

believed that limiting credit pass throughs in this manner was a prudent measure to ensure that the revised forward mark adjustment process did not pose undue risk to GSCC. However, with the benefit of some experience with the new forward mark adjustment process, GSCC now believes it is appropriate to pass through credit forward mark adjustment payments to all netting members provided that GSCC maintains sufficient clearing fund margin protection. In addition, GSCC believes that the sixty day waiting period set forth in Section 1 of GSCC Rule 13 is no longer necessary.

Although GSCC proposes to extend to all netting members the right to receive credit forward mark adjustments, GSCC believes it is prudent to obtain additional margin protection from category two dealer netting members and category two futures commission merchant ("FCM") netting members in return for acquiring such right. Under GSCC's current rules, category two dealer netting members and category two FCM netting members are required to provide GSCC with additional clearing fund margin protection.⁵ This is due in part to the more modest minimum net worth requirements for such types of netting members.⁶ Therefore, GSCC proposes that each category two dealer netting member and category two FCM netting member be given an option as to whether it wishes to either (i) receive a full credit forward mark adjustment payment and have the haircut applicable to its clearing fund deposit raised from the current levels to levels that are based on historical two day volatility designed to cover ninety-five percent of price movements, as determined by using the greater of the price movements from the last quarter or the last year or (ii) not receive credit forward mark adjustment payments and retain its current clearing fund margin level. If such netting member elects to receive forward mark adjustments, the increase in the member's margin factors

should help ensure that even in a situation involving a delay in the liquidation of such member's positions GSCC's exposure will be limited.

GSCC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.⁷

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the rule filing will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC members will be notified of the filing of the proposed rule change. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which GSCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR-GSCC-96-06 and should be submitted by August 19, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-19120 Filed 7-26-96; 8:45 am]

BILLING CODE 8010-01-M

UNITED STATES SENTENCING COMMISSION

Rules of Practice and Procedure

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed rules of practice and procedure. Request for public comment.

SUMMARY: Pursuant to its authority under 995(a)(1) of title 28, United States Code, the Sentencing Commission is considering the promulgation of internal rules of practice and procedure. The proposed rules are set forth below. The Commission invites comment on these proposed rules.

DATES: Written comment should be submitted to Michael Courlander, Public Information Specialist, no later than November 1, 1996.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, South Lobby, Washington, D.C. 20002-8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273-4590.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of title 28 authorizes the U.S. Sentencing Commission, an independent agency in the judicial branch of the United States Government, to establish general policies and promulgate rules and regulations for the Commission as necessary to carry out the purposes of the Sentencing Reform Act of 1984.

These rules of practice and procedure are designed to facilitate public understanding and participation in the work of the Sentencing Commission. For the most part these rules do not

Release No. 36491 (November 17, 1995), 60 FR 49649 [File No. SR-GSCC-95-02] (order approving proposed rule change implementing GSCC's netting services for non-same-day-settling aspects of next-day and term repo transactions).

⁵ Category two dealer and FCM netting members now have applicable margin factors as set by GSCC's Board of Directors which can be no lower than ninety-nine percent of historical one day price volatility. All other GSCC members have applicable margin factors as set by GSCC's Board of Directors which can be no lower than ninety-five percent of historical one day price volatility.

⁶ For example, category two dealer netting members and FCM netting members must maintain a net worth of \$25 million, but category one banks and category one dealers and FCMs must maintain a minimum net worth of \$100 million and \$50 million, respectively.

⁷ 15 U.S.C. 78q-1 (1988).

⁸ 17 CFR 200.30-3(a)(12) (1995).

represent substantive change in the way the Commission has traditionally conducted its business. These rules are not intended to enlarge the rights of any person sentenced under the guidelines promulgated by the Commission or otherwise create any private right of action.

Authority: 28 U.S.C. 995(a)(1).

Richard P. Conaboy,
Chairman.

RULES OF PRACTICE AND PROCEDURE

PART I—SCOPE OF RULES

Rule 1.1 Application and Purpose

Pursuant to 28 U.S.C. 995(a)(1) and other applicable provisions of its organizational statute, the United States Sentencing Commission (“the Commission”) has established these rules governing its usual operating practices. While the Commission, an agency within the judicial branch of government, is not subject as a general matter to the Administrative Procedures Act and a variety of other statutes typically applicable to executive branch agencies, the Commission nevertheless desires to involve interested members of the public in its work to the maximum extent practicable. Accordingly, these rules are issued for the purpose of more fully informing interested persons of opportunities and procedures for becoming aware of and participating in the public business of the Commission. These rules are not intended to enlarge the rights of any person sentenced under the guidelines promulgated by the Commission or otherwise create any private right of action.

