

The SCG believes that allowing EMCC and DCC to become SCG members will further the goals of the SCG. Both EMCC and DCC are clearing agencies and self-regulatory organizations as defined in sections 3(a)(23)(A) and 3(a)(26) of the Act.⁵ Both EMCC and DCC have participants in common with other SCG members and therefore share exposure to those common members. The SCG believes that allowing EMCC and DCC to become SCG members will expand the SCG's sources for information sharing and will enable the SCG to minimize risks to the national system for the clearance and settlement of securities transactions.

In its order approving the formation of the SCG, the Commission noted that a "nexus" exists among clearing agencies because of (1) common participants, (2) interfaces through which clearing agencies offer access to participants in other clearing agencies or access to services offered by other clearing agencies; (3) shared operational and financial exposure, and (4) common regulatory responsibilities.⁶ The SCG believes that the same "nexus" of common interests exists between the current SCG members and EMCC and DCC.

Pursuant to the terms of the Agreement, all of the current SCG members voted on May 12, 1998 to allow EMCC and DCC to become members of the SCG. Both EMCC and DCC have agreed to abide by the terms of the Agreement.

The SCG believes that allowing EMCC and DCC to become members of the SCG is consistent with the requirements of the Act and the rules and regulations thereunder because their inclusion should foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

⁵ 15 U.S.C. 78c(a)(23)(A) and 78c(a)(26). EMCC was formed by NSCC, the Emerging Markets Traders Association, and the International Securities Market Association for the purpose of facilitating the clearance and settlement of emerging market debt instruments. DCC is a clearing corporation for the clearance and settlement of repurchase agreements and over the counter options on U.S. government securities.

⁶ Securities Exchange Act Release No. 27044, *supra* note 4.

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

No written comments relating to the proposed rule change have been solicited or received. The NSCC will notify the Commission of any written comments received by NSCC.

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

Section 17A(b)(3)(F) of the Act⁷ requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this obligation because the SCG enables its members to share appropriate financial, operational, and clearing data with respect to common participants. Because among other things, EMCC and DCC have common participants, the Commission believes that allowing EMCC and DCC to become members of the SCG should enhance cooperation and coordination among clearing agencies. Therefore, the Commission believes that the proposed rule change is consistent with the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice should allow the SCG members to begin exchanging information about common participants in a more timely fashion. Consequently, SCG members should be better equipped to assure the safeguarding of securities and funds in their custody and control or for which they are responsible and to minimize their financial risks.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-98-08 and should be submitted by September 11, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-NSCC-98-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-22479 Filed 8-20-98; 8:45 am]

BILLING CODE 8010-01-M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Request for public comment.

SUMMARY: Pursuant to its authority under 28 U.S.C. 994(o) and (p), and the "emergency authority" in section 6(d) of the Telemarketing Fraud Prevention Act of 1998, Pub. L. 105-184 (the "Act"), the Commission requests comment on several issues pertaining to the directive contained in the Act. Specifically, the Commission seeks comment on how the Act's directive, to substantially increase the penalties for persons convicted of offenses described in 18 U.S.C. 2326 in connection with the conduct of telemarketing fraud, interacts with the mass-marketing and sophisticated concealment amendments submitted to Congress by the Commission on May 1, 1998. (These amendments were published in the **Federal Register** of May 21, 1998 (63 FR 28203-04)).

DATES: Written public comment should be submitted to the Commission not later than September 10, 1998. The emergency authority provision of the Act requires the Commission to promulgate any necessary amendments and submit them to Congress not later than October 21, 1998.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

ADDRESS: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, Washington, D.C. 20002-8002, Attention: Public Affairs.

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

Authority: 28 U.S.C. 994 (a), (o), (p), (x); section 6(d) of Pub. L. 105-184.

Richard P. Conaboy,
Chairman.

Issues for Comment—Telemarketing Fraud

During the 1997-98 amendment cycle, the Commission examined the characteristics of telemarketing fraud offenses, the statutory enhancement for telemarketing fraud in 18 U.S.C. 2326, and whether the current enhancements in § 2F1.1 (Fraud), § 3A1.1 (Hate Crime Motivation or Vulnerable Victim), and the departure policy statements in § 5K2.0-§ 5K2.18 provide adequate punishment for persons convicted of telemarketing fraud offenses. The Commission published issues for comment relating to this review in January, 1998. See 63 FR 625-26 (January 6, 1998). Following this review, the Commission, on May 1, 1998, submitted to Congress an amendment that increases by two offense levels (approximately 25 percent) the penalties for fraud offenses that are committed through mass-marketing, including telemarketing fraud offenses (the "mass-marketing" amendment). See 63 FR 28203-04 (May 21, 1998). That amendment also provided a two-level increase and a "floor" offense level of level 12 for fraud offenses that involve conduct, such as sophisticated concealment, that makes it difficult for law enforcement authorities to discover the offense or apprehend the offenders (the "sophisticated concealment" amendment). These amendments are slated to take effect on November 1, 1998, absent any disapproval legislation enacted by Congress.

