

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 Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. 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 publicly available. All submissions should refer to File Number SR-NYSE-2007-02 and should be submitted on or before May 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E7-7836 Filed 4-24-07; 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 a temporary, emergency amendment to sentencing guidelines, policy statements, and commentary.

**SUMMARY:** Pursuant to section 4 of the Telephone Records and Privacy Protection Act of 2006 (the "Telephone Act"), Pub. L. 109-476, the Commission hereby gives notice of a temporary, emergency amendment to the sentencing guidelines, policy statements, and commentary. This notice sets forth the temporary, emergency amendment and the reason for amendment.

**DATES:** The Commission has specified an effective date of May 1, 2007, for the emergency amendment.

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

**SUPPLEMENTARY INFORMATION:** The Commission must promulgate a temporary, emergency amendment to implement the directive to section 4 of the Telephone Act by July 11, 2007. On January 30, 2007, the Commission published in the **Federal Register** an issue for comment regarding the implementation of this directive.

The temporary, emergency amendment set forth in this notice also may be accessed through the Commission's Web site at <http://www.ussc.gov>.

**Authority:** 28 U.S.C. 994(a), (o), (p), (x); section 4 of Pub. L. 109-497.

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

### Pretexting

Amendment: Section 2H3.1 is amended in the heading by striking "Tax Return Information" and inserting "Certain Private or Protected Information".

Section 2H3.1(b)(1) is amended by inserting "(A) the defendant is convicted under 18 U.S.C. § 1039(d) or (e); or (B)" after "If".

The Commentary to § 2H3.1 captioned "Statutory Provisions" is amended by inserting "§ 1039," after "18 U.S.C. §".

The Commentary to § 2H3.1 captioned "Application Notes" is amended by striking Note 1; by redesignating Note 2 as Note 1; and by inserting after Note 1, as redesignated by this amendment, the following:

"2. Imposition of Sentence for 18 U.S.C. § 1039(d) and (e).—Subsections 1039(d) and (e) of title 18, United States Code, require a term of imprisonment of not more than 5 years to be imposed in addition to any sentence imposed for a conviction under 18 U.S.C. § 1039(a), (b), or (c). In order to comply with the statute, the court should determine the appropriate 'total punishment' and divide the sentence on the judgment form between the sentence attributable to the conviction under 18 U.S.C. § 1039(d) or (e) and the sentence attributable to the conviction under 18 U.S.C. § 1039(a), (b), or (c), specifying the number of months to be served for the conviction under 18 U.S.C. § 1039(d) or (e). For example, if the applicable adjusted guideline range is 15–21 months and the court determines a 'total punishment' of 21 months is appropriate, a sentence of 9 months for conduct under 18 U.S.C. § 1039(a) plus 12 months for 18 U.S.C. § 1039(d) conduct would achieve the 'total

punishment' in a manner that satisfies the statutory requirement.

3. Upward Departure.—There may be cases in which the offense level determined under this guideline substantially understates the seriousness of the offense. In such a case, an upward departure may be warranted. The following are examples of cases in which an upward departure may be warranted:

(i) The offense involved confidential phone records information of a substantial number of individuals.

(ii) The offense caused or risked substantial non-monetary harm (e.g. physical harm, psychological harm, severe emotional trauma, or a substantial invasion of privacy interest) to individuals whose private or protected information was obtained."

The Commentary to § 2H3.1 is amended by striking the Background Commentary. Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. § 1038 the following new line:

"18 U.S.C. § 1039 2H3.1".

Reason for Amendment: This amendment implements the emergency directive in section 4 of the Telephone Records and Privacy Protection Act of 2006, Pub. L. 109-476. The directive, which requires the Commission to promulgate an amendment under emergency amendment authority by July 11, 2007, instructs the Commission to "review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 1039 of title 18, United States Code." Section 1039 criminalizes the fraudulent acquisition or disclosure of confidential phone records. The penalties for violating the statute include fines and imprisonment for a term not to exceed 10 years. The statute also includes enhanced penalties for certain forms of aggravated conduct, providing for up to a five year term of imprisonment, in addition to the penalties for a violation of section 1039(a), (b), or (c). See 18 U.S.C. 1039(d), (e).

The amendment refers the new offense at 18 U.S.C. 1039 to § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Tax Return Information). The Commission concluded that disclosure of telephone records is similar to the types of privacy offenses referenced to this guideline. In addition, this guideline includes a cross reference, instructing that if the purpose of the offense was to facilitate another offense, that the guideline applicable to an attempt to commit the other offenses

<sup>12</sup> 17 CFR 200.30-3(a)(12).

should be applied, if the resulting offense level is higher. The Commission concluded that operation of the cross reference would capture the harms associated with the aggravated forms of this offense referenced at 18 U.S.C. 1039(d) or (e). Finally, the amendment expands the scope of the existing three-level enhancement in the guideline to include cases in which the defendant is convicted under 18 U.S.C. 1039(d) or (e). Thus, in cases where the cross reference does not apply, application of the enhancement will capture the increased harms associated with the aggravated offenses.

