

For example, they apply to large-scale operations that engage in international laundering of illegal drug proceeds. They also apply to a defendant who deposits \$11,000 of fraudulently obtained funds in a bank. In order to achieve proportionality in sentencing, this guideline generally starts from a base offense level equivalent to that which would apply to the specified unlawful activity from which the funds were derived. The specific offense characteristics provide enhancements if the offense was designed to conceal or disguise the proceeds of criminal conduct and if the offense involved sophisticated money laundering.”

Section 3D1.2(d) is amended in the second paragraph by deleting “2S1.2.”

Section 8C2.1(a) is amended by deleting “2S1.2.”

The Commentary to § 8C2.4 captioned “Application Notes” is amended in Note 5 by deleting “§ 2S1.2 (Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity);”

Appendix A (Statutory Index) is amended in the line reference to 18 U.S.C. § 1957 by deleting “2S1.2” and inserting in lieu thereof “2S1.1”

Additional Issue for Comment: The Commission, at the recommendation of the Practitioners’ Advisory Group, invites comment on the following issues. First, should proposed § 2S1.1, rather than referencing the table in § 2F1.1, use the following monetary table:

“Value (apply the greatest)”	Increase in level
(A) \$100,000 or less	No increase.
(B) More than \$100,000	Add 1.
(C) More than \$200,000	Add 2.
(D) More than \$350,000	Add 3.
(E) More than \$600,000	Add 4.
(F) More than \$1,000,000	Add 5.
(G) More than \$2,000,000	Add 6.
(H) More than \$3,500,000	Add 7.
(I) More than \$6,000,000	Add 8.
(J) More than \$10,000,000	Add 9.
(K) More than \$20,000,000	Add 10.
(L) More than \$35,000,000	Add 11.
(M) More than \$60,000,000	Add 12.
(N) More than \$100,000,000	Add 13.”?

Second, should proposed § 2S1.1(a) (2) and (3) apply only when the offense level under subsection (a)(1) cannot be determined, rather than if the offense level under subsection (a) (2) or (3) is greater than under subsection (a)(1)?

Third, should an application note be added providing that if the offense involved an undercover sting and the court finds that the government agent influenced the value of the funds involved in the transaction in order to

increase the defendant’s guideline level, a downward departure may be warranted?

Chapter Five, Part D (Supervised Release)

45. Issue for Comment: The Commission, at the request of the Committee on Criminal Law of the Judicial Conference of the United States, invites comment on whether the supervised release guidelines should be amended to permit greater consideration of the individual defendant’s need for supervision after imprisonment, to permit greater judicial flexibility in the imposition of supervised release, or to relieve the growing burden on judicial resources devoted to supervising defendants. Specifically, should § 5D1.1 be amended to eliminate the current requirement that supervised release be imposed in a case in which a defendant is sentenced to a term of imprisonment exceeding one year? Should § 5D1.2 be amended to reduce the terms of supervised release required to be imposed? If so, what should be the minimum term required, if any?

Chapter Five, Part G (Implementing the Total Sentence of Imprisonment)

46. Synopsis of Proposed Amendment: This amendment addresses the operation of § 5G1.3. Two options are shown. These options set forth different ways of providing additional guidance addressing this inherently complex area.

Proposed Amendment: [Option 1: Section 5G1.3(c) is deleted and the following inserted in lieu thereof:

“(c) (Policy Statement) In any other case, the sentence for the instant offense shall be imposed consecutively, concurrently, or partially concurrently to the prior unexpired term of imprisonment in order to achieve an appropriate total punishment. In determining the appropriate total punishment, the court shall consider the guideline range that would have been applicable had the instant offense and the offense for which the defendant is serving the undischarged term of imprisonment both been federal offenses for which sentences were being imposed at the same time under § 5G1.2 (Sentencing on Multiple Counts of Conviction), provided sufficient information is available to make a reasonable estimate of that guideline range. If sufficient information is not available for such estimate, the court may use any reasonable method to determine the appropriate total punishment.”

The Commentary to § 5G1.3 captioned “Application Notes” is amended in

Note 2 by deleting the second paragraph and inserting in lieu thereof:

“When a sentence is imposed pursuant to subsection (b), the court should adjust the sentence for any period of imprisonment already served as a result of the conduct taken into account in determining the guideline range for the instant offense if that period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons. Example: The defendant has been convicted of a federal offense charging the sale of 30 grams of cocaine. Under § 1B1.3 (Relevant Conduct), the defendant is held accountable for the sale of an additional 15 grams of cocaine that is part of the same course of conduct for which the defendant has been convicted and sentenced in state court. The defendant received a nine-month sentence of imprisonment for this state offense and has served six months on this sentence at the time of sentencing on the instant federal offense. The guideline range applicable to the defendant is 10–16 months (Chapter Two offense level of 14 for sale of 45 grams of cocaine; 2-level reduction for acceptance of responsibility; final offense level of 12; Criminal History Category I). The court determines that a sentence of 13 months provides the appropriate total punishment. Because the defendant has already served six months on the related state charge as of the date of sentencing on the instant federal offense, a sentence of seven months, imposed to run concurrently with the remainder of the defendant’s state sentence, achieves this result. For clarity, the court should note on the Judgment in a Criminal Case Order that the sentence imposed is not a departure from the guidelines because the defendant has been credited for guideline purposes under § 5G1.3(b) with six months served in state custody that will not be credited to the federal sentence under 18 U.S.C. § 3585(b).”

The Commentary to § 5G1.3 captioned “Application Notes” is amended by deleting Notes 3 and 4 and inserting in lieu thereof:

“3. In circumstances not covered under subsection (a) or (b), subsection (c) applies. Under subsection (c), the court shall, to the extent practicable, impose a sentence for the instant offense that results in a combined sentence that approximates the total (aggregate) punishment that would have been imposed under § 5G1.2 (Sentencing on Multiple Counts of Conviction) had all of the offenses been federal offenses for which sentences were being imposed at the same time. This determination frequently may require an