

PART E – OFFENSES INVOLVING CRIMINAL ENTERPRISES AND RACKETEERING

1. RACKETEERING

Introductory Commentary

Because of the jurisdictional nature of the offenses included, this subpart covers a wide variety of criminal conduct. The offense level usually will be determined by the offense level of the underlying conduct.

Historical Note

Effective November 1, 1987.

§2E1.1. Unlawful Conduct Relating to Racketeer Influenced and Corrupt Organizations

- (a) Base Offense Level (Apply the greater):

- (1) **19**; or
- (2) the offense level applicable to the underlying racketeering activity.

Commentary

Statutory Provisions: 18 U.S.C. §§ 1962, 1963.

Application Notes:

1. Where there is more than one underlying offense, treat each underlying offense as if contained in a separate count of conviction for the purposes of subsection (a)(2). To determine whether subsection (a)(1) or (a)(2) results in the greater offense level, apply Chapter Three, Parts A, B, C, and D to both (a)(1) and (a)(2). Use whichever subsection results in the greater offense level.
2. If the underlying conduct violates state law, the offense level corresponding to the most analogous federal offense is to be used.
3. If the offense level for the underlying racketeering activity is less than the alternative minimum level specified (*i.e.*, 19), the alternative minimum base offense level is to be used.
4. Certain conduct may be charged in the count of conviction as part of a “pattern of racketeering activity” even though the defendant has previously been sentenced for that conduct. Where such previously imposed sentence resulted from a conviction prior to the last overt act of the instant offense, treat as a prior sentence under §4A1.2(a)(1) and not as part of the instant offense. This treatment is designed to produce a result consistent with the distinction between the instant offense and criminal history found throughout the guidelines.