OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for a New Customer Satisfaction Survey for the Workforce Compensation and Performance Service Web Pages

AGENCY: Office of Personnel Management.

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for an emergency clearance to add a customer survey to the Workforce Compensation and Performance Service (WCPS) web pages located on the OPM web site, including the Performance Management Technical Assistance Center, the Compensation Administration pages, the Federal Classification System pages, and the Strategic Compensation page. This survey will allow WCPS to elicit customer feedback, and provide an opportunity for web page users to communicate their needs. Thus, the survey will further improve customer service. The WCPS web pages are used by Federal human resources specialists, managers, supervisors, employees, and the general public. Participation in the survey is voluntary. Readers complete the survey online. We estimate it will take 1 minute to complete the survey. Approximately 900 surveys will be completed annually. The total annual burden is 15 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who may respond, through the use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or e-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before September 15, 2000.

ADDRESSES: Send or deliver comments to—

Peggy Higgins, Chief, Performance Management and Incentive Awards Division, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7412, Washington, DC 20415–8340

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Karen Lebing, Team Leader, Outreach & Operations, Performance Management and Incentive Awards Division, (202) 606–2720.

U.S. Office of Personnel Management.

Janice R. Lachance.

Director.

[FR Doc. 00–20654 Filed 8–15–00; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (MAXXAM Inc., Common Stock, $4.50 Par Value,) File No. 1–03924

August 10, 2000.

MAXXAM Inc. (''Company'') has filed applications with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Security Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.50 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'') and on the Philadelphia Stock Exchange, Inc. (''Phlx'')

In its filings with the Commission, the Company cited the following factors in support of the decision to withdraw its Security form listing and registration on the PCX and the Phlx:

The Security is currently listed and registered on the American Stock Exchange LLC (''Amex'') as well as the PCX and Phlx. The Company believes that no advantage exists in maintaining listings for the Security on the regional exchanges and that these additional listings have resulted in unnecessary expenses to the Company not justified by the low volume of trading on the PCX and the Phlx.

The Company has stated that it has complied with the respective rules of he PCX and Phlx governing withdrawals of securities. The PCX and Phlx have each in turn indicated to the Company that they have no objection to the Security's withdrawal.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the PCX and Phlx and shall have not effect upon the Security's continued listing and registration on the Amex. By reason of Section 12(b) of he Act[3] and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission under Section 13 of the Act.[4]

Any interested person may, on or before August 31, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and Phlx and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–20790 Filed 8–15–00; 8:45 am]

BILLING CODE 8010–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of (1) retroactive application of certain amendments submitted to Congress on May 1, 2000; (2) final policy priorities for amendment cycle ending May 1, 2001; and (3) request for comment on proposed criteria for selecting circuit conflict issues as policy priorities.

SUMMARY: (1) Retroactive Application.—The Commission has reviewed amendments submitted to Congress on May 1, 2000, that may result in lower guideline ranges and has designated three such amendments for inclusion in

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78n.

[5] 17 CFR 200.30–3(a)(1).

policy statement § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range). *See* amendment following section designated ''Authority''.

(2) Final Policy Priorities.—In June, 2000, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2001. See 65 FR 113 (June 12, 2000). After reviewing public comment received pursuant to this notice, the Commission has identified its policy priorities for the upcoming amendment cycle. The Commission hereby gives notice of these policy priorities.