Rule 1.2 Suspension of Rules and Promulgation of Temporary Rules

The Commission in a public meeting at which a quorum is present may, by vote of a majority of members, promulgate, modify, or suspend any rule contained herein, or promulgate a temporary, supplemental, or superseding rule.

PART II—ACTION BY THE COMMISSION

Rule 2.1 Members

For purposes of the voting procedures set forth in these Rules, “member” of the Commission shall mean a voting member and shall not include an *ex-officio*, non-voting member. *Ex-officio* members may participate in all discussions of the Commission but may not vote or make motions.

Rule 2.2 Voting Rules for Action by the Commission

Except as otherwise provided in these rules or by law, action by the Commission requires the affirmative vote of a majority of the members at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members then serving. Members shall be deemed “present” and may participate and vote in public meetings from remote locations by electronic means, including, but not limited to, telephone, satellite and video conference devices.

Promulgation of guidelines, policy statements, official commentary, and amendments thereto shall require the affirmative vote of at least four members at a public meeting. See 28 U.S.C. 994(a).

Publication of proposed amendments to guidelines, policy statements, or official commentary in the Federal Register shall require the affirmative vote of at least three members at a public meeting.

Action on miscellaneous matters may be taken without a meeting based on the affirmative vote of a majority of the members then serving by written or oral communication. Such matters may include, but are not limited to, the approval of budget requests, legal briefs, staff reports, analyses of legislation, and administrative and personnel issues.

PART III—INFORMATION ABOUT THE COMMISSION

Rule 3.1 Office(s)

The offices of the Commission are located in the Thurgood Marshall Federal Judiciary Building, Suite 2–500, South Lobby, One Columbus Circle, N.E., Washington, D.C. 20002–8002.

The office can be reached telephonically between 8:30 a.m. and 5:30 p.m. Monday through Friday. The main telephone number is 202/273–4500. The fax number is 202/273–4529.

Rule 3.2 Communications Office

The Communications Office administers the Commission’s policy on Public Access to Sentencing Commission Documents and Data. See 54 Fed. Reg. 238, 51279 (1989). This office also maintains *A Guide to Publications & Resources* that lists all publications and datasets available from the Commission. This document is available on request.

Generally, the Communications Office will maintain for public inspection by appointment official Commission documents, meetings and hearing schedules and agendas, public comment submissions, and other documents (or

citations thereto) that inform Commission decisions or actions.

Rule 3.3 Internet Site

The Commission maintains and updates information and documents on an Internet Web Site and Electronic Bulletin Board. The Web Site is found at: <http://www.ussc.gov>. The Electronic Bulletin Board can be accessed directly by computer via modem by dialing 202/273–4709.

This resource shall include general information, such as background information about the Commission and Commissioners, notices for scheduled meetings and hearings, minutes of recent meetings, listings of Commission priorities and projects, outstanding public comment solicitations, recently promulgated amendments, a list of all reports and resources available from the Commission, and the text of the Guidelines Manual and Commission reports.

Rule 3.4 Information at Federal Depository Libraries

All Commission publications printed by the Government Printing Office, and other selected documents, are available in hard copy or microfiched form through the Government Printing Office’s Regional Depository Libraries (of which there are more than 600 nationwide). The location of the nearest Federal Depository Library can be determined in several ways: (1) Request a free copy of the Directory of Depository Libraries from the U.S. Government Printing Office, Library Programs Services, Stop: SLLD, Washington, DC 20401; (2) ask your local library for the address of the nearest Federal Depository Library; or (3) use the Internet at http://www.access.gpo.gov/su_docs; Select: “Information Available for Free Public Use in Federal Depository Libraries.” Search the listing by state or by area code.

Rule 3.5 Access to Commission Data—Research Consortium

The Commission provides its various databases to the University of Michigan’s Inter-University Consortium for Political and Social Research (ICPSR). Researchers interested in studying federal sentencing practices through quantitative methods can access Commission sentencing data through this means. Contact ICPSR, P.O. Box 1248, Ann Arbor, MI 48106; or call 1–800–999–0960; or use the following Internet address: <http://www.ICPSR.umich.edu/NACJD/home.html>.

