

DATE: January 5, 2024

LETTER NO: 2023-CRB-01

TO: The Board of Directors and Management of Minnesota
State-Chartered Financial Institutions

SUBJECT: Department of Commerce Guidance Regarding Financial
Services to the Cannabis Industry

[Chapter 63, House File 100](#) legalizes adult-use cannabis and establishes a new Office of Cannabis Management to regulate the new industry.

The Department of Commerce, working in close collaboration with the Office of Cannabis Management and the Minnesota Department of Revenue, have a shared goal that there is sufficient access within the regulated financial services sector for businesses licensed to grow, distribute or sell cannabis products. This guidance is intended to provide additional information to Minnesota-regulated financial institutions interested in providing services to cannabis-related businesses and how the state intends to regulate and work with such financial institutions. The Department of Commerce, the Department of Revenue, and the Office of Cannabis Management recognize that financial institution support for adult-use cannabis businesses is critical to ensuring an easy, efficient and safe process for businesses to collect and make payments.

The changes in the legalization of cannabis under the Minnesota law, though continuing to be illegal under federal law as of today's date, impacts all financial institutions in Minnesota. The Minnesota Department of Commerce (The Department) is providing the attached guidance regarding its current position and basic responsibilities of financial institutions' boards and management regarding cannabis banking.

Minnesota is the 23rd state to enact some form of legalization of adult use cannabis and several states report financial institutions are currently engaging in banking activities related to adult use cannabis.

The Department will review the potential impact of cannabis-related financial services on an institution's overall risk profile as part of any examination assessment and will continue to utilize risk-based examination procedures for the institution's risk management functions, commensurate with the inherent risk to safety and soundness.

Decisions on the degree to which an institution provides these services is at the discretion of the Board of Directors. Boards should establish and document policies regarding cannabis-related services regardless of whether an institution decides to offer such services and must ensure appropriate risk management systems are in place to support the board's determination.

To the extent that an institution decides to pursue banking cannabis related entities, management and the board of directors should consider, at a minimum:

- Ensuring the individual or entity is licensed, and the license is valid under the Office of Cannabis Management. The Department and state agency partners will work with entities offering cannabis related banking services to ensure this is feasible.
- Performing thorough initial and ongoing due diligence, including evaluation of the legal, compliance, strategic, reputational, liquidity, and transactional risks, with detailed risk-mitigating plans and factors to limit the institution's exposure to individual and overall risk.
- Ensuring a proper understanding of concentration risk, a strong liquidity policy, and robust cash flow monitoring systems.
- Establishing sufficiently sophisticated risk management systems that satisfactorily measure, monitor, and control related risk and possessing a risk management system to ensure compliance with applicable federal and state laws and reporting requirements.
- Hiring and training knowledgeable staff and implementing effective compliance programs, commensurate with the risks being assumed. Particularly for cash-intensive activities, these must include a robust BSA/AML program with effective processes for ensuring appropriate Cash Transaction Reporting (CTRs) and Suspicious Activity Reporting (SARs).
- Instituting exit strategies which can be swiftly executed should the product or service later present unexpected and/or undue risk to the institution.

A financial institution that decides to offer cannabis banking services should also follow the guidance:

- FINCEN – BSA Expectations Regarding Marijuana-Related Businesses: FIN-2014-G001 [FIN 2014 G001 \(fincen.gov\)](https://www.fincen.gov/2014/01/20/bsa-expectations-regarding-marijuana-related-businesses)
- DOJ – [Justice Department Announces Update to Marijuana Enforcement Policy](#); See link at end of the announcement for Guidance Regarding Marijuana Enforcement (also known as the Cole Memo)

Further resources and information: [CSBS Cannabis Job Aid](#)

Entities interested in offering cannabis-related banking services may reach out to cannabis.banking@state.mn.us. The Department seeks collaborative partnership with such entities to ensure safety and soundness and appropriate regulatory compliance as this new law is implemented.

Disclaimer: The Department of Commerce does not provide individual financial institutions with legal advice. Financial Institutions are encouraged to consult their legal counsel for advice based upon their specific facts, current guidance, and the law and implement appropriate risk management/control standards to any offered product or service.