(3) Criteria for selecting circuit conflict issues.—The Commission has developed a set of criteria to guide its work in selecting, as policy priorities for any given amendment cycle, issues that involve conflicting interpretations of guideline language among the circuit courts. The Commission invites comment on this set of criteria.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2–500 South, Washington, DC 20002–8002, Attention: Public Information—Comment on Criteria.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: (1) Retroactive Application.—The United States Sentencing Commission is an independent commission in the judicial branch of the United States Government and is empowered by 28 U.S.C. § 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. Section 994 also directs the Commission periodically to review and revise promulgated guidelines and authorizes it to submit guideline amendments to the Congress not later than the first day of May each year. See 28 U.S.C. §§ 994(o), (p). In connection with this promulgation authority, the Commission also is required to determine which amendments submitted to Congress may result in a reduced guideline range. See 28 U.S.C. § 994(u); § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range). After identifying any such amendment, the Commission determines whether the amendment should be given retroactive effect based on factors such as the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively to determine an amended guideline range. *See* § 1B1.10, comment. These amendments are then included in the list of amendments in § 1B1.10(c) that trigger a defendant's eligibility for consideration of a reduced sentence pursuant to 18 U.S.C. § 3582(c)(2). (Inclusion of an amendment in § 1B1.10(c) ''does not entitle a defendant to a reduced term of imprisonment as a matter of right.'' § 1B1.10, comment. (backgr'd.))

The Commission has analyzed the amendments submitted to Congress on May 1, 2000, and has designated three such amendments for inclusion in policy statement § 1B1.10. Those amendments are as follows:

(a) Amendment 591, which clarifies that a sentencing court must apply the offense guideline referenced in the Statutory Index for the statute of conviction unless the case falls within the limited ''stipulation'' exception set forth in § 1B1.2(a). Accordingly, in order for the enhanced penalties in § 2D1.2 (Drug Offense Occurring Near Protected Locations or Involving Underage or Pregnant Individuals) to apply, the defendant must be convicted of an offense referenced to that guideline.

(b) Amendment 599, which clarifies under what circumstances a defendant sentenced for a violation of 18 U.S.C. § 924(c) in conjunction with a conviction for other offenses may receive a weapon enhancement contained in the guidelines for those other offenses. This amendment directs that no guideline weapon enhancement should be applied when determining the sentence for the crime of violence or drug trafficking offense underlying the 18 U.S.C. § 924(c) conviction, nor for any conduct with respect to that offense for which the defendant is accountable under § 1B1.3 (Relevant Conduct).

(c) Amendment 606, which corrects a typographical error in the Chemical Quantity Table in § 2D1.11 (Unlawfully Distributing, Importing, Exporting, or Possessing a Listed Chemical) regarding certain quantities of Isosafrole and Safrole by changing those quantities from grams to kilograms.

(2) Final Policy Priorities.—As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, the Commission has identified certain priorities as the focus of its policy development work, including possible amendments to guidelines, policy statements, and commentary, for the amendment cycle ending May 1, 2001. While the Commission intends to address these priority issues, it recognizes that other factors, such as the enactment of legislation requiring Commission action, may affect the Commission's ability to complete work on all of the identified policy priorities by the statutory deadline of May 1, 2001. The Commission may address any unfinished policy development work from this agenda during the amendment cycle ending May 1, 2002.

The specific policy priorities for the amendment cycle ending May 1, 2001, are as follows: (A) An economic crimes package, which may include (i) a consolidation of the theft, property destruction, and fraud guidelines to provide uniformity of applicable commentary and consistency in application; (ii) a revised loss table for the consolidated and related guidelines; (iii) a revised loss definition that is more consistent across offense types, is easier to use, and addresses issues raised by case law and guideline application; and (iv) conforming changes to other guidelines that refer to the fraud and theft loss tables; (B) money laundering; (C) counterfeiting of bearer obligations of the United States; (D) further responses to the Protection of Children from Sexual Predators Act of 1998, Pub. L. 105–314; (E) firearms, with particular focus on the issue of the involvement of multiple firearms in an offense; (F) nuclear, chemical, and biological weapons, and, possibly, related national security issues; (G) the implementation of any crime legislation enacted during the second session of the 106th Congress warranting a Commission response; (H) the initiation of a review of the guidelines relating to criminal history and the computation of criminal history points under those guidelines; (I) the initiation of an analysis of the operation of the ''safety valve'' guideline, § 5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases); (J) other guideline amendments the Commission determines necessary for proper operation of the sentencing guideline system; and (K) the resolution of conflicts among the circuit courts on the following sentencing guideline issues:

