



**OREGON  
STATE  
TREASURY**

**Tobias Read**  
State Treasurer

**Michael Kaplan**  
Deputy State Treasurer

September 13, 2019

**TO:** The Honorable John Lively, Chair  
House Interim Committee on Economic Development

**FROM:** Cora R. Parker, Director of Finance  
Oregon State Treasury

**SUBJECT:** Cannabis Banking Issues

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Thank you for the opportunity to testify on cannabis banking issues before the committee. Joining me will be Rachel Pross, Chief Risk Officer for Maps Credit Union. We will keep our remarks brief because of limited time, but attached are two presentations we will reference throughout our testimony. We provide them here in full as additional resources for the committee.



September 16, 2019

Cora R. Parker, Director of Finance

# Cannabis Banking Issues

House Interim Committee on Economic Development



OREGON  
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# Outline\*

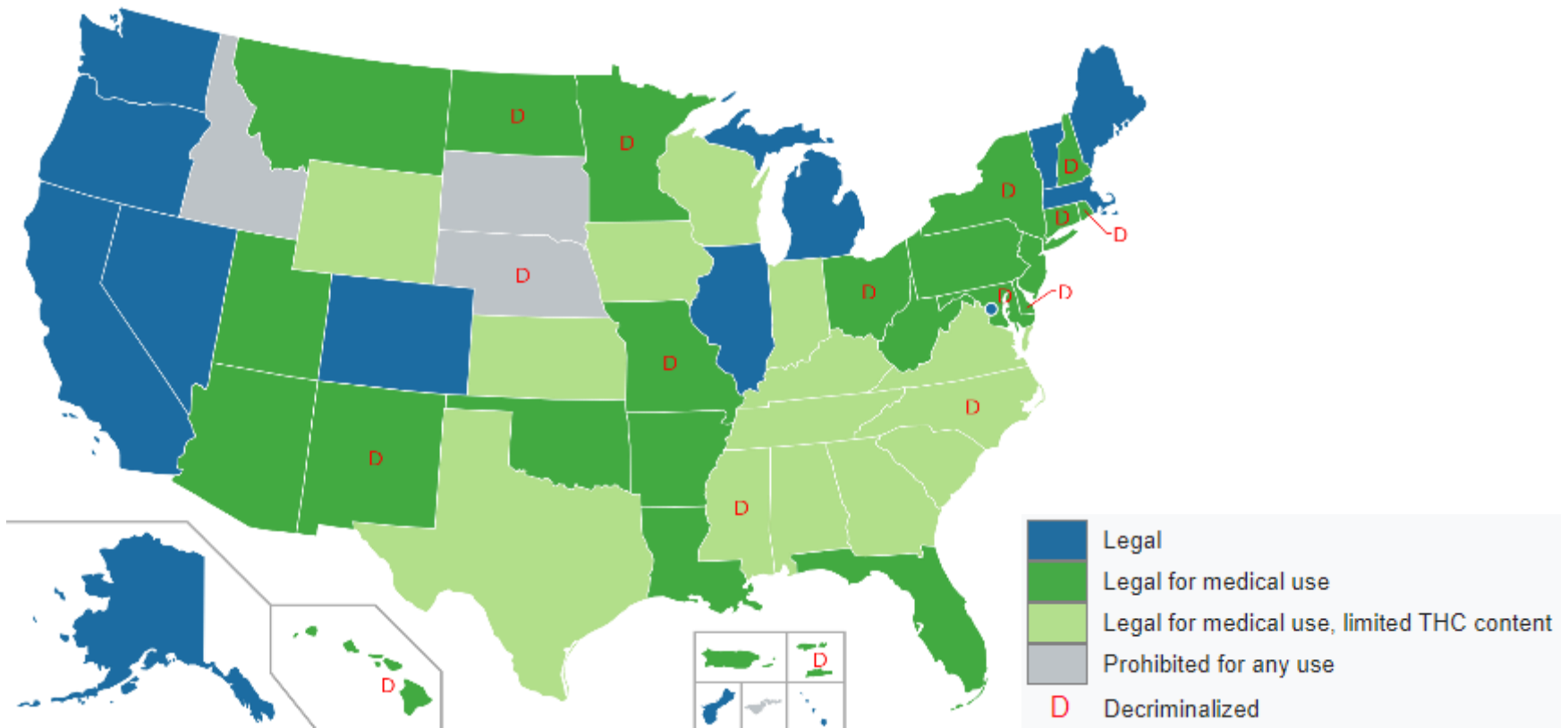
- Brief History and Momentum Toward Legalization
- Intersection with Banking Services
- Brief Description of Issues and Prior/Current Guidance
- “Medical Marijuana & Money Laundering” documentary
- Oregon’s Experience
- What We Are Doing

*\*Because of limited time, verbal testimony will be brief but additional information is provided here for the committee’s reference.*

