

**Prof. dr Stefan V. Milojević<sup>1</sup>**

**Prof. dr Snežana P. Knežević<sup>2</sup>**

**Doc. dr Vladimir Šebek<sup>3</sup>**

## IDENTIFIKACIJA I SPREČAVANJE PREVARNOG FINANSIJSKOG IZVEŠTAVANJA

PREGLEDNI RAD

### Apstrakt

Efikasno otkrivanje prevarnog (lažnog) finansijskog izveštavanja zahteva integrativni konceptualni okvir. Ovaj rad predstavlja opšti okvir za proučavanje faktora povezanih s uzrocima nastanka prevarnog finansijskog izveštavanja. Cilj je da se izoštri naše razmišljanje o sprovođenju istraživanja modaliteta za definisanje okvira za efikasno upravljanje rizikom od nastanka prevarnog finansijskog izveštavanja i da pomogne naučnicima, profesionalnim računovođama, regulatorima i kreatorima politike da bolje razumeju pokretače prevarnog finansijskog izveštavanja i kontekst u kome ono nastaje. Razmatramo karakteristike kompanija koje se bave prevarnim finansijskim izveštavanjem, kako su identifikovane u literaturi i u istraživanjima povezanim s „trougлом prevare“ i etičkim aspektima. Takođe, bavimo se uticajem profesionalne i zakonske regulative na oblast efikasnog upravljanja rizikom od nastanka prevara. Na kraju, sažimamo prethodna saznanja i iznosimo zaključke i sugestije za oblasti u kojima je potrebno dalje istraživanje.

***Cljučne reči:*** *prevarno finansijsko izveštavanje, profesionalna regulativa, etika, pravni okvir*

**JEL klasifikacija:** G22, M41, K20

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<sup>1</sup> Vanredni profesor, Univerzitet Edukons – Fakultet poslovne ekonomije, Vojvode Putnika 87, 21208 Sremska Kamenica, Srbija, stefan.milojevic@educons.edu.rs

<sup>2</sup> Redovni profesor, Univerzitet u Beogradu – Fakultet organizacionih nauka, Jove Ilića 154, 11000 Beograd, Srbija, snezana.knezevic@fon.bg.ac.rs

<sup>3</sup> Docent, Univerzitet u Kragujevcu – Pravni fakultet, Jovana Cvijića 1; načelnik, Policijska uprava Kragujevac, 34000 Kragujevac, Srbija, vsebek@jura.kg.ac.rs

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## I. Uvod

Učestalost prevare, korupcije i mita nije novost u poslovnom svetu, ali su te radnje postale kompleksnije s pojavom sofisticiranije tehnike. Javljaju se u svakoj vrsti preduzeća, nevezano za vrstu delatnosti kojom se preduzeće bavi, pravnu formu organizovanja, veličinu itd., iako njihov nivo može da varira od jednog do drugog preduzeća.<sup>4</sup> Prevara je i dalje sveprisutna briga računovođa, revizora i stručnjaka za borbu protiv prevara, tako da ova problematika zaslužuje posebnu pažnju akademskih krugova, ali i praktičara. Kako je na međunarodnom nivou rasla svest o šteti koju izazivaju finansijske prevare, paralelno s tim intenzivirani su napori da se ona suzbije i na adekvatan način kontroliše.

Prema *Websterovom rečniku*,<sup>5</sup> reč prevara se načelno definiše kao „čin obmanjivanja ili lažnog predstavljanja“. Dalje, prevara se može sagledati kao veština kojom se povređuje pravo ili interes drugog; lukavstvo usmereno sticanju neke neprikladne prednosti; pokušaj sticanja ili sticanje prednosti nad drugim nemoralnim sredstvima, pogotovo obmanom u ugovorima, ili pogodbom i prodajom, ili pak iznošenjem neistine, ili prikriivanjem istine. Kriminolozi se slažu da tri osnovna elementa pokreću prevaru. Prema konceptualnoj teoriji koju je izneo Kresi 1950-ih,<sup>6</sup> tri ključna elementa u pojavama prevare su: prilika, pritisak i racionalizacija. Današnji izvršioc i prevara često opravdavaju (racionalizuju) te postupke na različite načine.

Savremeni organizovani finansijski kriminal obuhvata različite aktivnosti ukazujući na njihovu stalnu evoluciju, čime se naglašava potreba za sveobuhvatnim strategijama njihove prevencije i otkrivanja. Uključuju krađu od strane zaposlenih, prevare na platnom spisku, lažne sisteme naplate, krađu od strane menadžmenta, korporativne prevare, prevare u osiguranju, pronevere, mito, bankrot, bezbednosne prevare. U tom spektru, računovodstvena prevara se izdvaja kao najteži oblik manipulacije finansijskim izveštajima. Prevara je ozbiljna briga koja može imati razorne posledice. Prevara je globalni problem koji često izaziva pitanje „Zašto revizori nisu otkrili prevaru?“, nakon što su se dogodile katastrofalne korporativne prevare. Različiti oblici prevare mogu proizlaziti i iz unutrašnjosti kompanije i izvan njenih zidova, a karakteristike prevare često čine da bude nepredvidiva. Za određene osobe, prevara postaje čak i profesija.

Računovodstveni informacioni sistem je ključna informaciona platforma za poslovne organizacije i stoga je bitno da finansijske informacije koje on generiše budu validne.<sup>7</sup> Da bi se razumeo pojam prevare u finansijskim izveštajima, treba

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<sup>4</sup> Abdoulaye N'Guilla Sow, Rohaida Basiruddin, Siti Zaleha, Abdul Rasid, Maizaitulaidawati Md Husin, „Understanding fraud in Malaysian SMEs“, *Journal of Financial Crime*, 25/2018, str. 870–881.

<sup>5</sup> *Webster's Dictionary*, 1828, <https://webstersdictionary1828.com/Dictionary/fraud>, pristupljeno 5. 1. 2024.

<sup>6</sup> Donald Cresse, *Other People's Money*, Montclair, NJ, Patterson Smith, 1953.

<sup>7</sup> Milena Ilić, Svetlana Anđelić, „The role of computerized accounting information system in detecting accounting errors and accounting fraud“, *BizInfo (Blace) Journal of Economics, Management and Informatics*, 8/2017, str. 17–30.

biti svestan šta se smatra prevarom i gde se ona u finansijskim izveštajima uklapa u samu definiciju prevare. Ne postoji, međutim, jedinstvena definicija prevare u finansijskim izveštajima. Stručna tela kao npr. Institut internih revizora (Institute of Internal Auditors – IIA) i Udruženje ovlašćenih istražitelja prevara (Association of Certified Fraud Examiners – ACFE) imaju svoje definicije.<sup>8</sup> Međutim, ono što se ističe kao jedinstveno mišljenje jeste da je menadžment uključen u proces prevarnog finansijskog izveštavanja, da je prevara uvek namerna i da nanosi štetu zainteresovanim stranama. Pored toga, finansijska prevara u izveštajima potkopava celokupno finansijsko izveštavanje.

Korporativne računovodstvene prevare obično uključuju kreativne, složene metode koje za cilj imaju precenjivanje prihoda, potcenjivanje troškova, precenjivanje korporativne imovine i/ili nedovoljno prijavljivanje postojećih obaveza. Ilustracije radi, kreativne računovodstvene prakse koje predstavljaju prevaru podležu istragama koje obično pokreće državni nadzor: Američka komisija za hartije od vrednosti (U.S. Securities and Exchange Commission – SEC), Odbor za nadzor računovodstva javnih kompanija (Public Company Accounting Oversight Board – PCAOB, i Ministarstvo pravde (Department of Justice – DOJ).<sup>9</sup>

Rad je organizovan na sledeći način. Nakon uvodnog dela, bavi se razmatranjem odgovornosti različitih grupa (računovođa, revizora i menadžmenta) kada je u pitanju nastanak prevarnog finansijskog izveštavanja. Treće poglavlje obrađuje značaj etike u prevenciji prevara. Profesionalna regulativa i zakonski okvir predmet su razmatranja u četvrtom poglavlju. U petom poglavlju se sagledava uloga računovodstvenog forenzičara u krivičnom pravosuđu i građanskim parnicama. Šesto poglavlje daje kratak osvrt na prevare u osiguranju. Nakon toga slede zaključna razmatranja i daju se odgovarajuće preporuke.

## **II. Odgovornost računovođa, revizora i menadžmenta za prevarno finansijsko izveštavanje**

Nedostatak adekvatnog nadzora i sprovođenje finansijskog izveštavanja može znatno usporiti otkrivanje prevara, ozbiljno narušavajući poverenje investitora u tržišta kapitala i njihovu funkciju nadzora. S druge strane, efikasan nadzor nad revizorskim procesima može umanjiti podsticaje i prilike za računovodstvene prevare<sup>10</sup>.

Na osnovu objavljene PWC ankete (PricewaterhouseCoopers) koja se odnosi na globalni ekonomski kriminal i prevare, dobijeni rezultati pokazuju da je prosečna

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<sup>8</sup> Van Wyk, *Fraud risk assessment: a conceptual framework for internal auditors to detect financial statement fraud*, USA, Institute of Research Engineers and Doctors, 2015.

<sup>9</sup> Ibrahim Badawi, „Motives and consequences of fraudulent financial reporting“, in 17th annual convention of the Global Awareness Society International, 2008, May, str. 110–123.

<sup>10</sup> Domenico Campa, Alberto Quagli, Paola Ramassa, „The roles and interplay of enforcers and auditors in the context of accounting fraud: a review of the accounting literature“, *Journal of Accounting Literature*, 2023.

kompanija doživela šest incidenata prevare u poslednja 24 meseca.<sup>11</sup> Važna činjenica je i to da je ovo drugi na listi najvećih prijavljenih nivoa incidenata u poslednjih 20 godina, što zaista zvuči alarmantno. Ta tendencija uglavnom proizlazi iz dinamičnosti poslovnih modela, promenljivih radnih stilova i stalnih promena u tehnologiji. Lica koja se bave prevarama sve više koriste direktnije metode, kako bi nepravедno izvukli korist od klijenata kompanije, što dovodi do finansijskih i reputacionih gubitaka za organizacije u različitim delatnostima. Većinu prevara i dalje otkrivaju spoljni izvori kao npr. policija, anonimni dojavljivači i kupci. Drugi su otkriveni samo slučajno. To postavlja pitanja o metodi koje revizori primenjuju da traže i istraže prevare, i kako da se nose s hiljadama, čak i milionima transakcija, i izaberu nekoliko onih koje mogu biti lažne.<sup>12</sup>

Federalni istražni biro (Federal Bureau of Investigation – FBI) tražio je proširenu saradnju s ovlašćenim javnim računovođama (Certified Public Accountant – CPA) u borbi protiv korporativnih prevara. FBI je uverenja da uloge, nezavisnost i integritet CPA profesionalaca na jedinstven način odgovaraju partnerstvu. Drugim rečima, oni CPA vide kao treću stranu eksperata ove obaveštajne službe koja ima nadležnost nad preko 2.000 kategorija federalnih zločina. Saradnja se realizuje u nekoliko segmenata: (1) rešavanje obima problema, (2) identifikovanje zajedničkih računovodstvenih šema i (3) delotvorni rad pod uticajem SOX 2002 i srodnih pravila i propisa.<sup>13</sup>

Pregledanje finansijskih izveštaja zahteva od računovođe da se raspita kod menadžmenta koji je odgovoran za finansijska i računovodstvena pitanja, kao i od drugih u okviru entiteta, prema potrebi, o postojanju bilo kakve stvarne prevare, sumnje ili navodne prevare. Kada postoje indicije da je došlo do prevare ili da je mogla da se dogodi – čije efekte treba uzeti u obzir prilikom sastavljanja finansijskih izveštaja, od računovođe se traži da to saopšti što je pre moguće odgovarajućem nivou višeg menadžmenta, po mogućnosti na nivou iznad onih koji su umešani u sumnju na prevaru ili onih koji su zaduženi za upravljanje.

