

ELON MUSK'S EARNINGS SHENANIGANS COULD BRING HIM FACE TO FACE WITH FBI, FTC AND SEC

By Anthony Mirhaydari MoneyWatch

The return of earnings shenanigans

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While Federal Reserve monetary policy has been the latest obsession for regular investors, last decade was all about the accounting malfeasance from the likes of Enron, the housing bubble and resulting financial crisis, and the regulatory responses -- like the Dodd-Frank Act -- that tightened standards with the intent of protecting working Americans.

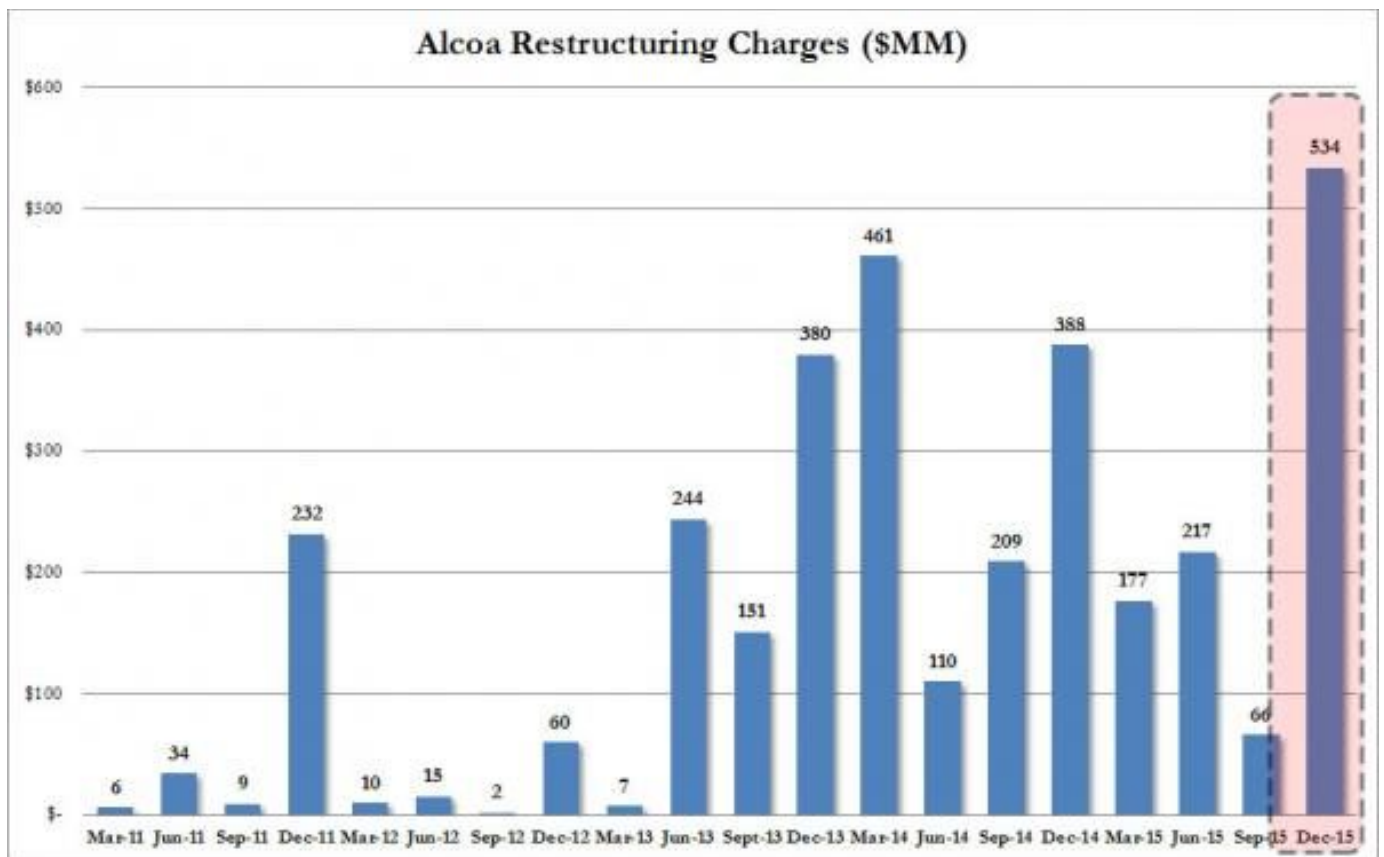
And for a while, at least some of that crackdown -- on shifty accounting -- worked.