# History in Brief

- Uniform State Narcotic Drug Act (1934)
- Marihuana Tax Act (1937)
- Controlled Substances Act (1970)
- California (1996) and Oregon (1998) legalize medical cannabis
- States legalize recreational cannabis
  - 2012 – Colorado and Washington
  - 2014 – Alaska, Oregon, and Washington, D.C.
  - 2016 – California, Nevada, Maine, and Massachusetts
  - 2018 – Vermont, Michigan, and Illinois
- Only three states continue to fully prohibit all use
  - Idaho, South Dakota, and Nebraska

# Legality of Cannabis in the U.S.



Source: Lokal\_Profil, [https://commons.wikimedia.org/wiki/File:Map\\_of\\_US\\_state\\_cannabis\\_laws.svg](https://commons.wikimedia.org/wiki/File:Map_of_US_state_cannabis_laws.svg)

# Challenges to Banking Cannabis

- Conflict between state and federal law
- Cannabis remains classified as a Schedule I controlled substance under federal law, making sale proceeds federally illegal
- Banking institutions cannot engage in activity involving illegal activities; violation of anti-money laundering laws
- Risks include fines, legal and regulatory actions, suspension of deposit insurance, and more
- See video: The Federalist Society, “Medical Marijuana and Money Laundering,” YouTube, February 14, 2018, [https://www.youtube.com/watch?v=O\\_i\\_lwDX5e4](https://www.youtube.com/watch?v=O_i_lwDX5e4).

# Federal Law and Guidance

- The Controlled Substances Act, 21 USC §§ 801-971
- The Money Laundering Control Act, 18 USC §§ 1956-1957
- The Bank Secrecy Act, 31 USC §§ 5311-5332
- But also...
  - “Cole” memoranda – June 2011, August 2013, February 2014 (federal law enforcement priorities)
  - FinCEN guidance – February 2014 (banking guidance)

# “Cole” Memos

- Established USDOJ enforcement priorities for preventing
  - distribution to minors
  - revenue from sales going to criminal enterprises
  - the diversion from legal states to illegal states
  - legal sales to be used as a cover for illegal activity
  - violence and the use of firearms in sales and cultivation
  - drugged driving
  - the growing on public lands
  - use on federal property



# FinCEN Guidance

- Clarifies how financial institutions can provide services to cannabis-related businesses consistent with Bank Secrecy Act obligations
- Due diligence requirements related to Cole Memos (see next slide for details)
- New Suspicious Activity Report (SAR) categories:
  - Marijuana Limited
  - Marijuana Priority
  - Marijuana Termination

# FinCEN Guidance

- Enhanced due diligence that includes
  - verifying proper state license and registration
  - reviewing the license application
  - requesting from state all available information
  - developing an understanding of normal and expected activity
  - ongoing monitoring of public info
  - ongoing monitoring for suspicious activity
  - ongoing customer due diligence



# “Cole” Memos Rescinded

- January 4, 2018 – then U.S. Attorney General Sessions directed U.S. Attorneys “to enforce the laws enacted by Congress and to follow well-established principles when pursuing prosecutions related to marijuana activities”
- FinCEN guidance remains in place as of the creation of this presentation
- Risk was already there... now further confusion and risk after the “Cole” memos rescinded
  - Oregon impact example – financial institution(s) prepared to withdraw from services

# Banking the Industry

- Financial institutions that are considering banking the industry
  - should have clear board approval with understanding of legal and other risks
  - should develop clear business and risk plans that demonstrate understanding of FinCEN guidance, BSA/AML compliance requirements, and an understanding of the industry itself
  - should have a well defined “enhanced” customer due diligence program
  - should have clear employee and board education and training programs
  - should have a clear exit strategy



# The Oregon Experience

- Industry members are challenged to find sustainable banking services
  - Three known credit unions currently providing services
    - Agreements with OLCC to share information that helps ensure compliance with FinCEN guidance (HB 4094)
  - Others may be *knowingly* providing services
  - Others almost certainly *unknowingly* providing services

# The Oregon Experience

- State is limited with regard to approaches for collection of taxes, fees, and regulatory funds
  - Secure, single location for retail tax collections
  - Comingled funds only; includes cash collections for other tax types and for other taxed industries/persons
  - Initially deposited in general tax collection account; accounting done on state systems only
  - Branch deposits not allowed for retail tax collections
  - Collections related to general purpose tax, fee, and licensing may be accepted in typical means

# Impacts: Oregon and Elsewhere

- Collection and processing of cash is costly and inefficient for all, including those who provide ancillary services to industry members
- Uncertainty is a challenge for Treasury, its customer agencies, its banking partners, and the industry members
- Unbanked cash is a public safety issue
- Lack of adequate banking records increases the potential for illicit activity

# Would a State Bank Help?

- The Oregon Constitution currently prohibits the creation of a state bank
  - Article XI, Section 1. Prohibition of state banks. The Legislative Assembly shall not have the power to establish, or incorporate any bank or banking company, or monied [sic] institution whatever...
- Voters could amend the constitution and the legislature could appropriate funds
- A state bank would *not* address barriers related to participation in the national banking infrastructure



