



CANNABIS LEGALIZATION

Policy Reform And Economic
Priorities From The Black Perspective

September 19-23, 2023



CRESCO

Partnership Acknowledgment

Social Equity & Education Development™

Our mission for SEED™ is to develop tangible pathways into the cannabis industry for communities impacted by the War on Drugs through our three pillars: restorative justice, community business incubation, and education & workforce development.

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MINORITIES FOR MEDICAL MARIJUANA (M4MM)

FEDERAL, STATE AND LOCAL PUBLIC POLICY AGENDA (2022 – 2024)

SITUATIONAL ANALYSIS

M4MM recognizes the evolving landscape and pledge to be the rational voice in the storm, to drive outcomes that deliver broad returns for our members and the greater constituencies we serve. We will not hide from the work this will take or become impatient at the length of time this will take. Federal legislation will take multiple years of engagement advocacy and outcomes. Ensuring a balanced federal policy that supports home-grown small businesses, restorative social justice, and economic freedom is our #1 priority.

As we work towards federal policy advancement, we will continue to work on building balance and economic inclusion, diversity through legislative action, and community equitable return on licensing opportunity within the Commercial Marijuana and Hemp Industry Sectors at the state and U.S. Territory level. M4MM will apply a detailed policy approach as outlined through the following structural pillars to ensure equitable opportunity and impact of opportunity for persons from communities disproportionately impacted by the enforcement of previous Cannabis prohibition laws:

- **Licensing Structure and Process**
- **Increasing the Share of Minority Owner-Operator's Licensees**
- **Economic Inclusion and Expansion**
- **Employment and Professional Mobility**
- **Supplier Diversity & Revenue Opportunity**
- **Improving Health Outcomes**
- **Municipal Empowerment: Minority Majority Municipalities and Counties**
- **Restorative Social and Economic Justice Impacts**

These pillars of action will be deployed through the combined work of our National Policy Director for Cannabis and Hemp, our state level Directors and Chapter Presidents and collaborative partners within each state's Commercial Medical and/or Adult-Use Recreational Cannabis programs and Commercial Hemp Licensing policies. We will work through the following action steps:

- Engaging legislative policy and appropriations committees, chamber leadership and state Executive branch stakeholders (regulatory departments, Governor policy and fiscal advisors)
- Development of recommended statutory language models for amending existing laws or newly proposed enabling legislative bills
- Engaging municipal and county stakeholders on the importance of preserving and enabling local regulatory and zoning ordinance powers
- Engaging and building coalition partnerships with Cannabis, Hemp, Minority Business, Organized Labor, Clean Energy, Environmental Justice, Prison & Corrections Reform, and Workforce Development Advocacy Organizations to support sustainable policy objectives

POLICY BRIEF FOR CONGRESSIONAL BLACK CAUCUS AND CONFERENCE:

INTRO

Minorities for Medical Marijuana, Inc. (M4MM) is the country's largest community based non-profit advocacy organization in the Commercial Cannabis and Hemp industry sectors. The organization was established in May 2016 and currently has 27 state chapters throughout the USA, 4 international chapters, and 3 HBCU chapters locations. M4MM's mission is focused on providing advocacy outreach, research and training as it relates to social equity, social justice, public policy and health & wellness in the cannabis industry. M4MM is dedicated to helping minorities navigate this new marijuana industry, as it relates to diversity, equity, and inclusion, with intentionality, policy, and broad economic considerations.

M4MM IS ADVOCATING FOR THE FOLLOWING POLICY OUTCOMES FOR BOTH THE CANNABIS AND HEMP INDUSTRIES:

- Licensing Structure and Process
- Increasing the share of Minority Owner/Operator's licenses
- Economic Inclusion and Expansion
- Employment and Professional Mobility
- Supplier Diversity and Revenue Opportunity
- Improving Health Outcomes
- Municipal empowerment, especially for Minority Majority Municipalities and Counties
- Restorative Social and Economic Justice Impacts

M4MM HAS TAKEN AN AGGRESSIVE PROACTIVE POSITION ON ADVOCATING FOR FEDERAL AND STATE LEVEL POLICIES THAT WILL ACHIEVE THESE NECESSARY OUTCOMES.

- M4MM hired Banks & Company, a certified Minority Business Enterprise, is a full-service Detroit-based full-service public affairs firm, to serve as the Federal Lobbying firm of record for M4MM since January 2022 and its Vice President of Strategy has served as M4MM's National Policy Director on State level Cannabis and Hemp policy since 2021.
- In March 2022, we developed a broad-based public policy agenda plan for both Federal and State by State adoption.
- In September 2022, we produced a policy briefing update for the Congressional Black Caucus Foundation Conference.
- In April of 2023, M4MM conducted a three day Cannabis and Hemp Policy 4/20 Lobby Days in conjunction with M4MM's Lobby Day Partners:
 - Marijuana Policy Project
 - Asian Cannabis Roundtable
 - Indigenous Cannabis Industry Association

Now in September 2023, M4MM is producing its Policy Progress and Priorities update for the 2023 Congressional Black Caucus Foundation Conference and the Congressional Hispanic Caucus Institute Conference. Important milestones are being reached or are in-front of patients, businesses, advocates, suppliers and all interested parties and it's time to share inform, educate and activate for reaching practical finish lines.

CANNABIS RESCHEDULING VS. DESCHEDULING

President Biden's Descheduling/Rescheduling Request update:

On 8/31/23, the Department of Health and Human Services (HHS) recommended to the Drug Enforcement Agency (DEA) that Cannabis should be rescheduled to Schedule III. The recommendation from HHS is the second phase of the process, the DEA review is the third phase (21 USC 811: Authority and criteria for classification of substances). The recommendation to schedule III means that the HHS through their eight step review process (as required by 21 USC 811) that Marijuana has pharmaceutical benefits for treating health ailments while having lessened evidence of abusive properties, chemical dependency and side effects. The establishment of Cannabis medical benefits and treatment applications gets past the first barrier that prevented Cannabis from being descheduled or rescheduled in 2011 and 2016. The HHS findings were based on a "comprehensive scientific evaluation" by the Food and Drug Administration, which was expedited in under 11 months to comply with the president's request. In conjunction with the FDA review, which considered eight factors that determine the control status of a substance, the National Institute on Drug Abuse likewise agreed with the recommendation. This is a logical outcome and should be commended.

Next steps:

Once you successfully establish that point, you will have to demonstrate manageable to minimal side effects, dependency or abusive indicators, which will put it into one of the lower schedules (3, 4 and 5). This process, if done correctly in our opinion, will lead to Marijuana being defined as a Controlled Substance Drug under Section 201(g) of the FD&C Act (21 USC 321(g)).

Why not deschedule?

