

Conforming amendment to §1B1.1 deleting more than minimal planning.

§1B1.1. Application Instructions

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Commentary

Application Notes:

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~~(f) "More than minimal planning" means more planning than is typical for commission of the offense in a simple form. "More than minimal planning" also exists if significant affirmative steps were taken to conceal the offense, other than conduct to which §3C1.1 (Obstructing or Impeding the Administration of Justice) applies.~~

~~—"More than minimal planning" is deemed present in any case involving repeated acts over a period of time, unless it is clear that each instance was purely opportune. Consequently, this adjustment will apply especially frequently in property offenses.~~

~~—In an assault, for example, waiting to commit the offense when no witnesses were present would not alone constitute more than minimal planning. By contrast, luring the victim to a specific location, or wearing a ski mask to prevent identification, would constitute more than minimal planning.~~

~~—In a commercial burglary, for example, checking the area to make sure no witnesses were present would not alone constitute more than minimal planning. By contrast, obtaining building plans to plot a particular course of entry, or disabling an alarm system, would constitute more than minimal planning.~~

~~—In a theft, going to a secluded area of a store to conceal the stolen item in one's pocket would not alone constitute more than minimal planning. However, repeated instances of such thefts on several occasions would constitute more than minimal planning. Similarly, fashioning a special device to conceal the property, or obtaining information on delivery dates so that an especially valuable item could be obtained, would constitute more than minimal planning.~~

~~—In an embezzlement, a single taking accomplished by a false book entry would constitute only minimal planning. On the other hand, creating purchase orders to, and invoices from, a dummy corporation for merchandise that was never delivered would constitute more than minimal planning, as would several instances of taking money, each accompanied by false entries.~~

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[Redesignate subdivisions (g) through (l) of Application Note 1 of §1B1.1 as subdivisions (f) through (k), respectively.]

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Absent an instruction to the contrary, the adjustments from different guideline sections are applied cumulatively (added together). ~~For example, the adjustments from §2F1.1(b)(2) (more than minimal planning) and §3B1.1 (Aggravating Role) are applied cumulatively.~~

Conforming amendment to §2A2.2 to move illustrations relating to more than minimal planning from §1B1.1 (Application Instructions) to aggravated assault guideline:

§2A2.2. Aggravated Assault

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Commentary

Application Notes:

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2. *Definitions of "~~more than minimal planning,~~" "firearm," "dangerous weapon," "brandished," "otherwise used," "bodily injury," "serious bodily injury," and "permanent or life-threatening bodily injury," are found in the Commentary to §1B1.1 (Application Instructions).*

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4. *More than Minimal Planning.—"More than minimal planning" means more planning than is typical for commission of the offense in a simple form. "More than minimal planning" also exists if significant affirmative steps were taken to conceal the offense, other than conduct to which §3C1.1 (Obstructing or Impeding the Administration of Justice) applies. For example, waiting to commit the offense when no witnesses were present would not alone constitute more than minimal planning. By contrast, luring the victim to a specific location, or wearing a ski mask to prevent identification, would constitute more than minimal planning.*

Conforming amendment to §2B2.1 to move illustratons relating to more than minimal planning from application instructions guideline to commercial burglary guideline:

§2B2.1. Burglary of a Residence or a Structure Other than a Residence

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Commentary

Application Notes:

1. ~~"More than minimal planning," "firearm,"~~ "Firearm", "destructive device," and "dangerous weapon" are defined in the Commentary to §1B1.1 (Application Instructions).
2. Valuation of loss is discussed in the Commentary to ~~§2B1.1 (Larceny, Embezzlement, and Other Forms of Theft)~~ §2B1.1 (Theft, Property Destruction, and Fraud).

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4. More than Minimal Planning.—"More than minimal planning" means more planning than is typical for commission of the offense in a simple form. "More than minimal planning" also exists if significant affirmative steps were taken to conceal the offense, other than conduct to which §3C1.1 (Obstructing or Impeding the Administration of Justice) applies. For example, checking the area to make sure no witnesses were present would not alone constitute more than minimal planning. By contrast, obtaining building plans to plot a particular course of entry, or disabling an alarm system, would constitute more than minimal planning.

PART B - OFFENSES INVOLVING PROPERTY

1. THEFT, EMBEZZLEMENT, RECEIPT OF STOLEN PROPERTY, AND PROPERTY DESTRUCTION

Introductory Commentary

~~These sections address the most basic forms of property offenses: theft, embezzlement, transactions in stolen goods, and simple property damage or destruction. (Arson is dealt with separately in Part K, Offenses Involving Public Safety.) These guidelines apply to offenses prosecuted under a wide variety of federal statutes, as well as offenses that arise under the Assimilative Crimes Act.~~

§2B1.1. Larceny, Embezzlement, and Other Forms of Theft; Receiving, Transporting, Transferring, Transmitting, or Possessing Stolen Property

_____ (a) ~~Base Offense Level: 4~~

_____ (b) ~~Specific Offense Characteristics~~

_____ (1) ~~If the loss exceeded \$100, increase the offense level as follows:~~

	<u>Loss (Apply the Greatest)</u>	<u>Increase in Level</u>
_____	(A) \$100 or less	no increase
_____	(B) More than \$100	add 1
_____	(C) More than \$1,000	add 2
_____	(D) More than \$2,000	add 3
_____	(E) More than \$5,000	add 4
_____	(F) More than \$10,000	add 5
_____	(G) More than \$20,000	add 6
_____	(H) More than \$40,000	add 7
_____	(I) More than \$70,000	add 8
_____	(J) More than \$120,000	add 9
_____	(K) More than \$200,000	add 10
_____	(L) More than \$350,000	add 11
_____	(M) More than \$500,000	add 12
_____	(N) More than \$800,000	add 13
_____	(O) More than \$1,500,000	add 14
_____	(P) More than \$2,500,000	add 15
_____	(Q) More than \$5,000,000	add 16
_____	(R) More than \$10,000,000	add 17
_____	(S) More than \$20,000,000	add 18
_____	(T) More than \$40,000,000	add 19
_____	(U) More than \$80,000,000	add 20

_____ (2) ~~If the theft was from the person of another, increase by 2 levels.~~

_____ (3) ~~If (A) undelivered United States mail was taken, or the taking of such item was an object of the offense; or (B) the stolen property received, transported, transferred, transmitted, or possessed was undelivered United States mail, and the offense level as determined above is less than level 6, increase to level 6.~~