Računovođa treba da prema potrebi zatraži od menadžmenta, pored ostalog, i procenu efekata, ako ih ima, na finansijske izveštaje, i da razmotri efekte, ako postoje. Pored toga, važne su procene menadžmenta za računovođe o efektima prevare na zaključak o finansijskim izveštajima i o izveštaju računovođe, kao i da se utvrdi da li računovođe imaju šire komunikacijske odgovornosti sa bilo kojom stranom izvan subjekta. Budući da potencijalni sukobi sa etičkim i pravnim obavezama računovođe

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<sup>11</sup> PwC's Global Economic Crime and Fraud Survey 2022: Protecting the perimeter: A new frontier of platform fraud, <https://www.pwc.com/gx/en/services/forensics/economic-crime-survey.html>, pristupljeno 11. 12. 2023.

<sup>12</sup> Md. Abdul Baten, „Conceptual study of fraud and the accounting system“, *International Journal of Multidisciplinary Education and Research*, 6/2018, str. 1–5.

<sup>13</sup> Norazida Mohamed, Moorison Handley-Schachel, „Financial statement fraud risk mechanisms and strategies: the case studies of Malaysian commercial companies“, *Procedia-Social and Behavioral Sciences*, 145/2014, str. 321–329.

u vezi s poverljivošću mogu biti složeni, računovođa se može konsultovati s pravnim savetnikom pre nego što započne bilo kakve razgovore sa stranama izvan subjekta. Ako prevara rezultira materijalno značajnim pogrešnim prikazivanjem u finansijskim izveštajima ili uključuje menadžment na višem nivou, od računovođe se traži da to saopšti direktno onima koji su zaduženi za upravljanje.<sup>14</sup>

Prevarno finansijsko izveštavanje donosi značajne negativne posledice po kompanije, a neke od njih su smanjenje vrednosti akcija i smanjenje poverenja investitora u kompaniju. Sve izraženija potreba za zaštitom kapitala na tržištima i većem uticaju računovodstvene struke u efikasnom upravljanju rizikom od nastanka prevara potencira važnost jačanja kapaciteta forenzičkog računovodstva kroz obrazovni sistem, s jedne strane, i jačanja veština računovodstvenih forenzičara, s druge strane.

Dostavljanje finansijskih izveštaja uređeno je odredbama čl. 44 do 46 Zakona o računovodstvu. Nezavisno od toga koje lice je potpisalo finansijski izveštaj i drugu računovodstvenu dokumentaciju, „za istinito i pošteno prikazivanje finansijskog položaja i uspešnosti poslovanja pravnog lica, propisana je kolektivna odgovornost, tj. odgovorni su zakonski zastupnik, organ upravljanja i nadzorni organ pravnog lica u skladu sa zakonom, odnosno preduzetnik, kao i odgovorno lice iz člana 14 Zakona“.<sup>15</sup>

Uprkos sukobu interesa između menadžera i vlasnika, u osnovi mehanizma korporativnog upravljanja leži intencija da se zaštite sve zainteresovane strane. Neusklađenost interesa između vlasnika preduzeća i menadžera postavlja scenu za manipulaciju profitom, tako da će menadžeri verovatno upravljati profitom u svoju korist. Menadžeri mogu da manipulišu finansijskim izveštajima kako bi postigli specifičan računovodstveni cilj<sup>16</sup> ili radi poboljšanja finansijskog izgleda kompanije.<sup>17</sup> Pored toga, bitno je istaći da menadžeri mogu izvršiti malverzacije u finansijskom izveštavanju tako što će zaobići uspostavljene kontrolne procedure, unosom neovlašćenih ili neprikladnih podataka u poslovne knjige, ili vršeći modifikacije nakon zatvaranja perioda (na primer, reklasifikovanje). Neki oblici ponašanja menadžmenta u finansijskom izveštavanju mogu se smatrati neetičkim, ali ne nužno i lažnim (nezakonitim).<sup>18</sup> Stoga, bitno je pažljivo sagledati i oceniti ponašanje menadžmenta u upravljanju zaradom i potencijalnom u vršenju prevare.

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<sup>14</sup> Dave Arman, „A refresher on fraud and the responsibility for its detection“, *Journal of Accountancy*, 2023, September 14, AICPA & CIMA, str. 1.

<sup>15</sup> Redovni godišnji finansijski izveštaj, <https://www.paragraf.rs/baza-znanja/knjigovodstvo/redovni-godisnji-finansijski-izvestaj-2021-apr.html>, pristupljeno 24. 1. 2024.

<sup>16</sup> Michael Ettredge, Susan Scholz, Kevin Smith, Lili Sun, „How do restatements begin? Evidence of earnings management preceding restated financial reports“, *Journal of Business Finance & Accounting*, 37/2010, str. 332–355.

<sup>17</sup> Michael Fung, „Cumulative prospect theory and managerial incentives for fraudulent financial reporting“, *Contemporary Accounting Research*, 32/2015, pp. 55–75.

<sup>18</sup> Lawrence Kalbers, „Fraudulent financial reporting, corporate governance and ethics: 1987-2007“, *Review of Accounting and Finance*, 8/2009, str. 195.

Jednom identifikovani, rizici od prevare moraju se kontinuirano ocenjivati kako bi se razumeo njihov značaj, kao i da bi se razmatrala efikasnost rizika od prevare. Revizija je važna za donošenje ekonomskih odluka.<sup>19</sup> Važnu ulogu u efikasnom upravljanju rizicima od nastanka prevara ima dobro pozicionirana i efikasna interna revizija, koja predstavlja važan deo strukture korporativnog upravljanja u okviru jedne organizacije. Ona može pomoći menadžerima u postupku preuzimanja odgovornosti.<sup>20</sup>

Još 1997. godine, AICPA je objavila standard SAS No. 82: „Razmatranje prevare u reviziji finansijskih izveštaja“ („Consideration of fraud in a financial statement audit“), koji pravi razliku između grešaka i prevare i zahteva od revizora da planiraju i izvrše reviziju radi sticanja razumnog uverenja o tome da li su finansijski izveštaji oslobođeni materijalne pogrešne izjave, bilo da su uzrokovane greškom ili prevarom. Takođe je dao smernice o tome kako revizor treba ovo da realizuje.<sup>21</sup> Potrebno je da se pažljivo posmatraju oblasti i kategorije povećanog rizika od prevare, i predviđen je način kako da revizori komuniciraju o prevari s menadžmentom, komitetom za reviziju i druge stavke.

### III. Etički aspekti i prevarne radnje

O etici se može govoriti u kontekstu različitih profesija.<sup>22</sup> Poznato je da se računovođe u svojoj praksi susreću s raznim dilemama. Važnost etike u računovodstvu uveliko je porasla nakon velikih korporativnih skandala koji su ozbiljno poljuljali poverenje u računovodstvenu profesiju. U računovodstvenoj delatnosti, etika se odnosi na skup moralnih principa i pravila ponašanja koje računovođe primenjuju u svojoj praksi. Ti principi obuhvataju ideale poštenja, pravičnosti, objektivnosti i *accountability* u pružanju finansijskih usluga i informacija. Oni igraju ključnu ulogu u usmeravanju računovođa u realizaciji njihovih svakodnevnih aktivnosti, oblikujući njihove profesionalne odluke i postupke.

Etika u računovodstvu može se sagledati kao skup smernica koje su uspostavila različita računovodstvena tela kako bi sprečila zloupotrebu finansijskih informacija. Te smernice obuhvataju poverljivost, integritet i profesionalnu kompetenciju. Poverljivost zahteva da računovođe ne otkrivaju finansijske informacije trećim licima. Integritet podrazumeva da računovođe budu iskrene u svojim finansijskim poslovima, dok profesionalna kompetencija zahteva od njih da budu obrazovani iiskusni.

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<sup>19</sup> Marko Milašinić, Snežana Knežević, Aleksandra Mitrović, „The significance of audit and audit opinions in the contemporary environment“, *Revizor*, 97-98/2022, str. 21-31.

<sup>20</sup> Miloš Milošević, Marija Stojilković, Jelena Raičević, Stefan Milojević, „Obrazovanje i obuka u oblasti strateškog finansijskog menadžmenta i kontrole: u kom pravcu bi trebalo da idemo?“, *Revizor*, 102-103/2023, str. 25-36.

<sup>21</sup> Michael Ramos, Anita Lyons, „Considering fraud in a financial statement audit: practical guidance for applying SAS no. 82“, *Guides, Handbooks and Manuals* (33), University of Mississippi, 1997.

<sup>22</sup> Aleksandra Mitrović, Snežana Knežević, Marko Milašinić, „The importance of ethics in the auditing profession in contemporary business“, *Revizor*, 97-98/2022, str. 73-79.

Etika je od suštinskog značaja u računovodstvu zato što pruža smernice o tome kako postupati s informacijama i koji tip informacija je neophodan. Ona takođe utvrđuje osnovne vrednosti i principe koje računovođe i revizori treba da poštuju. Na kraju, etika predviđa sankcije za prestupnike, što služi kao sredstvo za rešavanje neetičkog ponašanja. Dalje, ako idemo u detalje, značaj etike u računovodstvu izuzetno je velik iz više razloga. Prvo, ona gradi poverenje i kredibilitet među zainteresovanim stranama, kao što su investitori, kreditori i kupci, koji se oslanjaju na poštene prakse za tačno i objektivno finansijsko izveštavanje. Na primer, kada računovođe slede principe poštenja i objektivnosti, osiguravaju da finansijski izveštaji odražavaju pravo finansijsko stanje preduzeća.

Pored toga, etičko ponašanje štiti preduzeća od pravnih posledica. Računovođe koji poštuju principe poverljivosti štite osetljive finansijske informacije od neovlašćenog otkrivanja. Međutim, ignorisanje tih etičkih normi može imati katastrofalne posledice. Na primer, skandal koji je zadesio kompaniju „Enron“ 2001. godine ilustruje kako neetičke računovodstvene prakse mogu dovesti do ozbiljnih problema. Manipulacija finansijskim podacima i obmanjujući revizorski izveštaji stvorili su lažnu sliku profitabilnosti, što je na kraju dovelo do bankrota „Enrona“ i izazvalo ozbiljne gubitke za akcionare.

