

§2B1.1

(J) More than \$3,500,000	add 18
(K) More than \$9,500,000	add 20
(L) More than \$25,000,000	add 22
(M) More than \$65,000,000	add 24
(N) More than \$150,000,000	add 26
(O) More than \$250,000,000	add 28
(P) More than \$550,000,000	add 30.

*Notes to Table:

- (A) **Loss.**—Loss is the greater of actual loss or intended loss.
- (B) **Gain.**—The court shall use the gain that resulted from the offense as an alternative measure of loss only if there is a loss but it reasonably cannot be determined.
- (C) For purposes of this guideline—
- (i) “**Actual loss**” means the reasonably foreseeable pecuniary harm that resulted from the offense.
 - (ii) “**Intended loss**” (I) means the pecuniary harm that the defendant purposely sought to inflict; and (II) includes intended pecuniary harm that would have been impossible or unlikely to occur (e.g., as in a government sting operation, or an insurance fraud in which the claim exceeded the insured value).
 - (iii) “**Pecuniary harm**” means harm that is monetary or that otherwise is readily measurable in money. Accordingly, pecuniary harm does not include emotional distress, harm to reputation, or other non-economic harm.
 - (iv) “**Reasonably foreseeable pecuniary harm**” means pecuniary harm that the defendant knew or, under the circumstances, reasonably should have known, was a potential result of the offense.
- (2) (Apply the greatest) If the offense—
- (A) (i) involved 10 or more victims; (ii) was committed through mass-marketing; or (iii) resulted in substantial financial hardship to one or more victims, increase by **2** levels;
 - (B) resulted in substantial financial hardship to five or more victims, increase by **4** levels; or