_____ (4) (A) ~~If the offense involved more than minimal planning, increase by 2 levels; or~~

_____ (B) ~~If the offense involved receiving stolen property, and the defendant was a person in the business of receiving and selling stolen property, increase by 4 levels.~~

~~_____ (5) If the offense involved an organized scheme to steal vehicles or vehicle parts, and the offense level as determined above is less than level 14, increase to level 14.~~

~~_____ (6) If the offense --~~

~~_____ (A) substantially jeopardized the safety and soundness of a financial institution; or~~

~~_____ (B) affected a financial institution and the defendant derived more than \$1,000,000 in gross receipts from the offense;~~

~~_____ increase by 4 levels. If the resulting offense level is less than level 24, increase to level 24.~~

~~_____ (7) If the offense involved misappropriation of a trade secret and the defendant knew or intended that the offense would benefit any foreign government, foreign instrumentality, or foreign agent, increase by 2 levels.~~

~~_____ (8) If the offense involved theft of property from a national cemetery, increase by 2 levels.~~

~~_____ (c) Cross Reference~~

~~_____ (1) If (A) a firearm, destructive device, explosive material, or controlled substance was taken, or the taking of such item was an object of the offense, or (B) the stolen property received, transported, transferred, transmitted, or possessed was a firearm, destructive device, explosive material, or controlled substance, apply §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking; Attempt or Conspiracy), §2D2.1 (Unlawful Possession; Attempt or Conspiracy), §2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosive Materials; Prohibited Transactions Involving Explosive Materials), or §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition), as appropriate, if the resulting offense level is greater than that determined above.~~

Commentary

Statutory Provisions: ~~18 U.S.C. §§ 225, 553(a)(1), 641, 656, 657, 659, 662, 664, 1702, 1708, 1831, 1832, 2113(b), 2312-2317; 29 U.S.C. § 501(c). For additional statutory provision(s), see Appendix A (Statutory Index).~~

Application Notes:

1. ~~"More than minimal planning," "firearm," and "destructive device" are defined in the Commentary to §1B1.1 (Application Instructions).—~~
~~"Trade secret" is defined in 18 U.S.C. § 1839(3).—~~
~~"Foreign instrumentality" and "foreign agent" are defined in 18 U.S.C. § 1839(1) and (2), respectively.—~~
~~"National cemetery" means a cemetery (A) established under section 2400 of title 38, United States Code; or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.—~~
2. ~~"Loss" means the value of the property taken, damaged, or destroyed. Ordinarily, when property is taken or destroyed the loss is the fair market value of the particular property at issue. Where the market value is difficult to ascertain or inadequate to measure harm to the victim, the court may measure loss in some other way, such as reasonable replacement cost to the victim. Loss does not include the interest that could have been earned had the funds not been stolen. When property is damaged, the loss is the cost of repairs, not to exceed the loss had the property been destroyed. Examples: (1) In the case of a theft of a check or money order, the loss is the loss that would have occurred if the check or money order had been cashed. (2) In the case of a defendant apprehended taking a vehicle, the loss is the value of the vehicle even if the vehicle is recovered immediately.—~~
~~If the offense involved making a fraudulent loan or credit card application, or other unlawful conduct involving a loan, a counterfeit access device, or an unauthorized access device, the loss is to be determined in accordance with the Commentary to §2F1.1 (Fraud and Deceit). For example, in accordance with Application Note 17 of the Commentary to §2F1.1, in a case involving an unauthorized access device (such as a stolen credit card), loss includes any unauthorized charge(s) made with the access device. In such a case, the loss shall be not less than \$500 per unauthorized access device. For purposes of this application note, "counterfeit access device" and "unauthorized access device" have the meaning given those terms in 18 U.S.C. § 1029(e)(2) and (e)(3), respectively.—~~
~~In certain cases, an offense may involve a series of transactions without a corresponding increase in loss. For example, a defendant may embezzle \$5,000 from a bank and conceal this embezzlement by shifting this amount from one account to another in a series of nine transactions over a six-month period. In this example, the loss is \$5,000 (the amount taken), not \$45,000 (the sum of the nine transactions), because the additional transactions did not increase the actual or potential loss.—~~
~~In stolen property offenses (receiving, transporting, transferring, transmitting, or possessing stolen property), the loss is the value of the stolen property determined as in a theft offense.—~~
~~In an offense involving unlawfully accessing, or exceeding authorized access to, a "protected computer" as defined in 18 U.S.C. § 1030(e)(2)(A) or (B), "loss" includes the reasonable cost to the victim of conducting a damage assessment, restoring the system and data to their condition prior to the offense, and any lost revenue due to interruption of~~

~~service.~~

- ~~In the case of a partially completed offense (e.g., an offense involving a completed theft that is part of a larger, attempted theft), the offense level is to be determined in accordance with the provisions of §2X1.1 (Attempt, Solicitation, or Conspiracy) whether the conviction is for the substantive offense, the inchoate offense (attempt, solicitation, or conspiracy), or both; see Application Note 4 in the Commentary to §2X1.1.~~
3. ~~For the purposes of subsection (b)(1), the loss need not be determined with precision. The court need only make a reasonable estimate of the loss, given the available information. This estimate, for example, may be based upon the approximate number of victims and the average loss to each victim, or on more general factors such as the scope and duration of the offense.~~
 4. ~~Controlled substances should be valued at their estimated street value.~~
 5. ~~"Undelivered United States mail" means mail that has not actually been received by the addressee or his agent (e.g., it includes mail that is in the addressee's mail box).~~
 6. ~~"From the person of another" refers to property, taken without the use of force, that was being held by another person or was within arms' reach. Examples include pick-pocketing or non-forcible purse-snatching, such as the theft of a purse from a shopping cart.~~
 7. ~~Subsection (b)(5), referring to an "organized scheme to steal vehicles or vehicle parts," provides an alternative minimum measure of loss in the case of an ongoing, sophisticated operation such as an auto theft ring or "chop shop." "Vehicles" refers to all forms of vehicles, including aircraft and watercraft.~~
 8. ~~"Financial institution," as used in this guideline, is defined to include any institution described in 18 U.S.C. §§ 20, 656, 657, 1005-1007, and 1014; any state or foreign bank, trust company, credit union, insurance company, investment company, mutual fund, savings (building and loan) association, union or employee pension fund; any health, medical or hospital insurance association; brokers and dealers registered, or required to be registered, with the Securities and Exchange Commission; futures commodity merchants and commodity pool operators registered, or required to be registered, with the Commodity Futures Trading Commission; and any similar entity, whether or not insured by the federal government. "Union or employee pension fund" and "any health, medical, or hospital insurance association," as used above, primarily include large pension funds that serve many individuals (e.g., pension funds of large national and international organizations, unions, and corporations doing substantial interstate business), and associations that undertake to provide pension, disability, or other benefits (e.g., medical or hospitalization insurance) to large numbers of persons.~~
 9. ~~An offense shall be deemed to have "substantially jeopardized the safety and soundness of a financial institution" if, as a consequence of the offense, the institution became insolvent; substantially reduced benefits to pensioners or insureds; was unable on demand to refund fully any deposit, payment, or investment; was so depleted of its assets as to be forced to merge with another institution in order to continue active operations; or was placed in~~

