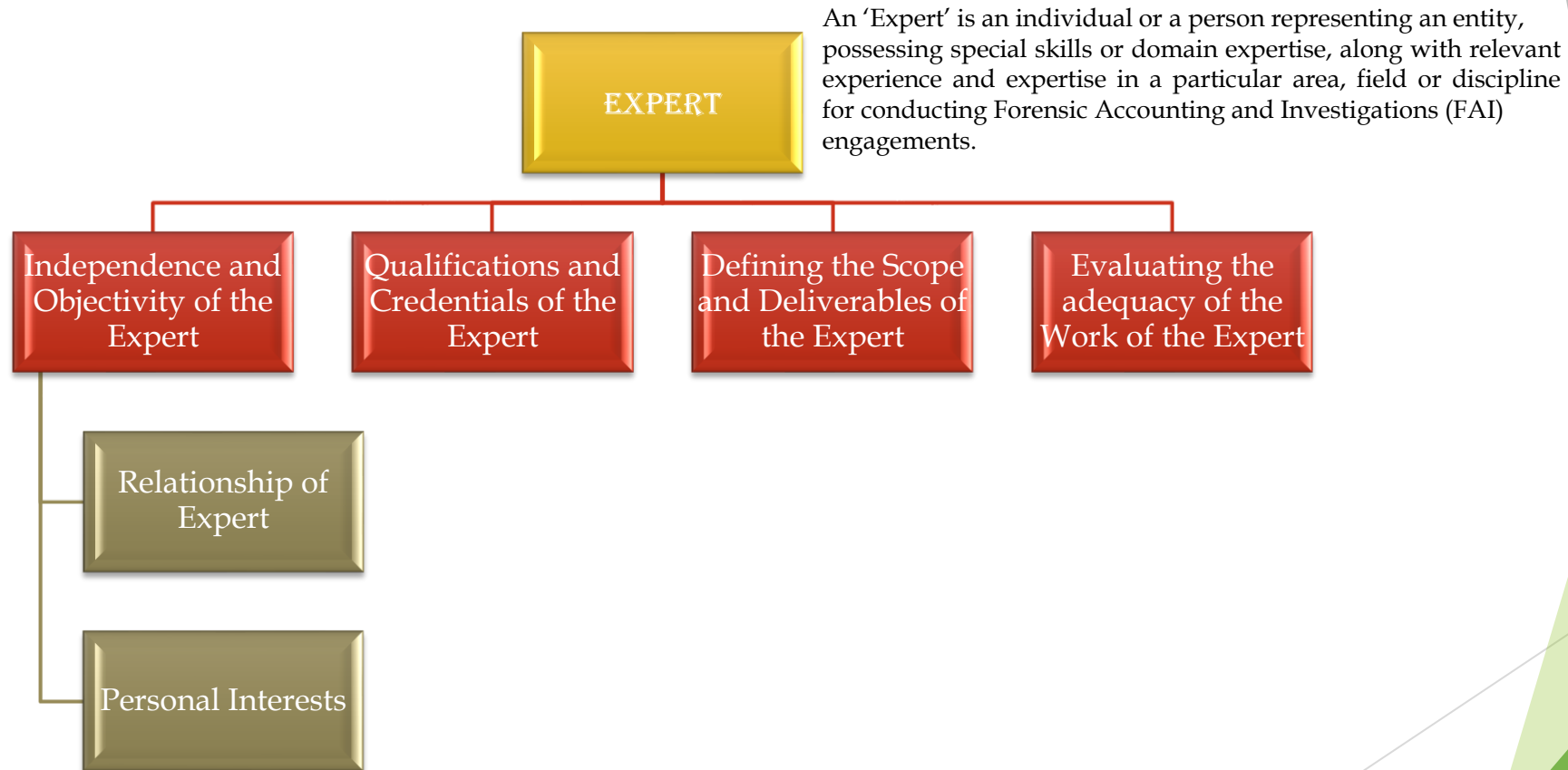
Limitation on Scope Prior to Engagement Acceptance

- A limitation on the scope may sometimes be imposed by the Stakeholders prior to engagement acceptance. For example, a bank may appoint the Professional to conduct a forensic review of loan fund utilisation, but the lender company has expressed an inability to support the Professional with some key information requirements. Where such limitations impose undue restrictions to the effective performance of the engagement, the Professional shall not accept such an engagement, and communicate the reasons for this action.

