



Cannabis Banking – Where Are We Today?

Agenda

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Introductions:

- Amy Bean

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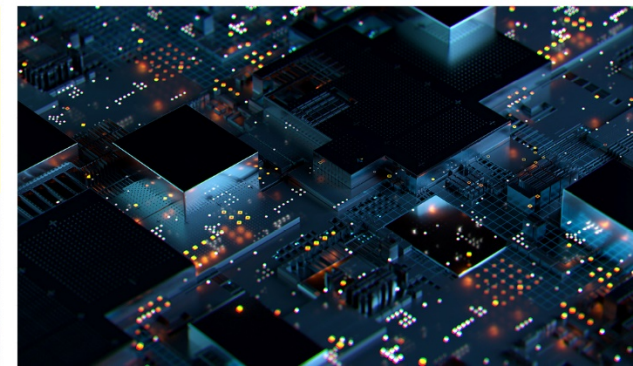
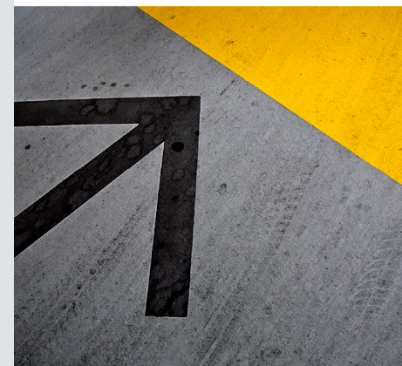
Where is Cannabis Today?:

- Industry Growth & Cannabis Trends
- Regulatory High Points
- Banking Cannabis
- Case Studies & Recent Enforcement Actions

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To Cannabis or Not to Cannabis:

- AML Program Considerations



Presenter

Amy Bean, CAMS



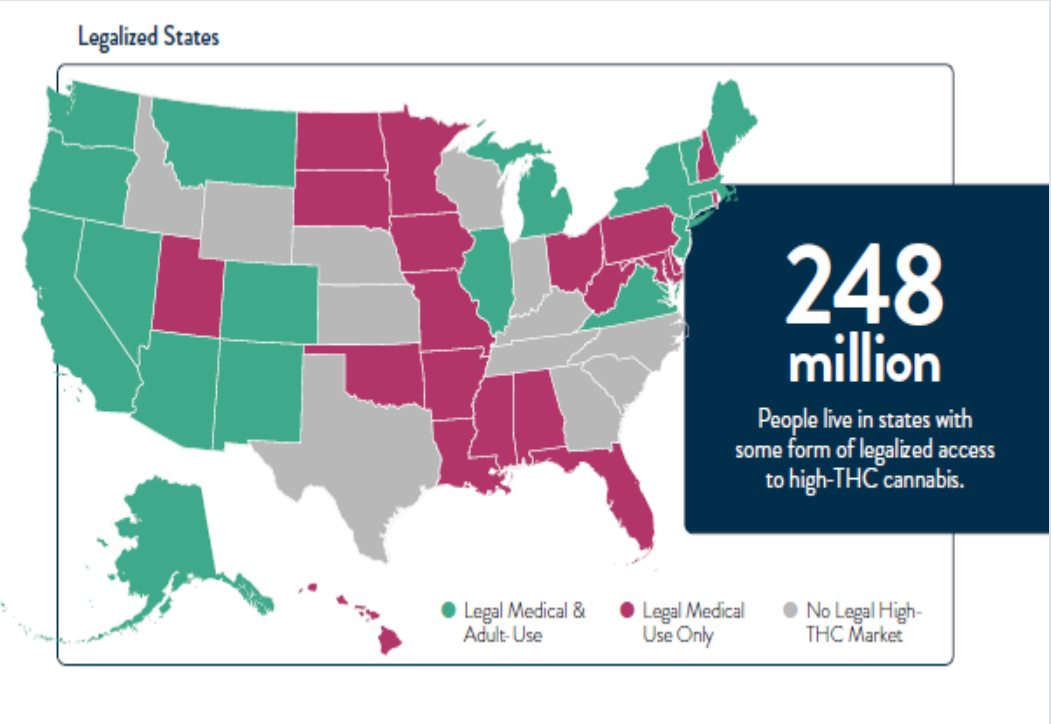
Amy is senior manager in Crowe's Financial Services Consulting practice and is one of Crowe's SME's in Cannabis Banking. She has assisted financial institutions in understanding CRB control environments, areas of risk, and aiding in the development of CRB policies and procedures. Amy manages cannabis program assessments, audits, and AML/BSA and Sanctions audits and validation with clients ranging from small community banks and payment processors to international multi-billion dollar financial institutions

A scenic mountain landscape with a dirt road winding through green hills under a cloudy sky. The road starts in the bottom left and curves towards the center. The hills are covered in lush green grass, and there are some evergreen trees on the right side. In the background, there are more mountain ranges under a bright sky with scattered white clouds. A thin white contrail is visible in the top left corner of the sky.