(i) Whether admissions made by the defendant during a guilty plea hearing, without more, can be considered ''stipulations'' under § 1B1.2(a). *Compare, e.g., United States* v. *Nathan,* 188 F.3d 190, 201 (3d Cir. 1999) (statements made by defendants during the factual-basis hearing for a plea agreement do not constitute ''stipulations'' for the purpose of this sentencing enhancement, and a statement is a stipulation only if it is part of a defendant's written plea agreement or if both the government and the defendant explicitly agree at a factual-basis hearing that the facts being placed on the record are stipulations that might subject a defendant to

§ 1B1.2(a)), *with United States* v. *Loos,* 165 F.3d 504, 508 (7th Cir. 1998) (the objective behind § 1B1.2(a) is best answered by reading ''stipulation'' to mean any acknowledgment by the defendant that he committed the acts that justify use of the more serious guideline, not in a formal agreement).

(ii) Whether the four-level adjustment for the use of a dangerous weapon during an aggravated assault is impermissible double-counting in a case in which the weapon is not ''inherently dangerous.'' *Compare, e.g., United States* v. *Williams,* 954 F.2d 204, 205–08 (4th Cir. 1992) (applying the dangerous weapon enhancement under § 2A2.2(b)(2)(B) for defendant's use of his chair as a dangerous weapon did not constitute impermissible double counting, even though defendant's use of the chair as a dangerous weapon increased his offense level twice: first, by triggering the application of the aggravated assault guidelines, and second, as the basis for the four-level enhancement), *with United States* v. *Hudson,* 972 F.2d 504, 506–07 (2d Cir. 1992) (if the use of a weapon has resulted in a higher base offense level because the weapon caused the crime to be classified as an aggravated assault, a district court is not permitted to enhance a base offense level pursuant to § 2A2.2(b) for the use of the same non-inherently dangerous weapon (such as an automobile); a sentence may be enhanced pursuant to § 2A2.2(b) if an aggravated assault is accomplished with an inherently dangerous weapon such as a gun).

(iii) Whether interest due but unpaid on a loan can be included in the amount of victim's loss for purposes of calculating the offense level under § 2F1.1. *Compare, e.g., United States* v. *Sharma,* 190 F.3d 220, 228 (3d Cir. 1999) (interest due but unpaid on a fraudulently obtained loan is included in the amount of the victim's loss for purposes of calculating the offense level under § 2F1.1), *with United States* v. *Hoyle,* 33 F.3d 415, 419 (4th Cir. 1994) (bargained-for interest on a fraudulently obtained student loan is not included in loss calculation, and the interest represented by the time-value of money lost by lenders should be excluded).

(iv) Whether the offense level can be calculated using intended loss amounts without regard to any considerations of impossibility or economic reality. *Compare, e.g., United States* v. *Robinson,* 94 F.3d 1325, 1328 (9th Cir. 1996) (intended loss is used in the offense-level calculation under § 2F1.1 even though the actual loss is zero or even if the loss is not realistically possible), *with United States* v. *Ensminger,* 174 F.3d 1143 (10th Cir. 1999) (an intended loss under § 2F1.1 cannot exceed the loss a defendant in fact could have occasioned if the defendant's fraud had been entirely successful).

(v) Whether the fraud guideline enhancement for an offense that involved a misrepresentation that the defendant was acting on behalf of a charitable, educational, religious or political organization, or a government agency (§ 2F1.1(b)(4)(A)) applies in the absence of exploitative conduct. *Compare, e.g., United States* v. *Marcum,* 16 F.3d 599 (4th Cir. 1994) (enhancement is appropriate even if the defendant did not misrepresent his authority to act on behalf of a particular organization, but rather only misrepresented that he was conducting an activity wholly on behalf of such organization), *with United States* v. *Frazier,* 53 F.3d 1105 (10th Cir. 1995) (limiting the application of § 2F1.1(b)(4) to cases in which the defendant exploits his victim by claiming to have authority which in fact does not exist rather than using funds to which an organization was entitled for unauthorized purposes).