Literatura je prepoznala vrste organizacionih faktora koji su povezani sa odsustvom prevare. Neki od njih jesu: delotvornost odbora za reviziju, efikasnost interne revizije, etičke politike i ton top menadžment tima.<sup>23</sup> Načelno govoreći, etika se odnosi na principe ponašanja koje pojedinci koriste u donošenju izbora i usmeravanje njihovog ponašanja u situacijama (okolnostima) koje uključuju koncepte ispravnog i pogrešnog, i kao takva disciplina, neodvojiva je od pitanja efikasnog upravljanja rizikom od nastanka prevarnih radnji.

Etika se može posmatrati ovako: „dogovoreni standardi o tome šta je poželjno i nepoželjno i ispravno i pogrešno ponašanje osobe, grupe ili entiteta.“<sup>24</sup> Iako se etici posvećuje dosta pažnje u javnom diskursu, živimo u vremenu u kojem je neetičko ponašanje ne samo više prihvaćeno, već je i blizu da postane norma. Oni koji imaju moć da donose odluke o investiranju novca drugih ljudi (tj. korporativni menadžeri i investicioni savetnici) mogu manipulirati investitorima kako bi ostvarili finansijsku dobit.

Prevarne aktivnosti se moraju izbegavati zbog uticaja na performanse kompanije. Dakle, način za rešavanje tog pitanja je nadzor nad onima koji su zaduženi za upravljanje, promovisanjem kulture poštovanja i etičke politike koja bi mogla da motiviše pojedince da ne počine prevaru zbog mogućnosti da ih regulatori

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<sup>23</sup> Philip Law, „Corporate governance and no fraud occurrence in organizations: Hong Kong evidence“, *Journal of Business and Industrial Marketing*, 6/2011, str. 501-518.

<sup>24</sup> Robert Cressy, Douglas Cumming, Christine Mallin, „Entrepreneurship, governance and ethics“, *Entrepreneurship, Governance and Ethics*, 2/2010, str. 117-120.

otkriju i kazne.<sup>25</sup> Na primer, poštenje i integritet u izveštavanju o profitu mogu biti poražavajući za menadžere kada se ne ispune očekivanja. „Štimovanje knjiga“ (engl. „Cooking the books“) – koliko god bilo neetično, poboljšava krajnji rezultat (uspešnost firme), barem kratkoročno.<sup>26</sup> Postavlja se pitanje da li će ugrožene firme u teškim vremenima vrednovati opstanak ili etiku? Takođe, važno pitanje je i kakva je uloga korporativnog upravljanja u poštovanju etičkih vrednosti? U tom kontekstu, korporativno upravljanje se može posmatrati preko etičkih vrednosti i pretpostavke koje su u osnovi određenog režima ili kodeksa korporativnog upravljanja, tzv. „etika upravljanja“, i preko načina na koji se od korporacija očekuje ili zahteva da upravljaju sopstvenim etičkim učinkom, tzv. „upravljanje etikom“.<sup>27</sup>

Ističemo da je u okolnostima kada se razvija korporativna kultura naročito važno postaviti etičku osnovu.<sup>28</sup> Najzad, poštovanje poslovne etike savremenih organizacija utiče na kreiranje njihovog poslovnog imidža.<sup>29</sup> Rezultati istraživanja Čerdić i Knežević<sup>30</sup> pokazuju da kontinuirana obuka zaposlenih u vezi s adekvatnom primenom etičkog kodeksa dovodi do smanjenja mogućnosti nastanka finansijskih prevara u kompanijama. Nalazi Mayhew & Murphy<sup>31</sup> sugerišu da etičko obrazovanje ne dovodi nužno do internalizovanih etičkih vrednosti, ali može uticati na etičko ponašanje.

#### **IV. Profesionalna regulativa i zakonski okvir: dokle se stiglo?**

Regulatorno okruženje u kojem računovođe posluju prilično je složeno. Pred današnjim računovođama nalaze se mnogi izazovi u dinamičnom okruženju. Oblast forenzičkog računovodstva podiže tu složenost na viši nivo, jer su praktičari u ovoj oblasti usmereni na širok spektar oblasti prevara, komercijalnih sporova i analitike.<sup>32</sup>

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<sup>25</sup> Hafiza Aishah Hashim, Zalailah Salleh, Izzati Shuhaimi, Nurul Ain Najwa Ismail, „The risk of financial fraud: a management perspective“, *Journal of Financial Crime*, 27/2020, str. 1143–1159.

<sup>26</sup> April Knill, „The value of country-level perceived ethics to entrepreneurs around the world“, *The European Journal of Finance*, 18/2012, str. 209–237.

<sup>27</sup> G. J. Rossouw, „Business ethics and corporate governance: A global survey“, *Business & Society*, 44/2005, str. 32–39.

<sup>28</sup> Kimberly Henry, Brittany Dodson, Ethical Education and its Effect on Accounting Fraud, Working Paper, Christopher Newport University, 2009.

<sup>29</sup> Milena Sretić, Vuk Mirčetić, Mlađan Maksimović, Dejan Karabašević, „The impact of ethical internal communication on opinion of public menu“, *BizInfo (Blace) Journal of Economics, Management and Informatics*, 10/2019, str. 43–51.

<sup>30</sup> Ivan Mate Čerdić, Goranka Knežević, „Ethical dilemma: A pathway to fraud or not?“, *The European Journal of Applied Economics*, 20/2023, str. 79–92.

<sup>31</sup> Brian Mayhew, Pamela Murphy, „The impact of ethics education on reporting behavior“, *Journal of Business Ethics*, 86/2009, str. 397–416.

<sup>32</sup> Jeanette Van Akkeren, Sherrena Buckby, Julie-Anne Tarr, „Forensic accounting: Professional regulation of a multi-disciplinary field“, *Australian Business Law Review*, 44/2016, str. 204–215.



Korporativno upravljanje je, pored ostalog, ključni deo reformskih procesa u javnim preduzećima.<sup>33</sup> Za korporativno upravljanje koje će obezbediti održivo poslovanje u dugom roku važne su valjane finansijske informacije. Korporativni finansijski skandali su na kraju izazvali nekoliko velikih korporativnih bankrota. Različite korporativne zainteresovane strane (npr. akcionari, poverioci i dobavljači, zaposleni i radnici, konkurenti, kupci, penzioneri, državni poreski organi, između ostalih) pretrpele su nepovoljne finansijske posledice. To je podstaklo inicijativu za promenu zakonske i profesionalne regulative u raznim zemljama.

Osnovni princip revizije naglašava da je verovatnije da će se finansijski propusti, odnosno pogrešna finansijska prikazivanja pojaviti kada su interne kontrole neefikasne (SAS No. 55, AICPA 1988;<sup>34</sup> SAS No. 78, AICPA 1997;<sup>35</sup> SAS No. 110, AICPA, 2006<sup>36</sup>). Sarbjens-Okslijev zakon (Sarbanes-Oxley Act) usvojen je kao odgovor na očekivani uticaj veze između interne kontrole i valjanosti finansijskog izveštavanja,<sup>37</sup> kao i porasta računovodstvenih grešaka.<sup>38</sup> Taj zakon zapravo predstavlja sveobuhvatan napor za unapređenje valjanosti finansijskog izveštavanja u Sjedinjenim Američkim Državama, koji je proizašao iz ozbiljnih korporativnih računovodstvenih prevara (finansijskih skandala) što su se desile tokom kasnih 1990-ih i ranih 2000-ih.

Rasprostranjenost lažnih finansijskih aktivnosti zajedno s nedostatkom standarda u domenu definisanja odgovornosti revizora u pogledu otkrivanja prevara, podstakli su nastanak organizacije Association of Certified Fraud Examiners – ACFE, u čijoj je nadležnosti dodeljivanje CFE licence.<sup>39</sup> Iako su regulatori i vlasti izdali niz smernica s ciljem postizanja transparentnosti, sprečavanja prevare i unapređenja valjanosti finansijskih izveštaja, slučajevi prevara u organizacijama i dalje beleže porast. Otprilike 47% organizacija prijavilo je slučajeve prevare u poslednje dve godine, što predstavlja drugi na listi najviših nivoa prevara u protekle dve decenije,

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<sup>33</sup> Valentina Mirković, Goran Perić, Aleksandar Jokić, „Possibilities for corporate governance in public enterprises in Serbia“, *BizInfo (Blace) Journal of Economics, Management and Informatics*, 1/2010, str. 23–29.

<sup>34</sup> American Institute of Certified Public Accountants (AICPA), *The Auditor's Considerations of Internal Control Structure in the Financial Statement Audit. Statement on Auditing Standard (SAS) No. 55*, New York, NY, AICPA, 1998.

<sup>35</sup> American Institute of Certified Public Accountants (AICPA), *Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standards No. 55. Statement on Auditing Standard (SAS) No. 78*, New York, NY, AICPA, 1997.

<sup>36</sup> American Institute of Certified Public Accountants (AICPA), *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained. Statement on Auditing Standard (SAS) No. 110*, New York, NY, AICPA, 2006.

<sup>37</sup> U.S. House of Representatives, *The Sarbanes-Oxley Act of 2002, Public Law, 107-204 [H. R. 3763]*. Washington, DC: GPO, 2002.

<sup>38</sup> Yuping Zhao, Jean Bedard, Rani Hoitash, „SOX 404, auditor effort, and the prevention of financial report misstatements“, *Auditing: A Journal of Practice & Theory*, 36/2017, str. 151–177.

<sup>39</sup> Zabihollah Rezaee, James Burton, „Forensic accounting education: insights from academicians and certified fraud examiner practitioners“, *Managerial Auditing Journal*, 12/1997, str. 479-489.

uprkos primeni zakona i propisa.<sup>40</sup> Mala preduzeća su rangirana na najvišem mestu po učestalosti prevara iz ACFE-ovog izveštaja u zemlji od 2002. do 2022. sa kombinovanim prosecima koji pokazuju da je učestalost prevara u malim preduzećima na 28% u poređenju sa većim organizacijama na 22–26%.<sup>41</sup>

Jedno od važnih pitanja u efikasnom upravljanju rizikom od nastanka prevarnih radnji jeste i to koje firme treba da dostave finansijske podatke regulatornim agencijama. Poznato je da za mnoge privatne firme širom sveta nije ustanovljena zakonska obaveza da prosleđuju finansijske podatke regulatornim agencijama (npr. Komisija za hartije od vrednosti u Sjedinjenim Državama / Securities Exchange Commission – SEC). Stoga, kada se razmatraju etička pitanja, bitno je pažljivo pratiti firme prema pravnoj formi organizovanja. Primera radi, neke od studija pokazale su da su preduzetnici generalno više etični nego menadžeri javnih preduzeća (public companies).<sup>42,43</sup>

Kada je reč o Srbiji, Zakonom o računovodstvu<sup>44</sup> obuhvaćen je privredni pristup koji je vezan za računovodstvena pitanja tj. finansijske podatke (finansijsko izveštavanje). Prema članu 57, „novčanom kaznom od 100.000 do 3.000.000 dinara kazniće se za privredni prestup pravno lice ako: vrši obradu podataka na računaru, a ne obezbedi računovodstveni softver koji omogućava funkcionisanje sistema internih računovodstvenih kontrola i onemogućava brisanje proknjiženih poslovnih promena (član 8 stav 4); ne sastavlja i ne prikazuje finansijske izveštaje u skladu sa ovim zakonom (čl. 23–26.); 18) ne sastavlja finansijske izveštaje u skladu sa ovim zakonom (čl. 29 i 31); ne izvrši reviziju finansijskih izveštaja (član 33). Takođe, za radnje iz stava 1 ovog člana kazniće se za privredni prestup i odgovorno lice u pravnom licu, novčanom kaznom od 20.000 do 150.000 dinara“.