Where is Cannabis Today?

100

- Legalized States
-
- 248 million**
- People live in states with some form of legalized access to high-THC cannabis.
- Legal Medical & Adult-Use ● Legal Medical Use Only ● No Legal High-THC Market



U.S. Cannabis Market Trends

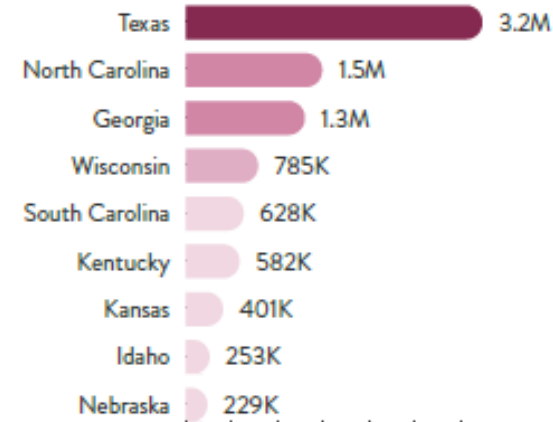
Budding Opportunities

- Products are grounded in research and science
- Cannabis companies strive for brand and consumer value alignment
- Cannabis use is not only more accepted but is becoming mainstream
- Product marketing is a result of increasingly available market data and analytics
- Cannabis has more to offer than THC and CBD

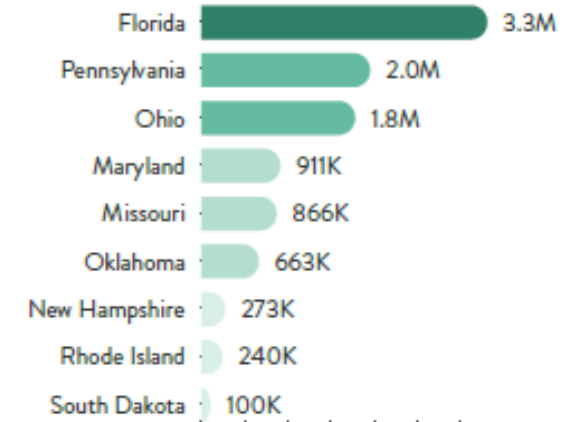


Potential New Markets by 2030: State Estimated Cannabis Consumer Populations

MEDICAL USE



ADULT-USE



Note: Values shown are the estimated populations of existing cannabis consumers in 2022. Cannabis consumer is defined as a state resident who consumes cannabis at least once per year.

