

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2002-61 and should be submitted by February 12, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-1288 Filed 1-21-03; 8:45 am]

BILLING CODE 8010-01-P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of promulgation of temporary, emergency amendments to the sentencing guidelines and commentary.

SUMMARY: The Commission has promulgated two temporary, emergency amendments to the sentencing guidelines as follows: (1) pursuant to sections 805, 905, and 1104 of the Sarbanes-Oxley Act of 2002, Pub. L. 107-204, and its general authority under 28 U.S.C. 994, the Commission has promulgated amendments to §§ 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States), 2E5.3 (False Statements and Concealment of Facts in Relation to Documents Required by the Employee Retirement Income Security Act; Failure to Maintain and Falsification of Records Required by the Labor Management Reporting and Disclosure Act), 2J1.2 (Obstruction of Justice), and 2T4.1 (Tax Table), and Appendix A (Statutory Index); and (2) pursuant to section 314 of the Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155, and its general authority under 28 U.S.C. 994, the Commission has promulgated a new guideline in chapter two, part C (Offenses Involving Public Officials), and amendments to §§ 3D1.2 (Groups of Closely Related Counts), and 5E1.2 (Fines for Individual Defendants), and Appendix A (Statutory Index). The Commission also has requested public comment, to be submitted to the Commission not later than March 17, 2003, regarding repromulgation of these two temporary, emergency amendments as permanent amendments (see the issue of the **Federal Register** published on January 17, 2003).

DATES: The Commission has specified an effective date of January 25, 2003, for the temporary, emergency amendments set forth in this notice.

ADDRESSES: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2-500, Washington, DC 20002-8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May of each year pursuant to 28 U.S.C. 994(p). The Commission also may promulgate emergency amendments prior to the first day of May if required to do so by specific congressional legislation.

The Commission has promulgated two temporary, emergency guidelines in response to specific congressional legislation. First, in response to the Sarbanes-Oxley Act, the Commission has promulgated an amendment that increases the penalties for corporate fraud and offenses involving the obstruction of justice. Second, in response to the Bipartisan Campaign Reform Act of 2002, the Commission has promulgated an amendment that provides a new guideline and increased penalties for offenses involving a violation of Federal election campaign laws. The Commission has specified an effective date of January 25, 2003, for both amendments.

Additional information pertaining to the amendments described in this notice may be accessed through the Commission's website at www.ussc.gov.

Authority: Sections 805, 905, and 1104 of the Sarbanes-Oxley Act of 2002, Pub. L. 107-204; section 314 of the Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155; 28 U.S.C. 994(a), (o), (p), (x); USSC rules of practice and procedure, rule 4.4.

Diana E. Murphy,
Chair.

1. Corporate Fraud

Amendment: Section 2B1.1(b)(1) is amended by striking the period; and by adding at the end the following:

“(O) More than \$200,000,000 add 28
(P) More than \$400,000,000 add 30.”

Section 2B1.1 is amended by striking subsection (b)(2) as follows:

“(2) (Apply the greater) If the offense—

(A) (i) involved more than 10, but less than 50, victims; or (ii) was committed through mass-marketing, increase by 2 levels; or

(B) involved 50 or more victims, increase by 4 levels.”,
and inserting the following:

¹² 17 CFR 200.30-3(a)(12).