

Banking Operations & FinTech Update

May 2018

CA CANNABIS BANKING BILL REVIVED

In April 2018, the California Senate Governance and Finance Committee and the Banking and Financial Institutions Committee approved the California cannabis banking bill, SB 930. The next step for the bill is approval from the Appropriations Committee, after which it will go to the Senate for a full vote.

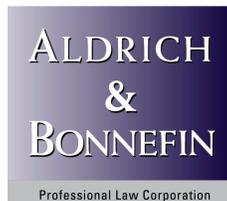
The bill would amend the California Financial Code to permit the DBO to license and regulate “cannabis limited charter” (CLC) banks and credit unions for specified purposes relating to banking of marijuana-related businesses (MRBs). If passed, the measure would require CLC institutions to obtain private insurance and adopt policies and practices for compliance with BSA and FinCEN requirements.

As supported, the bill would only authorize CLC institutions to provide depository services and issue special purpose checks. These special purpose checks could only be used to: (i) pay state or local fees or taxes; (ii) pay rent on property associated with the MRB; (iii) pay vendors located in California for expenses related to an MRB’s operations; and (iv) purchase certain state and municipal investments. The bill also would permit CLC institutions to enter into agreements with each other to facilitate a banking network.

Interestingly, SB 930 would allow CLC institutions to serve non-MRB clients to the extent

permitted under the charter. However, the bill would prohibit CLC institutions from engaging in any banking activities with non-CLC institutions. Meaning, non-CLC institutions would be restricted from taking part in any CLC institution banking network and from accepting limited purpose checks. The implications for non-CLC institutions have yet to be fully explored but it is foreseeable that issues may arise. For instance, if a non-CLC institution receives a limited purpose check for deposit by one of its customers, would the non-CLC need to file a suspicious activity report? While it appears that SB 930 will ultimately have little effect on non-CLC institution operations, such institutions would need to be aware of the possible consequences of the bill’s passing and adjust their policies and procedures should the measure succeed.

In related MRB developments, Senator Chuck Schumer announced on April 20, 2018, that he plans to introduce new legislation that would remove marijuana from the list of scheduled substances under the Controlled Substances Act, effectively decriminalizing it at the federal level and leaving legalization and enforcement to the states. The legislation, however, would not change the federal government’s authority over matters regarding interstate commerce or its ability to regulate marijuana advertising. At the time of this Newsletter, a bill had yet to be introduced.



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