

CLIENT ALERT

Proposed Amendments to the U.S. Sentencing Guidelines

Key Developments for White Collar Practitioners

Introduction

The United States Sentencing Commission recently issued proposed amendments to the Federal Sentencing Guidelines that could fundamentally alter how federal courts approach sentencing in white-collar criminal matters. Published on December 12, 2025, these proposals address several critical areas including economic crimes, drug trafficking, inflationary adjustments, and procedural simplification measures. If adopted, these amendments would take effect on November 1, 2026, following submission to Congress by May 1, 2026.

This alert summarizes the most significant proposed changes and their potential implications for clients and practitioners in the white-collar enforcement arena.

Economic Crimes: Restructuring the Loss Table and Refocusing on Culpability

The Commission has proposed a two-part amendment to §2B1.1, the guideline governing theft, fraud, embezzlement, and related economic offenses. These proposed changes reflect longstanding criticisms that the current framework places disproportionate emphasis on loss amounts while failing to adequately account for individual culpability and the full spectrum of victim harm.

01. Simplification of the Loss Table

The first component of the economic crimes proposal would consolidate the existing sixteen-tier loss enhancement table into eight broader tiers. Under the current guidelines, incremental increases in loss amount can trigger substantial offense level jumps, leading to frequent litigation over marginal dollar figures. The Commission proposes using fiscal year 2024 sentencing data to establish quintile-based thresholds, with the first enhancement triggered at \$15,000, followed by additional tiers at \$95,000, \$250,000, and \$1.5 million before reaching higher-loss categories.

02. New Focus on Non-Economic Harm

The second component would revise and add specific offense characteristics to better reflect defendant culpability and victim impact. Notably, the Commission proposes a new enhancement for offenses resulting in substantial non-economic harm to victims, encompassing physical harm, psychological trauma, emotional distress, and reputational damage. The Commission is also considering revisions to the "sophisticated means" enhancement to require that the offense involve "a greater level of complexity than typical for an offense of that nature."

Of particular significance for defense practitioners, the Commission proposes new mitigating factors that could reduce offense levels in certain circumstances. These include reductions for defendants who committed offenses at an employer's direction out of fear of adverse employment consequences, acted due to intimate or familial relationships under coercion, or were unusually vulnerable to persuasion due to physical or mental conditions. Additionally, a tiered decrease would be available for defendants who voluntarily ceased criminal activity, made efforts to return money or property, or reported the offense to authorities before becoming aware of an investigation.

03. Inflationary Adjustments to Monetary Thresholds

Separate from the structural changes to the loss table, the Commission proposes adjusting all monetary tables and thresholds throughout the Guidelines Manual to account for inflation. The monetary values were last updated in 2015. Under the proposal, the Commission would apply a multiplier derived from the Bureau of Labor Statistics' Consumer Price Index, using the same methodology employed in the 2015 amendments. These adjustments would affect not only §2B1.1 but also guidelines governing burglary, robbery, tax offenses, and the fine tables for both individual and organizational defendants.

Sophisticated Means: Proposed Standardization

The "sophisticated means" enhancement has long been a significant driver of increased sentences in white-collar cases, adding two offense levels when the defendant's conduct involves complex or intricate planning. In practice, prosecutors have frequently sought this enhancement in fraud and tax cases, and courts have applied it broadly—sometimes to conduct that defense practitioners argue reflects standard business practices rather than genuinely unusual complexity.

The Commission's proposal would narrow application of this enhancement by requiring that the offense involve "a greater level of complexity than typical for an offense of that nature." This comparative framing represents a meaningful shift: rather than asking whether the defendant used any sophisticated techniques, courts would need to assess whether the conduct exceeded what is ordinarily seen in similar offenses. For defendants in securities fraud, healthcare fraud, tax evasion, and other complex financial crimes, this heightened standard could make the enhancement more difficult to apply—potentially resulting in lower guideline ranges and shorter sentences for conduct that, while involving some complexity, does not rise above the norm for that offense type.

Post-Offense Rehabilitation Adjustment

The Commission proposes a new Chapter Three adjustment at §3E1.2 that would provide offense level reductions for defendants who demonstrate positive post-offense conduct or meaningful rehabilitative efforts prior to sentencing. The proposal includes two options with varying structures for tiered reductions. Relevant considerations may include voluntary restitution, participation in treatment programs, sustained employment, and community or family support. This proposal represents a notable shift toward recognizing rehabilitation as a factor in guideline calculations.



Practical Implications

The proposed amendments carry several important implications for practitioners representing clients in federal criminal matters. With respect to economic crime cases, broader loss tiers may reduce litigation over marginal dollar amounts while increasing focus on threshold determinations and mitigation arguments.

The proposed changes also reinforce the value of proactive remediation measures for corporate and individual clients. Voluntary cessation of improper conduct, restitution, and early internal reporting may carry increased weight in guideline calculations if these amendments are adopted.

The Commission's proposed amendments reflect a significant effort to recalibrate federal sentencing in white-collar cases away from mechanical loss-driven calculations and toward a framework that more directly accounts for individual culpability and victim harm.

Contact us for
more information
(415) 735-5933

Scale LLP's Investigations & White-Collar team, led by [Peter Lallas](#) and [Samer Korkor](#), bring decades of experience representing companies and individuals in DOJ investigations and other criminal and civil enforcement matters. The team handles government and internal investigations, regulatory inquiries involving agencies such as DOJ, SEC, and IRS, and advises on compliance program development and risk mitigation.