# What We Are Doing

## State Law

- House Bill 4094 (2016)
  - Removed Oregon-specific criminal implications for financial services industries
  - Allowed for information sharing between state agencies and financial institutions
  - Required study by Department of Consumer & Business Services related to barriers to banking and potential alternatives

# What We Are Doing

## Partnerships

- Working to be good partners with current banking vendors
  - Acknowledge and respect their risk tolerances and choices
  - Collaborate to make choices that don't put partners at risk
  - Educate and advocate for rights to collect funds
- Establishing partnerships with peer states, professional organizations, and others regarding actions, alternatives, and analysis

# What We Are Doing

## Education and Outreach

- Working to educate and inform
  - agencies about risks and help to make good choices within limited options
  - financial institution partners that are—or are considering—serving the industry
  - policymakers, interest groups, public, and others about range of issues
- Helping make connections between actors in the conversation

# What We Are Doing

## Advocacy and Engagement

- Promoting the conversation in professional organizations in formal and informal ways
- Collaborating with peer states, members of Oregon's federal delegation, financial industry representatives, and others to encourage reforms to federal banking laws

**Questions?**



# OREGON STATE TREASURY

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# Cannabis Banking:

How Maps Credit Union is Meeting a Unique Community Need

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Supplementary Information to Oregon House Economic Development Committee  
Rachel Pross, Chief Risk Officer  
Maps Credit Union  
September 16, 2019



# About Maps Credit Union

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- Not-for-profit financial cooperative since 1935, headquartered in Salem
- Service area is Willamette Valley basin
- 9 full-service branches, 3 high school branches, 1 branch at Willamette University
- 65,000 member-owners
- Approximately 270 employees
- Approximately \$800 million in assets
- **Serving more than 500 cannabis-related business accounts in Oregon**



# In the Beginning

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- Board decision in 2014 after extensive research and risk analysis
- No political position taken on cannabis legalization
- **Community safety**
- Primary credit union mission of **serving the underserved**
- Financial tracking- program must pay for itself
- Commitment to robust compliance and strategic risk infrastructure

# Types of Cannabis Business Accounts at Maps Credit Union

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- Producers (“Grows”)
- Processors
- Wholesalers
- Retailers
- Labs
- Vertically integrated
- Industrial hemp (as of August 1, 2018): both OLCC-registered and ODA-registered
- Ancillary (non-plant touching)
- 280E Affiliated

## Number of Cannabis Business Accounts at Maps Credit Union





# Compliance Framework

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- Overarching framework: Bank Secrecy Act
- DOJ's Cole Memo (rescinded on January 4, 2018, but included in FinCEN Guidance)
- FinCEN Guidance- **relevant framework today**. Three types of mandatory Suspicious Activity Reports:
  1. Marijuana Limited
  2. Marijuana Priority
  3. Marijuana Termination
- U.S. Attorney's Office for District of Oregon
  - 05/18/18 Marijuana Enforcement Priorities

# Very Costly Program: Infrastructure

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- 1 dedicated full time employee for every 40 accounts
- Sophisticated anti-money laundering software
- Thousands of FinCEN filings annually (per FinCEN Guidance)
- Extensive application process, including criminal background checks on all account signers, site inspection, and “Bank Secrecy Act 101” training
- Quarterly review process
- Annual physical site inspection
- MOU with Oregon Liquor Control Commission (violation data, seed-to-sale data)





## Community Safety: Removing Cash from the Street

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- \$60 million in cash in 2016
- \$231 million in 2017
- \$298 million in 2018
- \$338 million in 2019 (annualized)

# Collaborative Approach

- Partnership with law enforcement: free information that wouldn't otherwise have
- Being at the table for relevant discussions (ex. U.S. Attorney Summit- February 2018 and September 2019)





# Congressional Testimony

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- SAFE Banking Act
  - House Committee on Financial Services- February 2019
  - Senate Banking Committee- July 2019



# Feedback from Community: Overwhelmingly Positive

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**Adam M. Girod**  
Chemeketa Community College

Well, I'm proudly a member of MaPS Credit Union, and I will continue to use them as my bank. They have used good judgement here, and have placed business and community safety above all else.

Kudos to MaPS.



**Brian Hines**

Well, I guess MAPS' support of marijuana businesses isn't "one of the best-kept secrets in the industry" now that this front page story has appeared.

Which is fine, because the more publicity is given to the federal government's irrational opposition to marijuana-related banking, the better.

My wife and I are long-time MAPS members. We're not only fine with what MAPS is doing, we're thrilled with it. It takes courage, commitment, and morals to do what is right, rather than what is expedient.

MAPS is a trailblazer.

# The Maps Philosophy: Educate and Advocate

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- Meet our members' needs: their success is our success (product expansion and fee reduction in August 2018)
- Assistance to other financial institutions (mitigation of reputation risk, strength in numbers)
- Warn of unscrupulous third-party payment and compliance “solutions” – often very clearly a form of money laundering
- 16 presentations nationwide in 2018, 11 so far in 2019



# Thank you!

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