~~substantial jeopardy of any of the above.~~

- ~~10. "The defendant derived more than \$1,000,000 in gross receipts from the offense," as used in subsection (b)(6)(B), generally means that the gross receipts to the defendant individually, rather than to all participants, exceeded \$1,000,000. "Gross receipts from the offense" includes all property, real or personal, tangible or intangible, which is obtained directly or indirectly as a result of such offense. See 18 U.S.C. § 982(a)(4).~~
- ~~11. If the defendant is convicted under 18 U.S.C. § 225 (relating to a continuing financial crimes enterprise), the offense level is that applicable to the underlying series of offenses comprising the "continuing financial crimes enterprise."~~
- ~~12. If subsection (b)(6)(A) or (B) applies, there shall be a rebuttable presumption that the offense involved "more than minimal planning."~~
- ~~13. If the offense involved theft or embezzlement from an employee pension or welfare benefit plan (a violation of 18 U.S.C. § 664) and the defendant was a fiduciary of the benefit plan, an adjustment under §3B1.3 (Abuse of Position of Trust or Use of Special Skill) will apply. "Fiduciary of the benefit plan" is defined in 29 U.S.C. § 1002(21)(A) to mean a person who exercises any discretionary authority or control in respect to the management of such plan or exercises authority or control in respect to management or disposition of its assets, or who renders investment advice for a fee or other direct or indirect compensation with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or who has any discretionary authority or responsibility in the administration of such plan.~~
- ~~—— If the offense involved theft or embezzlement from a labor union (a violation of 29 U.S.C. § 501(c)) and the defendant was a union officer or occupied a position of trust in the union as set forth in 29 U.S.C. § 501(a), an adjustment under §3B1.3 (Abuse of Position of Trust or Use of Special Skill) will apply.~~
- ~~14. In cases where the loss determined under subsection (b)(1) does not fully capture the harmfulness of the conduct, an upward departure may be warranted. For example, the theft~~
- ~~—— of personal information or writings (e.g., medical records, educational records, a diary) may involve a substantial invasion of a privacy interest that would not be addressed by the monetary loss provisions of subsection (b)(1).~~
- ~~15. In cases involving theft of information from a "protected computer", as defined in 18 U.S.C. § 1030(e)(2)(A) or (B), an upward departure may be warranted where the defendant sought the stolen information to further a broader criminal purpose.~~

~~**Background:** The value of the property stolen plays an important role in determining sentences for theft and other offenses involving stolen property because it is an indicator of both the harm to the victim and the gain to the defendant. Because of the structure of the Sentencing Table (Chapter 5, Part A), subsection (b)(1) results in an overlapping range of enhancements based on the loss.~~

~~———— The guidelines provide an enhancement for more than minimal planning, which includes most offense behavior involving affirmative acts on multiple occasions. Planning and repeated acts are indicative of an intention and potential to do considerable harm. Also, planning is often related to increased difficulties of detection and proof. —~~

~~———— Consistent with statutory distinctions, an increased minimum offense level is provided for the theft of undelivered mail. Theft of undelivered mail interferes with a governmental function, and the scope of the theft may be difficult to ascertain. —~~

~~———— Theft from the person of another, such as pickpocketing or non-forcible purse-snatching, receives an enhanced sentence because of the increased risk of physical injury. This guideline does not include an enhancement for thefts from the person by means of force or fear; such crimes are robberies. —~~

~~———— A minimum offense level of 14 is provided for offenses involving an organized scheme to steal vehicles or vehicle parts. Typically, the scope of such activity is substantial (*i.e.*, the value of the stolen property, combined with an enhancement for "more than minimal planning" would itself result in an offense level of at least 14), but the value of the property is particularly difficult to ascertain in individual cases because the stolen property is rapidly resold or otherwise disposed of in the course of the offense. Therefore, the specific offense characteristic of "organized scheme" is used as an alternative to "loss" in setting the offense level. —~~

~~———— Subsection (b)(6)(A) implements, in a broader form, the instruction to the Commission in section 961(m) of Public Law 101-73. —~~

~~———— Subsection (b)(6)(B) implements the instruction to the Commission in section 2507 of Public Law 101-647. —~~

~~———— Subsection (b)(8) implements the instruction to the Commission in section 2 of Public Law 105-101. —~~

§2B1.3. Property Damage or Destruction

~~———— (a) Base Offense Level: **4**~~

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~~———— (b) Specific Offense Characteristics~~

~~———— (1) If the loss exceeded \$100, increase by the corresponding number of levels from the table in §2B1.1. —~~

~~———— (2) If undelivered United States mail was destroyed, and the offense level as determined above is less than level 6, increase to level 6. —~~

~~———— (3) If the offense involved more than minimal planning, increase by 2 levels. —~~

~~———— (4) If property of a national cemetery was damaged or destroyed, increase by 2 levels. —~~

~~————— (c) ——— Cross Reference~~

- ~~————— (1) ——— If the offense involved arson, or property damage by use of explosives, apply §2K1.4 (Arson; Property Damage by Use of Explosives).—~~

