



## Legislative Document 788: Enabling Financial Services for Maine’s Cannabis Industry

Prepared for: Chairwoman Donna Bailey, Maine Committee on Health Coverage, Insurance and Financial Services

Prepared by: Geoff Lawrence, Director of Drug Policy, Reason Foundation

Date: April 5, 2023

### Legislative Document 788 Could Lead to Partial Banking Solution for Maine’s Cannabis Industry

Dear Chairwoman Bailey and members of the committee:

On behalf of Reason Foundation, thank you for accepting these comments and making them part of the public record. Reason Foundation is committed to ensuring that state-regulated marijuana markets are competitive, offer widespread opportunities for entrepreneurship, and can successfully transition commerce away from dangerous illicit markets and into the legal market.

One of the primary challenges in setting up a state marijuana market is dealing with the general lack of financial services available to state-licensed cannabis businesses. Legislative Document 788 directs the state treasurer to “review options for meeting the banking needs of individuals and businesses involved in the adult use cannabis and medical cannabis industries.”

Financial institutions in the United States are subject to a variety of federal regulation even if they are chartered at the state level. In general, banks are required to purchase deposit insurance from the Federal Deposit Insurance Corporation, and most credit unions must purchase deposit insurance from the National Credit Union Administration. Both are federally chartered and have refused to grant deposit insurance to new financial institutions that propose to service the state-legal cannabis industry. To engage in interbank transactions, a financial institution must also obtain a Federal Reserve master account. The Federal Reserve has denied these to new institutions proposing to serve the cannabis industry. All financial institutions must also comply with federal anti-money-laundering laws, including the Bank Secrecy Act.

It is possible for an existing financial institution to offer accounts to state-licensed cannabis businesses while remaining in compliance with the Bank Secrecy Act, although doing so is resource-intensive. In 2014, the Financial Crimes Enforcement Network (FinCEN), a division of the Justice Department, promulgated rules that financial institutions would need to follow in order to offer accounts to state-licensed cannabis businesses. It includes performing extensive know-your-customer (KYC) requirements and ongoing reporting on transactions to FinCEN. Among the KYC requirements, financial institutions must:

- Verify with the appropriate state regulator that the business is duly licensed and registered;

#### DRUG POLICY PROJECT CONTACTS:

Geoffrey Lawrence, Director ([geoff.lawrence@reason.org](mailto:geoff.lawrence@reason.org))

Michelle Minton, Sr. Policy Analyst

([michelle.minton@reason.org](mailto:michelle.minton@reason.org))

Reason Foundation is a national 501(c)(3) public policy research and education organization with expertise across a range of policy areas, including public sector pensions, transportation, infrastructure, education, and criminal justice. For more information about Reason Foundation’s approach to education and transportation policy, visit [reason.org](http://reason.org)



- Review the state license application;
- Request available information about the business and related parties from state licensing authorities;
- Develop an understanding of the normal and expected activity for the business;
- Monitor publicly available sources for adverse information about the business and related parties on an ongoing basis;
- Monitor the account for suspicious activity on an ongoing basis; and
- Refresh information obtained about the customer at the time the account was opened on a periodic basis.

In addition to these requirements, a financial institution must submit a Suspicious Activity Report to FinCEN at least every six months detailing the amounts of deposits, withdrawals and transfers that occur within the customer's account even if the financial institution believes the customer is in full compliance with state laws. If the financial institution suspects the customer may be out of compliance or engaged in unlicensed activity, reporting requirements become more extensive.

This volume of work is resource-intensive, and so most financial institutions have made the business decision not to offer accounts to state-licensed cannabis businesses because servicing these accounts is unprofitable. This has left cannabis businesses to transact and pay taxes in physical cash, which presents a variety of public safety concerns and general inefficiency.

However, while states may be limited in their ability to address this situation, there are state policies that can ease the burden of banking the cannabis industry. Primarily, states can create an information-sharing portal that allows financial institutions to electronically access documents and transaction data relating to their customers who are cannabis businesses. This data should include a window into the customer's sales and receipts of regulated cannabis inventory so banks can trace deposits to legitimate transactions, as well as a full docket containing the licensing information needed for financial institutions to complete their KYC requirements. The licensed cannabis business would need to consent to the release of this information to their chosen financial institution. Michigan has already created an information-sharing portal that performs these functions, and it appears to have eased some of the costs for financial institutions to offer accounts to these businesses.

Although widespread accessibility of financial services for the cannabis industry will remain dependent on a change in federal law, Maine can at least follow Michigan's lead and create a data-sharing portal.

Thank you,

Geoffrey Lawrence  
Managing Director of Drug Policy, Reason Foundation

**DRUG POLICY PROJECT CONTACTS:**

Geoffrey Lawrence, Director ([geoff.lawrence@reason.org](mailto:geoff.lawrence@reason.org))  
Michelle Minton, Sr. Policy Analyst  
([michelle.minton@reason.org](mailto:michelle.minton@reason.org))

Reason Foundation is a national 501(c)(3) public policy research and education organization with expertise across a range of policy areas, including public sector pensions, transportation, infrastructure, education, and criminal justice. For more information about Reason Foundation's approach to education and transportation policy, visit [reason.org](http://reason.org)