Engagement Letter

- Acceptance of an engagement is complete when the appointing Stakeholders have agreed to the terms of the engagement and signed the Engagement Letter, or issued a Letter of Appointment. Subsequent changes to the scope shall also be documented and agreed through an addendum to the Engagement Letter prior to the issuance of the deliverables. In the circumstances where the Professional is unable to agree to the revised terms of engagement, imposition of limits or change in scope, the Professional shall withdraw from the engagement, and communicate the reason for withdrawal.

FAIS 230: Using the Work of an Expert



FAIS 240: Engaging with Agencies

LAW ENFORCEMENT AGENCIES


Law Enforcement Agencies are typically Central or State agencies mandated to enforce a particular law with the power to prevent, detect and investigate non-compliances with those laws. Their powers may be restricted by jurisdiction or by the law they are entrusted to enforce.

REGULATORY BODIES


Regulatory Bodies are established to govern and enforce rules, laws and regulations for the benefit of public at large.

FAIS 250: Communication with Stakeholders

Communication: Communication refers to sharing of any information or data between the Professional and the Stakeholders, in any form (e.g., verbal, written, electronic/digital, etc.) or format (e.g., documents, images, videos, text messages, etc.).



Primary Stakeholder: The appointing authority is the Primary Stakeholder, who is also referred to as “the Client” in some cases. The appointing authority can be identified from the content of the engagement or the appointment letter and their signatory(ies).



Other Stakeholders: All Stakeholders other than Primary Stakeholders are considered as Other Stakeholders and includes third parties (e.g., lenders, customers, suppliers, business partners, consumers, current or past employees, etc.).

FAIS 310: Planning an Assignment

ENGAGEMENT:

An Engagement shall mean the overall contractual mandate between the Professional and the Primary Stakeholder, stipulating the terms of reference, scope of work, coverage, and expected deliverables.

ASSIGNMENT:

An Assignment shall mean some part of the engagement (such as a specific business or location), or a portion of the overall engagement (such as the IT or technical aspects) or a specific group of tasks (such as conducting interviews), undertaken by the Professional.