For Cannabis to be descheduled, you would have to prove that there are almost no addictive nor abusive properties and dually no discernable medical effects that would allow for usage similar to alcohol, tobacco and food additives, to let it be classified as a Non-Controlled Substance and fall under FDA commercial regulations. This conflicts with the scientific burden that must be met to demonstrate Cannabis's probative medical benefits and manageable side effects, also known as proving Cannabis is pharmaceutical drug. A regulatory based clean "Descheduling" to treat Cannabis/Marijuana as free of both DEA and FDA traditional medical regulatory structures similar to Alcohol and Tobacco, is impossible to achieve. Reviewing the 2011 and 2016 requests for rescheduling Marijuana and the denial decisions by the DEA, it must be noted that both requests were reviewed as rescheduling requests vs descheduling. This implies that while the statutory text of the Controlled Substance Act (CSA) and the legislative intent (companion report) provides for the Executive Branch to deschedule controlled substances, that Marijuana may not be able to be Descheduled because at minimum it is a pharmaceutical drug, which may require keeping it within the schedules (maybe moving to schedule 3 or 4) and that the Descheduling option needs to be facilitated via Congress by amending the CSA.

Long term forecast:

We don't see a legally viable way to make this descheduling happen absent of a Congressionally passed Statutory Law, which mashes the Non-Controlled substance medical classification, with a non-Medical commercial regulatory structure which would have inherent conflicts written into the text, a Statutory Frankenstein for lack of a better term. A clean "Descheduling" statutory bill will likely not have Cannabis/Marijuana function under regulatory structures similar to Alcohol and Tobacco, because proving it shouldn't be a Schedule I controlled substance means proving that it's a pharmaceutical therapeutic benefit. The most likely outcome is to split Cannabis into the lowest class of controlled substance classification (schedule V) for prescription grade Cannabis and an FDA medically regulated non-controlled substance for over the counter access (non-prescription). If it survives legal challenges, then you could have Descheduling, but it would have to be built through legislation, not administrative rules making. This requires Congressional Republicans to join with Congressional Democratic members to pass a comprehensive legalization law with a practical application for the scheduling question. Congressional Democrats are supportive of this step, more Republicans need to join leaders like Rep. Mace, Rep. Joyce, Rep. Mast, who are leading this effort.

2023 FARM BILL – M4MM HEMP MARKER BILL AND AGRICULTURE APPROPRIATIONS STATUS:

The American Hemp Industry has a significant impediment that prevents it from tapping the full ecosystem of economic activity. The impediment is the lack of Industrial Hemp Processors to produce Hemp products for the 30,000+ Industrial Hemp product applications. Despite making Hemp legal in the 2018 Farm Bill, the related infrastructure to build a viable Industrial production sector for Commercial and Industrial Hemp products has lagged and stunted American economic growth from this sector. The following three statistics demonstrate the challenge and opportunity for investing in American Industrial Hemp Production capacity:

- (1) As of June 2023, there are only 20 licensed and operational Industrial Hemp Processors in the United States
- (2) The global industrial hemp market size was estimated at USD \$4.74 billion in 2022 and is expected to grow at a compound annual growth rate (CAGR) of 17.1% from 2023 to 2030.
- (3) As of the April 19, 2023, National Hemp Report (by the National Agricultural Statistics Service (NASS), Agricultural Statistics Board) in 2022, the value of hemp production in the open and under protection for the United States totaled \$238 million, down 71 percent from 2021.
- (4) The overwhelming majority of Hemp Based economic activity is in the Consumables, Health, Beauty and Lifestyles product areas, which only comprises 15% to 20% of the total Hemp based Commercial and Industrial Product segments. The legal confliction between Hemp Delta variants, as identified in the February 13, 2023 Drug Enforcement Agency (DEA) guidance letter is going to forestall any real growth in the consumable market.

This issue is going to continue to be a problem for consumer safety and for Hemp Farmers, Hemp Processors and the industry, unless the following policy areas are addressed starting with the 2023 Farm Bill:

- (1) Increasing access to debt instruments, institutional investment and equity options for Hemp Farmers, Hemp Industrial focused Cultivators and Hemp Processors to establish a business or expand their businesses. The failure to create the Industrial Hemp infrastructure means lost revenue opportunities for farmers, small businesses and entrepreneurs, especially People of Color.
- (2) Codifying a legal lane for Delta variant Hemp and Hemp Testing fails to be directed exclusively into the Industrial Hemp Non-Consumable Products sector while protecting revenue opportunities for Hemp farmers and Processors.
- (3) Increase the number of and business operating capacity opportunities for Hemp Industrial Processors to access industries that have usage for the more than 30,000 Industrial Hemp product applications, including, the Automotive Industry (Hemp is used in the European Automotive manufacturing sector for interior vehicle parts and the exterior vehicle body panels), the Biofuel and Clean Energy Industry, the Construction Industry, the Textile industry among many other sectors.

Minorities for Medical Marijuana (M4MM) has focused its Hemp policy recommendations in the 2023 Farm Bill to address the obstacles and opportunities through the following five legislative bill proposals.

- **M4MM's Hemp Farmer Revenue Protection Act - THC Content & Delta Variant clarification:** The Hemp Farmer Revenue Protection Act addresses the THC testing failure burden and Delta THCO product variants by classifying those Hemp outcomes for usage in the development of Industrial Hemp Products, non-consumables and non-health and beauty application.

There is significant legal conflict between naturally occurring Delta 8 and Delta 9 Hemp variant crops and In a new study published in the Journal of Cannabis Research on July 26, 2023 by cannabis consumer research company CBD Oracle, they found that **three-quarters of hemp delta-9 THC products cannot be legally sold as hemp** in states with State sanctioned Medical and Adult-Use THC Marijuana programs. The Delta variant family (Delta-8 THC, Delta-10 THC, Delta-8 THCO, and Delta-10 THCO) are all created in a lab from cannabis plants that meet the legal definition of hemp, and all variants have to be extracted from the cannabis plant that meets the initial legal definition of Hemp. After the FDA failed to create regulatory rules to clarify the Delta variant issue, the (DEA) February 2023 letter stated that delta-8 and delta-9 THCO is a "a non-natural cannabinoid" and falls under the Controlled Substances Act's (CSA) definition of "marijuana", making the distribution and possession of delta-8 and delta-10 THCO is illegal under federal law. However the DEA and Federal Courts including the U.S. Court of Appeals for the Ninth Circuit, have agreed (see *AK Futures v. Boyd St. Distro*, 35 F.4th 682 (9th Cir. 2022)) have left delta-8 and delta-10 tetrahydrocannabinol (THC) intake, which has trace amounts of naturally occurring cannabidiol (CBD) meets the 2018 Farm Bill's definition of "hemp" and is legal under federal law even though the CBD must be extracted from the plant and then it is converted into delta-8 or delta-10 THC. This confliction and confusion between

Allows for Hemp that tests above the 0.3 THC level, produces a Delta variant that is ruled illegal via the DEA and FDA and Hemp harvested via plant crops in the EPA's Ecological reuse programs to be repurposed for Industrial Hemp Product production, non-Consumable products or foods by amending 7 USC §1639p. State and tribal plans and 7 USC §1639q. Department of Agriculture. And thereby increasing revenue opportunities for Hemp farmers and Minority Hemp farmers specifically.

