

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of period during which individuals may apply to be appointed to the voting membership of the Practitioners Advisory Group; request for applications.

SUMMARY: The Practitioners Advisory Group of the United States Sentencing Commission is a standing advisory group of the United States Sentencing Commission pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. Having decided to adopt a formal charter for the Practitioners Advisory Group, the United States Sentencing Commission is reconstituting the voting membership of the advisory group under that charter. 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 to the Commission its views on the Commission's activities and work, including proposed priorities and amendments; (3) to disseminate to defense attorneys, and to other professionals in the defense community, information regarding federal sentencing issues; and (4) to perform other related functions as the Commission requests. Under the charter, the advisory group will consist of not more than 17 voting members, each of whom may serve not more than two consecutive three-year terms. Of those 17 voting members, one shall be Chair, one shall be Vice Chair, 12 shall be circuit members (one for each federal judicial circuit other than the Federal Circuit), and three shall be at-large members. To be eligible to serve as a voting member, an individual must be an attorney who (1) Devotes a substantial portion of his or her professional work to advocating the interests of privately represented individuals, or of individuals represented by private practitioners through appointment under the

Criminal Justice Act of 1964, within the federal criminal justice system; (2) has significant experience with federal sentencing or post-conviction issues related to criminal sentences; and (3) is in good standing of the highest court of the jurisdiction or jurisdictions in which he or she is admitted to practice. Additionally, to be eligible to serve as a circuit member, the individual's primary place of business or a substantial portion of his or her practice must be in the circuit concerned. Each voting member is appointed by the Commission. The Commission hereby invites any individual who is eligible to be appointed to the initial voting membership of the Practitioners Advisory Group to apply. Applications should be received by the Commission not later than March 30, 2009.

Applications may be sent to Michael Courlander at the address listed below.

DATES: Applications for the initial voting membership of the Practitioners Advisory Group should be received not later than March 30, 2009.

ADDRESSES: *Send applications to:* United States Sentencing Commission, One Columbus Circle, NE., Suite 2-500, South Lobby, Washington, DC 20002-8002, *Attention:* Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, *Telephone:* (202) 502-4597.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of title 28, United States Code, authorizes the Commission to establish general policies and promulgate rules and regulations as necessary for the Commission to carry out the purposes of the Sentencing Reform Act of 1984. Having adopted a formal charter for the Practitioners Advisory Group, the United States Sentencing Commission is reconstituting the voting membership of the Practitioners Advisory Group under that charter. The Commission invites any individual who is eligible to be appointed to the initial voting membership of the Practitioners Advisory Group to apply.

Authority: 28 U.S.C. 994(a), (o), (p), 995; USSC Rules of Practice and Procedure 5.2, 5.4.

Ricardo H. Hinojosa,
Acting Chair.

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to sentencing guidelines, policy statements, and commentary. Request for public comment, including public comment regarding retroactive application of any of the proposed amendments. Notice of public hearing.

SUMMARY: Pursuant to section 994(a), (o), and (p) of title 28, United States Code, the United States Sentencing Commission is considering promulgating certain amendments to the sentencing guidelines, policy statements, and commentary. This notice sets forth the proposed amendments and, for each proposed amendment, a synopsis of the issues addressed by that amendment. This notice also sets forth a number of issues for comment, some of which are set forth together with the proposed amendments; some of which are set forth independent of any proposed amendment; and one of which (regarding retroactive application of proposed amendments) is set forth in the **SUPPLEMENTARY INFORMATION** portion of this notice.

The proposed amendments and issues for comment in this notice are as follows: (1) A proposed amendment in response to the Identity Theft Restitution and Enforcement Act of 2008, title II of Public Law 110-326, including proposed changes 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), § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Certain Private or Protected Information), and § 3B1.3 (Abuse of Position of Trust or Use of Special Skill), and issues for comment regarding the guidelines' treatment of offenses involving fraud, identity theft, computers, and communications; (2) a proposed amendment in response to the Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110-465, including proposed changes to § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) and § 2D3.1

¹⁴ 17 CFR 200.30-3(a)(12).