

Bipartisan Support for Cannabis Banking Safe Harbor Reaches New High with Letter from Attorneys General

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A bipartisan group of 38 state and territorial attorneys general has signed an [open letter](#) to Congress calling for legislative change for banking and financial institutions wishing to provide services to cannabis businesses. The letter describes the severe financial restrictions faced by cannabis businesses that operate legally under state law but which cannot access the financial system because of federal illegality. It is the clearest, most bipartisan support for federal cannabis banking relief yet.

The vast majority of U.S. banks and financial institutions do not directly bank cannabis businesses operating lawfully pursuant to state laws, due to the risk of violating federal anti-money laundering laws. As a result, these cannabis businesses cannot access essential banking products like deposit accounts, and frequently must operate in a cash economy. The letter makes the point that this “resulting grey market...contributes to a public safety threat as cash-intensive businesses are often targets for criminal activity, and prevents proper tracking of billions in finances across the nation.” These restrictions also hamper state financial regulators and tax authorities in performing critical oversight duties. The letter argues that, regardless of how individual members of Congress may feel about state laws that permit marijuana use, “the reality of the situation requires federal rules that permit a sensible banking regime for legal businesses.” In our view, the reality of the situation includes the increasing difficulties of determining how many degrees of separation from the touch-the-plant businesses are required under current law.

The state and territorial attorneys general call on Congress to enact a federal safe harbor to enable depository institutions to service cannabis and cannabis related-businesses. For an in-depth analysis of the current restrictions facing banks and financial institutions, and paths to legislative relief, please see Davis Polk's recent visual memo on cannabis banking, [Proposed U.S. Federal Cannabis Legislation: Updated Briefing on the SAFE Act and STATES Act](#) (Apr. 16, 2019), and our recent article in Thomson Reuters' [Practical Law: Financial Services and the US Cannabis Sector](#) (Apr. 1, 2019).

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