FAIS 320: Evidence and Documentation

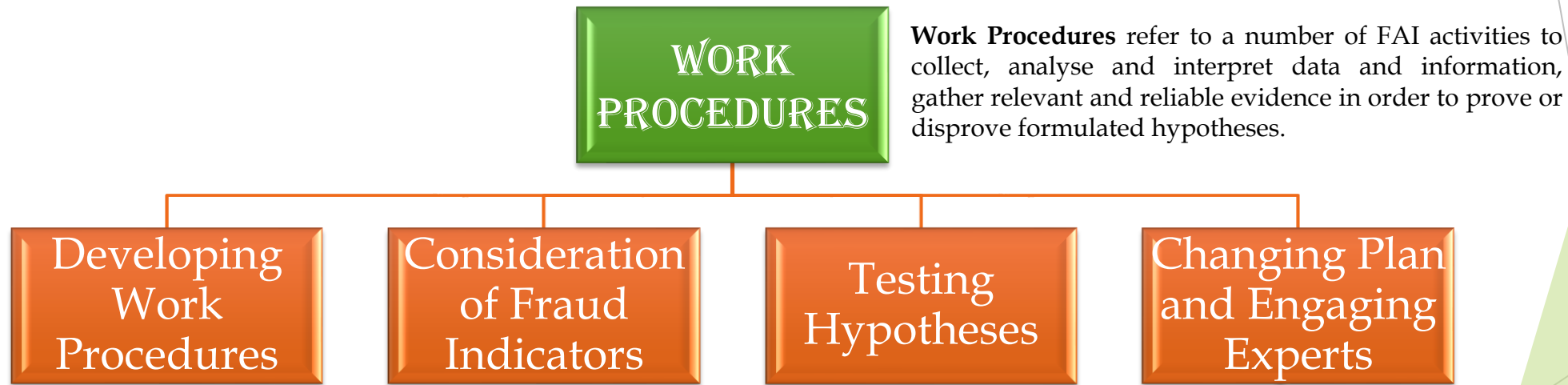
EVIDENCE

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 information which is discovered both from work procedures conducted (such as observations, documentation and process reviews, data analysis, etc.) or gathered from internal or external sources (such as interviews, testimony, spoken recollections, etc.), to the extent suitable before a Competent Authority.

