WHAT IS NCIA

NCIA MISSION STATEMENT
To promote the growth of a responsible and legitimate cannabis industry and work for a favorable social, economic, and legal environment for that industry in the United States.

OUR VALUES

NCIA PUBLICLY ADVOCATES FOR THE UNIQUE NEEDS OF THE EMERGING CANNABIS INDUSTRY AND DEFENDS AGAINST THREATS TO THE LEGAL MARKET FOR CANNABIS AND CANNABIS-RELATED PRODUCTS.

NCIA IS THE NATION’S ONLY INDUSTRY-LED ORGANIZATION ENGAGING IN LEGISLATIVE EFFORTS TO EXPAND AND FURTHER LEGITIMIZE THE LEGAL CANNABIS MARKET IN THE U.S.

NCIA OFFERS EXCLUSIVE DISCOUNTS TO MEMBERS AND SIGNIFICANT BRAND EXPOSURE THROUGH OUR MEMBER DIRECTORY.

NCIA ADVOCATES FOR RESPONSIBLE BUSINESS PRACTICES AND CORPORATE ACCOUNTABILITY WITHIN THE INDUSTRY.

NCIA EMBRACES AN OPEN AND DEMOCRATIC PROCESS THAT ALLOWS ITS MEMBERS TO CHOOSE THE BOARD OF DIRECTORS THROUGH ANNUAL ELECTIONS.

NCIA HOSTS REGULAR EDUCATIONAL AND NETWORKING EVENTS TO STRENGTHEN THE CANNABIS BUSINESS COMMUNITY AND ELEVATE SOPHISTICATION THROUGHOUT THE INDUSTRY.

ADVOCACY. EDUCATION. COMMUNITY.
CANNABIS INDUSTRY 101

- After the 2016 election, eight states and the nation’s capital have legalized adult-use cannabis
  - Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington
- In addition, there are 29 states that have legalized medical cannabis. In 2016, Arkansas, Florida, Montana, and North Dakota passed medical initiatives.
  - Earlier this year, the West Virginia legislature became the newest to pass medical marijuana legislation.
- The legal cannabis industry accelerated at a remarkable pace in 2016. North American consumers spent $6.7 billion on legal cannabis products, up 34% from 2015.
- Polls show that 80% of Americans approve of legal access to medical cannabis and 60% approve of full adult-use legalization.
- In the 2016 election, voters in eight of the nine states voting on cannabis measure approved them. This means that 63% of Americans live in medical-use states and 21% of Americans live in adult-use states.
ECONOMIC IMPACT

- The legal cannabis industry is generating billions of dollars in revenue for small businesses rather than enriching criminal drug dealers and gangs. This revenue means taxes, jobs, and healthcare benefits for members of our communities.
- Retail sales taxes in state sanctioned cannabis markets totaled more than $500 million in 2016 in Colorado, Washington, and Oregon alone, and $836 million since adult-use sales began in 2014.
- Reports show that there are over 122,000 full-time, legal cannabis jobs in the United States.
  - That number does not include the many ancillary jobs have been created due to the booming industry. These ancillary jobs include security guards, commercial real-estate agents, construction/HVAC specialists, consulting, legal, and advisory services, and other business services.
In the 1970’s, cannabis was placed in Schedule I of the Controlled Substances Act. That means that cannabis has no accepted medical use, has a high potential for abuse, and is unsafe to use even under medical supervision.

- Congress has the power to reschedule marijuana, either through new legislation specific to marijuana or through tailored amendments to the Controlled Substances Act.

- Administrative rescheduling is also possible, but is a lengthy and complicated process that requires the Secretary of HHS or an outside interested party to file a petition with the Attorney General. The Attorney General then forwards the request back to the Secretary of the HHS, asking for a scientific and medical evaluation and recommendation, as specified by 23 USC 811(b-c). HHS, via the Food and Drug Administration conducts an assessment and returns a recommendation to the Attorney General. The Attorney General, often through the Drug Enforcement Administration, conducts its own concurrent and independent review of the evidence in order to determine whether a drug should be scheduled, rescheduled, or removed from control entirely—depending on the initial request in the petition.

*ADVOCACY. EDUCATION. COMMUNITY.*
More than 16 million voters cast votes in favor of regulated cannabis programs

In six of the nine states that had cannabis on the ballot, the initiative garnered more votes than Donald Trump

More than 20% of Americans now live in a state with adult-use cannabis

Thanks to the success of cannabis ballot initiatives, there are now 270 House members and 56 Senators who represent medical or adult-use cannabis districts or states.
A series of bicameral, bipartisan legislation have been introduced in Congress. The package of bills, referred to as ‘The Path to Marijuana Reform’ includes bills that tackle the 280E tax problem, the policy gap in between state and federal cannabis laws, and regulation.

- In this package, the cannabis industry gained a new Republican champion – Rep. Carlos Curbelo of Florida. Rep. Curbelo is a member of the Ways and Means committee and is an original co-sponsor of the new legislation that aims to fix 280E.

In February, the House of Representatives took another step toward recognizing the need for federal reform of cannabis laws. Representatives Blumenauer (D-OR), Rohrabacher (R-CA), Polis (D-CO), and Young (R-AK) announced the newly formed Congressional Cannabis Caucus. The bipartisan coalition will focus on issues like medical research, access for veterans, and business needs — including banking and 280E reform.

