Dabbing[1] into the Financial Side of Marijuana
By: Neda Ghomeshi, Esquire[2]

I. Introduction

Marijuana is illegal under federal criminal law.[3] Notwithstanding the federal ban, twenty-three states and the District of Columbia have legalized the use of medical marijuana.[4] Additionally, every issuer that intends to raise capital from investors for a marijuana-related business must provide a list of risk factors relating to the industry and current legal atmosphere, including informing investors that the issuer may be unable to repay the investors based on the current laws.[5]

As of October 2016, there are 190 public marijuana-related companies.[6] At the end of 2014, the Securities and Exchange Commission ("SEC") approved registration of shares for Terra Tech Corp., which according to its registration statement, was seeking to raise funds, in part, to finance "three majority-owned subsidiaries for the purposes of cultivation or production of medical marijuana and/or operation of dispensary facilities in various locations in Nevada."[7] Securities and marijuana have already crossed paths and will only become more intertwined.[8]

II. Conflicts Between Federal and State Law

a. Federal Law

The Controlled Substances Act ("CSA")[9] prohibits the manufacturing, distributing, or dispensing of marijuana.[10] The CSA makes it illegal to aid and abet the manufacturing, distribution, or dispensing of marijuana, and conspiring to manufacture, distribute, or dispense

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[1] Dabbing is a popular way of consuming marijuana.

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[3] 21 U.S.C. § 841(a)(1) (2016) (making it unlawful "to manufacture, distribute, or dispense ... a controlled substance"); *id.* § 802(6) (defining controlled substance to include drugs in "schedule I"); *id.* § 812 (classifying marijuana as a schedule I drug).

[4] *See* Julie Andersen Hill, *Banks, Marijuana, and Federalism*, 65 Case W. Res. L. Rev. 597, 598 (2015).

[5] *See* Robert McVay, *Marijuana Investments: Securities Law 101* (Dec. 10, 2014), http://www.cannalawblog.com/marijuana-investments-securities-law-101/.; *see also* Hilary Bricken, *Cutting Through The Haze Of Securities Laws And Marijuana* (March 23, 2015), http://abovethelaw.com/2015/03/cutting-through-the-haze-of-securities-laws-and-marijuana/.

[6] The Marijuana Index, http://marijuanaindex.com/marijuana-stock-universe/.

[7] Christopher P. Parrington, *Securities and Marijuana: A Broker/Dealer's Guide to Navigating through the Rules and Regulations Related to the Cannabis Industry* (May 2016), http://www.kutakrock.com/files/Uploads/Images/2016-reprint-Parrington%20(2).pdf.

[8] *Id.*

[9] 21 U.S.C. §§ 801-904 (2016).

[10] *Id.* §§ 841(a)(1), 802(6), 812.

marijuana.[11] Also, federal law punishes accessories after the fact.[12] If the quantity of marijuana involved is large, prison time and fines for violationing the CSA are substantial.[13] The Supreme Court of the United States has upheld the federal government's authority to criminalize marijuana, even in the face of contrary state law.[14]

Although marijuana is illegal at the federal level, under the anti-commandeering doctrine, the federal government cannot force states to support or participate in enforcing the CSA and federal laws in general.[15] Congress cannot compel states to repeal its medical marijuana laws or direct state officials to enforce federal laws due to the limitations set forth by the Tenth Amendment of the United States Constitution.[16] However, the Tenth Amendment constraints do not apply to the federal government's power to recruit private entities, such as banks and other financial institutions, to assist the government in its enforcement efforts concerning marijuana and other activities deemed illegal under federal law.[17]

Additionally, preemption is grounded in the Supremacy Clause, which states that "[t]he Constitution, and the Laws of the United States ... shall be the supreme law of the land."[18] Under the Supremacy Clause, state laws that conflict with federal laws are generally preempted and, therefore, are rendered null and void.[19] Therefore, federal law is binding, even in states that have passed laws that permit or require something different.[20]

Congress, however, did not intend that the CSA displace all state laws associated with controlled substances.[21] The CSA contains an express preemption clause providing that the CSA does not occupy the field to the exclusion of any state law concerning controlled substances, unless "there is a positive conflict between the CSA and that State law so that the two cannot

