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HB15-1378 May Increase Access to Traditional Financial Services

The Department of Justice and FinCen issued guidance for marijuana business banking on February 14, 2014. The guidance gave several indicators for banks to monitor. Banks have slowly began offering services, however the internal costs for banks is high. The provisions for financial disclosures required by HB15-1379 for both the *source* and *distribution* of funds will give Banks the confidence that by virtue of the license itself, the state is monitoring for several of the “red-flags” indicated in the FinCen memo. A verifiable way for a Bank to be ensured their customer is complaint will reduce costs and may therefore increase the availability of marijuana business banking which remains a primary public safety concern.

From the FinCen guidance regarding reasons to reject or terminate services:

“Red Flags” to Distinguish Priority Suspicious Activity Reports: financial institutions are encouraged to use red flags if they believe that the marijuana business they are servicing implicates a Cole Memo priority or violates state law.

- *The business receive substantially more revenue than may reasonably be expected given the relevant limitations imposed by the state in which it operates, -The bill addresses this by requiring all incoming or outgoing capital or revenue must be disclosed as a condition of licensure*
- *The business is unable to demonstrate that its revenues derived exclusively from the sale of marijuana in compliance with state law, -This is addressed by the assurance that any capital investment was lawful and necessarily meets the requirements of the “Cole Memo”*
- *Rapid movement of funds such as cash deposits followed by immediate cash withdrawals, -The bill address this because a business that is sufficiently capitalized will maintain balances and not be subject to large swings at periods for example where licenses are due for renewal which could be upwards of a \$100,000 in fees and document preparation costs.*
- *Individuals conducting transactions for the business or to be acting on behalf of other, undisclosed parties of interests, - The bill address this by requiring disclosures of all financial interests and prohibiting any exercise or control of the license by anyone who is not a licensee.*
- *A surge in activity by third parties offering goods or services to marijuana related businesses, such as equipment suppliers or shipping servicers, -This is requirement of the memo is intended to address “hidden ownership” such as services described which is typical of states that have not adopted Colorado’s “for-profit-commercial” regulatory model, however; having such activity expressly prohibited as a matter of law will improve the confidence of banks in Colorado.*

- *The business is unable to demonstrate the legitimate source of significant outside investments,*
-This addressed by the bill by making source of investments a requirement of law.
- *The customer seeks to conceal or disguise involvement in marijuana related business activity, -*
The bill address this as an investor is required to be registered and the disbursement of returns must also be disclosed.