[FR Doc. E7-7915 Filed 4-24-07; 8:45 am]

BILLING CODE 2211-01-P

## SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0409]

### Brook Venture Fund IIA, LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Brook Venture Fund IIA, LP, 301 Edgewater Place, Suite 425, Wakefield, MA 01880, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, is seeking an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Brook Venture Fund IIA, LP wishes to provide an equity financing in the amount of \$1,500,000 to Repromedix Corporation.

The financing is brought within the purview of 107.730(a)(1) of the Regulations inasmuch as Brook Venture Fund II, LP is an Associate of Brook Venture Fund IIA, LP as defined in Section 107.50 of the Regulations by virtue of being its Parent Fund and because Brook Venture Fund II, LP has a current ownership interest in Repromedix Corporation equal to greater than 10 percent.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: April 20, 2007.

**Harry Haskins,**

*Deputy Associate Administrator for Investment.*

[FR Doc. E7-7839 Filed 4-24-07; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF STATE

[Public Notice 5782]

### Determined Under Section 620(q) of the Foreign Assistance Act of 1961, as Amended, and Section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006, as Carried Forward Under the Continuing Resolution (Pub. L. 110-5), as Amended, Relating to Assistance to the Republic of Somalia

Pursuant to the authority vested in me by Section 620(q) of the Foreign Assistance Act of 1961, as amended (FAA), and Section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (FOAA), as carried forward under Continuing Resolution (Pub. L. 110-5), as amended, and by Executive Order 12163, as amended by Executive Order 13346, I hereby determine that assistance to the Republic of Somalia is in the national interest of the United States and thereby waive, with respect to that country, the application of Section 620(q) of the FAA and Section 512 of the FY 2006 FOAA, as carried forward under the Continuing Resolution (Pub. L. 110-5), as amended, and any similar provision in prior year FOAAs.

This determination shall be reported to Congress and published in the **Federal Register**.

Dated: March 12, 2007.

**Condoleezza Rice,**

*Secretary of State, Department of State.*

[FR Doc. E7-7918 Filed 4-24-07; 8:45 am]

BILLING CODE 4710-26-P

## DEPARTMENT OF STATE

[Public Notice 5761]

### Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 3 p.m. to 5 p.m. on Wednesday, May 9, 2007, at the U.S. Department of State, 2201 C Street NW., Washington, DC. The meeting will be hosted by Assistant Secretary of State for Economic, Energy and Business Affairs, Daniel S. Sullivan and Committee Chairman R. Michael Gadbaw. The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and challenges in international economic policy. The meeting will focus on Total Economic Engagement, including a regional focus on Indonesia, industry

focus on the State Department's role in international energy policy, public-private partnerships pertaining to capacity building, and the launch of the Secretary of State's 2007 Award for Corporate Excellence program.

This meeting is open to the public as seating capacity allows. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by May 7, their name, professional affiliation, valid government-issued ID number (i.e., U.S. Government ID [agency], U.S. military ID [branch], passport [country], or drivers license [state]), date of birth, and citizenship to Ronelle Jackson by fax (202) 647-5936, e-mail ([JacksonRS@state.gov](mailto:JacksonRS@state.gov)), or telephone (202) 647-9204. One of the following forms of valid photo identification will be required for admission to the State Department building: U.S. driver's license, passport, or U. S. Government identification card. Enter the Department of State from the C Street lobby. In view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

For additional information, contact Senior Coordinator Nancy Smith-Nissley, Office of Economic Policy and Public Diplomacy, Bureau of Economic, Energy and Business Affairs, at (202) 647-1682 or [Smith-NissleyN@state.gov](mailto:Smith-NissleyN@state.gov).

Dated: April 17, 2007.

**David R. Burnett,**

*Office Director, Office of Economic Policy Analysis and Public Diplomacy, Department of State.*

[FR Doc. E7-7921 Filed 4-24-07; 8:45 am]

BILLING CODE 4710-05-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2005-23112]

### Motorcyclist Advisory Council to the Federal Highway Administration

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of meeting of advisory committee.

**SUMMARY:** This document announces the second meeting of the Motorcyclist Advisory Council to the Federal Highway Administration (MAC-FHWA). The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the Federal Highway