- **M4MM's Hemp Lending Pilot Program Act/Creating 420 Industrial Hemp Processors in Four Years Act - Amendment to Farm Credit Act of 1971:** M4MM recommends the following legislative and appropriative actions to create a Hemp Lending Pilot program as an additional vehicle to create financial capital access for those who want to become Industrial Hemp Processors and places the lending facility through Minority Depository Institutions and Community Development Financial Institutions.

Via the Farm Bill, amend 12 U.S.C. 2001-2279cc (Farm Credit Act of 1971) by adding SEC. 305 Small Business Lending Pilot Program from the Cannabis Administration and Opportunity Act (CAO) of 2021 (our title draft - Creating 420 Industrial Hemp Processors in four years Act 4)

- a. The pilot program would allocate directed lending activities through CDFI's, MDI's and eligible Non-Profits to offer loans and financial assistance for economically and socially disadvantaged farmers and minority business entities who want to become licensed Hemp Processors. If adopted, we would recommend the following appropriations allocations and lending authorizations (using Sec. 305 (o) amended language

- Sec. 305. (o)(3)(G)(ii) Maximum Participants And Amounts – The total appropriated amount should be increased to \$600,000,000 from \$300,000,000
- Sec. 305. (o)(4)(B) Loans to Small Business Concerns/Maximum Loan – M4MM would recommend striking \$200,000 and replacing it with \$750,000
- Sec. 305. (o)(5)(A) & (B) Loans to Small Business Concerns/Funding – M4MM recommends striking \$90,000,000 in subsection A and replacing it with \$180,000,000 and recommends striking \$41,000,000 and replacing it with \$81,000,000.

This addresses an important M4MM priority area by creating a lending facility through the 144 MDI's and 177 CDFI's that will help them expand their overall intra-banking portfolio and expand their services to underserved communities

- **M4MM's Hemp for American Made Biofuel Production Act:**

M4MM recommends amending Amend Title IX, Energy to add Hemp to the US Biofuel production programs will incentivize and create investment capital to stabilize the Hemp Cultivator sector and encourage the development of additional Industrial Hemp Processors. Our Bill proposal includes the following:

1. Hemp for American Made Biofuel Production Act – Amend Title IX, Energy Sec. 9001 to insert “biofuel derived from hemp fiber or biomass. Adding Hemp to the US Biofuel production programs will support the investment for increasing Hemp licensed Producers and diversifying our clean energy sources for ethanol/auto fuel, blended biofuel, aviation fuel, home heating, commercial heating and other fuel based applications.
2. Amend SEC. 9003. Biorefinery Assistance by adding hemp feedstock as eligible for the production of advanced biofuels and advanced biodiesel products and providing grants to licensed industrial hemp processors for the production of advanced biofuels and advanced biodiesel products. This will expand Hemp biofuel production opportunities through incentive and funding mechanisms such as the Title IX, Advanced Biofuel Payment program, The Sustainable Aviation Fuel Grand Challenge and the Higher Blends Infrastructure Incentive Program (HBIIP).

3. Amend SEC. 9005. Bioenergy Program For Advanced Biofuels, SEC. 9006. Biodiesel Fuel Education Program and SEC. 9008. Biomass Research And Development to extend the current \$37 million in funding through Fiscal Year 2028 and adds \$12 million in additional funding to continue supporting biofuel and biomass development which will include Hemp Biofuel and Hemp biomass in the 2023 Farm Bill.

• **M4MM's MSCU Industrial Hemp Processor Entrepreneurial Education and Business Incubators Program Act.**

M4MM proposes an amendment to the 2023 Farm Bill to create and insert new Sec. 6428. into Subtitle D—Additional Amendments To The Consolidated Farm And Rural Development Act to create a new Industrial Hemp Processor Entrepreneurial Education and Business Incubators Program Act

This new act is modeled upon the Native American Small Business Incubator Act, but expands Industrial Hemp Processor Entrepreneurial licensing incubator programs with Minority Serving Colleges and Universities to provide training for interested parties, economically disadvantaged and underrepresented communities and rural disinvested community stakeholders to increase the number of Hemp licensed Processors for the Industrial Hemp Sector and creating new Hemp exporting opportunities

The Department of Agriculture shall provide financial assistance in the form of competitive grants to eligible applicants for the establishment and operation of business educational programs and incubators that will provide services to persons seeking to establish an Industrial Hemp Processor license, by providing business accelerator incubation, entrepreneurial training, operational curriculum content and other business services to the following pre-licensee categories:

- (1) Private Entities,
- (2) Minority Business Enterprises,
- (3) Socially And Economically Disadvantaged Individuals and/or businesses
- (4) Women Owned Small Businesses,
- (5) Economically Disadvantaged Women-Owned Small Businesses
- (6) Small Disadvantaged Businesses,
- (7) Service-Disabled Veteran-Owned businesses,
- (8) Historically Underutilized Business Zone Small Businesses
- (9) Businesses or individuals located in Rural Communities as defined by Census designation for Rural areas.

who need Domestic and Global market business, operational, customer acquisition & retention and financial management educational training to increase their business management capacity and/or need business incubator services that assists entrepreneurs in navigating obstacles and market entry barriers that prevent innovative ideas from becoming viable businesses. The USDA will establish Hemp Processor Licensee Business Training & Incubator Program partnerships with

- Historically Black Colleges and Universities (HBCUs),
- Tribal Colleges and Universities (TCUs),
- Hispanic-serving College and University institutions (HSCUIs),
- Asian American and Native American Pacific Islander-serving College and University institutions (AANAPISIs), and
- other Minority-Serving Institutions (MSIs)

as primary qualifying educational institutions. The business educational curriculum will be robust and inclusive in content to provide students and entities with operational, fiscal, sales/marketing, regulatory compliance, tax management, domestic and international expansion and contraction concepts and practical application instructional opportunities while accelerating entrepreneurship in Hemp Industrial Processor licensing which will increase America's production capacity and revenue capture capacity. There are authorized to be appropriated to carry out the program \$20,000,000 for each of fiscal years 2024 through 2028.

• **M4MM's Heirs' Property Relending Industrial Hemp Cultivator and Processor Opportunity Act** (Sec. 5104 Heirs' Property Relending Program) - Hemp License Lending Amendment:

M4MM recommends legislative and appropriative amendments to the Heirs' Property Relending Program as an additional vehicle to create financial capital access for those who want to become Industrial Hemp Cultivators/Farmers and/or Industrial Hemp Processors, while creating additional economic opportunities for disadvantaged communities. M4MM's Heirs' Property Relending Industrial Hemp Cultivator and Processor Opportunity Act will do the following:

- a. Reauthorization of Sec. 5104, amend Sec. 3101 by adding community development financial institutions and minority depository institutions as additional eligible lenders and expanding the lending capacity of the USDA Heirs' Property Relending Program (HPRP) (Congress authorized appropriations for the HPRP through the Agriculture Improvement Act of 2018 (P.L. 115-334) until FY2023) to include loan eligibility for becoming an Industrial Hemp Cultivators/Farmers and/or Industrial Hemp Processors.
- b. Increase the budgetary allocation from \$10 million to \$40 million per fiscal year and expanding lending amounts by an additional \$3.5 million loan cap for eligible applicants who seek Industrial Hemp Cultivation licenses and an additional \$5 million loan cap for eligible applicants who seek Hemp Processor Licenses for Industrial Hemp Production.
- c. Designate targeted appropriations from the Distressed Farmers relief fund (amending Sec. §2279 (as amended by Pub. L. 117-169, title II, §22007, Aug. 16, 2022, 136 Stat. 2021) of the Inflation Reduction Act) to provide direct appropriative allocation to fund the new lending program for distressed qualified Heirs who chose to become licensed Hemp Cultivators and licensed Hemp Processors.