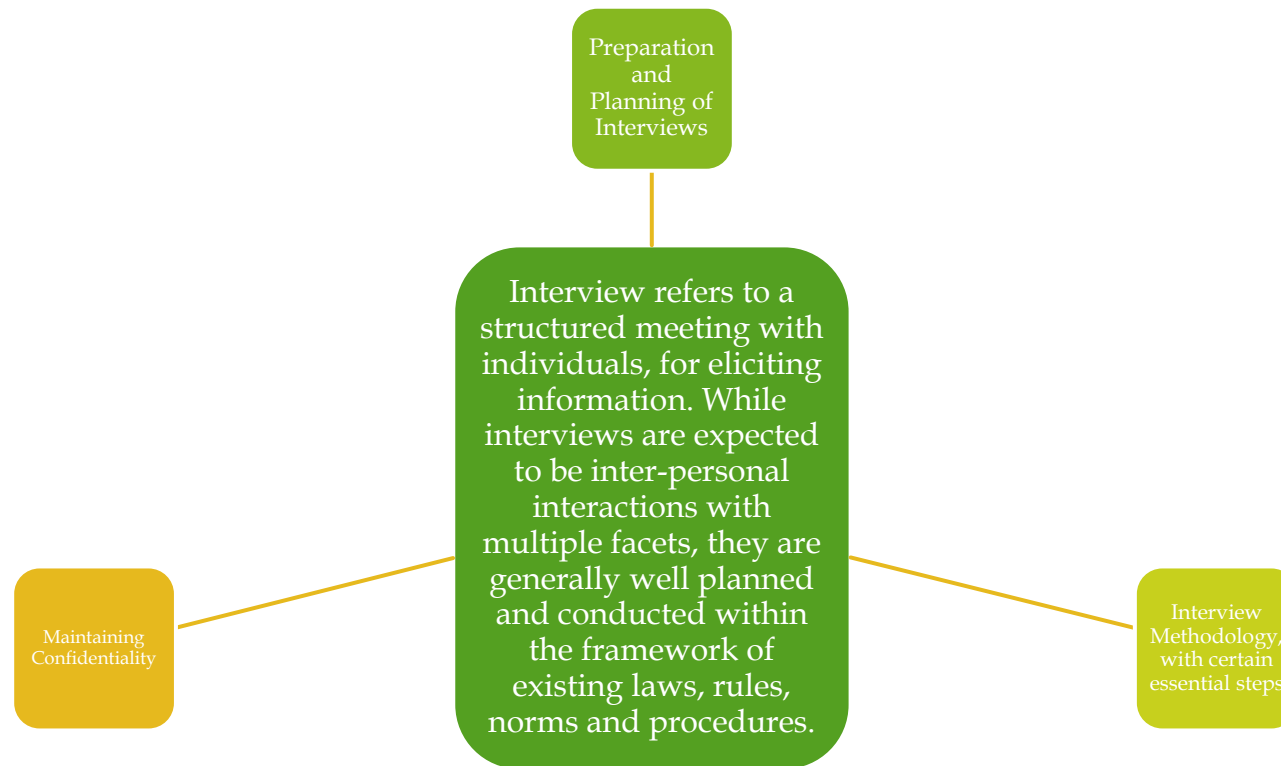
DOCUMENTATION

Documentation refers to the aggregate of all evidences gathered along with written record of work procedures conducted, conclusions reached and reported. It includes electronic records and correspondence in digital format, and incorporates details of project plan, engagement team composition, analysis conducted, documents reviewed, quality review, etc.

FAIS 330: Conducting Work Procedures



FAIS 340: Conducting Interviews



FAIS 350: Review and Supervision

REVIEW:

Review refers to the examination of planning and work procedures, gathering of evidence, conclusions drawn therefrom and documentation of working papers.

SUPERVISION:

Supervision refers to the oversight of the activities conducted by the team and the provision of overall guidance for achievement of assignment objectives.

FAIS 360: Testifying before a Competent Authority



ADJUDICATING AUTHORITY

Adjudicating Authority refer to a Tribunal or Judicial Authority established to interpret the law and pass necessary judgements in case of disputes.



COMPETENT AUTHORITY

Competent Authority refers to a court of law (or their designated persons), an adjudicating authority or any other judicial or quasi-judicial regulatory body empowered under law to act as such.



PROCEEDINGS

The legal process pursuant to directions given by a Competent Authority, a regulatory body or an enforcement agency designed to hear the case.



TESTIMONY

A statement of the Professional whether oral, written or contained in electronic form, testifying before the Competent Authority on the facts in relation to a subject matter.



TESTIFYING PROFESSIONAL

The Professional testifying before the Competent Authority either in own capacity or representing a firm having the competency to testify on the assignments completed by them.

FAIS 410: Applying Data Analysis



Data Source includes various places from where data can be collected or retrieved. A Data Source may either be the initial location where data is created, or from where it is stored, or accessed for use by another process or where it is reported (including in digital/electronic form).

DATA SOURCE



Data Acquisition is the process of retrieving data from Data Source for DA, storage or reporting.

DATA ACQUISITION



Data Validation is the process of inspecting the accuracy, completeness and quality of data collected.

DATA VALIDATION



The attribute of data that ensures its reliability and trust worthiness.

DATA INTEGRITY



The process of validating the data for the purpose of DA without compromising on Data Integrity.

DATA PREPARATION



The process of exploring data to understand key data elements, data structure and content, for the purpose of analysis.

DATA PROFILING



The process of examining data using logical, statistical and mathematical techniques, deploying visualization or other techniques to identify relationships, trends, patterns, anomalies and exceptions within data (including potential fraud indicators) and thereby provide insights to the user.

DATA ANALYSIS

FAIS 420: Evidence Gathering in Digital Domain

DIGITAL DOMAIN (DD)

The electronic environment where digital evidence is present, is referred to as the 'digital domain'. This may be in the form of Information Systems (IS) used by an organisation or Cyberspace (which includes the communication network connecting the organisation's IS to the internet and rest of the digital domain).

DIGITAL EVIDENCE (DE)

This term refers to data or information acquired, stored, accessed, examined, transmitted and used in electronic form. DE needs to comply with applicable laws and proper chain of custody in order to be admissible as evidence before a Competent Authority.

ELECTRONIC GATHERING (OR E-DISCOVERY)

The process used for gathering and collecting evidence in the Digital Domain, which is to be used by a Professional conducting an FAI assignment or by parties other than the Professional or party subject to legal proceedings.

DIGITAL CHAIN OF CUSTODY

This term refers to the procedures applied to track the sequential movement of evidence through the gathering process from collection, storage, securing, safeguarding and analysis lifecycle. Each step is recorded and each person who handled the evidence is documented, noting the date and time it was collected, stored, transferred, and the purpose of such transfers.