~~————— (d) ——— Special Instruction~~

- ~~————— (1) ——— If the defendant is convicted under 18 U.S.C. § 1030(a)(5), the minimum guideline sentence, notwithstanding any other adjustment, shall be six months' imprisonment.~~

~~————— Commentary~~

~~*Statutory Provisions:* 18 U.S.C. §§ 1030(a)(5), 1361, 1363, 1702, 1703 (if vandalism or malicious mischief, including destruction of mail is involved). For additional statutory provision(s), see Appendix A (Statutory Index).—~~

~~*Application Notes:*~~

- ~~1. ——— "More than minimal planning" is defined in the Commentary to §1B1.1 (Application Instructions).—~~

~~————— "National cemetery" means a cemetery (A) established under section 2400 of title 38, United States Code, or (B) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.—~~

- ~~2. ——— Valuation of loss is discussed in the Commentary to §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft).—~~

- ~~3. ——— "Undelivered United States mail" means mail that has not been received by the addressee or his agent (e.g., it includes mail that is in the addressee's mailbox).—~~

- ~~4. ——— In some cases, the monetary value of the property damaged or destroyed may not adequately reflect the extent of the harm caused. For example, the destruction of a \$500 telephone line or interference with a telecommunications network may cause an interruption in service to thousands of people for several hours, with attendant life-threatening delay in the delivery of emergency medical treatment or disruption of other important governmental or private services. In such cases, an upward departure may be warranted. See §§5K2.2 (Physical Injury), 5K2.7 (Disruption of Governmental Function), and 5K2.14 (Public Welfare).—~~

~~*Background:* Subsection (b)(4) implements the instruction to the Commission in section 2 of Public Law 105–101.—~~

~~————— Subsection (d) implements the instruction to the Commission in section 805(c) of Public Law 104–132.—~~

~~PART F - OFFENSES INVOLVING FRAUD OR DECEIT~~

~~§2F1.1. Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States~~

~~(a) Base Offense Level: 6~~

~~(b) Specific Offense Characteristics~~

~~(1) If the loss exceeded \$2,000, increase the offense level as follows:~~

	<u>Loss (Apply the Greatest)</u>	<u>Increase in Level</u>
(A)	\$2,000 or less	no increase
(B)	More than \$2,000	add 1
(C)	More than \$5,000	add 2
(D)	More than \$10,000	add 3
(E)	More than \$20,000	add 4
(F)	More than \$40,000	add 5
(G)	More than \$70,000	add 6
(H)	More than \$120,000	add 7
(I)	More than \$200,000	add 8
(J)	More than \$350,000	add 9
(K)	More than \$500,000	add 10
(L)	More than \$800,000	add 11
(M)	More than \$1,500,000	add 12
(N)	More than \$2,500,000	add 13
(O)	More than \$5,000,000	add 14
(P)	More than \$10,000,000	add 15
(Q)	More than \$20,000,000	add 16
(R)	More than \$40,000,000	add 17
(S)	More than \$80,000,000	add 18.

~~(2) If the offense involved (A) more than minimal planning, or (B) a scheme to defraud more than one victim, increase by 2 levels.~~

~~(3) If the offense was committed through mass-marketing, increase by 2 levels.~~

~~(4) If the offense involved (A) a misrepresentation that the defendant was acting on behalf of a charitable, educational, religious or political organization, or a government agency; (B) a misrepresentation or other fraudulent action during the course of a bankruptcy proceeding; or (C) a violation of any prior, specific judicial or administrative order, injunction, decree, or process not addressed elsewhere in the guidelines, increase by~~

~~2 levels. If the resulting offense level is less than level 10, increase to level 10.~~

~~(5) If the offense involved—~~

~~(A) the possession or use of any device-making equipment;~~

~~(B) the production or trafficking of any unauthorized access device or counterfeit access device; or~~

~~(C) (i) the unauthorized transfer or use of any means of identification unlawfully to produce or obtain any other means of identification; or (ii) the possession of 5 or more means of identification that unlawfully were produced from another means of identification or obtained by the use of another means of identification;~~

~~increase by 2 levels. If the resulting offense level is less than level 12, increase to level 12.~~

~~(6) If (A) the defendant relocated, or participated in relocating, a fraudulent scheme to another jurisdiction to evade law enforcement or regulatory officials; (B) a substantial part of a fraudulent scheme was committed from outside the United States; or (C) the offense otherwise involved sophisticated means, increase by 2 levels. If the resulting offense level is less than level 12, increase to level 12.~~

~~(7) If the offense involved (A) the conscious or reckless risk of serious bodily injury; or (B) possession of a dangerous weapon (including a firearm) in connection with the offense, increase by 2 levels. If the resulting offense level is less than level 13, increase to level 13.~~

~~(8) If the offense --~~

~~(A) substantially jeopardized the safety and soundness of a financial institution; or~~

~~(B) affected a financial institution and the defendant derived more than \$1,000,000 in gross receipts from the offense;~~

~~increase by 4 levels. If the resulting offense level is less than level 24, increase to level 24.~~

~~(c) Special Instruction~~

~~(1) If the defendant is convicted under 18 U.S.C. § 1030(a)(4), the minimum guideline sentence, notwithstanding any other adjustment, shall be six months' imprisonment.~~

Commentary

~~Statutory Provisions: 7 U.S.C. §§ 6, 6b, 6c, 6h, 6o, 13, 23; 15 U.S.C. §§ 50, 77e, 77q, 77x, 78j, 78ff, 80b-6, 1644; 18 U.S.C. §§ 225, 285-289, 471-473, 500, 510, 659, 1001-1008, 1010-1014, 1016-1022, 1025, 1026, 1028, 1029, 1030(a)(4), 1031, 1341-1344, 2314, 2315. For additional statutory provision(s), see Appendix A (Statutory Index).~~

Application Notes:

- ~~1. — The adjustments in §2F1.1(b)(4) are alternative rather than cumulative. If in a particular case, however, both of the enumerated factors applied, an upward departure might be warranted.~~
- ~~2. — "More than minimal planning" (subsection (b)(2)(A)) is defined in the Commentary to §1B1.1 (Application Instructions).~~
- ~~3. — "Mass-marketing," as used in subsection (b)(3), means a plan, program, promotion, or campaign that is conducted through solicitation by telephone, mail, the Internet, or other means to induce a large number of persons to (A) purchase goods or services; (B) participate in a contest or sweepstakes; or (C) invest for financial profit. The enhancement would apply, for example, if the defendant conducted or participated in a telemarketing campaign that solicited a large number of individuals to purchase fraudulent life insurance policies.~~
- ~~4. — "Scheme to defraud more than one victim," as used in subsection (b)(2)(B), refers to a design or plan to obtain something of value from more than one person. In this context, "victim" refers to the person or entity from which the funds are to come directly. Thus, a wire fraud in which a single telephone call was made to three distinct individuals to get each of them to invest in a pyramid scheme would involve a scheme to defraud more than one victim, but passing a fraudulently endorsed check would not, even though the maker, payee and/or payor all might be considered victims for other purposes, such as restitution.~~
- ~~5. — Subsection (b)(4)(A) provides an adjustment for a misrepresentation that the defendant was acting on behalf of a charitable, educational, religious or political organization, or a government agency. Examples of conduct to which this factor applies would include a group of defendants who solicit contributions to a non-existent famine relief organization by mail, a defendant who diverts donations for a religiously affiliated school by telephone solicitations to church members in which the defendant falsely claims to be a fund-raiser for the school, or a defendant who poses as a federal collection agent in order to collect a delinquent student loan.~~
- ~~6. — Subsection (b)(4)(C) provides an enhancement if the defendant commits a fraud in contravention of a prior, official judicial or administrative warning, in the form of an order, injunction, decree, or process, to take or not to take a specified action. A defendant who does not comply with such a prior, official judicial or administrative warning demonstrates aggravated criminal intent and deserves additional punishment. If it is established that an entity the defendant controlled was a party to the prior proceeding that resulted in the official judicial or administrative action, and the defendant had knowledge~~

~~of that prior decree or order, this enhancement applies even if the defendant was not a specifically named party in that prior case. For example, a defendant whose business previously was enjoined from selling a dangerous product, but who nonetheless engaged in fraudulent conduct to sell the product, is subject to this enhancement. This enhancement does not apply if the same conduct resulted in an enhancement pursuant to a provision found elsewhere in the guidelines (e.g., a violation of a condition of release addressed in §2J1.7 (Commission of Offense While on Release) or a violation of probation addressed in §4A1.1 (Criminal History Category)).~~

- ~~———— If the conduct that forms the basis for an enhancement under (b)(4)(B) or (C) is the only conduct that forms the basis for an adjustment under §3C1.1 (Obstruction of Justice), do not apply an adjustment under §3C1.1.~~
7. ~~———— Some fraudulent schemes may result in multiple-count indictments, depending on the technical elements of the offense. The cumulative loss produced by a common scheme or course of conduct should be used in determining the offense level, regardless of the number of counts of conviction. See Chapter Three, Part D (Multiple Counts).~~
8. ~~———— Valuation of loss is discussed in the Commentary to §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft). As in theft cases, loss is the value of the money, property, or services unlawfully taken; it does not, for example, include interest the victim could have earned on such funds had the offense not occurred. Consistent with the provisions of §2X1.1 (Attempt, Solicitation, or Conspiracy), if an intended loss that the defendant was attempting to inflict can be determined, this figure will be used if it is greater than the actual loss. Frequently, loss in a fraud case will be the same as in a theft case. For example, if the fraud consisted of selling or attempting to sell \$40,000 in worthless securities, or representing that a forged check for \$40,000 was genuine, the loss would be \$40,000.~~
- ~~———— There are, however, instances where additional factors are to be considered in determining the loss or intended loss:~~
- ~~———— (a) Fraud Involving Misrepresentation of the Value of an Item or Product Substitution~~
- ~~———— A fraud may involve the misrepresentation of the value of an item that does have some value (in contrast to an item that is worthless). Where, for example, a defendant fraudulently represents that stock is worth \$40,000 and the stock is worth only \$10,000, the loss is the amount by which the stock was overvalued (i.e., \$30,000). In a case involving a misrepresentation concerning the quality of a consumer product, the loss is~~
- ~~———— the difference between the amount paid by the victim for the product and the amount for which the victim could resell the product received.~~
- ~~———— (b) Fraudulent Loan Application and Contract Procurement Cases~~
- ~~———— In fraudulent loan application cases and contract procurement cases, the loss is the actual loss to the victim (or if the loss has not yet come about, the expected loss). For example, if a defendant fraudulently obtains a loan by misrepresenting the~~

~~value of his assets, the loss is the amount of the loan not repaid at the time the offense is discovered, reduced by the amount the lending institution has recovered (or can expect to recover) from any assets pledged to secure the loan. However, where the intended loss is greater than the actual loss, the intended loss is to be used.~~

~~In some cases, the loss determined above may significantly understate or overstate the seriousness of the defendant's conduct. For example, where the defendant substantially understated his debts to obtain a loan, which he nevertheless repaid, the loss determined above (zero loss) will tend not to reflect adequately the risk of loss created by the defendant's conduct. Conversely, a defendant may understate his debts to a limited degree to obtain a loan (e.g., to expand a grain export business), which he genuinely expected to repay and for which he would have qualified at a higher interest rate had he made truthful disclosure, but he is unable to repay the loan because of some unforeseen event (e.g., an embargo imposed on grain exports) which would have caused a default in any event. In such a case, the loss determined above may overstate the seriousness of the defendant's conduct. Where the loss determined above significantly understates or overstates the seriousness of the defendant's conduct, an upward or downward departure may be warranted.~~

~~(c) Consequential Damages in Procurement Fraud and Product Substitution Cases~~

~~In contrast to other types of cases, loss in a procurement fraud or product substitution case includes not only direct damages, but also consequential damages that were reasonably foreseeable. For example, in a case involving a defense product substitution offense, the loss includes the government's reasonably foreseeable costs of making substitute transactions and handling or disposing of the product delivered or retrofitting the product so that it can be used for its intended purpose, plus the government's reasonably foreseeable cost of rectifying the actual or potential disruption to government operations caused by the product substitution. Similarly, in the case of fraud affecting a defense contract award, loss includes the reasonably foreseeable administrative cost to the government and other participants of repeating or correcting the procurement action affected, plus any increased cost to procure the product or service involved that was reasonably foreseeable. Inclusion of reasonably foreseeable consequential damages directly in the calculation of loss in procurement fraud and product substitution cases reflects that such damages frequently are substantial in such cases.~~

