



Regulatory Alert

Financial Services Regulatory Insight Center



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States move to enable cannabis-related businesses access to financial services

Key points

- The California State Legislature is moving forward legislation that would license “cannabis limited charter banks and credit unions” to provide banking services to cannabis-related businesses in the state; the limited charter banks and credit unions would operate in a “closed loop” and would not be permitted to engage in banking activity with other institutions not similarly chartered.
- Guidance released by the NYDFS “encourages” all New York state-chartered banks and credit unions to provide New York-based medical marijuana and industrial hemp-related businesses access to financial services.

Background

Although marijuana-related activity is considered illegal at the federal level, more than half of the states have legalized some form of marijuana use. Guidance [issued](#) by the Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) states that financial institutions that know or suspect a transaction involves funds derived from an illegal activity are required to file Suspicious Activity Reports (SARs), even in states where such activity has been legalized. The conflict between federal and state laws has generally left businesses in this industry without access to banking services and, as such, operating primarily on a cash basis.

California and New York have each recently taken action to provide a means for the marijuana-related businesses within their borders to gain access to banking services.

California bill

The California State Legislature is moving forward a bill, [Senate Bill 930](#) (SB 930), that would provide for the licensing and regulation of cannabis limited charter banks and credit unions in order to provide limited banking services to cannabis businesses. Under the proposed bill:

- A cannabis limited charter bank or credit union would be allowed to only provide deposit services and issue “special purpose checks” to account holders
- Use of the “special purpose checks” would be limited to paying expenses related to the cannabis business (including taxes, fees, and rent) or to purchasing state and local bonds
- A cannabis limited charter bank or credit union would not be allowed to engage in banking activity with any other financial institution that is not similarly chartered by California. It would also be expected to adopt policies and practices



that “allow it to achieve the principles and goals outlined in the federal Bank Secrecy Act and cooperate with the federal Financial Crimes Enforcement Network.”

SB930 passed out of a California Assembly committee on June 26, 2018 and must still be put to a vote in the full Assembly. The bill was passed by the California Senate in May.

New York Department of Financial Services Guidance

The New York Department of Financial Services (NYDFS) released [guidance](#) on July 3, 2018 to “encourage” New York state-chartered banks and credit unions to offer banking services to medical marijuana-related businesses licensed by the State and those participating as research partners in the New York State Industrial Hemp Research Pilot Program. Under the guidance:

- NYDFS will not impose any regulatory action on a bank or credit union solely for establishing a banking relationship with a medical marijuana-related business that operates in compliance with New York state laws and regulations, as long as the institution complies with the requirements of:

- Guidance [issued](#) by FinCEN
- Guidance and priorities set forth in the Department of Justice’s [Cole Memorandum](#)
- The institution’s own evaluation of the risks associated with offering marijuana-related products and services and its ability and systems to effectively manage those risks.

Institutions are expected to establish and conduct appropriate underwriting and customer due diligence with respect to any entity that is or wishes to grow or cultivate industrial hemp, including verification of research programs and the eligibility of the entity to participate in the research program.

Other efforts – Federal legislation

Dozens of bills have been put forth in the current Congress to address multiple aspects of marijuana-related activities, including legal status; the issue is the subject of ongoing debate.

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