DIGITAL FOOTPRINT

This term refers to the unique set of actions and activities, including communications, recorded on the Digital Domain or devices which can be traced to a particular user. These footprints are in the nature of the user's web - browsing history or social media activity.

FAIS 430: Loans or Borrowings

LOANS

Include all types of funded or non-funded facilities sanctioned and disbursed or accepted to pay in certain circumstances by the lender.

BORROWINGS

Include all types of funded or non-funded facilities requested and transacted by the borrower.

MISUTILISATION OF FUNDS

Funds are not utilised as per intended purposes or as per agreed terms and conditions. Fund utilisation may be on activities unrelated to the operations and activities of the business and to the detriment of the financial health of the entity.

FAIS 510: Reporting Results

Written Report

- The Professional shall issue a written report which conveys the results of the assignment clearly and accurately. The findings reported shall be based on evidence gathered which are reliable and relevant and in line with FAIS 320 on “Evidence and Documentation”.

Report addressee and distribution

- The Professional shall address the report to the Primary Stakeholders as per FAIS 250 on “Communication with Stakeholders”, unless the engagement terms state otherwise. If required, a copy of the report may be shared with Other Stakeholders, but with the prior approval of the Primary Stakeholders.

Discussion of Draft report

- The principles of natural justice requires a discussion of the observations with the subject party. In some cases, this is done by the Primary Stakeholders through their own internal processes (e.g., disciplinary committee, show-cause notice, etc.). At times, the Professional is requested to incorporate the discussion of draft findings as part of the interview process with the subject. Where the engagement mandate requires a discussion of the draft findings with the subject party, any response received from them shall also be included in the written report issued by the Professional.

Assumptions and Limitations

- The Professional shall list any relevant assumptions made during the course of the engagement having a significant bearing on the subject matter. In addition, the Professional may encounter limitations that restrict the methodologies or procedures applied in carrying out the assignment. Such limitations can be in the form of lack of (or limited) management support, restricted (or denied) access to required records, information or people, due to any reason such as order of Competent Authority, short timelines, etc. These disclaimers would be covered in the report as a key element of the report.

Reporting Timelines

- The report shall be issued within reasonable time frame as per the engagement terms. The Professional may be required to provide interim reports as per the engagement terms which can be given to the extent practicable without compromising the progress of the Investigation. Such interim reports are also subject to this Standard.

FAIS 610: Quality Control

QUALITY CONTROL SYSTEM

- The QCS shall consist of the quality control requirements and the policies and procedures which will ensure the compliance of these requirements. These would apply during all stages of an assignment. While the elements and components of the QCS depend on the best judgement of the Professional.

STAFFING AND COMPETENCY

- Capabilities and competencies are developed through a variety of methods, including the following:
 - ✓ Professional education
 - ✓ Continuing professional development, including training programs
 - ✓ On-the-job work experience
 - ✓ Coaching of junior staff by more experienced professionals

COMMUNICATION OF QCS

- The quality control policies and procedures shall be documented and communicated to all Professionals and other staff (and, if appropriate, the Experts) working on the assignment. Such communication shall describe the quality control requirements, policies and procedures, and the objectives they are designed to achieve.

QUALITY CONTROL REVIEW

- A QCR is undertaken prior to the completion of the assignment by the Professional himself, or a Professional not involved with the assignment. This shall include but not limited to review of significant findings, evidence gathered, and conclusions reached in formulating the report. The QCR provides an opportunity to address any quality related concerns which may get highlighted at this stage.

CONTINUING PROFESSIONAL EDUCATION

- The Professional shall have in place a process to monitor the CPE compliance requirements and take necessary steps to:
 - ✓ Develop plans to ensure timely completion of CPE programs during a set time-frame.
 - ✓ Annually obtain written confirmation from everyone of compliance with CPE requirements.