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## Banks Weighing Pot Business Find Haze of Misinformation

By Steven Kemmerling and Alison Jimenez  
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Despite the sudden accelerated growth of the legal marijuana industry, marijuana-related businesses — known as MRBs — are notoriously underbanked, opening up an emerging area of both opportunity and risk for the banking industry.

But a hurdle for financial institutions and their compliance teams weighing whether to bank MRBs is the constant misinformation about the emerging marijuana industry.

Many headlines and articles may lead bankers and compliance professionals to believe that the marijuana industry is effectively shut out of the banking system. But the real story is more complicated than that and false myths about banking MRBs are rampant.

Below we explain and correct five common myths:

### **1. MRBs Are Cash Only Businesses**

A widespread myth is that the marijuana industry deals completely in cash. An undercover news report found that nearly 50% of marijuana dispensaries in Colorado accept credit or debit cards. Typically, card payments are processed under a front company with a name unassociated with the dispensary. Some tech savvy marijuana entrepreneurs are also turning to electronic currencies such as bitcoin. Furthermore, in Washington and Colorado, approximately 70% and 50%, respectively, of marijuana sales tax revenue is collected from MRBs via noncash means.

### **2. MRBs Do Not Have Bank Accounts**

One of the most prevalent myths is that MRBs are completely locked out of the banking system. On the contrary, the Financial Crimes Enforcement Network recently reported that 388 unidentified "Depository Institutions" have or had banking relationships with MRBs. Of these, approximately 266 currently have "open" accounts with MRBs, representing an increase of almost 100% since July 2014.

This is far higher than just going by the business arrangements that banks are public about or figures commonly cited in the media. A recent survey by *Marijuana Business Daily* of over 400 "cannabis professionals" found that 40% had bank accounts. Lastly, many states with a legal marijuana industry require "proof of funds" in the marijuana license application, such as a letter from a bank or a recent bank statement. This implies that all of the applicants for MRB licenses in those states have financial accounts.

### **3. All Banks Treat MRBs the Same**

The second myth would clearly suggest that all financial institutions approach the marijuana industry in a similar manner by limiting or refusing service to marijuana businesses. But not only are there institutions that cater to MRBs, but Fincen data indicates that certain types of depository institutions appear to have a greater proclivity of serving MRBs than others. Our analysis reveals that among depository institutions, credit unions most often accept MRBs as customers, while national banks most frequently close MRB accounts. Notably, securities brokers regulated by the Securities and Exchange Commission appear to be the most tolerant type of financial institution toward MRBs.

### **4. States Without Legalization Have Zero Ties to MRBs**

Financial institutions located in states without legalized marijuana often underestimate the risk posed to their institution by MRBs. Proceeds generated by MRBs have been shown to cross state and national boundaries. Fincen reported that marijuana-related SARs were reported on entities in all 50 states and 34 foreign countries. Furthermore, beneficial owners of MRBs often reside outside of "legalized" states.

### **5. Depositories Are the Only Type of Financial Institution with an MRB Dilemma**

Although "access to banking" is the most frequently discussed topic regarding MRB financial services, MRBs are an issue for all types of financial service companies. Fincen recently reported that marijuana-related SARs were filed by 41 securities brokers, 13 money services business, eight casinos, six insurance companies and four mortgage companies.

Shedding light on these common myths should help to inform financial institutions about the emerging marijuana industry as politicians, governments, regulators and law enforcement continue to grapple over cannabis laws.

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