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## PERSPECTIVE

## Bill Opens Bank Doors to Cannabis Operators (Read the Fine Print)

By Meital Manzuri

Even though under current law financial institutions may provide services to the cannabis industry, the 2014 Financial Crimes Enforcement Network (FinCEN) guidelines make compliance and reporting particularly burdensome. Accordingly, financial services providers have been slow to open their doors to cannabis industry players. In fact, according to FinCEN reporting, in 2019, only about 700 banks across the entire country provided services to cannabis businesses.

This lack of access has left the majority of cannabis businesses to operate as cash only, leaving them handcuffed in their ability to expand, transact business and keep proper accounting records. Furthermore, the inability to bank puts them and their communities at risk of targeting by criminals, and sets a barrier to entry that excludes those without means. Without the ability to secure loans or banking in a traditional setting, businesses may struggle to efficiently operate, limiting the potential growth for many cannabis entrepreneurs.

Introduced by Assemblymember Reggie Jones-Sawyer and co-authored by Assemblymember Eduardo Garcia, Assembly Bill 1525 seeks to facilitate banking and other financial services to cannabis companies by clarifying that no state law prohibits the provision of such services, and by creating a system for compliance data and other reporting to financial institutions.

By clarifying that the provision of specified financial services to a cannabis business violates no state law, AB 1525 effectively addresses the federal requirement that a

financial institution perform due diligence to verify that the cannabis business is legally operating under state law. Covered financial institutions include any entity that receives deposits, extends credit, conducts fund transfers, transports cash or financial instruments, or provides other financial services,

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including an individual or public accounting firm.

In order to help financial services providers more easily comply with FinCEN requirements, AB 1525 offers cannabis businesses the option of having state regulators collect “reasonably necessary” information, including “track-and-trace” data, to be directly shared with financial institutions of their choice. This, in turn, will ease the burden placed on banks, credit unions, and other providers in their compliance with due diligence reporting requirements put in place by federal regulators.

Modeled on a similar state of Washington bill that was passed several years ago, AB 1525 garnered support from many organizations, including the California Bankers Association and the California Credit Union League. The Washington bill was so successful that now nearly 90% of Washington cannabis businesses have secured banking services.

Initial and ongoing opposition to this bill is primarily focused on such reporting being a requirement.

Although the final bill establishes such reporting as an optional feature, waiving this privileged information will likely be a requirement to participate in banking and has many in the industry wary of the implications. Specifically, many are concerned that the banks would be required to disclose any and all

would require the state licensing authority to cease reporting any data to the financial institution. Any data reported to the financial institution thus far, though, would not be clawed back and would likely still be discoverable. Whether the fear of big brother is real or a paranoid delusion remains to be seen as the bill is implemented.

AB 1525 passed the Assembly 68-1-11 and the Senate 28-2-10 and stands to mark a major shift in the expansion and flourishing of legal cannabis businesses in California. As the law catches up and adapts, many argue measures such as this are essential for cannabis businesses to safely, efficiently, and legally operate. ■

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