PART IV—MEETINGS AND HEARINGS

Rule 4.1 Meetings

The Chair shall call and preside at Commission meetings. In the absence of the Chair, the Chair will designate a Vice Chair to preside.

Rule 4.2 Public Meetings

The Commission shall endeavor to meet publicly on at least two separate occasions in each calendar quarter to inform the public and receive public comment on matters under consideration by the Commission.

To the extent practicable, the Chair shall issue, through the Office of Staff Director, a public notice of any public meeting at least seven days prior to the date of the meeting. The public notice, to the extent practicable, shall indicate the general purpose(s) of the meeting and include an agenda and any related documents approved for public release.

In the discretion of the Chair, and to the extent the Chair may deem appropriate, members of the public may be afforded an opportunity to comment on any issue on the agenda of a public meeting.

Rule 4.3 Executive Sessions

The Commission may hold executive sessions closed to the public to transact business of the Commission that is not appropriate for a public meeting, including, but not limited to, discussion and resolution of personnel and budget issues.

Rule 4.4 Working Sessions

The Commission routinely may hold working sessions that are not open to the public for the purpose of receiving information from staff and others and for conducting in-depth discussions of matters before the Commission.

Rule 4.5 Public Hearings Generally

The Commission may convene a public hearing on any matter involving the promulgation of sentencing guidelines or any other matter affecting the Commission's business. Notice of such hearing will be placed in the Federal Register as soon as practicable and the notice shall include, if applicable, a procedure for requesting the opportunity to testify and the availability for public inspection of documents or reports relevant to the subject of the hearing.

The Communications Office shall make available by customary means the topic(s) that will be the subject of testimony and any other topics or issues about which only written submissions will be accepted.

The Commission may exclude from such a hearing any electronic devices that record the voice or image of any or all witnesses, as well as cameras of any kind.

At the request of any witness to turn off any such electronic device(s) during that person's testimony, the Chair of the Commission may order, at his or her discretion, that use of such devices be discontinued during the testimony of that witness.

Rule 4.6 Written Record of Meetings and Hearings

The Commission shall prepare and maintain written minutes of public meetings and make them publicly available by customary means within a reasonable time after their approval by the Commission.

The Commission shall maintain a written transcription of public hearings that shall be publicly available for inspection.

PART V—AMENDMENT PROCESS

Rule 5.1 Promulgation of Amendments

The Commission may promulgate and submit to Congress amendments to the guidelines between the beginning of a regular session of Congress and the first day of May that year. Amendments shall be accompanied by a brief explanation or statement of reasons for the amendments. Unless otherwise specified, or unless Congress legislates to the contrary, amendments submitted for review shall take effect on the first day of November of the year in which submitted. 28 U.S.C. 994(p).

The Commission may promulgate amendments at other times pursuant to special statutory enactment (e.g., the "emergency" amendment authority under section 730 of the Antiterrorism and Effective Death Penalty Act of 1996).

Amendments to policy statements and commentary may be promulgated and put into effect at any time. However, to the extent practicable, the Commission shall endeavor to include amendments to policy statements and commentary in any submission of guideline amendments to Congress and put them into effect on the same November 1 date as any guideline amendments issued in the same year.

Rule 5.2 Prison Impact of Amendments

In promulgating amendments to the guidelines, the Commission shall consider the available penal, correctional, and other facilities and services.

To the extent practicable, the Commission shall consider and, make available to the public by customary means, information describing the prison impact of any amendments that significantly impact on prison population.

Rule 5.3 Notice and Comment on Proposed Amendments

In proposing and promulgating guidelines and amendments thereto, the Commission shall comply with the requirements of section 553 of title 5, United States Code, relating to publication in the Federal Register and public hearing procedure. 28 U.S.C. 994(x).

The Commission may promulgate commentary and policy statements, and amendments thereto, without regard to the provisions of 28 U.S.C. 994(x). Nevertheless, the Commission will endeavor to provide, to the extent practicable, comparable opportunities for public input on proposed policy statements and commentary considered in conjunction with guideline amendments.

Rule 5.4 Federal Register Notice of Proposed Amendments

As stated in Rule 2.2, *supra*, upon the affirmative vote of three voting members, the Commission may authorize publication in the Federal Register of a proposed amendment to a guideline, policy statement, or official commentary. A vote to publish shall be deemed to be a request for public comment on the proposed amendment.

