

MERKLEY, MURRAY, BENNET, WYDEN PRESS FEDERAL FINANCIAL REGULATORS TO PROVIDE CLEAR GUIDANCE SO THAT LEGAL MARIJUANA BUSINESSES CAN ACCESS BANKING SERVICES

Currently, many legal marijuana businesses are forced to operate on an all-cash basis, creating a public safety risk and making it more difficult for states to collect taxes

Thursday, March 24, 2016

WASHINGTON, D.C. – Today, Oregon’s Senator Jeff Merkley, Senator Patty Murray (D-WA), Senator Michael Bennet (D-CO) and Senator Ron Wyden (D-OR) pressed federal financial regulators to issue clear guidance for financial institutions serving legal marijuana businesses, making it easier for those businesses to access banking services rather than operating on an all-cash basis.

In a letter today to the six top federal financial regulators, the senators asked multiple agencies to work together to issue joint guidance to financial institutions from regulators across the federal government.

Currently, many legal marijuana businesses in Oregon, Washington, Colorado and other states that have legalized recreational or medicinal marijuana are forced to run their businesses using cash because banks won't serve them, fearing reprisal from the federal government.

Without the ability to open a bank account or accept non-cash forms of payment, the businesses must pay taxes in cash and keep large amounts of cash on the premises. This presents a logistical challenge for state and local governments collecting taxes, and creates a significant public safety risk for the businesses and the surrounding communities by making legal marijuana businesses a prime target for robbers and other criminals.

In 2014, the Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued guidance on how financial institutions can serve legal marijuana businesses in states that have legalized recreational or medicinal marijuana, but without clearer guidance from all federal regulators to provide certainty in the regulatory environment, most banks and credit unions are still not serving marijuana-related clients. In some cases, even businesses that are only tangentially related to the marijuana industry – for instance, real estate companies that have leased space for dispensaries, or security firms working for a marijuana-related business – have had their bank accounts shut down.

“Many marijuana-related businesses are experiencing difficulty accessing financial services and must operate all-cash operations,” wrote the senators in today’s letter. “Operating on an all-cash basis for these businesses makes it difficult for them to function, as well as for states to collect tax revenue. Forcing them to operate in all cash also creates a serious public safety risk for the businesses and the neighboring community.... [W]ith clearer guidance offered by all of their regulators, financial institutions will be more likely to serve these legal businesses and allow them to access our banking system without fearing repercussion.”

The full text of the letter follows below.

Janet L. Yellen

Chairman

Board of Governors of the Federal Reserve System

20th Street and Constitution Avenue, NW

Washington, DC 20551

Debbie Matz

Chairman

National Credit Union Administration Board

1775 Duke Street

Alexandra, VA 22314

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St. SW
Washington, DC 20429

Martin J. Gruenberg
Chairman
Board of Directors of the Federal Deposit Insurance
Corporation
550 17th Street, NW
Washington, DC 20429

Jacob J. Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Jennifer Shasky Calvery
Director
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, Virginia 22183

Dear Financial Regulators,

As you are aware, the citizens of Oregon, Colorado, Washington, Alaska, and the District of Columbia recently legalized marijuana for recreational and medicinal purposes and nineteen states allow for medicinal marijuana. Ensuring

marijuana-related businesses have access to financial services is critical not just for the safety of these communities but also to help spur economic growth.

The financial institutions providing banking services to legitimate marijuana-related businesses are required to file marijuana suspicious activity reports (SARs) with Treasury's Financial Crimes Enforcement Network or FinCEN. While the total number of banks and credit unions offering services has not been reported, FinCEN confirmed to Congress that firms are filing these reports.

However, many marijuana-related businesses are experiencing difficulty accessing financial services and must operate all-cash operations. Operating on an all-cash basis for these businesses makes it difficult for them to function, as well as for states to collect tax revenue. Forcing them to operate in all cash also creates a serious public safety risk for the businesses and the neighboring community.

While the marijuana SARs reports are an option, most banks and credit unions have been reluctant to provide financial services to marijuana-related businesses due to concerns their CAMELS supervisory rating will be penalized from examiners. However, with clearer guidance offered by all of their regulators, financial institutions will be more likely to serve these legal businesses and allow them to access our banking system without fearing repercussion.

We are writing today to ask you, all of the federal financial regulators, to collaborate with FinCEN on their February 14 memo and issue a joint guidance governing how financial

institutions can effectively serve marijuana-related businesses. Without a joint guidance providing direction on how to operate from their prudential regulators, banks and credit unions will continue to lack the certainty they need to operate in this market.

We were pleased to learn that the federal banking agencies are indeed having discussions with FinCEN about how financial institutions can serve this market and we look forward to your prompt response to our request.

Sincerely,