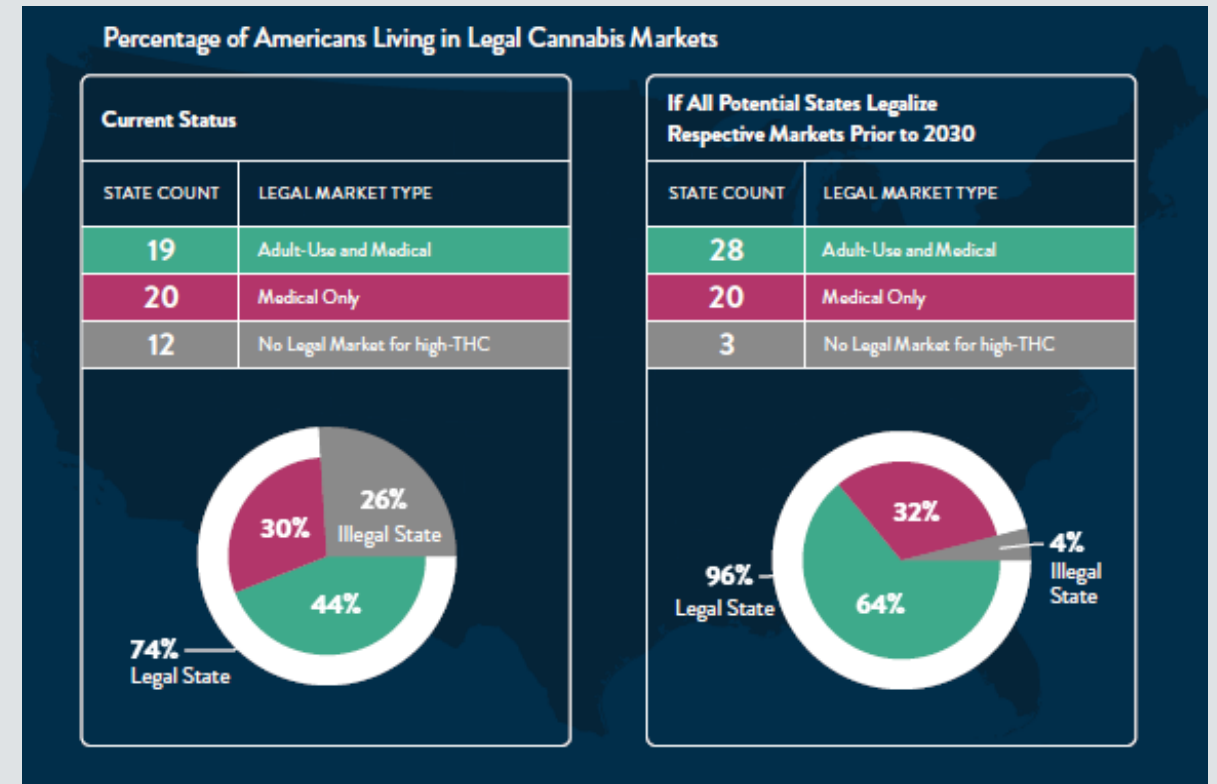
Regulatory High Points

A scenic mountain landscape featuring a dirt road that winds through lush green hills. In the background, rugged mountain peaks are visible under a sky filled with large, white, and grey clouds. The sun is shining from behind the clouds, creating a bright, hazy effect. The overall atmosphere is serene and majestic.

Cannabis Banking – To Bank or Not to Bank?

We're still trending - legalization across the U.S. is continuing

- Federal Law: Controlled Substance Act (CSA) 21 USC 801 still classifies marijuana/cannabis as a "Schedule I" drug
 - Illegal under federal law to manufacture, distribute, or dispense marijuana (cannabis)
- Cannabis is legal in 39 states either for medical or recreational purposes



*as of October 2021

Change in Regulation - USDA Final Hemp Rule

March 22, 2021: USDA Final Hemp Rule takes effect

- “2018 Farm Bill” directed USDA to issue regulations and guidance to implement a program for the commercial production of hemp in the U.S.

Key Provisions:

- Negligent violation
- Disposal and remediation of non-compliant plants
- Testing using DEA-registered laboratories
- Timing of sample collection
- Sampling method
- Extent of Tribal Regulatory Authority over the Territory of the Indian Tribe
- Importation of hemp seeds covered under USDA APHIS regulations so Final Rule does not address

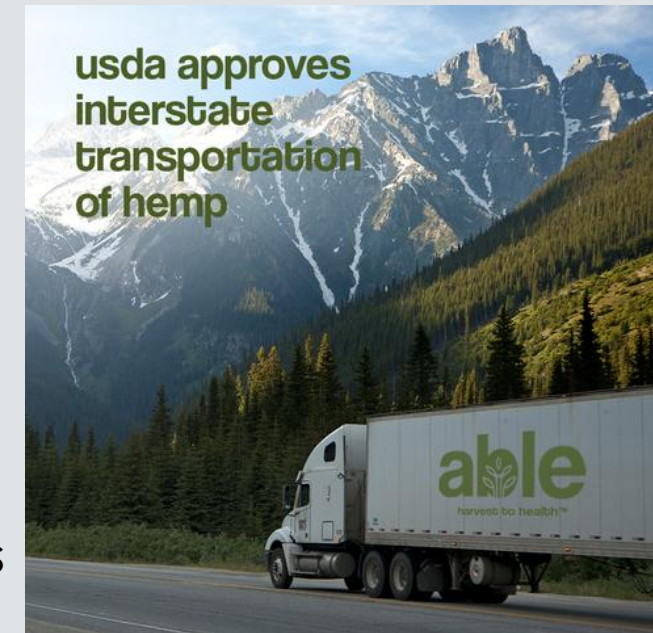
Interstate Commerce for Hemp and Cannabis

Key Points

- Final Rule does not prohibit the interstate commerce of hemp
- Section 10114 of the 2018 Farm Bill explicitly states that the interstate transit of hemp is permitted
 - **TRANSPORTATION OF HEMP AND HEMP PRODUCTS** – “No state or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 through the State or territory of the Indian Tribe, as applicable.”
- This transport provision afforded the trucking industry a lucrative — and legal — new business venture, while also allowing hemp producers better access to nationwide markets

What about cannabis?