2023 Farm Bill and Fiscal Year 2024 Agriculture Appropriations Bill Update:

The House and Senate Agriculture Appropriations passed their budget bills for the 2024 fiscal year. The two bills are over \$8 Billion apart in total funding levels.

- S. 2131: Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2024 – Passed by Senate Appropriations committee on June 22, 2023 – 39 yeas to 0 nays
 - The Senate Bill is structured in a way that allows for the M4MM Hemp bills that require funding to be amended and adapted with the 2023 Farm Bill.
 - The total approved budget is \$26 billion dollars. Next action: Will be voted on by the full Senate by middle of September, likely to pass cloture (60 vote requirement to advance bill) and then majority vote for passage.
- H.R. 4368: Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2024 – Passed by House Appropriations committee on June 14, 2023 – 34 yeas (All Republican) & 27 nays (All Democrats)
 - The House version stripped provisions relating to the Heirs Relending program and \$4.275 Billion in funding for the Sec. 2007 Distressed Farm programs to help distressed minority farmers, which we would tap to fund three of the M4MM bills we've proposed. No Democratic members voted for the House Ag. Appropriations bill.
 - The total approved budget is \$17.8 billion dollars. Next action: May be voted on by the full before the end of September, currently has more than 10 Republicans opposed to the bill (can only lose 4 Republican votes) and no Democratic votes in support of the bill as passed.

Agriculture Appropriations and 2023 Farm Bill forecast& Hemp Impacts:

The Agriculture Appropriations Act for Fiscal Year 2024 will fund the first year of the 2023 Farm Bill, therefore passage with the Senate spending level is critical to the funding for four of M4MM's Bill proposals for the 2023 Farm Bill authorizations through 2028.

Republican members on the committee and in the Republican caucus are pressuring House Republican leadership to support forcing an all or nothing Farm Bill vote, with no amendments to the Farm Bill allowed in committee and/or during the floor votes once the bill makes it pass the House Rules committee. This is procedurally allowable but creates more tension with the Senate, that could lead to funding for the Farm Bill sections of the Agriculture appropriations bill not passing before the end of the fiscal year and the end of 2023.

M4MM's position on the Agriculture Appropriations Act for Fiscal Year 2024 – M4MM supports passage of S. 2131, the Senate version of the Agriculture Appropriations Act for Fiscal Year 2024, which will budgetary support for M4MM's bill proposals to support investing in building the Industrial Hemp Processor supply chain required to grow American Industrial Hemp products. M4MM supports an open amendment process in developing the 2023 Farm Bill and the inclusion of our Hemp provisions.

M4MM AMENDMENTS TO THE SAFE BANKING ACT 2023 (H.R.2891 AND S.1323):

We at Minorities for Medical Marijuana (M4MM) have been excited to see the reintroduction of the SAFE Banking Act, as this is a step towards treating the \$30 Billion Dollar Commercial Cannabis Industry in its proper role, as the newest entry into the legal pharmaceutical and healthcare industry. The SAFE Banking Act of 2023 (H.R. 2891 and S. 1323) has marched down the path of Congressional adoption via the House of Representatives in the 116th and 117th Congress and now is achieving another important milestone along the journey, a public hearing in the Senate Banking, Housing and Urban Affairs committee.

The issue of banking and access to services beyond the basic banking services offered to under the current 2014 FINCEN Treasury guidelines for banking Marijuana-related businesses and 2015 Federal Reserve depository guidelines for Marijuana-related businesses, which provides a loose and unequitable capital system for a maturing Commercial industry. The challenge of inequitable capital access negatively impacts efforts to increase the diversity of ownership and executive level leadership and can institutionalize disenfranchisement without intentional Federal and State policy correction through amendment of existing statutory law or in adopting new Statutes to drive inclusion.

M4MM recommends the following amendments, a newly inserted Section 4 and Section 5 to the SAFE Banking Act to increase access to equity investment, qualified investors, institutional investment vehicles including capital markets and providing more responsive vehicles for opening capital options for Minority and small business entities in the Cannabis sector. In addition to opening more investment vehicles for the Corporate Cannabis sector, these amendments will also drive inclusion, address socioeconomic and racial disparities, increase entry to and opportunities in the Legal Commercial Cannabis market by members of impacted communities.

Amend SAFE Banking Act (H.R.2891 and S.1323) to include Sec. 2 (Permitting Access To Community Development, Small Business, Minority Development, And Financial Institution Capital For Investment In And Financing Of State-Sanctioned Marijuana Business And Their Service Providers) and Sec 3 (Safe Harbor For National Securities Exchanges) from the Capital Lending and Investment for Marijuana Businesses Act” or the “CLIMB Act” (H.R. 8200) in a new Sec. 4 and Sec. 5 of S. 1323):

- M4MM supports the general policy direction of both H.R.2891 and S.1323, yet we believe it is critical to adopt statutory language to provide capital access opportunities beyond debt instrument lending products as currently structured. We believe amending SAFE by adding revised language from Sec. 2 and Sec. 3 from the CLIMB Act (H.R. 8200) is critical to expanding capital access opportunities for small businesses, diverse and disproportionately impacted communities. Our proposed language from the CLIMB Act is structured to amend any applicable Federal law to provide safe harbor and hold harmless access to community development, small business, minority development, and any other public or private financial capital sources for investment in and financing of State-Sanctioned Marijuana Business, and to amend the Securities Exchange Act of 1934 to create a safe harbor for investment vehicles and national securities exchanges to list the securities of issuers that are State-Sanctioned Marijuana Business. Please see our proposed substitute language for Sec. 4 and 5.

ALTERNATIVE OPTIONS TO M4MM'S SAFE BANKING AMENDMENTS

Using the Small Business Administration to provide lending support for small and minority licensees?

M4MM has considered the position of other advocacy allies, who oppose creating a safe harbor for institutional investment vehicle participation in the SAFE Banking Act. They advocate the position that institutional investment would exacerbate the capital access gap between Corporate Cannabis businesses and small minority or white owned Cannabis businesses. They also believe that the Small Business Administration can provide small business lending services to minority and locally owned small business licensees, either through the rules making process for the SBA once SAFE Banking is passed into law or via the Fair Access for Cannabis Small Business Act, introduced in November 2022 and recommended for inclusion in the SAFE Banking Act in 2023.

