

August 5, 2022

Department of Treasury
Office of the Comptroller of the Currency
OMB Control No: 1557-0231
400 7th Street SW, Suite 3E-218
Washington, DC 20219



Re: Public Comments Submission (OMB Control No: 1557-0231)
Bank Secrecy Act/Money Laundering Risk Assessment

Dear Sir/Madam:

On behalf of the National Cannabis Industry Association (“NCIA”), and in response to the U.S. Treasury Department’s Office of the Comptroller of the Currency (“OCC”) request for comments on Bank Secrecy Act/Money Laundering published in the June 8, 2022 edition of the Federal Register, we hereby submit this letter.

Founded in 2010, NCIA is the oldest, largest, and only full-service trade association composed of several hundred businesses and tens-of-thousands of cannabis professionals from across the United States. For more than a decade, NCIA has been leading the charge to protect the legal cannabis industry, defend state laws, and advance federal policy reforms. Our organization and the industry we represent are pleased to see the OCC recognize the impact marijuana-related businesses are having on our financial system. We also fully support your endeavor to improve data collection on this relatively new sector, increase transparency into the industry for regulators, and help reduce some of the administrative burden on banks so that more institutions will choose to service the industry.

To date, 37 states, three territories and the District of Columbia allow the medical use of cannabis products, while 19 states, two territories and the District of Columbia have enacted measures to regulate cannabis for adult non-medical use. Despite the advancement of both medical and adult-use cannabis laws across the country, most financial institutions either charge exorbitant fees or are simply unwilling to provide traditional banking services to cannabis-related businesses.

Challenges resulting from the lack of banking are not limited to cannabis businesses, but also impact entities that choose to engage with and service them; including financial institutions themselves. Consequently, the MLR risk assessment is an important tool for the OCC's Bank Secrecy Act/Anti-Money Laundering and OFAC supervision activities because it allows the agency to better identify those institutions, and areas within institutions, that may pose heightened risk and allocate examination resources accordingly. Banks will benefit from the reporting of MLR data as it will assist in the managing of the bank's BSA/AML programs and provide a starting point for these and other banks to develop their risk assessments – and ultimately result in additional institutions choosing to service the cannabis industry.

For the state-regulated cannabis industry (which conducts billions of dollars in transactions across the majority of U.S. states), the lack of access to financial services creates public safety hazards, including the increased chance of becoming a target for armed robberies, the loss of economic opportunity, and inability to retain workforce talent. Preventing licensed cannabis businesses from accessing financial services also promotes the competitive interests of the unregulated illicit market that currently operates outside of any government oversight.

The absence of clarity and direction by the federal government for financial institutions about how to provide banking services for state-legal, licensed cannabis businesses has undoubtedly created undue hardship for cannabis-related entities and those that choose to engage with them. This policy has also created a situation in which bad actors often take advantage of this complex and confusing environment, including unregulated actors offering basic financial services to regulated cannabis businesses at predatory prices, as well as outright scams that target these businesses by leveraging the desperation of their owners to decrease the outsized risk of violent robberies. It should not be overlooked that these hardships fall disproportionately on small businesses, and particularly on those operated by individuals who have been historically disadvantaged by the war on drugs. Additionally, many small, minority, and women-owned businesses often lack the financial wherewithal to pay the exorbitant fees to access basic depository services from the small number of banks currently willing to serve the industry.

The scope of this challenge is only growing as more and more U.S. states reform their cannabis laws. As of September 2021, FinCEN had received a total of 219,097 SARs using the key phrases associated with marijuana related businesses (MRBs).

The time for reform is now. Tragically, for many regulated cannabis businesses, the lack of access to financial services has become a matter of life and death. Legal cannabis dispensaries and workers are all too often targets for robbery and violence because criminals know these businesses are operating on a cash-only basis.

NCIA, along with our members, appreciate the opportunity to provide comments to the OCC on such an important topic and we thank you in advance for implementing this policy change that will surely improve efficiency and increase transparency. We also applaud your efforts in looking for ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology. If you have any questions regarding our submission or would like further information, please feel to contact Michelle Rutter Friberg at michelle@thecannabisindustry.org or (202) 599-9743.

Sincerely,



Aaron Smith
CEO & Co-Founder
National Cannabis Industry Association