

U.S. Senators Urge FINCEN to Update Guidelines on Legalized Marijuana

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Later this year, the Pennsylvania Department of Health will award the first licenses for medical marijuana organizations. One of the requirements for these grower/processors and dispensaries, is that they must have a certain amount of pre-determined funds on deposit with one or more financial institutions. While this generally is not a problem for most businesses, in states that have legalized marijuana, conflicting federal policies have led most financial institutions to deny banking services to state legalized marijuana businesses. According to a recent Bloomberg article, only 301 banks have chosen to serve the cannabis industry, that is less than 3% of the nation's 11,954 federally regulated banks and credit unions.

In some cases, banks have even revoked services to businesses that offer their services to legal marijuana businesses, such as landlords and security companies. Now that 29 states have legalized marijuana with likely more to come, a bipartisan group of Senators pressed a key federal regulator to take further action to ensure that vendors working with legal marijuana businesses in states that have legalized recreational or medicinal marijuana do not have their banking services suspended.

On December 14, 2016, in a letter to the head of the Financial Crimes Enforcement Network (FinCEN), U.S. Senators Jeff A. Merkley (D-OR), Ron Wyden (D-OR), Kirsten Gillibrand (D-NY), Patty Murray (D-WA), Elizabeth Warren (D-MA), Bernie Sanders (I-VT), Al Franken (D-MN), Angus King (I-ME), Lisa Murkowski (R-AK) and Cory Booker (D-NJ) wrote:

"Most banks and credit unions have either closed accounts or simply refused to offer services to indirect and ancillary businesses that service the marijuana industry. A large number of professionals have been unable to access the financial system because they are doing business with marijuana growers and dispensaries. This long list of professionals includes chemists who have had their checking accounts closed due to their role in testing marijuana for the presence of harmful materials like arsenic; the security industry, which marijuana businesses heavily rely on due to the massive amounts of cash they handle; and lawyers offering legal services to marijuana businesses, who have reported banks denying applications for bank accounts and credit cards.

"To be clear, these legitimate, indirect businesses have been unable to open checking accounts and accept credit cards or checks. In some cases they have also lost access to existing accounts, such as retirement accounts, and have been forced to pay their employees, taxes, and bills in cash. Locking lawyers, landlords, plumbers, electricians, security companies, and the like out of the nation's banking and finance systems serves no one's interest.

"Forcing all these direct and indirect businesses to operate in cash not only creates a huge target for criminals, but also complicates the collection of state and federal taxes. ... This business environment is an invitation to tax fraud, robberies, money laundering, and organized crime."

The Senators pressed FinCEN to issue updated guidance on this issue without delay. The full text of the letter can be found [here](#).

For additional information contact a member of our Medical Marijuana Practice Group