While laudable considerations, the Small Business Administration can't extend or have a safe harbor extended by legislative action for a Federal agency to provide direct services to an entity conducting activities that are still illegal under Federal Law. Unless Congress adopts a Federal Statutory law legalizing marijuana from its current Schedule I status under the Controlled Substances Act. See 21 U.S.C. § 812, the codifying action (SAFE Banking Act) can't extend conformity options (the ability to make concurrent laws that amend, expand, regulate and constrict) or convey immunization for the SBA to provide affirmative actions and services (loans) to entities engaging in statutorily illegal activities (State Sanctioned Marijuana Businesses are not Federally defined Cannabis-Related Legitimate Businesses).

Can you reconcile the Hemp and Marijuana/Cannabis Text Sections of S. 1323/H.R. 2891 so Hemp and Cannabis can be treated as equals from a banking and capital market access position?

Sections 3, 4 and 10 within the SAFE Banking Act of 2023 provide a different set of rules of function and protection for Marijuana/Cannabis Banking versus Hemp Banking. At first glance this would seem to be disparaging treatment between the two classifications of Cannabis plant cousins, but there is a direct and clear reason why the two have to be structured with different statutory text and can't be identical in text and application.

First, we must look at the definitions section for Hemp-Related Legitimate Business and State-Sanctioned Marijuana Business. Hemp-Related Legitimate Businesses are Federally legal per the Agriculture Improvement Act of 2018 (Public Law 115-334; 132 Stat. 4490) and thus have a level of conformity that State-Sanctioned Marijuana Business don't have. Once Congress has enacted a statutory law under its Article II authority (Necessary and Proper clause in the Constitution), the codifying action extends conformity options (the ability to make concurrent laws that amend, expand, regulate and constrict) to the codified Act. In layman terms, Hemp has a Federal level of conformity that Marijuana/Cannabis doesn't due to Marijuana/Cannabis status as a schedule one drug covered by the Controlled Substance Act (section 12619 of the Agriculture Improvement Act of 2018 (Public Law 115-334; 132 Stat. 5018) legalized hemp by removing it from the definition of marihuana under section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Per concerns cited by the Department of Justice Technical Assistance on H.R. 1996 (SAFE Banking Act of 2021), the bill drafters had to remove the verbiage of “Cannabis-Related Legitimate Businesses because it would have conferred an appearance of legalization for State sanctioned, Federally illegal businesses. Removing this verbiage was mandatory, because you would have had a Statutory improper law if passed by Congress. The accommodation of State Sanctioned Marijuana Businesses fits with both the Department of Justice concerns and conforms with the hands off model derived by the Blumenauer Amendment and the 2014 Department of Treasury FINCEN guidelines for Marijuana-Related Business Banking.

Summation – You can’t amend SAFE to create a textual balance between Sections 3 and 4 relating to State-Sanctioned Marijuana Businesses and Section 10 relating to Hemp-Related Legitimate Businesses because of the legal status of Marijuana subject to the Controlled Substance Act. The structure written to provide safe harbor for State-Sanctioned Marijuana Businesses is the best language to provide legal cover for banking services while Marijuana is still a Federally illegal substance.

FINAL SECTION - DOCUMENT MEETINGS WITH CONGRESSIONAL OFFICES (SEE SEPARATE DOCUMENT) AND OTHER KEY LEGISLATION THAT M4MM SUPPORTS.

- **Congressional calendar for September 2023 – Seven Must pass legislation deadlines by September 30, 2023:**

- o US House reconvenes on September 12, 2023. Will be in session for 11 days
- o U.S. Senate reconvenes on September 5, 2023. Will be in session for 17 days
- o Congress (both chambers) will be in session during the Congressional Black Caucus Conference and Congressional Hispanic Caucus Conference week of September 19, 2023 through September 22, 2023
- o The seven must pass legislation includes:

- Fiscal Year 2024 (FY-24) Budget - Governmental Funding Appropriations Bills: Expires 9/30/23
- National Defense Authorization Act: expires 9/30/23
- 2023 Farm Bill – Agriculture, Nutrition Programs and Authorization of TANF & Related Programs: Expires 9/30/23
- Federal Aviation Authorization Act Reauthorization: Expires 9/30/23
- Child Care Funds: Expires 9/30/23
- National Flood Insurance Program Authorization: Expires 9/30/23
- Medicaid Policies & Extenders: Expires 9/30/23

• **Veterans Medical Cannabis/Marijuana access and research**

A number of important bills have been introduced and moved through the House and Senate while being under the radar. M4MM supports these bills and will be active in pushing for their final passage and adoption into law.

o **H. Amendment. 298 - Rep. Brian J.Mast, (Rep.-R-FL-21) – Amends H.R.4366 — Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2024: House Action - Agreed to H. Amendment. 298 by voice vote on July 26, 2023.**

- An amendment numbered 36 printed in House Report 118-158 to prevent the VA from interfering with a veteran's ability to participate in a legal state medical cannabis program, deny service to such a veteran, or limit health care providers' ability to make appropriate recommendations of this treatment option for veterans
- The Senate Committee on Appropriations, which will lead the Senate's version of the Military Construction & VA Appropriations Bill and reconcile with the House version of the Military Construction & VA Appropriations Bill, which includes Rep. Mast's amendment for Veteran Cannabis access.
- M4MM actively supports retaining the H. Amendment. 298 in the final Military Construction & VA Appropriations Bill.

o **H.R.2670 - National Defense Authorization Act for Fiscal Year 2024** Engrossed in House (07-14-2023) TITLE VII—Health Care Provisions, Subtitle A—Tricare and Other Health Benefits

- Sec. 710. Department of Defense pilot program on health effects of medical marijuana use by veterans.
- Pilot Program.--Not later than 90 days after the date of the enactment of this Act, subject to the availability in advance of appropriations, the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall commence the conduct of a pilot program to study the effect of marijuana use by covered individuals with respect to the health outcomes of such individuals (in this section referred to as the "pilot program").
- (2) Relationship to controlled substances act.--The Controlled Substances Act (21 U.S.C. 801 et seq.) and Article 112a of the Uniform Code of Military Justice (10 U.S.C. 912a) shall not apply with respect to the manufacture, distribution, dispensing, or possession of marijuana under the pilot program as part of preclinical research or a clinical investigation conducted under subsection (b)(1), to the extent such activity occurs as part of the pilot program and in compliance with Medical Marijuana and Cannabidiol Research Expansion Act (Public Law 117-215).
- M4MM actively supports retaining Sec. 710. Department of Defense pilot program on health effects of medical marijuana use by veterans in the final NDAA Bill.

o **S.2226 - National Defense Authorization Act for Fiscal Year 2024** - Engrossed Amendment Senate (07-27-2023)TITLE VIII--Security Clearance And Trusted Workforce

- Sec. 805. Prohibition on denial of eligibility for access to classified information solely because of past use of cannabis.
- Prohibition.--Notwithstanding any other provision of law, the head of an element of the intelligence community may not make a determination to deny eligibility for access to classified information to an individual based solely on the use of cannabis by the individual prior to the submission of the application for a security clearance by the individual.
- M4MM actively supports retaining Sec. 805. Prohibition on denial of eligibility for access to classified information solely because of past use of cannabis in the final NDAA Bill.

o **S.326 — 118th Congress (2023-2024) VA Medicinal Cannabis Research Act of 2023. Sponsor: Tester, Jon [Sen.-D-MT] and H.R.1003 — 118th Congress (2023-2024) VA Medicinal Cannabis Research Act of 2023 Sponsor: Correa, J. Luis [Rep.-D-CA-46]**-Both bills direct the Secretary of Veterans Affairs to carry out a study and clinical trials on the effects of cannabis on certain health outcomes of veterans with chronic pain and post-traumatic stress disorder, and for other purposes.