(vi) Whether a crime committed after the commission of the instant federal offense of felon in possession of a firearm, but for which the defendant is sentenced prior to sentencing on the federal charge, is counted as a prior felony conviction in determining the defendant's base offense level. *Compare, e.g., United States* v. *Pugh,* 158 F.3d 1308, 1311 (D.C. Cir. 1998) (the guideline language is ambiguous but the commentary language is clear, thereby counting prior felony conviction that was sentenced prior to sentencing for the instant federal offense, even if the defendant committed the prior felony offense after the instant federal offense), *with United States* v. *Barton,* 100 F.3d 43, 46 (6th Cir. 1996) (defendant's state drug crime, which was committed after federal offense of being felon in possession of firearm, could not have been counted as prior felony conviction under § 2K2.1(a), even though defendant was convicted and sentenced on state offense prior to sentencing on federal charge; only those convictions that occur prior to the commission of the firearm offense may be counted against the defendant in determining the base offense level).

(vii) Whether a mitigating role adjustment (§ 3B1.2) can be precluded automatically in a single defendant drug courier case if the courier's base offense level is determined solely by the quantity personally handled by the courier and that quantity constitutes all of the courier's relevant conduct. *Compare, e.g., United States* v. *Isaza-Zapata,* 148 F.3d 236, 241 (3d. Cir. 1998) (court specifically rejects argument that a defendant not charged with concerted activity and whose base offense level corresponds only to amounts defendant personally handled is precluded from a § 3B1.2 downward adjustment; defendant pleaded guilty to importing heroin and sentencing was based on amounts in his personal possession, but if he can meet the requirements of § 3B1.2 he is entitled to the reduction upon appropriate proof; specifically disagrees with the Seventh Circuit), *with United States* v. *Isienyi,* 207 F.3d 390 (7th Cir. 2000) (defendant pleaded to one count of importing a specified quantity of heroin; defendant is ineligible for a mitigating role adjustment when his offense level consisted only of amounts he personally handled).

(viii) Who constitutes the ''victim'' under section 3D1.2(a) in child pornography cases and for purposes of grouping. *Compare, e.g., United States* v. *Tillmon,* 195 F.3d 640, 643 (11th Cir. 1999) (for purposes of grouping, the victim of child pornography is the child or children depicted and each child constitutes a separate group, rejecting the concept that society at large was the victim), *with United States* v. *Toler,* 901 F.2d 399 (4th Cir. 1990) (society as a whole is the victim of child pornography trafficking offenses).

(ix) Whether money laundering and fraud convictions should be grouped together for sentencing under § 3D1.2. *Compare, e.g., United States* v. *Cusumano,* 943 F.2d 305, 313 (3d Cir. 1991), *cert. denied,* 502 U.S. 1036 (1992) (affirming the district court's decision to group money laundering with other offenses in a case in which ''the evidence demonstrated that the unlawful kickbacks, the embezzlement, the conspiracy, the Travel Act violations and the money laundering were all part of one scheme to obtain money'' from an employee benefit fund), *with United States* v. *Napoli,* 179 F.3d 1 (2d Cir.), *cert. denied,* 120 S. Ct. 1176 (1999) (fraud and money laundering harm different victims; the respective guidelines measure the harms differently and therefore the two offenses cannot be grouped).

(x) Whether a defendant's status as a deportable alien and his consent to deportation is a ground for a downward departure during sentencing, notwithstanding the lack of a colorable defense to deportation. *Compare, e.g., United States* v. *Galvez-Falconi,* 174 F.3d 255, 260 (2d Cir. 1999) (must present a colorable, non-frivolous defense to deportation, such that the act

of consenting to deportation carries with it unusual assistance to the administration of justice; the act of consenting to deportation, alone, would not constitute a circumstance that distinguishes a case as sufficiently atypical to warrant a downward departure), *with United States* v. *Smith,* 27 F.3d 649, 655 (D.C. Cir. 1994) (downward departure may be appropriate in a case in which the defendant's status as a deportable alien is likely to cause a fortuitous increase in the severity of his sentence).