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[11] *Id.* § 371.
[12] 18 U.S.C § 3 (2016) ("Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.").
[13] *See* 21 U.S.C. § 841(b)(1)(A) (2016).
[14] *See United States v. Oakland Cannabis Buyers' Coop.,* 532 U.S. 483, 489-95 (2001) (holding that medical necessity was not a defense to the Controlled Substances Act); *see also Gonzales v. Raich*, 545 U.S. 1, 23-33 (2005) (holding that the federal government's Commerce Clause power was broad enough to criminalize the cultivation of a small amount of medicinal marijuana for personal use).
[15] *See* Moises Gali-Velazquez, *Changes Needed to Protect the Banking and Financial Services Sector When Dealing with the Medical Marijuana Industry-Part II*, 133 Banking L.J. 126, 127 (2016).
[16] *See New York v. United States*, 505 U.S. 144 (1992) (holding that Congress cannot compel a state legislature to enact laws to enforce a federal legislative mandate); *see also Printz v. United States*, 521 U.S. 898 (1997) (holding that the federal government cannot compel a state legislature to enact laws to enforce a federal legislative mandate, nor command the states' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program).
[17] *See* Gali-Velazquez, *supra* at 127.
[18] U.S. Const., Art. VI, cl. 2.
[19] *See* Gali-Velazquez, *supra* at 127-28.
[20] *See id.*
[21] 21 U.S.C. § 903 (stating that the CSA shall not be construed "as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between the CSA and that State law so that the two cannot consistently stand together.").

consistently stand together."[22] Accordingly, state medical marijuana laws would only be preempted by the CSA if there were a positive conflict between such state law and the CSA.[23] An actual positive conflict exists either when it is "physically impossible" to comply with both state and federal law or when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress."[24] So far, exemption from prosecution under state law has not obstructed the federal government's ability to investigate and prosecute an individual for a violation of federal law.[25]

b. New York State Law

In the state of New York, possession/use of marijuana is illegal.[26] The use of marijuana for certain medical conditions is legal, though dispensaries have not yet opened.[27] In September 2015, several New York corporations were granted state licenses to manufacture and dispense medical marijuana within the state.[28] A few days after the approval, several major banks located in New York explained that they would not provide services to these newly state-legalized marijuana businesses.[29] Wells Fargo & Company said, "While the use of medical marijuana is legal under applicable state laws . . . [N]ot banking marijuana-related businesses is based on applicable federal laws."[30] The lack of access to financial services "stands as a formidable barrier to growth of the state-legal marijuana industry."[31]

III. Department of Justice and Financial Crimes Enforcement Network Memorandums

The Department of Justice ("DOJ") and Financial Crimes Enforcement Network **(**"FinCEN") have attempted to clarify their enforcement priorities regarding state-legalized marijuana operations. As discussed in more detail below, the DOJ has indicated that it will not target legal marijuana businesses, so long as those businesses meet certain regulatory