- M4MM actively supports resubmitting S.326 for Cloture vote in the Senate and passage of H.R. 1003 through the House Jurisdictional Committees, the Rules Committee package and in the Floor of the House.

o **Congresswoman Katherine Clark's (D-MA-5th) VA Cannabis Worker Home Loan Amendment (previously submitted to the NDAA of 2023, currently resides in the SAFE Banking Act of 2023, Sec. 9. Treatment Of Income Derived From A State-Sanctioned Marijuana Business For Qualification For A Federally Backed Single-Family Mortgage Loan)**

- Summary – This amendment will protect veterans from being denied Department of Veterans Affairs home loans on the basis of income derived from State-legalized cannabis business employment income or licensed cannabis business ownership income.

- M4MM supports this amendment and recommends passage through either the SAFE Banking Act, a Stand-Alone bill or an amendment to the NDAA or Military Appropriations Bill.

• **Tribal Cannabis legalization**

Tribal sovereignty and the ability to make self-determinative decisions is a critical component of America's redemption from its past history of racial disenfranchisement. Despite Federal treaties with America's Indigenous tribal communities, Tribal Nations don't have the ability to legalize Cannabis independent of Federal or State actions. This is an important issue that M4MM seeks to remedy and has identified three potential pathways that M4MM supports for correcting this impediment for Tribal Nations:

a. Senator Ben Ray Lujan (D-New Mexico)'s stand-alone Tribal Sovereignty Cannabis Independence bill – Senator Lujan has worked on drafting a bill that would codify Tribal Nation's self-determinative authority to chose Cannabis legalization or prohibition, independent of State Governments or other Federal Actions.

- i. M4MM supports this legislation for introduction, passage through both Congressional chambers and signage by President Biden.

b. Rep. David Joyce (R-OH-14) and Rep. Brian J. Mast, (Rep.-R-FL-21) - 2022 Sec. 130 Tribal Cannabis rule in the Fiscal Year 2023 Interior, Environment, and Related Agencies Appropriations Bill – This rule would work similar to the Blumenauer Amendment, in preventing the Department of Justice from using funding to interfere in Tribal Nation decisions to legalize Cannabis within their Sovereign authority.

- i. M4MM supports adding this as an amendment to the Department of Interior Appropriations bill for FY 2024 which must be passed by September 30, 2023 or Fiscal Year 2025

c. Department of Interior administrative guidance similar to Department of Treasury and FDIC's Marijuana-related business banking FinCen & depository guidelines rules or the DOJ's Cole Amendment – using their Statutory authority to manage our tribal treaties and the standing Tribal Treaties and Supreme Court rulings that have upheld the Congressionally confirmed treaties.

i. M4MM supports this path via the jurisdictional authority of the Department of Interior's role in administering Federal Sovereign treaties with Tribal Nations.

• **SAFE Advertising Act of 2022 (S.4622 — 117th Congress (2021-2022) -Senator Ben Ray Lujan's Bill**

Legislation to protect broadcasters from penalty and provide advertising services on-air for Cannabis Companies, which opens up advertising opportunities for Black and Minority Media organizations with the Cannabis Industry. M4MM supports the reintroduction of this bill and has identified bi-partisan interest in supporting this legislation in the House of Representatives.

o Summary: The Secure and Fair Enforcement (SAFE) Advertising Act, which will permit radio and television stations to accept advertising for legal cannabis products if the station is licensed in states that permit the advertising of medical or adult-use cannabis. The SAFE Advertising Act removes the risk that stations could lose their licenses if they accept ads for legal cannabis products. For stations in states that have not legalized cannabis advertising, the legislation would leave the law as it is today and would not interfere with state regulation of cannabis advertising

• **Criminal Justice Reform and economic opportunity for expunged adults in the Commercial Hemp Industry**

The removal of the ban against convicted felons from ownership and participation in state/federal industrial hemp licensing programs and re-entry opportunities for those with previous Marijuana related convictions

• Rep. David Trone's Free to Grow Act - H.R.1428 - To amend the Agricultural Marketing Act of 1946 to repeal the prohibition for certain individuals convicted of a felony offense to participate in hemp production - Removing the 10-year felony ban for employment or becoming a licensee in the Hemp industry.

• **Cannabis Criminal Justice Reforms including Federal Expungement law & Federal-State partnering to reform expungement laws**

M4MM supports the following Congressional bills that will provide the initial steps towards broader Cannabis Criminal Justice reform.

o Fresh Start Act (H.R.5651 — 117th Congress (2021-2022) Fresh Start Act of 2021) – Rep. David Trone's Bill - Summary: Provides competitive grant funding program through the Department of Justice for States that are launching or modernizing their criminal justice data infrastructure to facilitate automated record sealing and expungement or to encourage States to establish an automated record sealing and expungement program, with support of the Federal government.

- o Harnessing Opportunities by Pursuing Expungement Act of 2023 (HOPE Act) – Rep. David Joyce (R-OH-14) and Rep. Alexandria Ocasio Cortez (D-NY-14)
BillSummary: This bill authorizes the Department of Justice (DOJ) to make grants to states and local governments to reduce the financial and administrative burden of expunging convictions for state cannabis offenses. The bill also requires DOJ to study and report on (1) the effects on an individual of a criminal record report of a conviction for a criminal offense related to cannabis, and (2) the costs incurred for incarcerating an individual for a criminal offense related to cannabis.

- o H.R. 2930Clean Slate Act of 2023– Rep. Lisa Blount-RochesterD-DE-At Large’s
BillSummary: Establishes a framework for sealing records related to certain federal criminal offenses. Courts must automatically seal records related to (1) a conviction for simple possession of a controlled substance or for any nonviolent offense involving marijuana, or (2) an arrest for an offense that does not result in a conviction. Additionally, an individual who meets certain criteria may petition to seal records related to a conviction for other nonviolent offenses.

- **Expanding Medical Marijuana research**

- o H.R.3829 - Higher Education Marijuana Research Act of 2023 Rep. Dina Titus (D-NV-1)

- o Directs the Drug Enforcement Agency (DEA), to issue between five to 25 Schedule 1 manufacturing licenses to institutions of higher education (IHE) seeking to manufacture and distribute marijuana for research projects approved by the Food and Drug Administration (FDA). Creates a working group housed within the Department of Education to produce recommendations on how to streamline and simplify the registration process for studying marijuana at IHEs. Orders the National Institutes of Health to establish a grant program within the National Institute of Drug Abuse to study marijuana for biological, chemical, or public health research and directs the Secretary of Agriculture to establish a grant program for the agricultural research of marijuana.

