

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2007–058 on the subject line.

#### Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–058. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at Nasdaq's principal office and on Nasdaq's Web site at [http://nasdaq.complinet.com/file\\_store/pdf/rulebooks/NASDAQ\\_SR-NASDAQ-2007-058.pdf](http://nasdaq.complinet.com/file_store/pdf/rulebooks/NASDAQ_SR-NASDAQ-2007-058.pdf). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2007–058 and should be submitted on or before October 2, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–17783 Filed 9–10–07; 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 final action regarding technical and conforming amendments to federal sentencing guidelines effective November 1, 2007.

**SUMMARY:** On May 1, 2007, the Commission submitted to Congress amendments to the federal sentencing guidelines and published these amendments in the **Federal Register** on May 21, 2007. *See* 72 FR 28558. The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions related to those amendments.

**DATES:** The Commission has specified an effective date of November 1, 2007, for the amendments set forth in this notice.

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

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. *See* 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). *See* 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary in order to execute correctly the amendments submitted to Congress. This notice sets forth technical and conforming amendments to commentary related to the amendments submitted to Congress on

May 1, 2007, that will become effective on November 1, 2007, absent congressional action to the contrary.

**Authority:** USSC Rules of Practice and Procedure 4.1.

**Ricardo H. Hinojosa,**  
*Chair.*

### Retroactive Application of Amendment 5 Submitted to Congress on May 1, 2007 (*see* 72 FR 28558; USSG App. C (Amendment 702))

1. Amendment: Section 1B1.10(c) is amended by striking “and” and by inserting “, and 702” before the period.

Reason for Amendment: Amendment 5 submitted to Congress on May 1, 2007 (*see* 72 FR 28558; USSG App. C (Amendment 702)) corrects typographical errors in subsection (b)(13)(C) of § 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) and subsection (b)(1) of § 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien). As stated in the reason for amendment accompanying Amendment 5, this amendment adds Amendment 5 to § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range) as an amendment that the court may consider for retroactive application.

### Technical and Conforming Amendments

2. Amendment: The Commentary to § 2A3.4 captioned “Statutory Provisions” is amended by striking “Provisions” and inserting “Provision”.

Section 2A3.5(b)(1)(A), as added by Amendment 4 submitted to Congress on May 1, 2007 (*see* FR 72 28558; USSG App. C (Amendment 701)), is amended by inserting a comma after “minor”.

Chapter Two, Part D is amended in the heading by inserting “AND NARCO-TERRORISM” after “DRUGS”.

The Commentary to § 2D1.1 captioned “Application Notes”, as amended by Amendment 9 submitted to Congress on May 1, 2007 (*see* 72 FR 28558; USSG App. C (Amendment 706)), is further amended by striking subdivision (D) of Note 10 and inserting the following:

“(D) Determining Base Offense Level in Offenses Involving Cocaine Base and Other Controlled Substances.—

(i) In General.—If the offense involves cocaine base (“crack”) and one or more other controlled substance, determine the base offense level as follows:

<sup>13</sup> 17 CFR 200.30–3(a)(12).

(I) Determine the base offense level for the quantity of cocaine base involved in the offense.

(II) Using the marihuana equivalency obtained from the table in this subdivision, convert the quantity of cocaine base involved in the offense to its equivalent quantity of marihuana.

Base offense level	Marihuana equivalency
38 .....	6.7 kg of marihuana per g of cocaine base.
36 .....	6.7 kg of marihuana per g of cocaine base.
34 .....	6 kg of marihuana per g of cocaine base.
32 .....	6.7 kg of marihuana per g of cocaine base.
30 .....	14 kg of marihuana per g of cocaine base.
28 .....	11.4 kg of marihuana per g of cocaine base.
26 .....	5 kg of marihuana per g of cocaine base.
24 .....	16 kg of marihuana per g of cocaine base.
22 .....	15 kg of marihuana per g of cocaine base.
20 .....	13.3 kg of marihuana per g of cocaine base.
18 .....	10 kg of marihuana per g of cocaine base.
16 .....	10 kg of marihuana per g of cocaine base.
14 .....	10 kg of marihuana per g of cocaine base.
12 .....	10 kg of marihuana per g of cocaine base.

(III) Determine the combined marihuana equivalency for the other controlled substance or controlled substances involved in the offense as provided in subdivision (B) of this note.