~~(d) Diversion of Government Program Benefits~~

~~In a case involving diversion of government program benefits, loss is the value of the benefits diverted from intended recipients or uses.~~

~~(e) Davis-Bacon Act Cases~~

~~In a case involving a Davis-Bacon Act violation (a violation of 40 U.S.C. § 276a, criminally prosecuted under 18 U.S.C. § 1001), the loss is the difference between~~

~~the legally required and actual wages paid.~~

~~9. For the purposes of subsection (b)(1), the loss need not be determined with precision. The court need only make a reasonable estimate of the loss, given the available information. This estimate, for example, may be based on the approximate number of victims and an estimate of the average loss to each victim, or on more general factors, such as the nature and duration of the fraud and the revenues generated by similar operations. The offender's gain from committing the fraud is an alternative estimate that ordinarily will underestimate the loss.~~

~~10. In the case of a partially completed offense (e.g., an offense involving a completed fraud that is part of a larger, attempted fraud), the offense level is to be determined in accordance with the provisions of §2X1.1 (Attempt, Solicitation, or Conspiracy) whether the conviction is for the substantive offense, the inchoate offense (attempt, solicitation, or conspiracy), or both; see Application Note 4 in the Commentary to §2X1.1.~~

~~11. In cases in which the loss determined under subsection (b)(1) does not fully capture the harmfulness and seriousness of the conduct, an upward departure may be warranted. Examples may include the following:~~

~~—— (a) a primary objective of the fraud was non-monetary; or the fraud caused or risked reasonably foreseeable, substantial non-monetary harm;~~

~~—— (b) false statements were made for the purpose of facilitating some other crime;~~

~~—— (c) the offense caused reasonably foreseeable, physical or psychological harm or severe emotional trauma;~~

~~—— (d) the offense endangered national security or military readiness;~~

~~—— (e) the offense caused a loss of confidence in an important institution;~~

~~—— (f) the offense involved the knowing endangerment of the solvency of one or more victims.~~

~~—— In a few instances, the loss determined under subsection (b)(1) may overstate the seriousness of the offense. This may occur, for example, where a defendant attempted to negotiate an~~

~~instrument that was so obviously fraudulent that no one would seriously consider honoring it. In such cases, a downward departure may be warranted.~~

~~12. Offenses involving access devices, in violation of 18 U.S.C. §§ 1028 and 1029, are also covered by this guideline. In such a case, an upward departure may be warranted where the actual loss does not adequately reflect the seriousness of the conduct.~~

~~—— Offenses involving identification documents, false identification documents, and means of identification, in violation of 18 U.S.C. § 1028, also are covered by this guideline. If the primary purpose of the offense was to violate, or assist another to violate, the law~~

~~pertaining to naturalization, citizenship, or legal resident status, apply §2L2.1 (Trafficking in a Document Relating to Naturalization) or §2L2.2 (Fraudulently Acquiring Documents Relating to Naturalization), as appropriate, rather than §2F1.1.~~

~~13. If the fraud exploited vulnerable victims, an enhancement will apply. See §3A1.1 (Hate Crime Motivation or Vulnerable Victim).~~

~~14. Sometimes, offenses involving fraudulent statements are prosecuted under 18 U.S.C. § 1001, or a similarly general statute, although the offense is also covered by a more specific statute. Examples include false entries regarding currency transactions, for which §2S1.3 would be more apt, and false statements to a customs officer, for which §2T3.1 likely would be more apt. In certain other cases, the mail or wire fraud statutes, or other relatively broad statutes, are used primarily as jurisdictional bases for the prosecution of other offenses. For example, a state arson offense where a fraudulent insurance claim was mailed might be prosecuted as mail fraud. Where the indictment or information setting forth the count of conviction (or a stipulation as described in §1B1.2(a)) establishes an offense more aptly covered by another guideline, apply that guideline rather than §2F1.1. Otherwise, in such cases, §2F1.1 is to be applied, but a departure from the guidelines may be considered.~~

~~15. For purposes of subsection (b)(5)–~~

~~“Counterfeit access device” (A) has the meaning given that term in 18 U.S.C. § 1029(e)(2); and (B) also includes a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications service. “Telecommunications service” has the meaning given that term in 18 U.S.C. § 1029(e)(9).~~

~~“Device-making equipment” (A) has the meaning given that term in 18 U.S.C. § 1029(e)(6); and (B) also includes (i) any hardware or software that has been configured as described in 18 U.S.C. § 1029(a)(9); and (ii) a scanning receiver referred to in 18 U.S.C. § 1029(a)(8). “Scanning receiver” has the meaning given that term in 18 U.S.C. § 1029(e)(8).~~

~~“Means of identification” has the meaning given that term in 18 U.S.C. § 1028(d)(3), except that such means of identification shall be of an actual (i.e., not fictitious) individual other than the defendant or a person for whose conduct the defendant is accountable under §1B1.3 (Relevant Conduct).~~

~~“Produce” includes manufacture, design, alter, authenticate, duplicate, or assemble. “Production” includes manufacture, design, alteration, authentication, duplication, or assembly.~~

~~“Unauthorized access device” has the meaning given that term in 18 U.S.C. § 1029(e)(3).~~

~~16. Subsection (b)(5)(C)(i) applies in a case in which a means of identification of an individual other than the defendant (or a person for whose conduct the defendant is accountable under §1B1.3 (Relevant Conduct)) is used without that individual’s authorization unlawfully to produce or obtain another means of identification.~~

~~Examples of conduct to which this subsection should apply are as follows:~~

- ~~(A) A defendant obtains an individual's name and social security number from a source (e.g., from a piece of mail taken from the individual's mailbox) and obtains a bank loan in that individual's name. In this example, the account number of the bank loan is the other means of identification that has been obtained unlawfully.~~
- ~~(B) A defendant obtains an individual's name and address from a source (e.g., from a driver's license in a stolen wallet) and applies for, obtains, and subsequently uses a credit card in that individual's name. In this example, the credit card is the other means of identification that has been obtained unlawfully.~~

~~Examples of conduct to which subsection (b)(5)(C)(i) should not apply are as follows:~~

