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# 会计违规和 财务欺诈

[美] 迈克尔·R·扬 (Michael R. Young) / 编

第2版

Accounting

Irregularities

and

Financial Fraud



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## 中文版序

以一句很多人使用的话说，会计行业近两年正处于争论的漩涡之中。

2001年以来，美国爆发一系列财务虚假案，使得安然、世通等巨型公司破产，也导致安达信这样一个有着九十多年历史的世界级会计师事务所饱含屈辱地退出审计市场。安然和世通等事件的影响巨大，损失了几十亿美元的价值。人们开始质疑，这些巨人公司的账面价值到底在多大程度上是真实的？事实上，公众对这种价值创造所依赖的会计和财务制度的信任已经动摇。为了重树公众信心，美国制定颁布了《公众公司会计改革和投资者保护法》（Public Company Accounting Reform and Investor Protection Act of 2002），简称为《萨宾纳斯—奥克斯莱法案》（Sarbanes-Oxley Act），对美国而且对世界各国会计、公司治理以致整个证券市场，都产生了相当大的影响。

在中国，上述问题也一样沉重。由于与会计信息相关的违规行为而被证监会查处，或被沪深证交所公开谴责和批评的上市公司，已经是越来越多。在一张张让人不放心的公司财务报表面前，公众感到疑惑，无所适从。银广夏和中天勤案件的查处，让会计师和注册会计师面临空前的信任危机，会计和审计专业的信誉面对巨大的挑战。

在会计信息和资本市场问题上，存在着一个“公司财务报告供应链”。谁组成了公司财务报告供应链呢？毫无疑问，公司财务报告供应链启动于公司内部管理层，他们是原始会计信息的拥有者，他们负责编制和向投资者与其他利益相关者提供财务报表，并承担会计信息质量的最终责任。实务中，会计报表和财务报告由CFO领导下的公司财务报告系统编制，由CPA进行独立审计鉴证，经过董事会批准和股东大会通过后予以公布，还要由证券分析师进行分析，由媒体进行信息传播。在获得上述直接和间接财务信息的基础上，投资人和其他利益相关者做出自己的决策。

显然，这个长长的公司财务报告供应链由许多环节组成，每个环节都有不同的供给方和需求方。

从公司财务报告供应链的视角看，应该说，财务信息的可靠性是由链条中的所有各方共同保证。当然，社会和公众有理由对链条中最为重要的两个环节——会计师和审计师——提出更高、更严格的要求。会计师和审计师必须在具备诚信度的同时，把透明度和受托责任奉为职业要素。

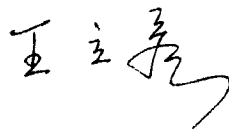
写了以上几段话，是为了引出对本套中信财会图书馆影印系列专业书籍的认识和介绍。这套系列丛书包括12本书。大体上可以归为三类：

第一类：《会计案头必备：财会人员日常速答手册》、《金融工具——会计及财务报告综合指南》、《商业企业与工业企业财务比率年鉴》、《购买和出售企业专业指南：税收、价值评估、法律和会计核算》、《启动财务——企业初创阶段筹集资金指南》。这几本书的内容聚焦于企业会计和财务管理人员的日常专业工作。

第二类：《审计委员会——公司董事、管理层以及咨询人员指引》、《会计违规和财务欺诈》、《审计程序》、《审计人员风险管理指南：审计与企业风险管理的结合》。这几本书的内容聚焦于审计方面，维护财务信息质量是共同主题。

第三类：《欧洲会计指南》、《国际会计准则指南》、《FASB准则的再阐释与分析：GAAP指南》。这几本书的共同主题是会计规范。

总而言之，这12本书是一套财会方面的好书，既包含有详细的专业规范，又包含了丰富的实务经验，具体应该特别指出以下重要话题：其一，与公司治理有关的机制问题，《审计委员会——公司董事、管理层以及咨询人员指引》非常值得细读；其二，有关《萨宾纳斯—奥克斯莱法案》的问题，在《会计案头必备：财会人员日常速答手册》一书中专设一章“The Sarbanes-Oxley Act of 2002”予以介绍；其三，《购买和出售企业专业指南：税收、价值评估、法律和会计核算》、《启动财务——企业初创阶段筹集资金指南》等书的主题，不在会计、审计方面，而是专项财务管理；其四，我国会计界对英美制度关注比较多，而对欧洲国家的会计制度了解很少，对此，阅读《欧洲会计指南》会有收益。



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## FORWORD

*by Mario M. Cuomo*

The unprecedented era of spectacular growth over the last decade has unleashed cascading new wealth in the financial industry and created a new American world of glorious possibilities and challenges. One of the challenges is the disconcerting outbreak of "accounting irregularities," a nice euphemism for what amounts to the deliberate manipulation of bookkeeping to disguise regrettable realities with desirable illusions. In my old neighborhood that was usually called "fraud."

In the pages that follow, you will learn about the corporate environment that causes it, how it spreads, the kind of crises it can create for the company, and the best ways to deal with them. Experts will offer advice on the conduct of the initial investigation and the first meeting of the board of directors. They will give insights dealing with insurance, indemnity, and the possibility of class action lawsuits, and demonstrate how to restore corporate and individual credibility after the event.