- Federally illegal as the border between any two states falls under federal jurisdiction



Change in Regulation – FinCEN Hemp Clarification

December 2019: Joint Inter-Agency Guidance issued for Hemp-related activities and SAR filings

- Emphasized that banks are no longer required to file SARs for customers solely because customers engage in the growth or cultivation of hemp, in accordance with applicable laws and regulations

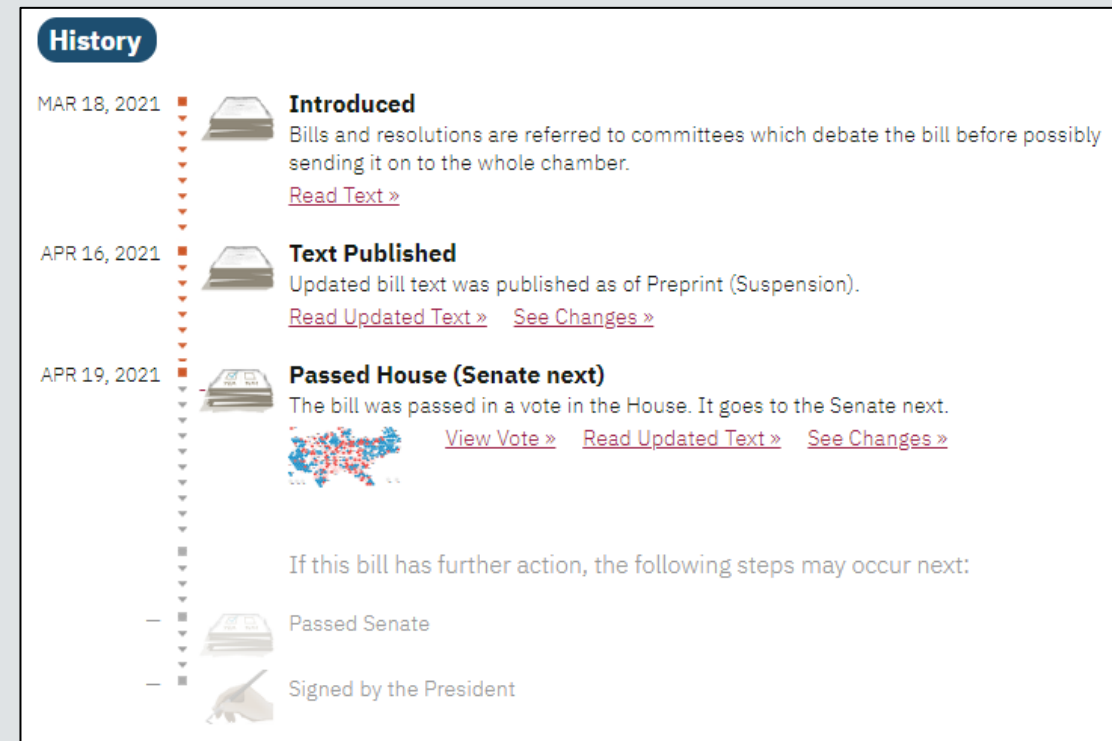
June 2020: FinCEN issued guidance regarding Due Diligence Requirements under BSA for Hemp-related Businesses

- FinCEN expects FIs to tailor their programs to reflect the customer's risk profile
- FIs may confirm the hemp grower's compliance with state, tribal government, or USDA licensing requirements by obtaining either:
 - (1) written attestation by the hemp grower that they are validly licensed, or
 - (2) copy of such license
- FIs may require crop inspection or testing reports, license renewals, updated attestations from the business, or correspondence with the state, tribal government, or USDA