- ~~(A) A defendant uses a credit card from a stolen wallet only to make a purchase. In such a case, the defendant has not used the stolen credit card to obtain another means of identification.~~
- ~~(B) A defendant forges another individual's signature to cash a stolen check. Forging another individual's signature is not producing another means of identification.~~

~~Subsection (b)(5)(C)(ii) applies in any case in which the offense involved the possession of 5 or more means of identification that unlawfully were produced or obtained, regardless of the number of individuals in whose name (or other identifying information) the means of identification were so produced or so obtained.~~

~~In a case involving unlawfully produced or unlawfully obtained means of identification, an upward departure may be warranted if the offense level does not adequately address the seriousness of the offense. Examples may include the following:~~

- ~~(A) The offense caused substantial harm to the victim's reputation or credit record, or the victim suffered a substantial inconvenience related to repairing the victim's reputation or a damaged credit record.~~
- ~~(B) An individual whose means of identification the defendant used to obtain unlawful means of identification is erroneously arrested or denied a job because an arrest record has been made in the individual's name.~~
- ~~(C) The defendant produced or obtained numerous means of identification with respect to one individual and essentially assumed that individual's identity.~~

17. ~~In a case involving any counterfeit access device or unauthorized access device, loss includes any unauthorized charges made with the counterfeit access device or unauthorized access device. In any such case, loss shall be not less than \$500 per access device. However, if the unauthorized access device is a means of telecommunications access that identifies a specific telecommunications instrument or telecommunications account (including an electronic serial number/mobile identification number (ESN/MIN) pair), and that means was only possessed, and not used, during the commission of the~~

~~offense, loss shall be not less than \$100 per unused means. For purposes of this application note, "counterfeit access device" and "unauthorized access device" have the meaning given those terms in Application Note 15.~~

- ~~18. For purposes of subsection (b)(6)(B), "United States" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.~~
- ~~For purposes of subsection (b)(6)(C), "sophisticated means" means especially complex or especially intricate offense conduct pertaining to the execution or concealment of an offense. For example, in a telemarketing scheme, locating the main office of the scheme in one jurisdiction but locating soliciting operations in another jurisdiction would ordinarily indicate sophisticated means. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore bank accounts also ordinarily would indicate sophisticated means.~~
- ~~The enhancement for sophisticated means under subsection (b)(6)(C) requires conduct that is significantly more complex or intricate than the conduct that may form the basis for an enhancement for more than minimal planning under subsection (b)(2)(A).~~
- ~~If the conduct that forms the basis for an enhancement under subsection (b)(6) is the only conduct that forms the basis for an adjustment under §3C1.1 (Obstruction of Justice), do not apply an adjustment under §3C1.1.~~
- ~~19. "Financial institution," as used in this guideline, is defined to include any institution described in 18 U.S.C. §§ 20, 656, 657, 1005-1007, and 1014; any state or foreign bank, trust company,~~
- ~~credit union, insurance company, investment company, mutual fund, savings (building and loan) association, union or employee pension fund, any health, medical or hospital insurance association, brokers and dealers registered, or required to be registered, with the Securities and Exchange Commission; futures commodity merchants and commodity pool operators registered, or required to be registered, with the Commodity Futures Trading Commission; and any similar entity, whether or not insured by the federal government. "Union or employee pension fund" and "any health, medical, or hospital insurance association," as used above, primarily include large pension funds that serve many individuals (e.g., pension funds of large national and international organizations, unions, and corporations doing substantial interstate business), and associations that undertake to provide pension, disability, or other benefits (e.g., medical or hospitalization insurance) to large numbers of persons.~~
- ~~20. An offense shall be deemed to have "substantially jeopardized the safety and soundness of a financial institution" if, as a consequence of the offense, the institution became insolvent; substantially reduced benefits to pensioners or insureds; was unable on demand to refund fully any deposit, payment, or investment; was so depleted of its assets as to be forced to merge with another institution in order to continue active operations; or was placed in substantial jeopardy of any of the above.~~
- ~~21. "The defendant derived more than \$1,000,000 in gross receipts from the offense," as used~~

~~in subsection (b)(8)(B), generally means that the gross receipts to the defendant individually, rather than to all participants, exceeded \$1,000,000. "Gross receipts from the offense" includes all property, real or personal, tangible or intangible, which is obtained directly or indirectly as a result of such offense. See 18 U.S.C. § 982(a)(4).~~

~~22. If the defendant is convicted under 18 U.S.C. § 225 (relating to a continuing financial crimes enterprise), the offense level is that applicable to the underlying series of offenses comprising the "continuing financial crimes enterprise."~~

~~23. If subsection (b)(5), subsection (b)(8)(A), or subsection (b)(8)(B) applies, there shall be a rebuttable presumption that the offense also involved more than minimal planning for purposes of subsection (b)(2).~~

~~—— If the conduct that forms the basis for an enhancement under subsection (b)(5) is the only conduct that forms the basis of an enhancement under subsection (b)(6), do not apply an enhancement under subsection (b)(6).~~

~~Background: This guideline is designed to apply to a wide variety of fraud cases. The statutory maximum term of imprisonment for most such offenses is five years. The guideline does not link offense characteristics to specific code sections. Because federal fraud statutes are so broadly written, a single pattern of offense conduct usually can be prosecuted under several code sections, as a result of which the offense of conviction may be somewhat arbitrary. Furthermore, most fraud statutes cover a broad range of conduct with extreme variation in severity.~~

~~—— Empirical analyses of pre-guidelines practice showed that the most important factors that determined sentence length were the amount of loss and whether the offense was an isolated crime of opportunity or was sophisticated or repeated. Accordingly, although they are imperfect, these are the primary factors upon which the guideline has been based.~~

~~—— The extent to which an offense is planned or sophisticated is important in assessing its potential harmfulness and the dangerousness of the offender, independent of the actual harm. A complex scheme or repeated incidents of fraud are indicative of an intention and potential to do considerable harm. In pre-guidelines practice, this factor had a significant impact, especially in frauds involving small losses. Accordingly, the guideline specifies a 2-level enhancement when this factor is present.~~

~~—— Use of false pretenses involving charitable causes and government agencies enhances the sentences of defendants who take advantage of victims' trust in government or law enforcement agencies or their generosity and charitable motives. Taking advantage of a victim's self-interest does not mitigate the seriousness of fraudulent conduct. However, defendants who exploit victims' charitable impulses or trust in government create particular social harm. The commission of a fraud in the course of a bankruptcy proceeding subjects the defendant to an enhanced sentence because that fraudulent conduct undermines the bankruptcy process as well as harms others with an interest in the bankruptcy estate.~~