Imajući u vidu prošle izmene Krivičnog zakona koje se odnose na poresku utaju, „predviđeno je da se utaja poreza tretira kao krivično delo u slučaju da obveznik izbegava da plati ili obračuna porez u iznosu od milion dinara, a ukoliko je utaja do milion dinara, onda se smatra privrednim prestupom ili prekršajem“.<sup>45</sup> Postavlja se pitanje da li su zaprećene kazne jaka prevencija. Odgovor na to pitanje zahteva opsežno istraživanje na osnovu podataka iz različitih agencija, službi i ustanova.

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<sup>40</sup> PwC's Global Economic Crime and Fraud Survey, 2020, <https://www.global-screeningsolutions.com/industries/global-economic-crime-and-fraud-survey-2020>, pristupljeno 11. 12. 2023.

<sup>41</sup> Current fraud statistics, Business Fraud Prevention, Inc. (BFP), <https://businessfraudprevention.org/about-us/>, 2002, pristupljeno 14. 12. 2023.

<sup>42</sup> Elisabeth Teal, Archie Carroll, „Moral reasoning skills: Are entrepreneurs different?“, *Journal of Business Ethics*, 19/1999, str. 229-240.

<sup>43</sup> Branko Bucar, Rober Hisrich, „Ethics of business managers vs. Entrepreneurs“, *Journal of developmental entrepreneurship*, 6/2001, str. 59-83.

<sup>44</sup> Zakon o računovodstvu, *Službeni glasnik RS*, 73/2019 i 44/2021, čl. 57.

<sup>45</sup> Zakon o krivičnom postupku, *Službeni glasnik RS*, br. 85/2005, 88/2005 – ispr., 107/2005 – ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019.

## **V. Uloga računovodstvenog forenzičara u krivičnom pravosuđu i građanskim parnicama**

Upravlajući biznisom, menadžeri su često u situaciji da shvate kolike su potencijalne opasnosti povezane s prevarnim aktivnostima. Međutim, postoje praktični koraci koji se mogu preduzeti radi zaštite sopstvenog poslovanja od finansijskih malverzacija. Uključivanje stručnjaka iz oblasti forenzičkog računovodstva ključno je za otkrivanje eventualnih finansijskih zloupotreba i prevara. Forenzičko računovodstvo kao grana računovodstva bavi se detaljnim istraživanjem i analizom finansijskih informacija radi otkrivanja prevara ili finansijskih manipulacija. Forenzičke računovođe često se angažuju za pripremu za sudske sporove u slučajevima koji uključuju *divorces, embezzlement, fraud, skimming, insurance*, nesolventnost, i druge oblike finansijskih prevara.

Pored tradicionalnih računovodstvenih tehnika, forenzičke računovođe primenjuju raznovrsne vrste alata i softvere za istraživanje i analizu finansijskih podataka. Taj alat obuhvata softvere za analizu podataka, kompjuterski forenzički alat, softvere za rudarenje podataka i prediktivnu analitiku. Rezultat rada forenzičkih računovođa su forenzički izveštaji koji se koriste od strane naručioca forenzičko-računovodstvene analize. U okviru tih izveštaja prikazuju se njihovi nalazi, uključujući prirodu zloupotrebe i prevare, pojedince koji su uključeni i finansijski uticaj. Prevarne radnje potrebno je specifikovati i prema delatnosti u kojoj su nastale. Naime, potrebno je da finansijski forenzičar u dovoljnoj meri poznaje delatnost u kojoj je nastala neka korporativna prevara. Konačno, finansijski forenzičari mogu biti pozvani da pruže ekspertsko svedočenje pred sudom, prezentujući svoje zaključke i objašnjavajući kompleksne finansijske teme kako bi podržali pravni proces. Veliki broj finansijskih forenzičara ima iskustvo *in testifying as expert witnesses* za razne finansijske slučajeve u oblasti bankarstva, osiguranja, poreske problematike, i mnogih drugih.

Poslednjih godina komplikovana priroda moderne prevare pokrenula je rast forenzičkog računovodstva, oblasti koja se često pominje kao istražna. Tri oblasti forenzičkog računovodstva vezuju se za praksu: kao što je već pomenuto, podrška u sudskim sporovima, svedočenje veštaka i najzad, revizija prevare. Forenzičke računovođe danas imaju veoma značajnu ulogu u krivičnom pravosuđu i građanskim parnicama i stoga je važno uspostaviti adekvatnu vezu sa praksom.<sup>46</sup> Advokati najčešće koriste forenzičke računovođe u slučajevima koji uključuju finansijske izveštaje, ekonomske štete i prevare.<sup>47</sup> Rešavanje složenih slučajeva finansijskih prevara ili drugih nezakonitih aktivnosti zahteva interdisciplinarna znanja od računovodstvenih forenzičara

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<sup>46</sup> Snežana Knežević, Stefan Milojević, Marko Špiler, „Edukacija o forenzičkom računovodstvu i veza sa praksom“, *Revizor*, 95-96/2021, str. 35–49.

<sup>47</sup> Charles Davis, Ramona Farrell, Suzanne Ogilby, *Characteristics and skills of the Forensic Accountant*, American Institute of Certified Public Accountants, 2010, str. 11–26.

koji finansijska i nefinansijska merenja, analize i ekonomske koncepte pretvaraju u materijal koji drugi sa manje iskustva i znanja mogu razumeti.<sup>48</sup>

Standard SAS 99 (zamena za SAS 82) ne zahteva korišćenje forenzičkih stručnjaka, ali preporučuje razmišljanje, povećan profesionalni skepticizam i nepredvidive testove revizije.<sup>49</sup> Inače, SAS 99 definiše prevaru kao „namerni čin koji dovodi do značajnog pogrešnog prikazivanja u finansijskim izveštajima koji su predmet revizije“. Sertifikovane forenzičke računovođe će i dalje biti tražene da dopune napore internih i eksternih revizora u identifikovanju prevara. Zbog multidisciplinarnosti i tehnički intenzivne prirode profesije, forenzičke računovođe su u značajnoj opasnosti da pomešaju etiku sa poštovanjem zakona.<sup>50</sup>

Od forenzičkog računovođe kao profesionalca očekuje se da postupa etički i u javnom interesu. Uloga računovodstvenog forenzičara u krivičnim postupcima sve je važnija, različite su uloge koje on može da ima – finansijski forenzičar, veštak, svedok i stručni savetnik. Važno je istaći i činjenicu „da je Zakonikom o krivičnom postupku definisana uloga stručnog savetnika okrivljenog ili oštećenog kao tužioca, ali ne i finansijskog forenzičara, koji je stručni asistent tužioca“.<sup>51</sup> Naime, na glavnom pretresu, računovodstveni forenzičar kao sudski veštak može da se pojavi i u ulozi svedoka. Veština objektivnog komuniciranja o kompleksnim pitanjima ključna je veština za stručnjake u oblasti forenzičkog računovodstva u sudskom postupku.<sup>52</sup>

## VI. Prevare u osiguranju

Nemoguće je osigurati efikasno funkcionisanje osiguravajućih društava i održavanje adekvatnog nivoa njihove finansijske stabilnosti bez uspostavljanja i sprovođenja delotvornog sistema za otkrivanje i suzbijanje prevara u osiguranju. Takve prevare imaju negativne posledice ne samo za same kompanije već i za njihove klijente, druge ugovorne strane i tržište osiguranja u celosti, pa čak i za državu. Prevare u osiguranju su sve veći problem s velikim finansijskim i društvenim uticajem. Neprekidna pojava prevara, ukoliko se ne kontroliše, ozbiljno će uticati na likvidnost osiguravajućih kuća, što će dalje imati negativan uticaj na njihove finansijske performanse.

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<sup>48</sup> James DiGabriele, Lester Heitger, Richard Riley, Jr., „A synthesis of non-fraud forensic accounting research“, *Journal of Forensic Accounting Research*, 5/2020, str. 257–277.

<sup>49</sup> Statement on Auditing Standards – 99 (SAS 99), Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA), October 2002.

<sup>50</sup> Bryan Howieson, „What is the ‘good’ forensic accountant? A virtue ethics perspective“, *Pacific Accounting Review*, 2/2018, str. 155–167.

<sup>51</sup> Bojan Janković, Snežana Knežević, Stefan Milojević, „Uloga računovodstvenog forenzičara u krivičnom postupku“, *Revizor*, 101/2023, str. 6.

<sup>52</sup> Madeline Ann Domino, Matthew Stradiot, Mariah Webinger, „Factors which may bias judges decisions to exclude accounting expert witnesses testimony“, *Accounting Research Journal*, 28/2015, str. 59–77.

Generalno, prevare u osiguranju mogu se podeliti u tri kategorije, koje se odnose na počinioca (insajder ili autsajder), fazu prevare (ugovaranje ili potraživanje) i prirodu prevare (meko ili tvrdo).<sup>53</sup> Prevara insajdera je daleko najrasprostranjenija vrsta prevare, a kada je reč o Sjedinjenim Američkim Državama, preusmeravanje premija je najčešći tip prevare u osiguranju. Zanimljivo je istaći da je veća verovatnoća da će osiguravajuće kuće biti prevarene od strane svojih zaposlenih ili poslovnih insajdera nego od strane sopstvenih klijenata.