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[22] *See id.*
[23] *See* Gali-Velazquez, *supra* at 128.
[24] *See Freightliner Corp. v. Myrick*, 514 U.S. at 287, 115 S.Ct. 1483 (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67, 61 S.Ct. 399, 85 L.Ed. 581 (1941)); *see also* Gali-Velazquez, *supra* at 128.
[25] *See* Gali-Velazquez, *supra* at 128.
[26] Andrew J. Proto, *NEW YORK STATE'S SHIFT IN PROSECUTING AND DEFENDING DRUG CRIMES*, 2016 WL 4394524 (July 2016).
[27] Sarah Maslin Nir, *In New Era for Marijuana, New York Smokers Get Bolder* (Dec. 14, 2015), http://www.nytimes.com/2015/12/15/nyregion/as-marijuana-laws-relax-smokers-in-new-york-city-turn-bolder.html?_r=0.
[28] *See id.; see also* Lindsay Ellis, *Banks Edge Into New York Medical Marijuana Markets-Establishments Cautious Due to Drug's Illegal Federal Status*, TIMES UNION (Sept. 12, 2015), http://www.timesunion.com/tuplus-business/article/Banks-edge-into-NewYork-medic.
[29] *See* Brittany Cohen, *Marijuana Dispensaries Not Feeling So High: Financial Institutions Close Their Doors to State-Legalized Marijuana Businesses* (2015-2016), https://www.bu.edu/rbfl/files/2016/04/Cohen-DA-Final-Formatted.pdf; *see also* Josefa Velasquez, *Major NY Banks Plan to Avoid Medical Marijuana Firms, POLITICO N.Y.* (Sept. 17, 2015), http://www.capitalnewyork.com/article/albany/2015/09/8576967/major-nybanks-plan-avoid-medical-marijuana-firms [http://perma.cc/3LQM-A5XH].
[30] Josefa Velasquez, *Major NY Banks Plan to Avoid Medical Marijuana Firms, POLITICO N.Y.* (Sept. 17, 2015), http://www.capitalnewyork.com/article/albany/2015/09/8576967/major-nybanks-plan-avoid-medical-marijuana-firms [http://perma.cc/3LQM-A5XH].
[31] Hill, *supra* note 7, at 600.

requirements. FinCEN has also released a letter identifying its Bank Secrecy Act ("BSA") expectations for financial institutions seeking to provide services to marijuana-related businesses. Although these measures are meant to provide banks and other financial institutions with some guidance for doing business in the industry, no comprehensive guidelines or policies have emerged to mitigate ongoing banking concerns.

a. DOJ Memorandums Issued to United States Attorneys

In 2009, after the first states legalized medical marijuana, the federal government's policy towards medical marijuana took a shift, when the DOJ, through Deputy Attorney General, David W. Odgen, issued a memorandum to United States Attorneys (the "2009 Odgen Memorandum") with the purpose of "providing clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana."[32] The 2009 Odgen Memorandum stated that although "[t]he Department of Justice is committed to enforcement of the [CSA] in all States ... [t]he Department is also committed to making efficient and rational use of its limited investigative and prosecutorial resources."[33] The 2009 Odgen Memorandum instructed United States Attorneys to exercise their discretionary authority to prosecute federal crimes in accordance with the DOJ's priorities and guidance.[34] Such priorities, the 2009 Odgen Memorandum stated, "should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."[35]

The DOJ issued another memorandum on June 29, 2011, through Deputy Attorney General, James M. Cole (the "2011 Cole Memorandum"), which addressed the DOJ's position towards commercial cultivation and distribution of marijuana for medical use.[36] The 2011 Cole Memorandum stated that "several jurisdictions have considered or enacted legislation to authorize multiple large-scale, privately-operated industrial marijuana cultivation centers" and that the "[2009] Odgen Memorandum was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law."[37] Hence, it concluded, "[p]ersons who are in the business of cultivating, selling or distributing marijuana, and those who knowingly facilitate such services, are in violation of the [CSA], regardless of state law."[38]

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[32] Memorandum from David W. Odgen, Deputy Att'y Gen., to United States Att'ys, *Investigations and Prosecutions in States*, (October 19, 2009), http://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-marijuana.pdf; *see* Gali-Velazquez, *supra* at 132.

[33] *See* Odgen Mem. at 1; *see also* Gali-Velazquez, *supra* at 132.

[34] *See* Gali-Velazquez, *supra* at 132.

[35] Memorandum from David W. Odgen, Deputy Att'y Gen., to United States Att'ys, *Investigations and Prosecutions in States*, (October 19, 2009), http://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-marijuana.pdf; *see* Gali-Velazquez, *supra* at 132.

[36] Memorandum from James M. Cole, Deputy Att'y Gen., to United States Att'ys, Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use 2 (June 29, 2011), http://www.justice.gov/oip/docs/dag-guidance-2011-for-medical-marijuana-use.pdf.