New Legislation – H.R. 1996 SAFE Banking Act 2021

April 2021: The Secure and Fair Enforcement ("SAFE") Act was passed by the House

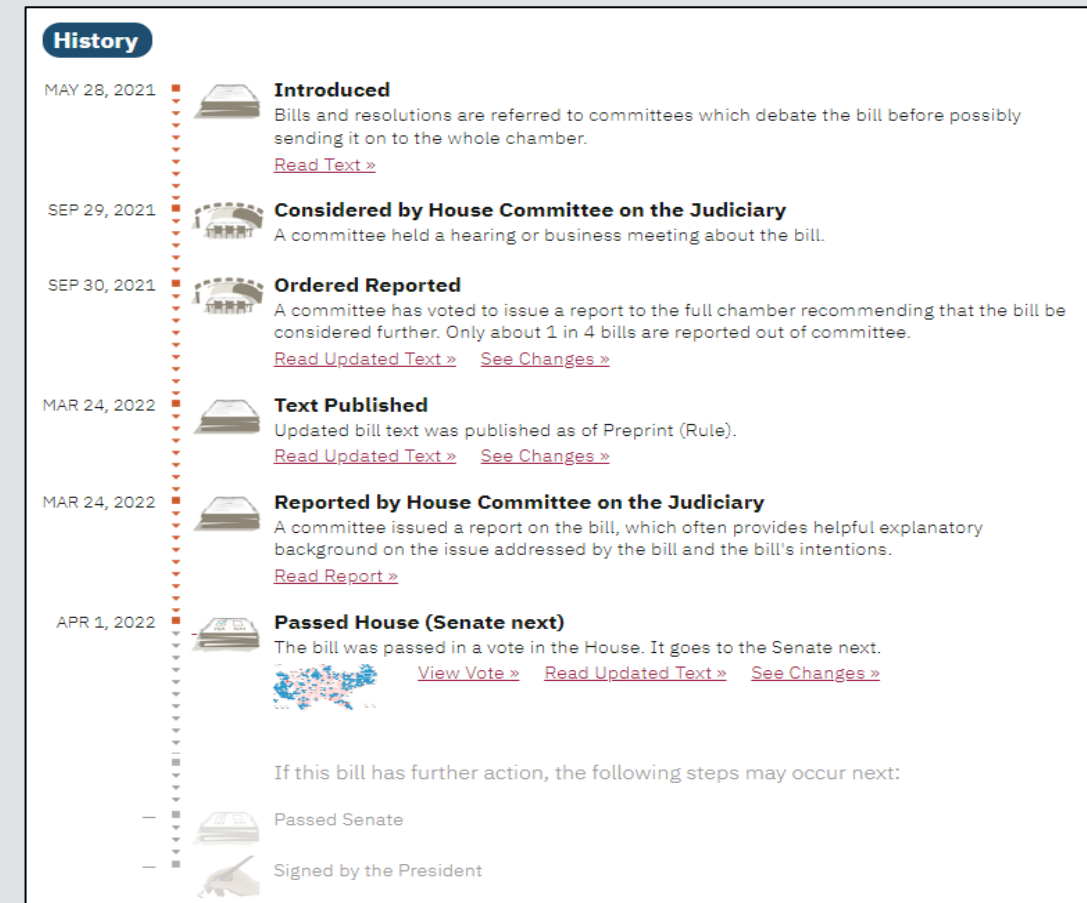
- Purpose of the SAFE Act is to increase public safety by:
 - (1) expanding financial services to legitimate cannabis-related businesses and service providers
 - (2) reducing the amount of cash at such businesses
- Key Points:
 - Provides a Safe Harbor for Depository Institutions
 - Requires that FFIEC establish uniform examination guidance and procedures



New Legislation – H.R. 3617 MORE Act

April 2022: Marijuana Opportunity Reinvestment and Expungement (“MORE”) Act passed by the House

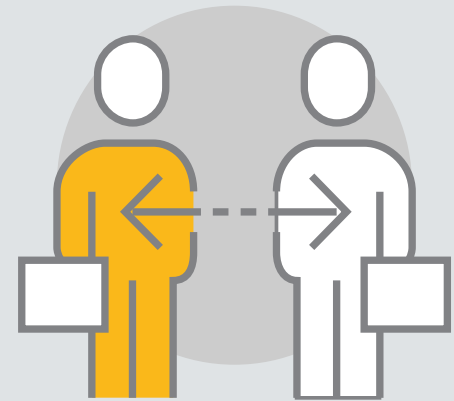
- Purpose is to de-schedule cannabis from the CSA and enact various criminal and social justice reforms related to cannabis
- Key Points:
 - De-schedules cannabis from the CSA
 - Precludes future prosecution for cannabis-related crimes and provides expungement of past non-violent offenses
 - Tax cannabis products
 - Sets up government spending programs