Poseban izazov predstavljaju finansijske usluge kojima se obezbeđuje osiguranje od potencijalnih životnih ili tržišnih događaja u relativno dalekoj budućnosti, kao što su planovi penzijske štednje ili životnog osiguranja. Budući da koristi od takvih usluga postaju jasne tek nakon dugog vremenskog raspona od nastanka same transakcije, procena njihove korisnosti za kupca uključuje mnogo spekulacija. Prodavci često koriste obmanjujuće promotivne materijale, taktike prodaje pod pritiskom i nedovoljno tačne ili sugestivne izjave kako bi prenaglasili povoljne scenarije, dok minimizuju one koji su manje korisni za kupce. U mnogim slučajevima, prodajni agenti ne istražuju dovoljno profil rizika klijenta, ne uspevaju adekvatno objasniti rizike, pružaju previše optimistične projekcije budućeg učinka ili netransparentno iznose naknade i provizije. S druge strane, moguć je scenario u kome i strane kojima je potrebno osiguranje pogrešno prikazuju pravo stanje stvari kako bi ostvarile bolje uslove za sticanje polise osiguranja.<sup>54</sup>

Načelno, prema dosadašnjim istraživanjima, postoje dve vrste prevara u osiguranju: oportunistička prevara u osiguranju i planirana prevara u osiguranju, pri čemu su učestalije oportunističke prevare.<sup>55</sup> Oportunistička prevara u osiguranju odnosi se na *post hoc* spoznaju pojedinca da se osigurani slučaj može iskoristiti za ličnu korist pružanjem lažnih informacija ili preuveličavanjem legitimnog potraživanja. Planirana prevara u osiguranju odnosi se na namerni pokušaj da se izmisli rizični događaj koji bi bio pokriven polisom osiguranja.<sup>56</sup>

Računovodstvene prevare u osiguranju obuhvataju manipulativne prakse osiguravača, osiguranika ili drugih zainteresovanih strana koje se koriste radi sticanja nezakonite koristi manipulacijom finansijskim podacima. Takve prevare uključuju manipulaciju rezervama, obmanu u reosiguranju, nedovoljno prijavljene štete i generisanje fiktivnih polisa osiguranja. Te prevare u osiguranju izazivaju sve veću zabrinutost, jer ugrožavaju pouzdanost finansijskog izveštavanja i poverenje u finansijski sektor, što u krajnoj liniji negativno utiče na poverenje investitora, kreditora i drugih interesnih

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<sup>53</sup> Insurance fraud: issues and challenges, *The International Association for the Study of Insurance Economics*, 2014.

<sup>54</sup> Arjan Reurink, „Financial Fraud: A Literature Review“, *Contemporary Topics in Finance*, 2019, pp. 79–115.

<sup>55</sup> Sharison Tennyson, „Insurance experience and consumers' attitudes toward insurance fraud“, *Journal of Insurance Regulation*, 2/2002, str. 35–56.

<sup>56</sup> Richard A. Derrig, Valerie Zicko, „Prosecuting insurance fraud – a case study of the Massachusetts experience in the 1990s“, *Risk Management and Insurance Review*, 2/2002, str. 77–104.

grupa. Međunarodni standard finansijskog izveštavanja 17 – Ugovori o osiguranju (MSFI 17) predstavlja važan korak u borbi protiv tih prevara u delatnosti osiguranja. Taj standard uključuje zahteve vezane za transparentno izveštavanje o finansijskoj poziciji i riziku kompanije i zahteva značajnu promenu računovodstva osiguravača.

Unapređenje mera za merenje, otkrivanje i sprečavanje prevara u osiguranju postiže se kroz primenu statističkih modela i inteligentnih tehnologija na obimne baze podataka, kako bi se osigurala efikasna identifikacija prevarnih aktivnosti. Takođe, strateška analiza se primenjuje na situacije vezane za imovinsko osiguranje, odgovornost i zdravstveno osiguranje.<sup>57</sup> U tom kontekstu, značajno je pomenuti i važnu ulogu koju imaju interna revizija i interna kontrola, kao dva stuba za efikasno upravljanje rizikom od nastanka zloupotreba i prevara u osiguravajućim kućama.

## **VI. Zaključak**

Etičko finansijsko izveštavanje i računovodstvena praksa od vitalnog su značaja jer odgovaraju osnovnim potrebama javnosti i zaposlenih. Oni grade kredibilitet poverenja među njima. Etika u računovodstvu postoji kako bi zaštitila javnost od neetičkih postupaka korporacija. Preduzeća imaju etičku i pravnu odgovornost u vezi s finansijskim upravljanjem. Nažalost, pojedine računovođe ponekad prikrivaju ili manipulišu informacijama. Većina računovodstvenih skandala nastaje upravo zbog lažnog finansijskog izveštavanja, kada rukovodstvo kompanije u finansijskim izveštajima prikazuje netačne podatke.

Prevara ima štetan i dalekosežan uticaj, koji se proteže na milione pojedinaca, kompanija i njihovih klijenata prodirući kroz različite delatnosti, a od negativnih posledica se u mnogim situacijama navedene strane teško oporavljaju. Pogrešno finansijsko predstavljanje u finansijskom računovodstvu, i za eksterni i interni nivo, može imati neželjene uticaje na integritet i tačnost finansijskog izveštavanja organizacije i njenog celokupnog korporativnog imidža.

Uočava se da veliki broj studija iz oblasti upravljanja rizikom od nastanka prevarnih radnji daje presek stanja, mnoge su metodološki slabe i, uglavnom pružaju samo ograničene informacije o efikasnosti ili troškovima mera koje se sprovode protiv prevara. Kada je reč o osiguranju, to je još izraženije. U tom kontekstu se ističe potreba da se intenziviraju oštija istraživanja u ovoj oblasti. Dalje, sprečavanjem prevarnih radnji u realnom ambijentu povećava se vrednost usluge računovodstvene profesije.

Potrebno je dalje jačati sisteme interne kontrole i etičke politike koji će obeshrabriti prevaru i smanjiti njenu pojavu u kompanijama. U mnogim slučajevima finansijskog kriminala, računovodstveni forenzičari rade zajedno s istražiteljima, advokatima i sudskim organima, kako bi obezbedili relevantne podatke i analize

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<sup>57</sup> Richard Derrig, „Insurance fraud“, *Journal of Risk and Insurance*, 3/2002, str. 271–287.

koje podržavaju krivični postupak. Njihov doprinos može biti ključan za donošenje pravednih presuda. Pored toga, potrebno je pažljivo sagledati i evaluirati kvalifikacije veštaka kada su u pitanju nove tehnologije, uz napomenu da tradicionalne tehnike forenzičkog računovodstva mogu biti korišćene kao provere razumnosti u odnosu na ishode dobijene veštačkom inteligencijom (tj. mašinskim učenjem), a očekuje se da će tako biti i u praksi. Stoga, ako se uspostavi licenciranje stručnjaka u oblasti forenzičkog računovodstva u Srbiji, ovo je jedno od važnijih pitanja.

Prevarne aktivnosti u osiguranju uzrokuju stvarne gubitke za osiguravajuće kuće, ali takođe značajno utiču i na potrošače, budući da se troškovi otkrivanja prevara i očekivanih gubitaka prenose preko premija osiguranja. Stoga, važno je uvesti adekvatne kontrolne mehanizme i obezbediti poštovanje procedura u organizacijama koje se bave osiguranjem.

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**Professor Stefan V. Milojević, PhD<sup>1</sup>**  
**Professor Snežana P. Knežević, PhD<sup>2</sup>**  
**Assistant professor Vladimir Šebek, PhD<sup>3</sup>**

## **IDENTIFICATION AND PREVENTION OF FRAUDULENT FINANCIAL REPORTING**

REVIEW ARTICLE

### **Abstract**

Effective detection of fraudulent (false) financial reporting requires an integrative conceptual framework. This paper presents a general framework for studying factors related to the causes of fraudulent financial reporting. The purpose is to sharpen our thinking on conducting research modalities for defining a framework for effective risk management of fraudulent financial reporting and to assist scholars, professional accountants, regulators, and policymakers to better understand the drivers of fraudulent financial reporting and the context in which it occurs. We examine the characteristics of companies engaged in fraudulent financial reporting, as identified in the literature, through research related to the fraud triangle, and ethical aspects. We also address the impact of professional and legal regulations on the area of effective fraud risk management. Finally, we summarize previous findings and present conclusions and suggestions for areas requiring further research.

**Keywords:** *fraudulent financial reporting - professional regulation - ethics - legal framework.*

**JEL classification:** G22, M41, K20

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<sup>1</sup> Associate Professor, Educons University - Faculty of Business Economics, Vojvode Putnika 87, 21208 Sremska Kamenica, Serbia, stefan.milojevic@educons.edu.rs

<sup>2</sup> Full Professor, University of Belgrade - Faculty of Organizational Sciences, Jove Ilića 154, 11000 Belgrade, Serbia, snezana.knezevic@fon.bg.ac.rs

<sup>3</sup> 3. Assistant Professor, University of Kragujevac, Faculty of Law, Jovana Cvijića 1; Chief, Kragujevac Police Department, 34000 Kragujevac, Serbia, vsebek@jura.kg.ac.rs

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## I. Introduction

The frequency of fraud, corruption, and bribery is not a global novelty, but they become increasingly complex with the emergence of more sophisticated techniques. They occur in every type of enterprise, regardless of the type of activity the enterprise engages in, its legal organizational form, size, etc., although the level may vary from one enterprise to another<sup>4</sup>. Fraud remains a pervasive concern for accountants, auditors, and fraud prevention experts, so this issue deserves special attention from academic circles as well as practitioners. As awareness of the damage caused by financial fraud has grown internationally, efforts to combat it and control it adequately have intensified.

According to Webster's Dictionary<sup>5</sup>, fraud is generally defined as "an act of deceiving or misrepresenting." Furthermore, fraud can be seen as a skill used to infringe upon the rights or interests of others; cunning aimed at gaining some inappropriate advantage; an attempted or actual gain of an advantage over others by imposition or immoral means, especially by deception in contracts, negotiations, and sales, either by either falsehood or by concealing the truth. Criminologists agree that three basic elements drive fraud. According to the conceptual theory proposed by Cressey in the 1950s<sup>6</sup>, the three key elements in fraud incidents are: opportunity, pressure, and rationalization. Today's fraud perpetrators often justify (rationalize) these actions in various ways.

Contemporary organized financial crime encompasses various activities, indicating their constant evolution, emphasizing the need for comprehensive strategies for their prevention and detection. These activities include employee theft, payroll fraud, false billing schemes, management fraud, corporate fraud, insurance fraud, embezzlement, bribery, bankruptcy, and security fraud. Within this spectrum, accounting fraud stands out as the most severe form of manipulation of financial statements. Fraud is a serious concern that can have devastating consequences. Fraud is a global problem that often prompts the question "Why didn't auditors detect fraud?" after the occurrence of catastrophic corporate frauds. Various forms of fraud can arise both internally and out of a company, and the characteristics of fraud often make it unpredictable. For certain individuals, fraud has even become a profession.

The accounting information system is a key information platform for business organizations, and it is essential that the financial information it generates is valid<sup>7</sup>.

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<sup>4</sup> Abdoulaye N'Guilla Sow, Rohaida Basiruddin, Siti Zaleha, Abdul Rasid, Maizaitulaidawati Md Husin, "Understanding fraud in Malaysian SMEs", *Journal of Financial Crime*, 25/2018, pp. 870-881.

<sup>5</sup> Webster's Dictionary, 1828, <https://webstersdictionary1828.com/Dictionary/fraud>, pristupljeno 5. 1. 2024.

<sup>6</sup> Donald Cressey, *Other People's Money*, Montclair, NJ, Patterson Smith, 1953.

<sup>7</sup> Milena Ilić, Svetlana Anđelić, "The role of computerized accounting information system in detecting accounting errors and accounting fraud", *BizInfo (Blace) Journal of Economics, Management and Informatics*, 8/2017, pp. 17-30.

