(1)   the need for the sentence to reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, and protect the public from further crimes of the organization;

(2)   the organization's role in the offense;

(3)   any collateral consequences of conviction, including civil obligations arising from the organization's conduct;

(4)   any nonpecuniary loss caused or threatened by the offense;

(5)   whether the offense involved a vulnerable victim;

(6)   any prior criminal record of an individual within high-level personnel of the organization or high-level personnel of a unit of the organization who participated in, condoned, or was willfully ignorant of the criminal conduct;

(7)   any prior civil or criminal misconduct by the organization other than that counted under §8C2.5(c);

(8)   any culpability score under §8C2.5 (Culpability Score) higher than **10** or lower than **0**;

(9)   partial but incomplete satisfaction of the conditions for one or more of the mitigating or aggravating factors set forth in §8C2.5 (Culpability Score);

(10) any factor listed in 18 U.S.C. § 3572(a); and

(11) whether the organization failed to have, at the time of the instant offense, an effective compliance and ethics program within the meaning of §8B2.1 (Effective Compliance and Ethics Program).

(b)   In addition, the court may consider the relative importance of any factor used to determine the range, including the pecuniary loss caused by the offense, the pecuniary gain from the offense, any specific offense characteristic used to determine the offense level, and any aggravating or mitigating factor used to determine the culpability score.

Commentary

Application Notes:

1.   Subsection (a)(2) provides that the court, in setting the fine within the guideline fine range, should consider the organization's role in the offense. This consideration is particularly appropriate if the guideline fine range does not take the organization's role in the offense into account.