

InfoSight Newsletter

May 24, 2024 | Volume 18 | Issue 20

League InfoSight Highlight

Cannabis Rescheduling: What This Means for Financial Institutions

On April 30th, the Department of Justice recommended that cannabis be rescheduled from Schedule I in the Controlled Substances Act, which includes drugs like cocaine and LSD, to Schedule III, which includes substances like ketamine and Tylenol containing codeine.

The rescheduling process will be a lengthy, months-long process conducted through rule-making. The rule-making process includes three-steps:

1. Initial publication by the Drug Enforcement Agency of a proposed rule;
2. A period during which interested parties may offer their comments about the proposed rule, together with suggestions for amendments; and,
3. Publication of a final rule.

For now, nothing changes regarding banking cannabis accounts. The accounts remain high risk and will continue to be subject to the expectations in the [2014 FinCEN Guidance](#), which include enhanced onboarding, monitoring, obtaining related party information, obtaining financial data, and ongoing SAR filings. Even when cannabis is rescheduled, these expectations will remain in place at least until FinCEN revises or provides new guidance.

While there are legal and reputational risks associated with banking cannabis, the greatest risk, in my view, has always been the compliance/regulatory risk. Financial Institutions' prudential regulators will expect their regulated entities to follow the FinCEN Guidance while it is still in place. Whether regulators take a more elastic approach when examining financial institutions' cannabis programs with this news about rescheduling remains to be seen.

It is arguable that, when cannabis is rescheduled, this will lead to some legal and reputational de-risking for financial institutions. While cannabis will remain federally illegal even as a Schedule III drug, the chance of a financial institution being prosecuted which, in my view, has always been minimal, will become even more remote. Likewise, while the stigma of being associated with cannabis has diminished significantly over the years, it will likely all but go away with rescheduling. This may lead to more financial institutions jumping into the cannabis space. With greater competition, this may lead to downward pressure on pricing.

Credit unions can find more information, including a Cannabis Banking Checklist developed by Chris on [InfoSight](#) in the Marijuana-, Hemp-, and Cannabis-Related Accounts topic within the Accounts Channel.

Chris Van Dyck (cvandyck@kogentlaw.com) is a partner at Cogent Law Group and is a guest contributor for League InfoSight to help provide credit unions with valuable insights. He has worked extensively in the canna-banking space for the last ten years. He was the Maine Bureau of Financial Institution's attorney from 2008 to 2014 and, thereafter, he was the General Counsel, Compliance Officer and BSA Officer at cPort Credit Union located in southern Maine.

Chris Van Dyck
Partner at Cogent Law Group

Observance and Celebration!



News and Alerts!

CFPB: Statement on Supreme Court Decision in CFPB v. CFSA

The Consumer Financial Protection Bureau issued a statement regarding the Supreme Court's decision in CFPB v. Community Financial Services Association of America:

“For years, lawbreaking companies and Wall Street lobbyists have been scheming to defund essential consumer protection enforcement. The Supreme Court has rejected their radical theory that would have devastated the American financial markets. The Court repudiated the arguments of the payday loan lobby and made it clear that the CFPB is here to stay.”

[Read More](#)

CFPB: Small Business Lending Rulemaking

The CFPB is extending compliance deadlines for the small business lending rule. After the CFPB issued this rule on March 30, 2023, some lenders filed challenges against it in federal court in Texas. On July 31, 2023, that court [stayed the rule](#) for certain lenders pending the Supreme Court's decision in CFPB v. CFSA; on October 26, it [extended that stay](#) to all lenders covered by the rule. In the event of a reversal in CFSA, the Texas court ordered the CFPB to extend the rule's compliance deadlines to compensate for the period stayed. The CFPB now plans to issue an interim final rule to extend compliance deadlines.

[Read More](#)

CFPB Sues SoLo Funds for Deceiving Borrowers and Illegally Extracting Fees

The Consumer Financial Protection Bureau (CFPB) [sued the online lending platform](#) SoLo Funds for deceiving borrowers about the total cost of loans. The CFPB alleges that SoLo markets itself as a consumer-friendly alternative to high-cost, short-term loans. Despite advertising zero-interest loans or 0% APR loans, SoLo's use of dark patterns ensures that almost every borrower pays a fee, in the form of a “tip” or “donation.”

[Read More](#)

CFPB Takes Action Against Western Benefits for Swindling Student Loan Borrowers

The Consumer Financial Protection Bureau (CFPB) took action against Western Benefits Group for charging illegal advance fees for student loan debt relief services and misrepresenting to consumers that advance fees would go toward paying down their loans. The CFPB found Western Benefits also misrepresented that it was affiliated with and endorsed by the Department of Education, and that the company would help consumers consolidate student loans, lower consumers' monthly student loan payments, or obtain loan cancellation.

[Read More](#)

Association for Financial Professionals (AFP) Report Finds Check Fraud on the Rise

After four consecutive years of declines, the number of organizations reporting attempted or actual payments fraud rose considerably in 2023, new research found.

The "2024 AFP Payments Fraud and Control Survey Report" showed the number rose to 80%, up from 65% in 2022. Checks continued to be the most problematic payment method, with 65% of organizations reporting check fraud activity.

[Read More](#)

What if your building
suddenly becomes
inaccessible?

Are you
prepared?

RecoveryPro
can help!



Questions, Comments, Concerns? We are here to help! Email us at
info@leagueinfosight.com