- o M4MM supports the expansion of Medical Marijuana research through Rep. Titus’s bill as a formal pathway to facilitate research partnerships with Historically Black Colleges and Universities, Tribal Colleges and Universities, and institutions such as Hispanic-serving institutions, Asian American and Native American Pacific Islander-serving institutions, and other Minority-Serving Institutions for Medical Cannabis research studies.

Comprehensive/Omnibus Cannabis Legislation objectives. M4MM supports all efforts towards passage of the following comprehensive legislative Acts:

- Cannabis Administration and Opportunity Act - Sponsor: Sen. Booker, Cory A. [D-NJ]
- SAFE Banking Plus with following add-on bills (HOPE Act, GRAM Act, VA Cannabis Worker Home Loan Amendment and Veterans Marijuana Research Act)
- States Reform Act- Sponsor: Rep. Mace, Nancy [R-SC-1st]
- Marijuana Opportunity Reinvestment and Expungement Act - Sponsor: Rep. Jerrold Nadler (D-New York-12th)
- H.R.2598 - The Preparing Regulators Effectively for a Post-Prohibition Adult Use Regulated Environment (PREPARE) Act – Rep. David Joyce (R-Ohio-14th)and House Minority Leader Hakeem Jeffries (D-New York-8th) Bill - To establish a Commission on the Federal Regulation of Cannabis to study a prompt and plausible pathway to the Federal regulation of cannabis, and for other purposes.

DID YOU KNOW?

U.S. companies cannot access U.S. securities exchanges

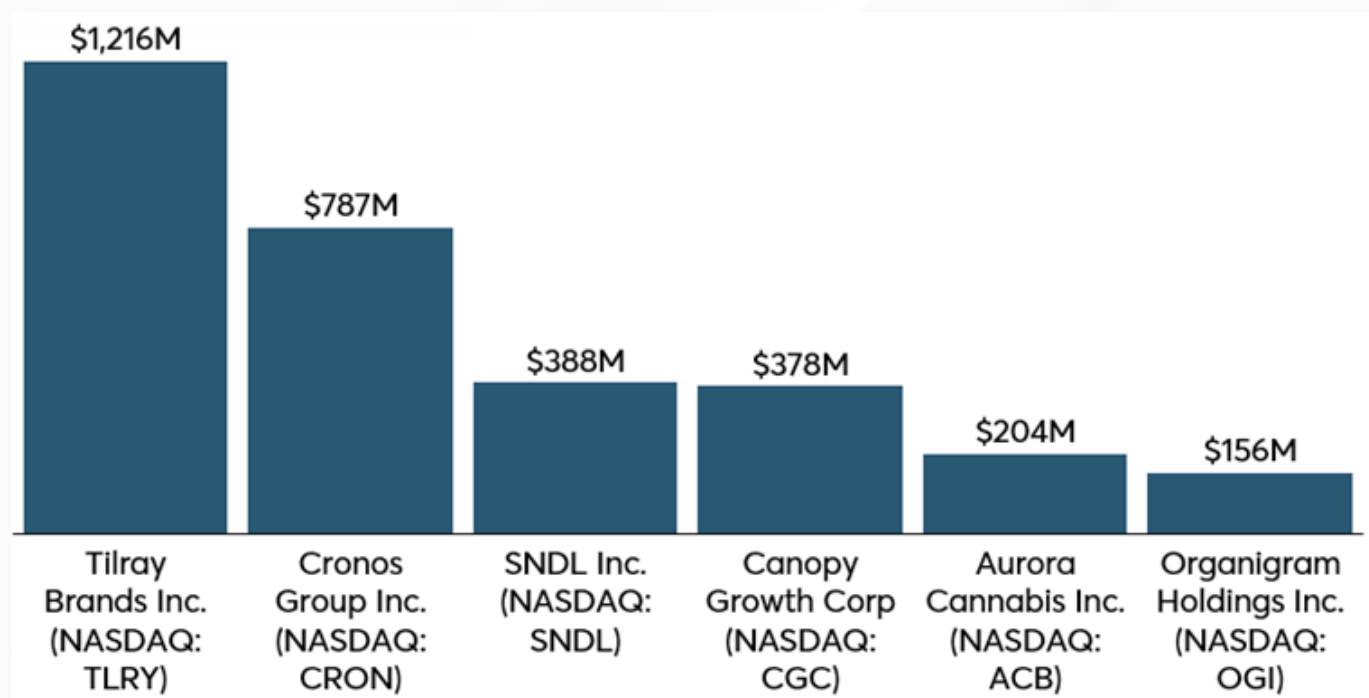
Current U.S. law allows foreign cannabis companies to list on the US securities exchanges and prohibits U.S.-based regulated companies from doing the same.

This would be remedied by including the securities exchanges in the safe harbors provided by SAFE Banking.

As shown in the figure below, foreign cannabis companies are already welcomed on major U.S. securities exchanges like the NASDAQ and New York Stock Exchange. These foreign cannabis companies trade freely among U.S. investors and are collectively valued in the billions of dollars.

Furthermore, foreign cannabis operators are also using the capital raised on the U.S. securities exchanges to acquire future-ownership positions in some fledgling U.S. cannabis operators – the same U.S. operators that are struggling to stay operational today because they do not have the access to Financial Institutions and the U.S. Securities Exchanges like these foreign operators do.

Figure 8: Value of Foreign Cannabis Companies on Major U.S. Securities Exchanges



Source: Yahoo Finance; Google Finance (values as of July 2023)

Cannabis companies from Canada, the Middle East, South America, and the European Union have access to traditional U.S. securities exchanges, resulting in billions of U.S. investment dollars exiting the U.S.