Subsequently, on June 23, 1998, Congress enacted the Telemarketing Fraud Prevention Act of 1998 (Pub. L. 105-184; 112 Stat. 520) (the "Act"), which directs the Commission, under emergency amendment authority, "to provide for substantially increased penalties for persons convicted of offenses described in (18 U.S.C. 2326) * * * in connection with the conduct of telemarketing." In carrying out this directive, the Commission is required, among other things, to "(1) ensure that the guidelines and policy statements promulgated pursuant to [the directive] * * * reflect the serious nature of

[telemarketing] offenses; (2) provide an additional appropriate sentencing enhancement, if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States; [and] (3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in [18 U.S.C. 2326(2) (victims over the age of 55)], are affected by a fraudulent scheme or schemes."

With this as background, the Commission invites comment on the issues that follow relating to: (1) How the Commission should respond to the directive in the Act; and (2) the interaction of this directive and the Commission's mass-marketing and sophisticated concealment amendments submitted to Congress on May 1, 1998.

1. Do the recently adopted mass-marketing and sophisticated concealment amendments adequately address the congressional directive to provide for "substantially increased penalties for persons convicted of offenses described in (18 U.S.C. 2326) * * * in connection with the conduct of telemarketing"? If not, how should the Commission modify the recent amendments or otherwise amend the guidelines to satisfy the directive? If an enhancement of greater magnitude is necessary, by how many offense levels should the sentence for such offenders be increased? Alternatively, are there additional factors that the Commission should address, either by specific offense characteristics, guideline commentary, or departure provisions, to provide appropriate punishment for telemarketing offenses?

2. The mass-marketing amendment is intended to apply to persons who engage in a plan to victimize a large number of persons through a fraudulent telemarketing scheme. Does this amendment adequately address the directive "to provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in [18 U.S.C. 2326(2) (victims over the age of 55)], are affected by a fraudulent scheme or schemes"? What is the meaning of the term "large number" (in that part of the directive that refers to a large number of vulnerable victims)? Does application of this new enhancement, in conjunction with other guideline provisions, such as the enhancement for more than one victim (§ 2F1.1(b)(2)) and the vulnerable victim adjustment (§ 3A1.1), comply with the directive? If

not, what amendment or amendments would satisfy the directive?

3. Does the sophisticated concealment amendment adequately address the directive "to provide an additional appropriate sentencing enhancement, if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States"? If not, what amendment or amendments would satisfy the directive?

4. Are there other provisions contained in the directive, not specifically addressed in this issue for comment, that require the Commission to amend the guidelines?

5. If additional guideline amendments are required to satisfy the congressional directive, how should those amendments be coordinated with general increases in fraud penalties (e.g., increases in the loss table) that the Commission may consider at some future date in order to ensure consistent and proportional sentencing for similar types of fraud offenses?

[FR Doc. 98-22526 Filed 8-20-98; 8:45 am]

BILLING CODE 2210-40-P

SOCIAL SECURITY ADMINISTRATION

Announcement of Service to Epidemiological Researchers to Provide Vital Status Data on Subjects of Health Research

AGENCY: Social Security Administration.
ACTION: Notice.

SUMMARY: Section 311 of the Social Security Independence and Program Improvements Act of 1994 directed the Social Security Administration (SSA) to provide support to health researchers involved in epidemiological research. Specifically, when a study is determined to contribute to a national health interest SSA will furnish information regarding whether a study subject is shown on the SSA administrative records as being alive or deceased (vital status).

DATES: This service is available as of this date by contacting the Associate Commissioner for Research, Evaluation and Statistics. The mailing address is Social Security Administration, Office of Research, Evaluation and Statistics, 4-C-15 Operations Building, 6401 Security Building, Baltimore MD 21235. The fax number for the Associate Commissioner is 410-965-3308.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Williams, Office of Research, Evaluation and Statistics, 4-C-15