To understand the concept of fraud in financial statements, one must be aware of what constitutes fraud and where financial statement fraud fits into the definition of a fraud. There is no single definition of financial statement fraud, and professional bodies such as the Institute of Internal Auditors (IIA) and the Association of Certified Fraud Examiners (ACFE) have their own definitions<sup>8</sup>. However, what stands out as a unanimous opinion is that management is involved in the process of fraudulent financial reporting, fraud is intentional, and it causes harm to stakeholders. Additionally, financial statement fraud undermines the integrity of financial reporting as a whole.

Corporate accounting fraud typically involves creative, complex methods aimed at overestimating revenue, underestimating expenses, overvaluing corporate assets, and/or underreporting existing liabilities. For example, creative accounting practices that constitute fraud are subject to investigations typically initiated by government authority: the U.S. Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB), and the Department of Justice (DOJ)<sup>9</sup>.

The paper is organized as follows: After the introduction, it delves into examining the responsibilities of different groups (accountants, auditors, and management) regarding the occurrence of fraudulent financial reporting. The third chapter focuses on the significance of ethics in fraud prevention. Professional regulations and legal framework are the subject-matter of the fourth chapter. The fifth chapter considers the role of forensic accountants in criminal justice and civil litigations. The sixth chapter provides a brief overview of insurance fraud. Further on, there are the concluding remarks and appropriate recommendations.

## **II. Responsibility of Accountants, Auditors, and Management for Fraudulent Financial Reporting**

The lack of adequate supervision and implementation of financial reporting can significantly slow down the detection of fraud, seriously undermining investors' trust in capital markets and their supervisory function. On the other hand, effective implementation and supervision of auditing processes can reduce triggers and opportunities for accounting frauds<sup>10</sup>.

According to a published survey by PricewaterhouseCoopers (PwC) on global economic crime and fraud, the results show that the average company has

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<sup>8</sup> Van Wyk, *Fraud risk assessment: a conceptual framework for internal auditors to detect financial statement fraud*, USA, Institute of Research Engineers and Doctors, 2015.

<sup>9</sup> Ibrahim Badawi, "Motives and consequences of fraudulent financial reporting", in 17th annual convention of the Global Awareness Society International, 2008, May, pp. 110-123.

<sup>10</sup> Domenico Campa, Alberto Quagli, Paola Ramassa, "The roles and interplay of enforcers and auditors in the context of accounting fraud: a review of the accounting literature", *Journal of Accounting Literature*, 2023.

experienced 6 fraud incidents in the last 24 months<sup>11</sup>. An important fact is that this is the second-highest reported level of incidents in the last 20 years, which sounds truly alarming. This trend mainly stems from the dynamism of business models, changing work styles, and constant changes in technology. Perpetrators of fraud are increasingly using more direct methods to unfairly benefit from the company's clients, which leads to financial and reputational losses for organizations in various industries. Most frauds are still detected by external sources such as the police, anonymous tips, and customers. Others are discovered only by chance. This raises questions about the methods auditors employ to detect and investigate fraud, and how they cope with thousands, even millions, of transactions, and select a few that may be fraudulent<sup>12</sup>.

The Federal Bureau of Investigation (FBI) has sought expanded collaboration with Certified Public Accountants (CPAs) in the fight against corporate fraud. The FBI believes that the roles, independence, and integrity of CPA professionals uniquely lend themselves to partnership. In other words, they see CPAs as expert third-party partners of this intelligence agency, which has jurisdiction over more than 2,000 categories of federal crimes. Collaboration is carried out in several segments: (1) addressing the scope of the problem, (2) identifying common accounting schemes, and (3) effective operation under the influence of the Sarbanes-Oxley Act of 2002 and related rules and regulations<sup>13</sup>.

Reviewing financial statements requires accountants to inquire with management responsible for financial and accounting matters, as well as with others within the entity, as needed, about the existence of any actual fraud, suspicion, or alleged fraud. When there are indications of fraud or the potential for it to occur — the effects of which need to be considered when preparing financial statements — accountants are required to communicate this as soon as possible to the appropriate level of senior management, preferably at a level above those implicated in the suspected fraud or those responsible for governance.

Accountants should, as necessary, request from management, among other things, an assessment of the effects, if any, on the financial statements, and consider those effects, if present. Additionally, management's assessments are important for accountants to consider regarding the effects of fraud on the conclusion

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<sup>11</sup> PwC's Global Economic Crime and Fraud Survey 2022: Protecting the perimeter: A new frontier of platform fraud, <https://www.pwc.com/gx/en/services/forensics/economic-crime-survey.html>, pristupljeno 11. 12. 2023.

<sup>12</sup> Md. Abdul Baten, "Conceptual study of fraud and the accounting system", *International Journal of Multidisciplinary Education and Research*, 6/2018, pp. 1-5.

<sup>13</sup> Norazida Mohamed, Moorison Handley-Schachelor, "Financial statement fraud risk mechanisms and strategies: the case studies of Malaysian commercial companies", *Procedia-Social and Behavioral Sciences*, 145/2014, pp. 321-329.

of the financial statements and the accountant's report, as well as to determine whether accountants have broader communication responsibilities with any parties outside the entity. Since potential conflicts with accountants' ethical and legal obligations regarding confidentiality can be complex, accountants may consult with legal counsel before engaging in any discussions with parties outside the entity. If fraud results in materially misstated financial statements or involves higher-level management, accountants are required to report directly to those responsible for governance<sup>14</sup>.

Fraudulent financial reporting brings significant negative consequences to companies, including a decrease in stock value and a loss of investor confidence in the company. The growing need to protect capital in markets and the increasing influence of the accounting profession in effectively managing the risk of fraud emphasizes the importance of strengthening the capacity of forensic accounting through the education system on the one hand, and enhancing the skills of forensic accountants on the other.

The submission of financial reports is regulated by provisions of Articles 44 to 46 of the Accounting Law. Regardless of who signed the financial statements and other accounting documentation, "collective responsibility is prescribed for the true and fair presentation of the financial position and performance of the legal entity, namely the legal representative, the management body, and the supervisory body of the legal entity in accordance with the law, or the entrepreneur, as well as the responsible person from the Article 14 of the Law."<sup>15</sup>

Despite the conflict of interest between managers and owners, the fundamentals of mechanism of corporate governance is the intention to protect all stakeholders. Misalignment of interests between company owners and managers sets the stage for profit manipulation, with managers likely managing profits for their gain. Managers may manipulate financial statements to achieve specific accounting goals<sup>16</sup> or to improve the company's financial appearance<sup>17</sup>. Furthermore, it is essential to note that managers can engage in financial reporting malpractices by bypassing established control procedures, entering unauthorized or inappropriate data into the books, or making modifications after the period closes (e.g., reclassification). Some forms of management behavior in financial reporting may be considered

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<sup>14</sup> Dave Arman, "A refresher on fraud and the responsibility for its detection", *Journal of Accountancy*, 2023, September 14, AICPA & CIMA, p. 1.

<sup>15</sup> Regular annual financial statement, <https://www.paragraf.rs/baza-znanja/knjigovodstvo/redovni-godisnji-finansijski-izvestaj-2021-apr.html>, accessed on 24. 1. 2024.

<sup>16</sup> Michael Ettredge, Susan Scholz, Kevin Smith, Lili Sun, "How do restatements begin? Evidence of earnings management preceding restated financial reports", *Journal of Business Finance & Accounting*, 37/2010, pp. 332-355.

<sup>17</sup> Michael Fung, "Cumulative prospect theory and managerial incentives for fraudulent financial reporting", *Contemporary Accounting Research*, 32/2015, pp. 55-75.

unethical but not necessarily false (illegal)<sup>18</sup>. Therefore, it is crucial to carefully assess and evaluate management behavior in earnings management and potential frauds.

Once identified, the risks of fraud must be continuously assessed to understand their significance and to evaluate the effectiveness of fraud risk management. Audits play a crucial role in guiding economic decisions<sup>19</sup>. A well-established and efficient internal audit, which is a key component of the corporate governance framework within an organization, plays a vital role in effectively managing fraud risks. It can aid managers in assuming responsibility<sup>20</sup>.

As early as 1997, the AICPA issued standard SAS No. 82: "Consideration of fraud in a financial statement audit," which distinguishes between errors and fraud. It mandates auditors to plan and execute audits to obtain reasonable assurance regarding whether the financial statements are free from material misstatements, whether caused by error or fraud. Additionally, it provides guidance on how auditors should achieve this<sup>21</sup>. It's essential to diligently monitor areas and categories with heightened fraud risk, and a protocol for auditors to communicate about fraud with management, the audit committee, and other relevant parties is envisaged.

### **III. Ethical Aspects and Fraudulent Actions**

Ethics can be discussed in the context of various professions<sup>22</sup>. It is well known that accountants encounter various dilemmas in their practice. The importance of ethics in accounting has greatly increased following major corporate scandals that seriously undermined trust in the accounting profession. In the accounting industry, ethics refers to a set of moral principles and rules of conduct that accountants apply in their practice. These principles encompass ideals of honesty, fairness, objectivity, and accountability in providing financial services and information. They play a crucial role in guiding accountants in the execution of their daily activities, shaping their professional decisions and actions.

Ethics in accounting can be viewed as a set of guidelines established by various accounting bodies to prevent the misuse of financial information. These

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<sup>18</sup> Lawrence Kalbers, "Fraudulent financial reporting, corporate governance and ethics: 1987-2007", *Review of Accounting and Finance*, 8/2009, p. 195.

<sup>19</sup> Marko Milašinić, Snežana Knežević, Aleksandra Mitrović, "The significance of audit and audit opinions in the contemporary environment", *Revizor*, 97-98/2022, pp. 21-31.

<sup>20</sup> Miloš Milošević, Marija Stojiljković, Jelena Raičević, Stefan Milojević, "Obrazovanje i obuka u oblasti strateškog finansijskog menadžmenta i kontrole: u kom pravcu bi trebalo da idemo?", *Revizor*, 102-103/2023, pp. 25-36.

<sup>21</sup> Michael Ramos, Anita Lyons, *Considering fraud in a financial statement audit: practical guidance for applying SAS no. 82, Guides, Handbooks and Manuals (33)*, University of Mississippi, 1997.

<sup>22</sup> Aleksandra Mitrović, Snežana Knežević, Marko Milašinić, "The importance of ethics in the auditing profession in contemporary business", *Revizor*, 97-98/2022, pp. 73-79.



guidelines include confidentiality, integrity, and professional competence. Confidentiality requires accountants not to disclose financial information to third parties. Integrity implies that accountants be honest in their financial dealings, while professional competence requires them to be educated and experienced.

Ethics is of paramount importance in accounting because it provides guidelines on how to handle the information and what type of information is necessary. It also establishes the fundamental values and principles that accountants and auditors should adhere to. Ultimately, ethics prescribes sanctions for offenders, serving as a means to address unethical behavior. Furthermore, the significance of ethics in accounting is extremely large for several reasons. Firstly, it builds trust and credibility among stakeholders such as investors, creditors, and customers, who rely on honest practices for accurate and objective financial reporting. For example, when accountants adhere to the principles of fairness and objectivity, they ensure that financial statements reflect the true financial position of the company.