The notice of proposed amendments also shall provide, where appropriate and practicable, reasons for consideration of amendments, a summary of or reference to information that is relevant to the issue(s), and whether the Commission possesses information on the issue(s) that is publicly available. In addition, the publication notice shall include a deadline for public comment and may include a notice of any scheduled public hearing(s) or meetings on the issue(s).

In the case of proposed amendments to guidelines or issues for comment that form the basis for possible guideline amendments, to the extent practicable, there shall be a minimum period of public comment of at least 60 calendar days prior to final Commission action on the proposed amendments.

Rule 5.5 Public Hearing on Proposed Amendments

Unless time does not permit or the Commission determines that a hearing would not substantially assist the

amendment process, the Commission shall conduct a public hearing on proposed amendments. The hearing shall be noticed in the Federal Register and otherwise announced by customary means.

PART VI—PUBLIC INPUT TO AMENDMENT PROCESS

Rule 6.1 Public Comment File

As stated in Rule 3.2, *supra*, the Communications Office shall receive and maintain public comment and public hearing testimony received by the Commission. This public comment file will be available during normal business hours for public inspection pursuant to written or telephonic request and with reasonable notice.

Rule 6.2 Notice of Priorities

Annually, following the submission to Congress of any guideline amendments, the Commission shall publish in the Federal Register and make available to the public by customary means, a notice of the tentative priorities for future Commission inquiry and possible action, including areas for possible amendments to guidelines, policy statements, and commentary. Any such notice shall include an invitation to, and deadline for, the submission of written public comment on the proposed priorities.

Rule 6.3 Data and Reports Relevant to the Amendment Process

To fulfill Commission priorities and inform consideration of potential amendments, the Staff Director shall direct the preparation of relevant data and reports for consideration by the

Commission. Upon authorization by the Commission, the Communications Office shall make the data and reports available to the public by customary means, as soon as practicable.

Rule 6.4 Advisory Groups

Upon authorization of the Commission, the Staff Director may facilitate the creation, membership, and periodic meeting at the Commission offices and elsewhere, of advisory groups of defense attorneys, academics, probation officers, judges, prosecutors, and others, to facilitate formal and informal input to the Commission. Two types of advisory groups are authorized: standing and *ad hoc*.

The following groups are the standing advisory groups: the Practitioners' Advisory Group and the Probation Officers' Advisory Group. The Commission may create additional standing advisory groups.

The Commission also may create *ad hoc* advisory groups as needed.

In addition, the Commission expects to receive and, from time to time, solicit input from outside groups representing the federal judiciary, prosecutors, defense attorneys, crime victims, and other interested groups.

Rule 6.5 Advisory Group Meetings and Reports

Subject to such limitations as the Commission may deem necessary, each advisory group shall establish appropriate policies regarding the conduct of their meetings.

Except as otherwise authorized by the Commission, final reports of *ad hoc* advisory groups, if any, shall be provided to the Commission and, after

necessary time for Commission review, shall be made available for public inspection.

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BILLING CODE 2210-40-U

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214(c)) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 6¾ percent for the July-September quarter of FY 96.

Pursuant to 13 CFR 120.932, the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801(c)(2)) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term or the loan.
John R. Cox,
Associate Administrator for Financial Assistance.

Calculation of SBA's Peg Rate and Direct Lending Rate—4th Quarter 1996

SBA's Peg Rate is a Weighted Average of the last three months like-maturity rates from the Treasury Department, as follows:

Month	Weight	Rate	Weighted rate
April	1	6.25	6.25
May	2	6.5	13
June	3	6.75	20.25
Sum	39.5

Divide by 6 to get Peg Rate 6.583333 = Peg Rate.

Round to the Nearest Eighth = 6.63

SBA's Direct Rate is last month's like-maturity Treasury Rate plus 1%, as follows:

June 6.75+1

Direct Rate = Last Month+1 = 7.75

Peg Rate: 6.625

Direct Rate: 7.750%

Average Maturity Calculation

Number of EOL loans	1483	12.42	average maturity of EOL Loans.
Number of HAL loans	987	14.33	average maturity of HAL Loans.
Number of VET loans	860	10.75	average maturity of VET Loans.

Weighted Average

Weight-EOL Loans	0.445345	5.531189
Weight-HAL Loans	0.296396	4.247360