



ACAMS
Greater Philadelphia Chapter

Topic:
Banking the Medical Marijuana Industry

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Panellist

Robert Skrzypczak - KPMG

Bob joined KPMG's Forensic AML practice in New York as a Managing Director in 2011. At KPMG, Bob has led AML and Sanctions Compliance engagements for a broad range of financial institution clients.

Prior to joining KPMG, Bob served as Americas Regional Head of AML for Credit Suisse. Prior to Credit Suisse, Bob served in a variety of capacities in the Legal & Compliance Department of UBS Financial Services. Bob began his career as an attorney in the Enforcement Division of the U.S. Securities & Exchange Commission.

Panellist

Darrin McLaughlin - RDC

Darrin started his career as a white-collar crime investigator focusing on Fraud before moving his focus to Anti-Money Laundering and Counter Terrorism Finance after 9/11. He is a well-respected expert with extensive experience as an AML Compliance Officer with several major international financial institutions throughout the course of his career including Fortis Merchant Bank, Citigroup Investment Bank, the Asset Management Division of Deutsche Bank and most recently the Fixed Income, Currencies & Commodities Group of Macquarie Holdings USA.

Throughout his career he has focused on all aspects of Anti-Money Laundering including, policy and procedure development & implementation, KYC & CIP reviews, conducting Enhanced Due Diligence reviews, Transaction Monitoring, managing remediation projects and coordinating internal/external exams with audit and/or various regulators.

Darrin also served as Senior Fraud Investigator for a major international Insurance company handling investigations of fraud, identity theft and other various white collar crimes. As a former Compliance Officer, he understands the AML issues faced by clients as well as the solutions needed to address these issues. Darrin is a Certified Anti Money Laundering Specialist who delivers educational seminars at a variety of compliance and regulatory conferences throughout the world. He received both his MS and BS degrees in Business Management from St. Joseph's College.

Agenda

- Background
- The Dilemma
- Issues to Consider for your Organization
 - Direct and Indirect Risk Factors
- Regulatory Perspective
 - Involve regulatory examiners in the discussion
- Service Provider Perspective
- Interactive Chapter Discussion

Background

- August 2013, the U.S. Justice Department (DOJ) announced that the administration would give new latitude to states experimenting with taxation and regulation of Marijuana.

However; with the drug still outlawed at the federal level, banks are barred under money-laundering rules from handling proceeds from Marijuana sales even in states where marijuana (pot) sales have been made legal.

- February 2014, the U.S. Department of the Treasury went a step further by laying out a path for banks to bring marijuana commerce out of the shadows and into the mainstream financial system.
- As of April 2015, 23 states and Washington D.C. have legalized cannabis for medical use with seven states pending legislation.

The Treasury Department issued new rules that could make it easier for banks to do business with marijuana dispensers.

In separate guidance, the Justice Department directed U.S. attorneys not to pursue Banks that do business with legal marijuana dispensers as long as the dealers adhere to the guidelines issued in August 2013.

The Dilemma...

While many states allowing the use of marijuana for medical purposes and legalizing it for recreational drug use; financial institutions are faced with addressing the challenges of the legalization at the state level while it still remains illegal at the federal level.

Financial institutions have to decide:

- *Whether or not to offer services to marijuana-related businesses (a business who grows, processes, transports and dispenses)
If so – implementing a monitoring program for marijuana-related businesses that align with best practices and industry standards.*
- *Responsibilities to review existing anti-money laundering (AML) programs to ensure adequate monitoring and due diligence controls are in place to identify and report emerging trends and associated risks as a result of the industry not having access to financial institutions.*

Issues to Consider for your Organization

- Financial institutions fear the potential of running afoul of money laundering statutes by accepting money from an activity considered illegal under federal laws.
- Makes it difficult for the growing crop of legal marijuana dispensers who must operate exclusively in cash, placing them at greater risk of being robbed.
- Banks currently have to notify federal regulators of suspicious activity, such as moving money from illicit activity like drug dealing.
- To address this conflict, Treasury said banks now must file a “marijuana limited” report that says the dealer is following the government’s guidelines, including ensuring that sales revenue does not wind up in the hands of criminal enterprises. But if the bank believes the dealer’s revenue is not coming exclusively from legal sales, then it has to file a “marijuana priority” report to alert regulators.

Does this place a “target” on an organization from a regulatory perspective?

Direct and Indirect Risk Factors

If considering providing services to businesses where it has been legalized; review the overall risk profile and address the direct and indirect risk exposure:

Does the institution operate in a state/states where cannabis is legal or pending legalization? If so – does it mostly operate in legalized or non-legalized states?

Does the institution maintain customer relationships with:

- Real estate leasing companies whose tenants may include a cannabis-associated business?
- Companies that sell or lease equipment that could be used in the production or sale of cannabis?
- Third-party payment processing (TPPP) customers that facilitate cannabis-related transactions?
- Payroll service providers organized in states that have legalized marijuana?
- Money service businesses (MSB) organized in or operating in authorized states?
- High net-worth or private clients with entrepreneurial investment histories or located in legalized jurisdictions?
- ATM manufacturers or providers with operations in these jurisdictions?

Regulatory Perspective

- Marijuana remains a Schedule I drug along with heroin, LSD and Ecstasy under the Controlled Substances Act.
- Federal guidelines should clarify how financial institutions can provide services to marijuana businesses while maintaining their obligation to comply with the federal anti-money-laundering law, the Bank Secrecy Act.
- Federal guidelines were drafted “to move from the shadows” the financial operations of marijuana businesses.
- And ultimately – “Provide transparency and mitigate the risks to the financial system” to avoid cracking down on banks for technical mishaps and looking to being perceived to becoming “a gotcha enforcement regime”



Involve Regulatory Examiners in the Discussion

- Contact the bank's examiner in charge and present the proposed enhancements to the AML/BSA program to address banking marijuana-related business.
- Present proposed policies and procedures to comply with the BSA, FinCEN guidance and Cole Memo.
- Address what additional due diligence or program controls they would expect to see when performing a review of the files.
- Work towards an acknowledgement from the banks' federal regulatory on the adequacy of the AML/BSA program established related to banking marijuana-related businesses.

Service Provider Perspective

- What types of service may my organization be able to provide to the financial services industry on this issue?
 - How about the organization who provide cannabis service?
- Will my organization suffer any reputational risks in offering solutions to potential client base?
 - Alienation of existing client base?
 - Growth in a new client base?
 - How do I re-position my company as a innovative leader in the industry?
- How do regulators perceive my organization?
 - Can I be a catalyst for change in the manner in which regulators propose/adopt legislation?



Interactive Chapter Discussion

20-30 minutes

What other issues emerge?

What's next?

*Does this change the perception an AML professional?
Complexity of their role in an organization? Provide
opportunity for additional training focus?*



THANK YOU