Additionally, the ethical behavior protects companies against legal consequences. Accountants who uphold the principles of confidentiality safeguard sensitive financial information from unauthorized disclosure. However, ignoring these ethical norms can have catastrophic consequences. For instance, the scandal that befell Enron in 2001 illustrates how unethical accounting practices can lead to serious problems. Manipulation of financial data and misleading audit reports created a false picture of profitability, ultimately leading to Enron's bankruptcy and causing significant losses for shareholders.

The literature has recognized various types of organizational factors associated with the absence of fraud. Some of them include the effectiveness of the audit committee, the efficiency of internal auditing, ethical policies, and the tone set by top management team<sup>23</sup>. Generally speaking, ethics pertains to the principles of behavior that individuals use in making choices and guiding their behavior in situations (circumstances) involving concepts of right and wrong, and as such, it is inseparable from the issue of effectively managing the risk of fraudulent activities.

Ethics can be viewed as "agreed-upon standards of what is desirable and undesirable, and right and wrong behavior or conduct of a person, group, or entity."<sup>24</sup> Although ethics receives a lot of attention in public discourse, we live in a time where unethical behavior is not only more accepted but is also close to becoming the norm. Those who have the power to make decisions about investing other people's money (i.e., corporate managers and investment advisors) can manipulate investors to achieve financial gain.

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<sup>23</sup> Philip Law, "Corporate governance and no fraud occurrence in organizations: Hong Kong evidence", *Journal of Business and Industrial Marketing*, 6/2011, pp. 501-518.

<sup>24</sup> Robert Cressy, Douglas Cumming, Christine Mallin, "Entrepreneurship, governance and ethics", *Entrepreneurship, Governance and Ethics*, 2/2010, pp. 117-120.

Fraudulent activities must be avoided due to their impact on company performance. Therefore, one way to address this issue is through monitoring those responsible for management, promoting a culture of respect and ethical policies that could motivate individuals not to commit fraud due to the possibility of regulators detecting and penalizing them<sup>25</sup>. For example, honesty and integrity in profit reporting can be devastating for managers when expectations are not met. «Cooking the books» - as unethical as it may be, improves the bottom line (company performance), instead, at least in the short term.<sup>26</sup> The question arises, will struggling firms in difficult times prioritize survival or ethics? Also, an important question is what role corporate governance plays in upholding ethical values? In this context, corporate governance can be viewed through ethical values and assumptions that are fundamental to a particular regime or code of corporate governance, the so-called «governance ethics,» and through the way corporations are expected or required to manage their own ethical impact, known as «ethics management.»<sup>27</sup>

It is emphasized that in circumstances where corporate culture is developing, it is particularly important to establish an ethical foundation.<sup>28</sup> Finally, respect for business ethics in modern organizations affects the creation of their business image.<sup>29</sup> The research findings of Čerdić and Knežević<sup>30</sup> show that continuous training of employees on the adequate application of the ethical code leads to a reduction in the likelihood of financial fraud in companies. The findings of Mayhew & Murphy<sup>31</sup> suggest that ethical education does not necessarily lead to internalized ethical values, but it can affect the ethical behavior.

#### **IV. Professional Regulation and Legal Framework: Where Are We Now?**

The regulatory environment in which accountants operate is quite complex. Today's accountants face many challenges in a dynamic environment. The field of

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<sup>25</sup> Hafiza Aishah Hashim, Zalailah Salleh, Izzati Shuhaimi, Nurul Ain Najwa Ismail, "The risk of financial fraud: a management perspective", *Journal of Financial Crime*, 27/2020, pp. 1143-1159.

<sup>26</sup> April Knill, "The value of country-level perceived ethics to entrepreneurs around the world", *The European Journal of Finance*, 18/2012, pp. 209-237.

<sup>27</sup> G. J. Rossouw, "Business ethics and corporate governance: A global survey". *Business & Society*, 44/2005, pp. 32-39.

<sup>28</sup> Kimberly Henry, Brittany Dodson, Ethical Education and its Effect on Accounting Fraud, Working Paper, Christopher Newport University, 2009.

<sup>29</sup> Milena Sretić, Vuk Mirčetić, Mladen Maksimović, Dejan Karabašević, "The impact of ethical internal communication on opinion of public menu", *BizInfo (Blace) Journal of Economics, Management and Informatics*, 10/2019, pp. 43-51.

<sup>30</sup> Ivan Mate Čerdić, Goranka Knežević, "Ethical dilemma: A pathway to fraud or not?", *The European Journal of Applied Economics*, 20/2023, pp. 79-92.

<sup>31</sup> Brian Mayhew, Pamela Murphy, "The impact of ethics education on reporting behavior", *Journal of Business Ethics*, 86/2009, pp. 397-416.

forensic accounting adds another layer of complexity, as practitioners in this field focus on a wide range of areas of fraud, commercial disputes, and analytics.<sup>32</sup>

Corporate governance is, among other things, a crucial part of reform processes in public enterprises.<sup>33</sup> For corporate governance to ensure sustainable long-term operations, high-quality financial information is essential. Corporate financial scandals have ultimately led to several major corporate bankruptcies. Various corporate stakeholders (such as shareholders, creditors and suppliers, employees and workers, competitors, customers, retirees, state tax authorities, among others) have suffered adverse financial consequences. This has triggered an initiative for amendments to the legal and professional regulations in various countries.

The basic principle of audit emphasizes that financial failures, or incorrect financial representations, are more likely to occur when internal controls are ineffective (SAS No. 55, AICPA 1988<sup>34</sup>; SAS No. 78, AICPA 1997<sup>35</sup>; SAS No. 110, AICPA, 2006<sup>36</sup>). The Sarbanes-Oxley Act was enacted in response to the expected impact of the relationship between internal control and the quality of financial reporting<sup>37</sup>, as well as the increase in accounting errors<sup>38</sup>. This law represents a comprehensive effort to enhance the quality of financial reporting in the United States, stemming from serious corporate accounting frauds (financial scandals) that occurred in the late 1990s and early 2000s.

The prevalence of fraudulent financial activities, along with the lack of standards in defining auditors' responsibilities regarding fraud detection, has supported the emergence of the Association of Certified Fraud Examiners - ACFE, which grants the CFE license<sup>39</sup>. Although regulators and authorities have issued a series of guidelines aimed at achieving transparency, preventing fraud, and improving the

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<sup>32</sup> Jeanette Van Akkeren, Sherrena Buckby, Julie-Anne Tarr, "Forensic accounting: Professional regulation of a multi-disciplinary field". *Australian Business Law Review*, 44/2016, pp. 204-215.

<sup>33</sup> Valentina Mirković, Goran Perić, Aleksandar Jokić, "Possibilities for corporate governance in public enterprises in Serbia", *BizInfo (Blace) Journal of Economics, Management and Informatics*, 1/2010, pp. 23-29.

<sup>34</sup> American Institute of Certified Public Accountants (AICPA), *The Auditor's Considerations of Internal Control Structure in the Financial Statement Audit*. Statement on Auditing Standard (SAS) No. 55, New York, NY, AICPA, 1998.

<sup>35</sup> American Institute of Certified Public Accountants (AICPA), *Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standards No. 55*. Statement on Auditing Standard (SAS) No. 78, New York, NY, AICPA, 1997.

<sup>36</sup> American Institute of Certified Public Accountants (AICPA), *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained*. Statement on Auditing Standard (SAS) No. 110, New York, NY, AICPA, 2006.

<sup>37</sup> U.S. House of Representatives, *The Sarbanes-Oxley Act of 2002*, *Public Law*, 107-204 [H. R. 3763]. Washington, DC: GPO, 2002.

<sup>38</sup> Yuping Zhao, Jean Bedard, Rani Hoitash, SOX 404, auditor effort, and the prevention of financial report misstatements, *Auditing: A Journal of Practice & Theory*, 36/2017, pp. 151-177.

<sup>39</sup> Zabihollah Rezaee, James Burton, "Forensic accounting education: insights from academicians and certified fraud examiner practitioners", *Managerial Auditing Journal*, 12/1997, pp. 479-489.

quality of financial reports, cases of fraud in organizations continue to rise. Approximately 47% of organizations have reported cases of fraud in the last two years, representing the second-highest level of fraud in the past two decades, despite the implementation of laws and regulations<sup>40</sup>. Small businesses have been ranked highest in terms of fraud frequency in the ACFE report in the country from 2002 to 2022, with combined averages showing that the frequency of fraud in small businesses is at 28% compared to larger organizations at 22-26%<sup>41</sup>.

One of the significant questions in effective fraud risk management is determining which companies should provide financial data to regulatory agencies. It is known that many private companies worldwide are not legally obliged to submit financial data to regulatory agencies (e.g., the Securities Exchange Commission - SEC in the United States). Therefore, when considering ethical issues, it is essential to carefully monitor companies according to their legal form of organization. For example, some studies have shown that entrepreneurs are generally more ethical than managers of public companies.<sup>42,43</sup>

In Serbia, the Accounting Law<sup>44</sup> covers the economic approach related to accounting issues, i.e., financial data (financial reporting). According to Article 57, "a legal entity shall be fined with a monetary fine ranging from 100,000 to 3,000,000 dinars for an economic offense if it: processes data on a computer and does not provide accounting software that enables the functioning of internal accounting control systems and prevents the deletion of booked/posted business transactions (Article 8, paragraph 4); does not prepare and present financial statements in accordance with this law (Articles 23-26); does not prepare financial statements in accordance with this law (Articles 29 and 31); does not conduct an audit of financial statements (Article 33). Moreover, for actions referred to under the paragraph 1 of the Article hereof, the responsible person in the legal entity shall be fined with a monetary fine ranging from 20,000 to 150,000 dinars."

Taking into account the recent amendments to the Criminal Code related to tax evasion, "tax evasion is treated as a criminal offense if the taxpayer avoids paying or calculating taxes to the amount of one million dinars, and if the evasion is up to one million dinars, it is considered an economic offense or misdemeanor."<sup>45</sup>

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<sup>40</sup> PwC's Global Economic Crime and Fraud Survey. 2020, <https://www.global-screeningsolutions.com/industries/global-economic-crime-and-fraud-survey-2020>, accessed on 11. 12. 2023.

<sup>41</sup> Current fraud statistics, Business Fraud Prevention, Inc. (BFP), <https://businessfraudprevention.org/about-us/>, 2002, accessed on 14. 12. 2023.

<sup>42</sup> Elisabeth Teal, Archie Carroll, "Moral reasoning skills: Are entrepreneurs different?", *Journal of Business Ethics*, 19/1999, pp. 229-240.

<sup>43</sup> Branko Bucar, Rober Hisrich, "Ethics of business managers vs. entrepreneurs", *Journal of developmental entrepreneurship*, 6/2001, pp. 59-83.