There are also helpful ideas about how to strengthen the company against a recurrence of lapses in judgments and ethics. To do that we have to understand the dynamics and temptations that help spawn the manipulations: the corporate pressure that can push honest people into doing dishonest things, how an executive can be trapped by what seems an easy escape from the embarrassment of disillusioned earnings expectations. Business people with firsthand experience show how, in the process, the executive overlooks the possible cost in dollars and reputation and marketability, not just to the offending company and all those implicated by the company, but even to honest competitors in the rest of the industry whose reputations suffer by association.

All of that is described, clearly and vividly, from the cumulative experience of knowledgeable professionals, making this volume the first authentic "how to" book on dealing with accounting irregularities.

It can also prompt some badly needed reflection on the larger economic and fiscal context in which we find ourselves.

A lot has happened to economics and business in the last 30 years. So much so that a new language is being developed to describe our changing world. Words like "transparency" are suddenly and obviously



recurrent in the pages of financial journals, on paper and on the computer screen. Thirty years ago the word “transparency” was used only infrequently and almost never by economists. Today that word means that if you want help from the IMF or the World Bank, or if you want credibility in your fiscal practice here at home, your books and accounting records ought to be clean, honest, and comprehensible.

Most dictionaries still don’t list that particular meaning. But it is found in almost every speech by former Treasury Secretary Robert Rubin and current Chairman of the Federal Reserve Board Alan Greenspan.

And only a few years ahead of “transparency,” the words “interconnectedness” and “interdependence” resurfaced. Wendell Willkie, who ran against FDR in 1941, had used those words over a half a century ago in his book *One World*, while predicting the inevitable emergence of another new word, “globalization.” Four decades later, Mikhail Gorbachev and Vaclav Havel resuscitated Willkie’s words and now they regularly appear when the point is being made that the financial world and the rest of the planet are intensifying dealings with one another all over the globe. Horizons have broadened, borders have become infinitely elastic. Mergers and mega-mergers, joint ventures and affiliations, stretching the reach of companies across seas and over continents, have created tremendous new opportunities and fearsome new competition at the same time.

The message in this book is that, in this world of exciting new options and intense new competition, financial regularity and transparency will be a *sine qua non* to success. Only the enterprise that can be believed and depended upon will survive. Our hope is that the contributions we offer will make that case clearly enough that, before much longer, this kind of fraud will become so rare we won’t need clumsy euphemisms like “accounting irregularities” at all.

## PREFACE

It only takes a phone call. One moment you're a titan of corporate management. You are, among other things, an outside director of a company that has, yet again, reported stellar results. The stock price is up. Senior management is happy with their well-deserved bonuses. And you're basking in the glow of a favorable article that has just appeared in *Business Week*.

Then, with a single phone call, everything changes. You're told that accounting irregularities have surfaced at the company. Inexplicably, the CFO has confessed. An emergency board of directors meeting is being called for the next day. There will be one item on the agenda: How to deal with a crisis.

Increasingly, boards of directors, audit committee members, and senior executives are finding themselves in precisely this situation. For virtually all of them, it will be the first time that they will go through it. For that matter, it will probably be the first time for their outside law firm, the certified public accountants who serve as their outside auditors, and almost everybody else involved. Some will choose the proper course of action almost as a matter of instinct. But, experience teaches, many will not.

This book is intended to provide a step-by-step guide to the crises enveloping a company in the wake of fraudulent financial reporting—and how to prevent it from happening in the first place. It is directed to almost everybody involved: outside directors, audit committee members, senior executives, CFOs, CPAs, in-house lawyers, and outside law firms. Experience teaches that, where fraudulent financial reporting surfaces, the root causes and effects are almost always the same. Also the same are the strategies for dealing with them.

*Michael R. Young*

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### Foreword

**Mario M. Cuomo**, before he entered public service, had been a law clerk to the Honorable Adrian P. Burke of the New York State Court of Appeals, an Adjunct Professor of Law, and a practicing attorney who had appeared in every level of the New York State courts and before the Supreme Court of the United States. As Secretary of State and then Governor of New York for 12 years, he took a leading role in the enhancement of the laws of public disclosure and integrity in public reporting. As Secretary of State, Mr. Cuomo helped write the first public disclosure laws in New York State and drafted the first reform of New York's lobbying laws in over 70 years. As Governor, he proposed and signed the first ethics law for public officials; the law requiring the application of generally accepted accounting principles to the state budget; and the first state statute requiring regular and independent audits of all executive agencies, including the Comptroller's Office, the State Inspector

General's Office, and his own Office of the Governor. As a partner of Willkie Farr & Gallagher, Mr. Cuomo has played an active role in advising public companies, boards of directors, and audit committees on issues of corporate governance and financial reporting, and he has engaged in a broader practice specializing in national and international corporate law. Mr. Cuomo is the author or editor of more than a half-dozen books, including *The Blue Spruce*, *Reason to Believe*, *The New York Idea: An Experiment in Democracy*, *More Than Words*, *Lincoln on Democracy*, *Diaries of Mario Cuomo*, and *Forest Hills Diary*.

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tion with Securities and Exchange Commission, Department of Justice, and FBI investigations and in proceedings before the New York Stock Exchange and the National Association of Securities Dealers. Mr. Baio is a frequent lecturer on business law at the Columbia University School of Business and is a regular speaker for the Directors' Network, an organization that instructs members of boards of directors about their responsibilities and potential liabilities under state and federal law.

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