New Legislation Movement – Old Barriers

Why the Challenge Exists:

- Same Conflict between state and federal laws
- Federal regulatory guidance
- Negative perception of cannabis
- Inability of states to regulate the cannabis industry
- Examinations and communications with agencies leave little additional help



A scenic mountain landscape with a dirt road winding through green hills under a dramatic, cloudy sky. The road starts in the bottom left and curves towards the center. The hills are covered in lush green grass, and there are some evergreen trees on the right side. In the background, there are more mountain peaks under a sky filled with large, white and grey clouds. The sun is shining from behind the clouds, creating a bright glow and long shadows.

Banking CRBs

What's Your Baseline Approach – Do you have one?

Consider Vs Prohibit

- Is it Possible?
- Do you have the tools?
- What to do if found?
- Is there an exit Strategy?
- What if they remain a customer?
- What's your Risk Assessment say?
- Who's aware of the process?

Pros Vs Cons

- Community benefits
 - Small Businesses
 - Less crime
- Increased opportunities
 - Liquidity and income
 - New customers
- Negative Impact
 - Enforcement actions
 - Change in reputation



Enforcement Actions

March 2021: NCUA (National Credit Union Administration) imposed its first cannabis-related Cease and Desist Order against Live Life FCU in Michigan¹

- NCUA ordered LLFCU to:
 - Implement automated monitoring system to identify suspicious activity
 - Engage a third party to validate the automated compliance and the suspicious activity system
 - Immediately file all initial and continuing activity SARs on CRBs:
 - *Marijuana Limited SAR*
 - *Marijuana Priority SAR*
 - *Marijuana Termination SAR*
 - Develop and implement a system to ensure all CTRs are filed
 - Cease opening new CRB accounts.

¹NCUA Imposes Marijuana-Related Cease and Desist Order, Nick St. John, NAFCU, Compliance Blog, March 22, 2021

A scenic landscape featuring a dirt road that winds through lush green hills. In the background, there are more hills and mountains under a bright blue sky filled with large, white, fluffy clouds. The sun is shining from the upper left, creating a lens flare effect. The overall atmosphere is bright and open.

AML Program Considerations & Communications

What to Do? What to Think About?

Define and set your risk appetites

- Consider what you are currently banking
- What could the impact be and your risk approach?
- Compliance is not an afterthought

Willing to bank CRBs?

- What is the impact(s) to customer/member portfolios or other relationships?
- Where and how do you draw the line?
- How does that impact due diligence, risk rating, ongoing monitoring, and overall risk assessment?
- Are you sufficiently staffed for decisions we make?
- How do you identify clients they already have?



Understanding a CRB Program – Are You Prepared?

Risk Areas and Exposure

- What is your area of impact in the organization?
- What will you offer?
- What operational factors are there?

Evaluating Inherent Risks

- Identification and Onboarding Channels
- Tracking and alignment with state laws
- Suspicious Activity Monitoring
- Ongoing Government Reporting

Assessment and Gap Analysis

- Existing policies and procedures
- Various customer onboarding solutions
- Customer due diligence solutions (CDD/EDD)
- Various customer screening (Core/funds transfer/other)
- AML monitoring solution
- Governance/oversight program
- Training solution/program



Crowe and Cannabis

Our Financial Crime cannabis specialists understand the regulatory conundrum of the cannabis landscape, and how to make sense of an industry in constant motion.

- 10 years of understanding the impacts of the 'unknown' surrounding cannabis
- Fully engaged in the cannabis industry for the last 4 years providing services for financial institutions to evaluate, test, and strengthen controls for cannabis banking and finance programs;
 - Program Assessments;
 - BSA/AML Audits;
 - Advisory services for cannabis acquisitions;
 - Enhanced Due Diligence (EDD) analysis; and
 - Consulting services for debt issuance, licensing, reporting and general financial implication analysis.
- Crowe has participated in round-table discussions to stay apprised of new regulations and authored thought leadership and publications on cannabis banking.
- Crowe has created contacts with third party vendors offering cannabis banking solutions to stay apprised of technology and service offerings which may assist financial institutions.





Questions?



Thank You

Feel free to reach out with any questions you may have.

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