



U.S. Sentencing Commission
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NEWS RELEASE

For Immediate Release

April 13, 2012

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**U.S. SENTENCING COMMISSION PROMULGATES AMENDMENT TO THE
FEDERAL SENTENCING GUIDELINES RESPONDING TO THE DODD-FRANK ACT**
Also promulgates amendments regarding human rights, drug, and other offenses

WASHINGTON, D.C.—Today the United States Sentencing Commission promulgated amendments to the federal sentencing guidelines responding to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) regarding securities fraud, mortgage fraud, human rights offenses, drug offenses, and other offenses.

The Dodd-Frank Act contained directives to the Commission to review the fraud guideline with respect to securities fraud, fraud on financial institutions, and mortgage fraud. Judge Patti B. Saris, chair of the Commission, noted “Fraud offenses represent almost ten percent of the federal criminal docket annually, and have been the focus of congressional attention as evidenced by the directives to the Commission.” Judge Saris explained, “The Commission’s action today increases penalties for insider trading cases and ensures that no defendant will receive a reduced penalty because of a federal intervention, such as a bailout. The Commission also adopted presumptive rules governing the calculation of loss in mortgage and securities fraud cases.”

“This is the first step in a multi-year review of the fraud guideline,” stated Judge Saris. “We have received feedback from a number of stakeholders that broader review of the operation of the fraud guideline should be undertaken. Specifically, we have heard from the courts, defense attorneys, and prosecutors that the interaction of the loss attributed to an offense and the number of victims in an offense (the loss and victims tables in the guidelines), particularly in high-loss fraud cases, may result in disproportionate or disparate sentences. This is an area of the guidelines that the Commission must continue to review in a comprehensive manner.” More than 30 other federal sentencing guidelines (such as those covering money laundering, public corruption and identity theft offenses) either reference the fraud guideline or have a proportional relationship with it. Therefore, any change to the loss or victims calculations in the fraud guidelines must be undertaken comprehensively.

The Commission also promulgated an amendment to the federal sentencing guidelines to cover substantive human rights violations. First, the Commission promulgated new sentencing enhancements that would apply to a defendant convicted of committing a serious human rights offense, including genocide, torture, war crimes, and the use or recruitment of child soldiers. Second, the Commission promulgated an amendment to the guideline covering immigration

offenses to provide a penalty enhancement if a defendant committed the instant offense to conceal or attempt to conceal their role in a serious human rights offense. “These amendments will ensure appropriate penalties for those who commit serious human rights offenses,” explained Judge Saris. “Human rights violations are an important issue to Congress and the Commission shares this concern.”

The Commission also promulgated an amendment to the federal sentencing guidelines to address the growing number of federal drug cases involving the stimulant “BZP.” BZP is a Schedule I stimulant used both alone and in combination with other chemicals to produce effects that mimic those of the drug “Ecstasy,” and promoted as such to the youth population, particularly for use during all night “raves.” The proposed amendment adds BZP to the list of chemicals covered by the federal sentencing guidelines in a manner consistent with available scientific literature. Judge Saris noted, “The Second Circuit Court of Appeals brought this important matter to our attention. The Commission is pleased to have addressed concerns about the growing prevalence of this drug in the Second Circuit and elsewhere by providing appropriate coverage under the federal sentencing guidelines.” The Commission also promulgated an amendment that provides a sentence reduction under the guidelines for certain low-level, non-violent offenders convicted of offenses involving precursor chemicals, which parallels provisions already in the federal sentencing guidelines for low-level, non-violent drug offenders who meet certain criteria.

The Commission also resolved a circuit conflict by confirming that for purposes of calculating a defendant’s criminal history under the federal sentencing guidelines, driving while intoxicated, driving under the influence and similar offenses are, without exception, always counted. The Commission’s actions today also resulted in amendments to the guidelines covering contraband cell phones in prison, cigarette offenses, trafficking in fake Indian goods, and animal crush videos.

The Commission must submit its 2011-2012 amendment package to Congress by May 1, 2012. Congress has 180-days to review the amendments submitted by the Commission. The amendments have a designated effective date of November 1, 2012, unless Congress affirmatively acts to modify or disapprove them.

More information on the amendments promulgated today may be found on the Commission’s website, www.ussc.gov.

The United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop national sentencing policy. The resulting federal sentencing guidelines provide the starting point for the court’s consideration of a sentence and help ensure that similar offenders who commit similar offenses receive similar sentences.

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