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# Managing Marijuana Business Risk



Providing financial services to marijuana-related businesses is a lot like serving other high risk groups. Financial institutions must first understand their appetite for risk and then take all due precautions prescribed under state and federal law in serving them, according to consultant Deborah Crawford.

Currently, 20 states and the District of Columbia allow some form of legalized marijuana sales and four of them, Alaska, [Colorado](#), Oregon and [Washington](#), allow the sale of recreational marijuana. But even credit unions and banks operating outside those states run the risk of exposure to funds deposits and other financial activity from MRBs participants operating at some level of that business, Crawford said.

The best strategy for financial institutions is to gain awareness of both the advantages and constraints in serving industry members at all levels and decide if there are opportunities for their institutions associated with those risks, Crawford advised.

“It’s a lot to think about, but once you build it, [proving MRBs with services] won’t take a lot of effort to maintain,” [Crawford](#) said.



Moreover, financial regulators don't necessarily want credit unions and banks to ignore MRBs operating legally under various state laws, Crawford said. However, regulators do expect adequate risk management, keen observation and adherence to current laws much like they would for other higher-risk clients.

Serving MRBs also depends on understanding the industry, Crawford said. In addition to growers, processors and sellers, related providers include the landlord who rents the space. The emergence of legally operating MRBs prompted U.S. Department of Justice Deputy Attorney General James M. Cole on Aug. 29, 2013, to issue *the Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement*. The “Cole memo,” as it has come to be called, provided guidance to federal prosecutors concerning marijuana law enforcement in all U.S. states and serves as guidelines for financial institutions that serve MRBs, Crawford said.

The Cole memo's restrictions operate along much the same lines as those governing alcohol sales. Marijuana and marijuana-infused products cannot be sold to minors or be used as a pretext for covering up illegal activities. Profits cannot be channeled to criminal enterprises, and the use of firearms in any aspect of marijuana activity is forbidden.

In addition, marijuana cannot be grown on federal lands nor used on federal property. “Drugged driving” is strictly prohibited, as is distribution of marijuana in states where it is not legally allowed to be sold, something that Crawford believes would be difficult to enforce.

“How can you prevent products from state-authorized MRB activity from crossing into other states?” Crawford asked. “Are we going to set up a checkpoint at the Nebraska border and inspect cars coming and going?”

FinCEN provides guidance for financial institutions that want to serve legally operating MRBs, but leaves the final decision up to the institution pending directives and restrictions outlined in the Cole memo. An institution's capacity for risk and its due diligence to business practices are critical to serving this group effectively, Crawford said.

Care should be taken to make sure the MRB is operating under guidance of the Cole memo, as well as within the laws outlined by the state in which they're domiciled, Crawford said. The consultant suggested creating broad policies as well as detailed procedures in serving this group to forestall any unnecessary board involvement in daily operations.

Financial institutions with concerns about their MRB clients have the option of issuing “Marijuana Priority” suspicious activity reports to authorities if any red flags appear with any member account. Concerns may focus on MRBs that earn substantially more revenue than expected, fail to adequately account for that revenue, or make significantly larger cash deposits that might be expected from the amount of business being done.