(IV) Add the quantity of marihuana determined under subdivisions (II) and (III), and look up the total in the Drug Quantity Table to obtain the combined base offense level for all the controlled substances involved in the offense.

(ii) Example.—The case involves 1.5 kg of cocaine, 10 kg of marihuana, and 20 g of cocaine base. Under the Drug Quantity Table, 20 g of cocaine base corresponds to a base offense level of 26. Pursuant to the table in subdivision (II), the base offense level of 26 corresponds to a marihuana equivalency of 5 kg per gram of cocaine base. Therefore, the equivalent quantity of marihuana for the cocaine base is 100 kg (20 g × 5 kg = 100 kg). Pursuant to subdivision (B), the equivalent quantity of marihuana for the cocaine and marihuana is 310 kg. (The cocaine converts to an equivalent of 300 kg of marihuana (1.5 kg × 200 g = 300 kg), which, when added to the 10 kg of marihuana, results in an equivalent

quantity of 310 kg of marihuana.) Adding the equivalent quantities of marihuana of all three drug types results in a combined quantity of 410 kg of marihuana (100 kg + 310 kg = 410 kg), which corresponds to a combined base offense level of 28 in the Drug Quantity Table.”.

The Commentary to § 2N2.1 captioned “Application Notes” is amended in Note 4 by inserting “and Narcoterrorism” after “Drugs”.

The Commentary to § 5B1.3 captioned “Application Note”, as added by Amendment 4 submitted to Congress on May 1, 2007 (see 72 FR 28558; USSG App. C (Amendment 701)), is amended by striking “(b)” each place it appears and inserting “(a)”.

The Commentary to § 5D1.3 captioned “Application Note”, as added by Amendment 4 submitted to Congress on May 1, 2007 (see 72 FR 28558; USSG App. C (Amendment 701)), is amended by striking “(b)” each place it appears and inserting “(a)”.

Appendix A (Statutory Index) is amended by striking the lines referenced to “50 U.S.C. 421” and “50 U.S.C. 783(b)” the first place they appear.

*Reason for Amendment:* This amendment makes various technical and conforming amendments in order to execute properly amendments submitted to Congress on May 1, 2007, and that will become effective on November 1, 2007. Specifically, the amendment corrects grammatical errors in the commentary to § 2A3.4 (Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact); amends the commentary to § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy); changes the heading in Chapter Two, Part D and makes the conforming change to § 2N2.1 (Violations of Statutes and Regulations Dealing With Any Food, Drug, Biological Product, Device, Cosmetic, or Agricultural Product); corrects typographical errors in §§ 5B1.3 (Conditions of Probation) and 5D1.3 (Conditions of Supervised Release); and amends Appendix A to remove duplicate listings.

[FR Doc. E7-17796 Filed 9-10-07; 8:45 am]

**BILLING CODE 2211-01-P**

## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of extension of the deadline for application to the Victims Advisory Group

**SUMMARY:** The United States Sentencing Commission is issuing this notice to advise the public that the application period for membership in the Victims Advisory Group has been extended to November 13, 2007. The deadline was originally July 30, 2007.

This comment period is extended to ensure full dissemination of the information surrounding this group's inception to all appropriate parties and sufficient time for those parties to apply for membership.

**SUPPLEMENTARY INFORMATION:** After considering the request of the Judicial Conference of the United States regarding the formation of a victims advisory group, the United States Sentencing Commission has decided to establish a standing victims advisory group pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. The purpose of the advisory group is (1) To assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. 994(o); (2) to provide the Commission its views on the Commission's activities as they relate to victims of crime; (3) to disseminate information regarding sentencing issues to organizations represented by the advisory group and to other victims of crime and victims advocacy groups, as appropriate; and (4) to perform any other functions related to victims of crime as the Commission requests. The victims advisory group will consist of not more than 9 members, each of whom may serve not more than two consecutive 3-year terms.

The Commission issued an invitation to apply for membership of the victims advisory group on June 19, 2007 (72 FR 33798). Applications were initially due to the Commission on July 30, 2007. The Commission hereby invites additional applications from any person or group who has knowledge, expertise, or experience in the area of federal crime victimization. Requests to be considered for the initial membership of the victims advisory group must be received by the Commission not later than November 13, 2007. Applications may be sent to Michael Courlander at the address listed below.