(xi) Whether collateral consequences that a deportable alien may incur, such as likelihood of deportation, ineligibility for minimum security facilities and absence from family in Mexico, constitute a basis for downward departure. *Compare, e.g., United States* v. *Restrepo,* 999 F.2d 640, 647 (2d Cir. 1993) (erroneous to view deportation as so harsh as to warrant a reduction in the period of imprisonment prescribed by the Guidelines), *with United States* v. *Farouil,* 124 F.3d 838, 847 (7th Cir. 1997) (district court is free to consider whether status as a deportable alien has resulted in unusual or exceptional hardship in conditions of confinement).

(3) Criteria for Selecting Circuit Conflict Issues.—The Commission has developed the following set of criteria to guide its work in selecting, as policy priorities for any given amendment cycle, issues that involve conflicting interpretations of guideline language among the circuit courts:

Commission Policy Regarding Resolution of Guideline Circuit Conflicts

The United States Sentencing Commission will consider the following non-exhaustive list of factors in deciding whether a particular guideline circuit conflict warrants resolution by the Commission: Potential defendant impact; potential impact on sentencing disparity; number of court decisions involved in the conflict and variation in holdings; and ease of resolution, both as a discrete issue, and in the context of other agenda matters scheduled for consideration during the available amendment cycle.

Commentary

The Commission has the authority and responsibility periodically to amend previously issued guidelines, policy statements, or commentary for the purpose of addressing and resolving conflicting interpretations of *Guidelines Manual* language by the Federal courts, including conflicts among the courts of appeals. *See* 28 U.S.C. §§ 991(b)(1)(B), 994(o), (p); *Braxton* v. *United States,* 500 U.S. 344 (1991). The purposes of amendments of this nature include (1) promoting a more uniform body of guideline-related law, (2) reducing unwarranted sentencing disparity, and (3) in general, achieving more fully the purposes of sentencing and the goals of the Sentencing Reform Act.

The Commission believes that resolution of outstanding circuit conflicts necessitates a balanced consideration of the factors set forth in this policy, along with other factors that may be relevant to a particular issue. In applying these criteria to particular issues, the Commission welcomes formal and informal communications from members of the criminal justice system and any other interested persons. Because of the press of other responsibilities, the Commission anticipates that, in any given year, it will be able to address successfully only a limited number of higher priority conflict issues.''.

The Commission invites public comment on these criteria, specifically regarding whether any additional criteria should be considered.

Authority: 28 U.S.C. § 994(a), (o), (p), (u); USSC Rules of Practice and Procedure 5.2.

Diana E. Murphy,

Chair.

Amendment: Section 1B1.10(c) is amended by striking ''and 516.'' and inserting ''516, 591, 599, and 606.''.

Reason for Amendment: This amendment expands the listing in § 1B1.10(c) to implement the directive in 28 U.S.C. § 994(u) regarding guideline amendments that may be considered for retroactive application. Inclusion of an amendment in § 1B1.10(c) triggers a defendant's eligibility for consideration of a reduced sentence pursuant to 18 U.S.C. § 3582(c)(2), although such inclusion does not entitle a defendant to reduced sentence as a matter of right.

[FR Doc. 00–20780 Filed 8–15–00; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF STATE

[Public Notice 3391]

Culturally Significant Objects Imported for Exhibition Determinations: ''Faberge—Kremlin Objects''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Faberge—Kremlin Objects,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Riverfront Arts Center in Wilmington, Delaware from on or about September 9, 2000 to on or about February 18, 2001, and possibly at an additional venue or venues yet to be determined is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 8, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–20819 Filed 8–15–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3389]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the 25 letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.