All regulated operators need access to Financial Institutions, especially small

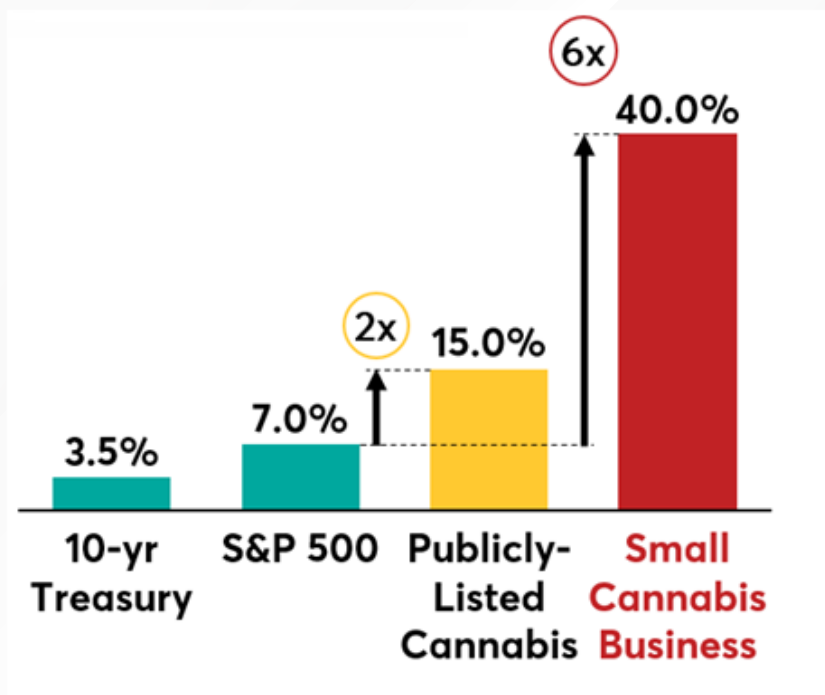
and diverse operators

Without lower financing costs, it becomes impossible for operators to compete with the illicit market for the same consumers while also adhering to the strict compliance and regulatory frameworks necessary to support the public safety aims of regulated markets.

Even the largest publicly-listed cannabis companies have a cost of capital that's more than double that paid by the average S&P 500 company.

For small cannabis companies, the lack of capital has become a full-blown crisis, with some companies being charged rates as high as 40%. These prohibitive interest rates make it nearly impossible for any businesses to survive.

Figure 9: Costs of Capital (Interest Rates) by Issuer: Small cannabis companies pay 6x the S&P 500 average



How do small and diverse operators benefit by providing a safe harbor to Financial Institutions and securities exchanges?

As noted above, all operators in the regulated cannabis industry need access to capital and depend on each other—if any part of the regulated industry fails (big/small or otherwise), the regulated market is at risk. As stated by the Minority Cannabis Business Association (MCBA), “[e]ntering the legal cannabis market in any state requires substantial upfront capital. Without ready access to funding to cover startup and operational costs, many social-equity applicants are shut out of the industry or fall victim to predatory partners to cover the extraordinary expense. As cannabis remains federally illegal, securing loans and other financing options for new cannabis operations are limited because many financial institutions will not incur the risks of banking most cannabis businesses.” Accordingly, the small and diverse operators need access to as many financial resources as possible to succeed.

As currently drafted, SAFE Banking does not do this – depository institutions, CDFIs and MDIs will not fill this need. Credit is an unrealistic financing source for an industry that is currently legal only at the state level; especially for pre-operational, pre-revenue, startup operators. The industry has had access to depository and lending institutions for years to no avail – operators still need to pass traditional underwriting review. For an emerging industry like cannabis, broad capital sources are key. The industry needs equity investors that underwrite investments based on the potential of the opportunity and the ability of the entrepreneur, rather than the availability of collateral and FICO scores. Small and private companies are harder for lenders or investors to invest in because they have inherent risks – true in any industry and true in cannabis – including that their revenue streams are typically not diversified, there is no public market to sell your investment position, and the investment is harder to evaluate because it does not undergo the scrutiny of public filings.

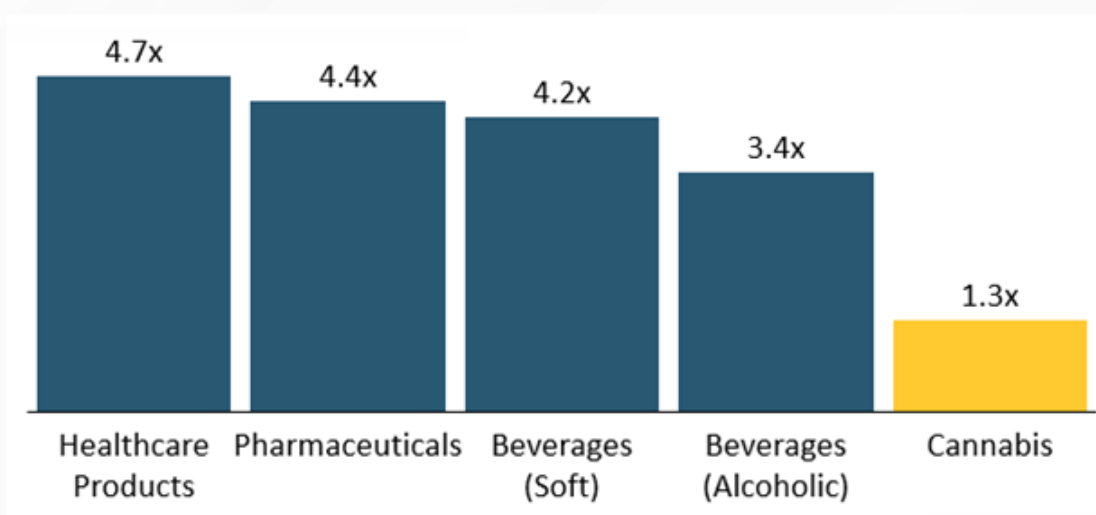
More Funding Sources Will Reduce Costs of Capital. With few capital sources available to cannabis operators, those sources are able to command incredibly high prices for access to their limited capital. To drive down the cost of capital for all cannabis operators, including small and/or diverse operators, the industry needs access to all traditional financial services and capital sources.

Liquidity Creates Value. Without access to the U.S. securities exchanges, the cannabis industry is considered “illiquid” by equity investors. In short, the ability to liquidate, or sell, an investment is a tremendous driver of value – conversely, the inability to efficiently sell out of an investment is equally an inhibitor of value. The U.S. securities exchanges are the gold standard marketplace to buy/sell securities – creating liquidity for investors. By providing a safe harbor to all traditional financial institutions and securities exchanges, the investor sees that there is a path to liquidity as small cannabis businesses and startups grow. Even if an operator has no intention of ever taking their company public, the fact that this industry has access to the U.S. securities exchanges will drive greater valuations for every operator in the industry – while a lack of access will depress values across the industry.

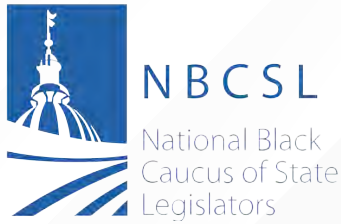
Valuation Benchmarking. In every industry, the publicly traded companies of that industry are used as the benchmark by which all other businesses in the industry are valued. Public companies have regulatory disclosures, audited financials, analyst coverage and show how investors/the public feel a company in that industry that has these fundamental characteristics should be valued. Suppressing the value of public companies that serve as industry benchmarks directly suppresses the value of smaller, private companies. Lack of access to securities exchanges depresses the values of the benchmark publicly traded companies, thereby depressing valuations of all industry operators.

With no access to U.S. securities exchanges, the U.S. plant-touching companies are relegated to trade on the Canadian securities exchanges and are valued at only ~1x revenue. Other comparable industries on the U.S. securities exchanges are typically valued at more than 4x revenue.

Figure 10: Enterprise Value to Revenue Ratio by Industry



Source: NYU Stern; Stoic Advisory



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A Special Thank You and
Acknowledgement



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