~~—— Offenses that involve the use of transactions or accounts outside the United States in an effort to conceal illicit profits and criminal conduct involve a particularly high level of~~

~~sophistication and complexity. These offenses are difficult to detect and require costly investigations and prosecutions. Diplomatic processes often must be used to secure testimony and evidence beyond the jurisdiction of United States courts. Consequently, a minimum level of 12 is provided for these offenses.~~

~~———— Subsections (b)(5)(A) and (B) implement the instruction to the Commission in section 4 of the Wireless Telephone Protection Act, Public Law 105–172.~~

~~———— Subsection (b)(5)(C) implements the directive to the Commission in section 4 of the Identity Theft and Assumption Deterrence Act of 1998, Public Law 105–318. This subsection focuses principally on an aggravated form of identity theft known as "affirmative identity theft" or "breeding," in which a defendant uses another individual's name, social security number, or some other form of identification (the "means of identification") to "breed" (i.e., produce or obtain) new or additional forms of identification. Because 18 U.S.C. § 1028(d) broadly defines "means of identification," the new or additional forms of identification can include items such as a driver's license, a credit card, or a bank loan. This subsection provides a minimum offense level of level 12, in part, because of the seriousness of the offense. The minimum offense level accounts for the fact that the means of identification that were "bred" (i.e., produced or obtained) often are within the defendant's exclusive control, making it difficult for the individual victim to detect that the victim's identity has been "stolen." Generally, the victim does not become aware of the offense until certain harms have already occurred (e.g., a damaged credit rating or inability to obtain a loan). The minimum offense level also accounts for the non-monetary harm associated with these types of offenses, much of which may be difficult or impossible to quantify (e.g., harm to the individual's reputation or credit rating, inconvenience, and other difficulties resulting from the offense). The legislative history of the Identity Theft and Assumption Deterrence Act of 1998 indicates that Congress was especially concerned with providing increased punishment for this type of harm.~~

~~———— Subsection (b)(6) implements, in a broader form, the instruction to the Commission in section 6(c)(2) of Public Law 105–184.~~

~~———— Subsection (b)(7)(B) implements, in a broader form, the instruction to the Commission in section 110512 of Public Law 103–322.~~

~~———— Subsection (b)(8)(A) implements, in a broader form, the instruction to the Commission in section 961(m) of Public Law 101–73.~~

~~———— Subsection (b)(8)(B) implements the instruction to the Commission in section 2507 of Public Law 101–647.~~

~~———— Subsection (c) implements the instruction to the Commission in section 805(c) of Public Law 104–132.~~

§2F1.2. Insider Trading

~~———— (a) Base Offense Level: 8~~

~~_____ (b) _____ Specific Offense Characteristic~~

~~_____ (1) _____ Increase by the number of levels from the table in §2F1.1 corresponding to the gain resulting from the offense.~~

~~_____ Commentary~~

~~Statutory Provisions: 15 U.S.C. § 78j and 17 C.F.R. § 240.10b-5. For additional statutory provision(s), see Appendix A (Statutory Index).~~

~~Application Note:~~

~~1. _____ Section 3B1.3 (Abuse of Position of Trust or Use of Special Skill) should be applied only if the defendant occupied and abused a position of special trust. Examples might include a corporate president or an attorney who misused information regarding a planned but unannounced takeover attempt. It typically would not apply to an ordinary "tippee."~~

~~Background: This guideline applies to certain violations of Rule 10b-5 that are commonly referred to as "insider trading." Insider trading is treated essentially as a sophisticated fraud. Because the victims and their losses are difficult if not impossible to identify, the gain, i.e., the total increase in value realized through trading in securities by the defendant and persons acting in concert with him or to whom he provided inside information, is employed instead of the victims' losses.~~

~~_____ Certain other offenses, e.g., 7 U.S.C. § 13(e), that involve misuse of inside information for personal gain also may appropriately be covered by this guideline.~~

Part B. Loss Tables for Consolidated Guideline and §2T4.1 (Tax Table)

Synopsis of Proposed Amendment: *This amendment proposes three options for a loss table for the consolidated guideline, §2B1.1, and two options for a loss table for §2T4.1 (Tax Table). If a decision is made to use the same table, the effect would be to sentence the offenses under both guidelines in a similar manner. This would represent a change from the current relationship in which tax offenses generally face slightly higher offense levels for a given loss amount than fraud and theft offenses.*

Regarding the tables for both guidelines, each option attempts to compress the loss table by (generally) moving from one-level to two-level increments, thus increasing the range of losses that correspond to an individual increment. This is designed to minimize fact-finding and the appearance of false precision.

Proposed Amendment (Part B):

Section 2B1.1(b)(1), as amended by Part A of this amendment, is further amended to read as follows:

- (1) If the loss exceeded \$5,000, increase the offense level as follows:

Loss (Apply the Greatest)	Increase in Level
(A) \$5,000 or less	no increase
(B) More than \$5,000	add 2
(C) More than \$10,000	add 4
(D) More than \$30,000	add 6
(E) More than \$70,000	add 8
(F) More than \$120,000	add 10
(G) More than \$200,000	add 12
(H) More than \$400,000	add 14
(I) More than \$1,000,000	add 16
(J) More than \$2,500,000	add 18
(K) More than \$7,000,000	add 20
(L) More than \$20,000,000	add 22
(M) More than \$50,000,000	add 24
(N) More than \$100,000,000	add 26.

Section 2T4.1 is amended by striking the table in its entirety and inserting the following:

Tax Loss (Apply the Greatest)	Offense Level
(A) \$2,000 or less	6
(B) More than \$2,000	8
(C) More than \$5,000	10
(D) More than \$12,500	12

(E)	More than \$30,000	14
(F)	More than \$80,000	16
(G)	More than \$200,000	18
(H)	More than \$500,000	20
(I)	More than \$1,200,000	22
(J)	More than \$2,500,000	24
(K)	More than \$7,500,000	26
(L)	More than \$20,000,000	28
(M)	More than \$50,000,000	30
(N)	More than \$100,000,000	32.