<sup>44</sup> Accounting Law, *Official Gazette of the Republic of Serbia*, 73/2019 and 44/2021, Article 57.

<sup>45</sup> Law on Criminal Proceedings, *Official Gazette of the Republic of Serbia*, nos. 85/2005, 88/2005 – as amended, 107/2005 – as amended, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019.

The question arises whether the prescribed penalties are a strong deterrent. The answer to this question requires extensive research based on data from various agencies, services, and institutions.

## **V. Role of Forensic Accountants in Criminal Justice and Civil Litigations**

Managing a business, managers are often in a position to understand the potential dangers associated with fraudulent activities. However, there are practical steps that can be taken to protect one's business from financial malfeasance. Involving experts in forensic accounting is crucial for detecting any financial abuses and fraud. Forensic accounting, as a branch of accounting, involves detailed investigation and analysis of financial information to uncover fraud or financial manipulations. Forensic accountants are often engaged in preparing for legal disputes in cases involving divorces, embezzlement, fraud, skimming, insurance, insolvency, and other forms of financial fraud.

In addition to traditional accounting techniques, forensic accountants apply various tools and software for investigating and analyzing financial data. These tools include data analysis software, computer forensic tools, data mining software, and predictive analytics. The result of the work of forensic accountants are the forensic reports used by the requester of the forensic accounting analysis. These reports present their findings, including the nature of the abuse and fraud, individuals involved, and financial impact. Fraudulent activities need to be specified according to the industry in which they occurred. Specifically, financial forensic experts need to have sufficient knowledge of the industry in which a corporate fraud occurred. Finally, financial forensic accountants may be called upon to provide expert testimony in court, presenting their findings and explaining complex financial topics to support the legal process. A large number of financial forensic accountants are experienced in testifying as expert witnesses for various financial cases in banking, insurance, tax issues, and many others.

In recent years, the complex nature of modern fraud has spurred the growth of forensic accounting, a niche area often referred to as investigative accounting. Three areas of forensic accounting are tied to practice: as already mentioned, litigation support, expert witness testimony, and finally, fraud examination. Forensic accountants play a very significant role in criminal justice and civil litigation, and it is therefore important to establish an adequate connection with practice.<sup>46</sup> Attorneys most commonly use forensic accountants in cases involving financial statements,

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<sup>46</sup> Snežana Knežević, Stefan Milojević, Marko Špiler, „Edukacija o forenzičkom računovodstvu i veza s praksom“, *Revizor*, 95-96/2021, pp. 35–49.

economic damages, and fraud.<sup>47</sup> Resolving complex cases of financial fraud or other unlawful activities requires interdisciplinary knowledge of forensic accountants who translate financial and non-financial measurements, analyses, and economic concepts into material that others with less experience and knowledge can understand.<sup>48</sup>

Standard SAS 99 (replacing SAS 82) does not require the use of forensic experts, but it recommends critical thinking, increased professional skepticism, and unpredictable audit tests.<sup>49</sup> Specifically, SAS 99 defines fraud as “an intentional act that results in a material misstatement in the financial statements subject to audit.” Certified forensic accountants will still be sought to complement the efforts of internal and external auditors in identifying fraud. Due to the multidisciplinary and technically intensive nature of the profession, forensic accountants are at significant risk of conflating ethics with legal compliance.<sup>50</sup>

Forensic accountants are expected to act ethically and in the public interest as professionals. The role of forensic accountants in criminal proceedings is becoming increasingly important, and there are various roles they can play – financial forensic expert, expert witness, and expert advisor. It is important to note that “the role of the expert advisor of the accused or the injured party as the prosecutor is defined by the Criminal Procedure Code, but not that of the financial forensic expert, who is an expert assistant to the prosecutor.”<sup>51</sup> Namely, during the main hearing, a forensic accountant as a court expert may appear in the role of a witness. The skill of objectively communicating complex issues is a key skill for experts in the field of forensic accounting in legal proceedings.<sup>52</sup>

## **VI. Insurance Frauds**

It is impossible to ensure the efficient functioning of insurance companies and maintain an adequate level of their financial stability without establishing and implementing an effective system for detecting and combating insurance fraud. Such frauds have negative consequences not only for the companies themselves but

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<sup>47</sup> Charles Davis, Ramona Farrell, Suzanne Ogilby, *Characteristics and skills of the Forensic Accountant*, American Institute of Certified Public Accountants, 2010, pp. 11-26.

<sup>48</sup> James DiGabriele, Lester Heitger, Richard Riley, Jr., „A synthesis of non-fraud forensic accounting research”, *Journal of Forensic Accounting Research*, 5/2020, pp. 257-277.

<sup>49</sup> Statement on Auditing Standards - 99 (SAS 99), Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA), October 2002.

<sup>50</sup> Bryan Howieson, “What is the ‘good’ forensic accountant? A virtue ethics perspective”, *Pacific Accounting Review*, 2/2018, pp. 155-167.

<sup>51</sup> Bojan Janković, Snežana Knežević, Stefan Milojević, „Uloga računovodstvenog forenzičara u krivičnom postupku”, *Revizor*, 101/2023, p. 6.

<sup>52</sup> Madeline Ann Domino, Matthew Stradiot, Mariah Webinger, “Factors which may bias judges’ decisions to exclude accounting expert witnesses testimony”, *Accounting Research Journal*, 28/2015, pp. 59-77.

also for their clients, other contracting parties, and the insurance market as a whole, and even for the state. Insurance frauds are becoming an increasingly significant problem with substantial financial and social impacts. The continuous occurrence of fraud, if not controlled, will seriously affect the liquidity of insurance companies, further negatively impacting their financial performance.

In general, insurance frauds can be divided into three categories, relating to the perpetrator (insider or outsider), the stage of fraud (contracting or claims), and the nature of fraud (soft or hard).<sup>53</sup> Insider fraud is by far the most widespread type of fraud, and concerning the United States, premium diversion is the most common type of insurance fraud. Interestingly, there is a greater likelihood that insurance companies will be defrauded by their employees or business insiders than by their own clients.

A particular challenge is posed by financial products that provide insurance against potential life or market events in the relatively distant future, such as pension savings plans or life insurance. Since the benefits of such products only become clear after a long period from the transaction's inception, assessing their usefulness to the buyer involves much speculation and estimation. Sellers often use deceptive promotional materials, pressure sales tactics, and insufficiently accurate or suggestive statements to overemphasize favorable scenarios while downplaying less favorable ones for buyers. In many cases, sales agents fail to adequately investigate the client's risk profile, do not manage to explain the risks adequately, provide overly optimistic projections of future performance, or fail to transparently disclose fees and commissions. On the other hand, there is a possible scenario in which parties in need of insurance may misrepresent the true state of affairs to obtain better terms for acquiring insurance policies.<sup>54</sup>

In principle, according to previous research, there are two types of insurance fraud: opportunistic insurance fraud and planned insurance fraud, with opportunistic fraud being more common.<sup>55</sup> Opportunistic insurance fraud refers to an individual's *post hoc* realization that an insured event can be exploited for personal gain by providing false information or exaggerating legitimate claims. Planned insurance fraud involves a deliberate attempt to fabricate a risky event that would be covered by an insurance policy.<sup>56</sup>

Accounting fraud in insurance encompasses manipulative practices by insurers, policyholders, or other stakeholders used to gain illegal benefits through

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<sup>53</sup> Insurance fraud: issues and challenges, *The International Association for the Study of Insurance Economics*, 2014.

<sup>54</sup> Arjan Reurink, "Financial Fraud: A Literature Review", *Contemporary Topics in Finance*, 2019, pp. 79–115.

<sup>55</sup> Sharison Tennyson, "Insurance experience and consumers' attitudes toward insurance fraud", *Journal of Insurance Regulation*, 2/2002, pp. 35–56.

<sup>56</sup> Richard A. Derrig, Valerie Zicko, "Prosecuting insurance fraud – a case study of the Massachusetts experience in the 1990s", *Risk Management and Insurance Review*, 2/2002, pp. 77–104.

manipulation of financial data. Such frauds include reserves manipulation, deception in reinsurance, underreporting of losses, and generating fictitious insurance policies. These insurance frauds are causing growing concern because they compromise the reliability of financial reporting and trust in the financial sector, ultimately negatively affecting the confidence of investors, creditors, and other stakeholders. International Financial Reporting Standard 17 - Insurance Contracts (IFRS 17) represents an important step in combating these frauds in the insurance industry. This standard includes requirements for transparent reporting on the company's financial position and risk and demands significant changes in insurers' accounting practices.

Improving measures for measuring, detecting, and preventing insurance fraud is achieved through the application of statistical models and intelligent technologies on extensive databases to ensure effective identification of fraudulent activities. Additionally, strategic analysis is applied to situations related to property insurance, liability, and health insurance.<sup>57</sup> In this context, it is important to mention the significant role of internal audit and internal control as two pillars for effectively managing the risk of abuse and fraud in insurance companies.

## **VI. Conclusion**

Ethical financial reporting and accounting practices are vital as they address the basic needs of the public and employees, building credibility and trust among them. Ethics in accounting exists to protect the public from unethical corporate practices. Companies have ethical and legal responsibilities regarding financial management. Unfortunately, some accountants sometimes conceal or manipulate information. Most accounting scandals arise precisely from false financial reporting, when company management presents inaccurate information in financial statements.

Fraud has an adverse and far-reaching impact, affecting millions of individuals, companies, and their clients across various industries, and the negative consequences are often difficult for the affected parties to recover from. Incorrect financial representation in financial accounting, both at the external and internal levels, can have undesirable effects on the integrity and accuracy of an organization's financial reporting and its overall corporate image.

It is observed that a large number of studies in the field of fraud risk management provide a snapshot of the situation, many of which are methodologically weak and generally provide only limited information on the effectiveness or costs of measures taken against fraud. When it comes to insurance, this is even more pronounced. In this context, there is a need to intensify "sharper" research in this area. Furthermore, by preventing fraudulent activities in the real environment, the value of the accounting profession's services is increased.

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<sup>57</sup> Richard Derrig. Insurance fraud. *Journal of Risk and Insurance*, 3/2002, pp. 271-287.



It is necessary to further strengthen internal control systems and ethical policies that will discourage fraud and reduce its occurrence in companies. In many cases of financial crime, forensic accountants work together with investigators, lawyers, and judicial authorities to provide relevant data and analyses that support criminal proceedings. Their contribution can be crucial for delivering fair judgments. Moreover, it is significant to carefully consider and evaluate the qualifications of experts when it comes to new technologies, noting that traditional forensic accounting techniques can be used as checks of reasonableness in relation to outcomes obtained through artificial intelligence (i.e., machine learning), which is expected to be the case in practice as well. Therefore, if the licensing of forensic accounting experts is established in Serbia, this will be one of the relevant matters to address.

Fraudulent activities in insurance not only cause real losses for insurance companies but also significantly affect consumers, as the costs of detecting fraud and expected losses are passed on through insurance premiums. Therefore, it is important to introduce adequate control mechanisms and ensure compliance with procedures in organizations involved in insurance activity.

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