But driven by recent pressure on corporate profitability from a stronger dollar, weaker overseas growth and a collapse in energy prices, new evidence shows corporate executives are once again playing fast and loose with their earnings results. Warren Buffett even highlighted the problem in his [recent shareholder letter](#).

They have a few reasons to play with the numbers. For one, the overall stock market has been unable to set new highs since last May, and management compensation is often tied to a rising share price. So, the pressure is on to do something, anything, to get stock prices higher.

Moreover, S&P 500 earnings have dropped for three consecutive quarters for the first time since the recession ended. According to FactSet, the first-quarter 2016 reporting season -- which will unofficially kick off on April 11 when Alcoa ([AA](#)) releases results after the bell -- is also expected to feature a drop in earnings. The chance to pad bad news, as any kid caught in the cookie jar will attest, is a powerful motivator.

You can see this in the growing divergence between regular reported earnings per share on what's known as a "GAAP" basis (that is, generally accepted accounting principles) and a pro-forma, or non-GAAP, basis that removes the impact of things management dubs "nonrecurring" or "one-time" events. There's some discretion in what qualifies as a nonrecurring charge, which raises suspicion CEOs are trying to fool around.

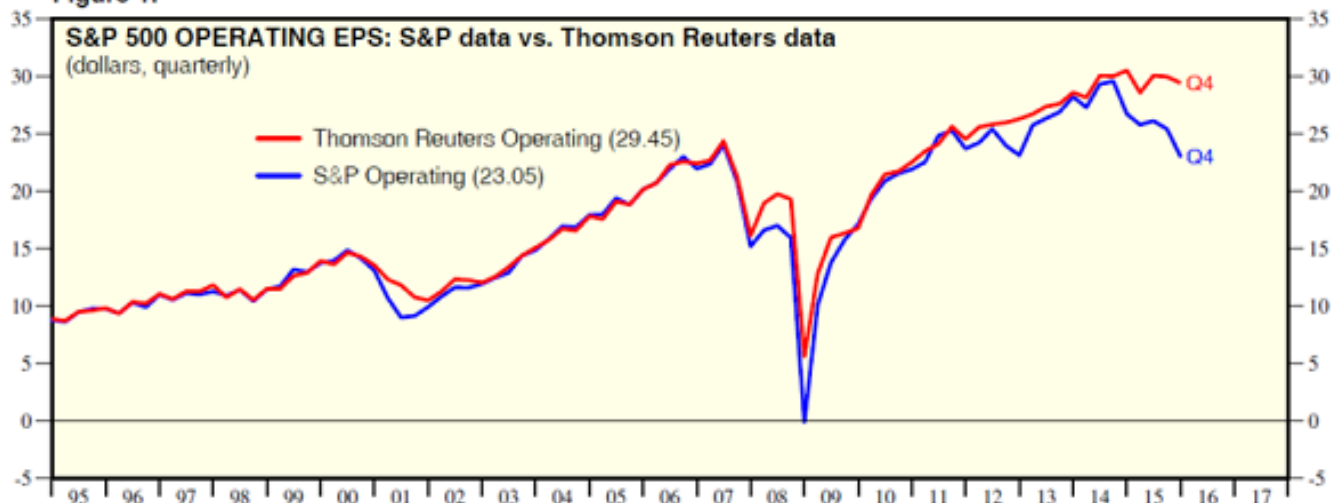


Alcoa has been a poster child of this behavior: In January it reported "adjusted" earnings of 4 cents per share on \$65 million in "adjusted" net income, easily beating the consensus estimate of 2 cents per share. The problem: Driven by an 18 percent year-over-year decline in revenue, the company should have reported a \$500 million loss on a GAAP basis.

But thanks to \$534 million in "one-time" charges, like magic, Alcoa was profitable. As the chart above shows, it has been a frequent user of this trick.

FactSet has noted a growing difference between non-GAAP and GAAP earnings per share for the companies in the Dow Jones industrials index as more and more one-time charges are used to pad the bottom line. The largest offenders? Merck ([MRK](#)), General Electric ([GE](#)), and Microsoft ([MSFT](#)).

