

You're Already Banking Cannabis (Whether You Know It or Not), So, You Might as Well Do It Compliantly

Hidden Cannabis-Related Business Accounts Can Be Putting Your Financial Institution at Risk

As more states legalize medical and adult-use cannabis, the commercial cannabis industry continues to grow, and has passed a tipping point — there is no turning back now. The banking and financial services options (or lack thereof) available to cannabis-related businesses (CRBs) have been and will continue to be a major topic of conversation. But the truth is, even financial institutions that have done everything in their power to avoid serving legitimate cannabis companies due to the adherent risk, most likely are already doing so.

The reasons for hesitation, are valid. Because cannabis is still federally prohibited, financial transactions involving funds generated from cannabis sales are technically federal violations. After several states legalized cannabis in 2014, the Financial Crimes Enforcement Network (FinCEN) issued guidance to clarify “how financial institutions can provide services to cannabis-related businesses (CRBs)” while remaining compliant with the Bank Secrecy Act (BSA) of 1970 and the Cole Memorandum. Today, the FinCEN 2014 Guidance remains the primary regulatory guidepost for financial institutions offering services to commercial cannabis customers.

The FinCEN 2014 Guidance was based on the principles set forth in the Cole Memorandum, which most experts saw as providing a de facto safe harbor from federal prosecution for state-legal cannabis-related activities. While the Cole Memorandum was rescinded by Attorney General Jeff Sessions under the Trump Administration, FinCEN has confirmed that their guidance

remains in effect. The primary purpose of the guidance is to clearly articulate and define the BSA expectations for any financial institution interested in offering services to cannabis-related businesses.

Under the Bank Secrecy Act of 1970 financial institutions are required to help federal government agencies detect and prevent money laundering. As the cannabis industry operates predominantly in cash, the risk of inadvertently laundering money or enabling other illicit activities becomes a very real concern for most financial institutions. Being undeniably accountable for fraudulent deposits and transactions becomes a strong deterrent to avoid cannabis-related businesses altogether. This makes for quite the paradox...financial institutions are averse to cannabis businesses because they deal primarily in cash, but because most financial institutions won't bank CRBs in the first place, cash in most cases is the only viable option.

While there haven't been many penalties issued to date against financial institutions for non-compliance with FinCEN guidelines, some experts anticipate this will change as the commercial cannabis industry continues to boom and regulatory oversight becomes a greater priority.

Given the high risk associated with banking the cannabis industry, most financial institutions have made a clear decision whether or not they will provide services to cannabis-related businesses. Unfortunately, it's not always that easy.

Cannabis-Related Businesses are Categorized into Three Tiers



TIER 1

Businesses that touch the cannabis plant (e.g., Nurseries, Dispensaries)



TIER 2

Businesses that provide products and services to Tier 1 (e.g., Security, Lighting)



TIER 3

Businesses that have Tier 1 and Tier 2 clients (e.g., Attorneys, Landlords)

Most financial institutions actively screen for Tier 1 businesses during the new customer application process. However, Tier 2 and Tier 3 businesses are often overlooked. These types of accounts can put your bank or credit union at risk. Here are three examples of business accounts that can be unknowingly linked to the cannabis industry:



1 Commercial Real Estate

Cannabis businesses are growing exponentially. Some offer retail products ranging from topical lotions to edibles to clothing and accessories. Others offer cannabis-friendly activities, like yoga, painting classes, or lounges. These businesses all have one thing in common—they need to lease or buy real estate to operate. If your financial institution has commercial real estate accounts, one of them could have leased or sold space to a cannabis-related business.



2 Legal and Accounting Firms

Almost all operating businesses have legal and/or accounting firms on payroll to handle a myriad of issues. Cannabis-related businesses are no different. Given the industry's heavily regulated, high-risk nature, it's entirely reasonable for a CRB to have a legal and/or accounting firm(s) of record. Cannabis is still prohibited federally, and state and local regulations are constantly changing. Additionally, cannabis businesses have the same legal and accounting needs that any other non-cannabis business might have.



3 Utility Companies

Businesses require utilities like heat, water, and electricity to operate regardless of the industry. Some even have recurring expenses for cleaning services, building maintenance, or PR/marketing initiatives. Legitimate CRBs have similar expenses. If your financial institution provides banking services to a local propane company and that propane company provides gas to a CRB, your bank or credit union is essentially banking cannabis.

These examples illustrate how easily funds generated by ancillary businesses to CRBs can enter your financial institution. As the cannabis industry continues to grow (26.7 percent year-over-year for the foreseeable future, according to Grand View Research), the potential for banking businesses affiliated with cannabis will undoubtedly increase, exposing your bank or credit union to even greater regulatory risk. Enhanced due diligence

and Know Your Client (KYC) protocols can help uncover some of the “hidden” business accounts linked to cannabis. However, more robust, cannabis-specific compliance and risk management policies, procedures, and technologies can identify ALL cannabis-related business accounts and transactions to ensure your institution remains compliant with the Bank Secrecy Act, Cole Memorandum, and FinCEN 2014 Guidance.

About NatureTrak

NatureTrak is the leading compliance and risk management solution for financial institutions serving the cannabis industry.

Our technology provides a full suite of compliance tools that mitigates risk, provides real-time transparency, and maximizes efficiencies. Federal and state examination tested, NatureTrak's comprehensive solution allows financial institutions to bank cannabis safely and profitably with features like pre-deposit validation, license verification and automated SAR and CTR reporting.

NatureTrak is revolutionizing how financial institutions are serving the emerging cannabis industry from seed-to-sale. The company has successfully validated over \$2.5 billion in cannabis-related transactions, including over \$900 million in cash deposits and more than \$250 million in tax payments. For more information, visit www.NatureTrak.com.



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