Recently, a bipartisan group of senators were concerned after the Trump administration indicated it could potentially crack down on cannabis. The effort was led by Sen. Elizabeth Warren (D-MA) and Sen. Lisa Murkowski (R-AK) and urged Attorney General Sessions to uphold the Obama-era policy of allowing states to implement their marijuana laws (the Cole Memo).
Medical cannabis providers – and legal retail cannabis businesses in adult-use states – face significant difficulties in securing and maintaining accounts at financial institutions.

Federal money laundering statutes and regulations intended to detect drug trafficking, terrorist activity, and other criminal acts have served as a major obstacle to cannabis businesses obtaining financial services.

Ironically, this lack of access to financial institutions is occurring as state regulators are imposing requirements upon cannabis businesses that require the assistance of financial institutions. For example, there is a need to track revenues accurately for the purpose of assessing and collecting taxes.
FEDERAL GUIDANCE

- Over the past four years, Members of Congress and state officials have worked aggressively to address the banking issue.

- On February 14, 2014, the Department of Justice issued guidance regarding the conditions under which financial institutions may work with cannabis-related businesses.

- On the same day in February, the Financial Crimes Enforcement Network (FinCEN), within the Department of Treasury, issued guidance clarifying Bank Secrecy Act (BSA) expectations for financial institutions serving cannabis-related businesses.

- Under this guidance, financial institutions are expected to file “Marijuana Limited” Suspicious Activity Reports (SARs) with FinCEN to indicate that they are serving cannabis-businesses operating legally under state law.
  - On the other hand, if the financial institution “reasonably believes, based on its customer due diligence” that a cannabis-related business has implicated one of the “Cole Memo” priorities or has violated state law, it is required to file a “Marijuana Priority” SAR.
As of March 31, 2017, FinCEN received a total of **28,651 SARs** using the key phrases associated with cannabis related businesses.

- FinCEN received 20,288 SARs from filers in 45 states, the District of Columbia, and the Commonwealth of Puerto Rico using the key phrase “Marijuana Limited.”
- FinCEN received 2,007 SARS from filers in 40 states, the District of Columbia, and the Commonwealth of Puerto Rico using the key phrase “Marijuana Priority.”
- FinCEN received 7,326 SARs from filers in 50 states, the District of Columbia, and the Commonwealth of Puerto Rico using the key phrase “Marijuana Termination.”
FEDERAL GUIDANCE

- FinCEN guidance specifies three phrases for describing a financial institution’s relationship to “Marijuana Related Businesses” (MRBs) in Suspicious Activity Reports (SARs):
  - The Marijuana Limited filing means the financial institution’s due diligence indicates that the MRB does not raise any of the red flags as defined in the Cole Memo and is compliant with the appropriate state’s regulations regarding marijuana businesses. The financial institution is providing banking services to the MRB.
  - The Marijuana Priority filing means the financial institution’s due diligence indicates that the MRB may raise one or more of the red flags as defined in the Cole Memo or may not be fully compliant with the appropriate state’s regulations regarding MRBs. The financial institution is providing banking services to the MRB while further investigation is being conducted.
  - The Marijuana Termination filing means the financial institution decided to terminate its relationship with the MRB for one or more of the following reasons: the financial institution’s due diligence indicates that the MRB raises one or more of the red flags as defined in the Cole Memo.
    - The MRB is not fully compliant with the appropriate state’s regulations.
    - The financial institution has decided not to have marijuana related customers for business reasons.
FEDERAL GUIDANCE

The Justice Department enforcement priorities with respect to state-legal cannabis businesses are:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.
Number of Depository Institutions Actively Banking Marijuana Businesses in the United States

(Reported in SARs)
MORE ACTION NEEDED

- Unfortunately, most financial institutions are still hesitant to serve cannabis businesses; although there are examples of credit unions and regional banks providing limited financial services to some cannabis industry clients.
- Although a relatively small number of banks have attempted to offer depository services under the guidance, most financial institutions believe the guidance is insufficient because it doesn’t change the underlying federal law, poses a significant additional compliance burden as presented, and is subject to change at any time.
- More importantly, financial institutions do not want to take on the obligation of monitoring customers to determine whether they are acting in violation of the Cole Memo priorities.
CONGRESSIONAL EFFORTS

- During the 115th Congress, Rep. Ed Perlmutter (D-CO) and Sen. Jeff Merkley (D-OR) have introduced legislation that would address the cannabis banking crisis.

- In the House of Representatives, Rep. Perlmutter has introduced H.R. 2215: The SAFE (Secure And Fair Enforcement) Act of 2017, which would create a safe harbor for financial institutions that choose to serve cannabis related businesses.

- In the Senate, Sen. Jeff Merkley (D-OR) has introduced S. 1152: The SAFE (Secure And Fair Enforcement) Banking Act of 2017, which also creates a safe harbor for financial institutions that choose to serve cannabis related businesses.

H. R. 2215

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses, and for other purposes.

S. 1152

To create protections for depository institutions that provide financial services to cannabis-related businesses, and for other purposes.

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