Figure 1.



They note that supporters of this practice argue that non-GAAP measures provide investors with a more accurate picture of profitability from day-to-day operations. Critics highlight the fact no industry standard prescribes what non-GAAP earnings should be. And that undermines the entire purpose of corporate accounting in the first place: To provide an honest and comparable testament of financial health to help investors make decisions.

Ed Yardeni of Yardeni Research has also noticed the trend, and as shown in the chart above, he highlights that reported earnings (GAAP) and operating earnings (non-GAAP) tend to diverge during times of market weakness and stress. It happened in 2000-2001. It happened in 2007-2009. And it's happening again now.

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Anthony Mirhaydari

Anthony Mirhaydari is founder of the [Edge](#), an investment advisory newsletter, and [Edge Pro](#), options newsletter. Previously, he was a markets columnist for MSN Money; a senior research analyst with Markman Capital Insight, a money management firm; and an analyst with Moss Adams focusing on the financial services industry

Featured

IS ELON MUSK A MOBSTER AND POLITICAL CORRUPTION RACKETEER?

Numerous parties would like this answered, in public, in front of a Grand Jury, A DOJ Special Prosecutor and a public federal court trial, but Elon Musk has spent vast amounts of money in order to delay the justice system from bring him to such a hearing.

The Following inquiries, though, should serve to resolve the issue.

All of the following questions have now been FAXED, EMAILED, U.S. POSTAL SERVICED MAILED to Elon Musk at his homes and offices and to the corporate offices of the companies and U.S. Senators that he owns. He is now fully aware that answers for each of the following questions is required from him. It is no longer possible for him to not have immediate answers to these questions should you encounter him in-person, at a conference or in a broadcast news interview.

If you see him, ask him: "Elon...

1. Why was Tesla located on the same geological land, next door to, FBI-raided Solyndra?
2. Did Senator Dianne Feinstein ever have a personal meeting with you?
3. Did you or your staff ever promise, or deliver, any favors or items of value to Senator Dianne Feinstein
4. Did you or your staff ever promise, or deliver, any favors or items of value to Senator Harry Reid?
5. Have you, or any family members or friends ever placed money in a family trust fund that originally came from the U.S. Treasury?
6. Had you ever met Steven Chu, Steve Spinner, Alison Spinner, Matt Rogers or Jonathan Silver before they were appointed to run the U.S. Department of Energy?
7. Did you ever say, in a recorded conversation, that the NUMMI factory made no sense for Tesla to occupy?
8. What is your relationship with Richard Blum, the husband of Senator Dianne Feinstein and his real estate company CBRE?
9. When your Tesla and Powerwall batteries explode, do they release any toxic fumes? How many different kinds of toxic fumes do they release? In what year were you aware of these toxic fumes. Did your employee: Bernard Tse, ever warn you about these toxic fumes?
10. Did you, or your associates ever benefit from lithium mining in the Afghanistan War?
11. Did three of your employees suddenly die in a plane crash? What engineering information did they have about Tesla Motors?
12. Did your patent filings include any language which specifically and intimately disclosed the deadly danger of your batteries? Please quote those paragraphs from your very own patent filings that you were forced to give away for free because they were rendered value-less by those disclosures?
13. The news stories said that, even though you were a billionaire, you got over thirty billion dollars in taxpayer-funded handouts from California and Federal government officials in hard cash, tax waivers, free NASA buildings, government jet fuel, credits, stock market pumps and other things; Did you get all of this free cash in exchange for conduit-ing campaign funding for Obama, Reid and Feinstein?
14. Were you involved in the death of your competitor: Gary D. Conley?
15. Does Google rig search engine results about you because they covertly co-own some of your assets? Do Twitter and Google hype up PR aggrandizement about you and hide negative news stories about you?
16. Have you hidden money from state and federal tax collection in off-shore tax evasion schemes?
17. Do you hire troll-farms, click-farms and meat-puppet fake bloggers to write self-glory statements about you on reddit, twitter, facebook and other social media?
18. Have Tesla's killed anybody? How many people have died in, or near a Tesla, ever? Do you run cover-ups about the deaths?