[37] *Id.*

[38] *Id.*

In 2013, however, the DOJ once again updated its guidance to federal prosecutors concerning marijuana enforcement under the CSA in another DOJ memorandum signed by James M. Cole (the "2013 Cole Memorandum").[39] In short, the 2013 Cole Memorandum indicates that the government's executive branch has decided not to enforce the CSA in states that have legalized marijuana and adopted a strong regulatory framework with respect to marijuana-related activities.[40] Therefore, instead of seeking to change the law (which would require the cooperation of Congress) the executive branch of the federal government has adopted what some may call "a public position of tacit encouragement for state legalization, premised on a baseline of federal nonenforcement."[41]

b. FinCen Guidence Memorandum

On February 14, 2014, FinCEN issued a memorandum providing guidance to clarify the BSA's expectations for financial institutions seeking to provide services to marijuana-related businesses (the "FinCEN Guidance").[42] The FinCEN Guidance "clarifies how financial institutions can provide services to marijuana-related businesses consistent with their [BSA] obligations."[43] In issuing the FinCEN Guidance, FinCEN was attempting to "enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses."[44]

In performing this due diligence, the FinCEN Guidance articulates that a financial institution's due diligence procedures should include, at a minimum:

- Verifying with appropriate state authorities whether the business is duly licensed and registered;
- Reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
- Requesting available information about the business and related parties from state-licensing and enforcement authorities;
- Developing an understanding of the normal and expected activity for the business;
- Ongoing monitoring of publicly available sources for adverse information about the business and related parties;
- Ongoing monitoring for suspicious activity, including red flags described in the FinCEN Guidance; and

[39] Cole Memo (August 29, 2013), https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf.
[40] *See* Gali-Velazquez, *supra* at 134.
[41] *See id.; see also* Bradley E. Markano, *Enabling State Deregulation of Marijuana Through Executive Branch Nonenforcement,* 90 N.Y.U.L. REV. 289, 294 (2015).
[42] FinCEN Guidance Memo (Feb. 14, 2014), https://www.fincen.gov/statutes_regs/ guidance/pdf/FIN-2014-G001.pdf.
[43] *Id*. at pg. 1.
[44] *Id.*

- Refreshing information obtained as part of a customer due diligence on a periodic basis and in accordance with the associated risk.[45]

c. DOJ's Memo Released on Same Day as FinCEN Guidence

On the same day that the FinCEN Guidance was issued, James Cole issued a second memo providing guidance on the impact that the First Cole Memo would have on certain financial crimes for which marijuana-related conduct is a predicate (the "Second Cole Memo").[46] According to the Second Cole Memo, investigations and prosecutions of violations of the BSA with respect to marijuana-related businesses should be subject to the same consideration and prioritization of investigations and prosecutions of violations of the CSA.[47] As such, the Second Cole Memo reiterates the importance of a financial institution performing adequate due diligence on its customers to ensure compliance with the First Cole Memo priorities and the applicable state laws, but also provides that "it is essential that financial institutions adhere to FinCEN's guidance."[48] Similar to the First Cole Memo, however, the Second Cole Memo reminds financial institutions that it is ***merely intended as a guide*** to the exercise of investigative and prosecutorial discretion by U.S. Attorneys, and that nothing in the memo provides a legal defense or restricts the DOJ's authority to enforce federal law.[49]

d. Financial Institution's Obligation to File Suspicious Activity Report

Regardless of the type of business (marijuana-related or not), a financial institution is required to file a Suspicious Activity Report ("SAR") if it knows, suspects, or has reason to suspect that a transaction conducted through the financial institution involves funds derived from illegal activity.[50] Given that the cultivation and sale of marijuana is illegal under the CSA, financial institutions doing business with the cannabis industry must file SARs under federal law. According to the FinCEN Guidance, however, SAR filing for marijuana-related businesses shall receive special attention.[51] For example, if, based upon its customer due diligence, a financial institution believes that a marijuana-related business does not implicate one of the First Cole Memo priorities and does not violate applicable state law, then the financial institution should file a "Marijuana Limited" SAR containing specific information about the business.[52] If, after due diligence, the financial institution believes that the marijuana-related business implicates one of the First Cole Memo priorities, then it should file a "Marijuana Priority" SAR.[53] If the financial institution deems it necessary to terminate a relationship with a marijuana-related

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[45] FinCEN Guidance Memo (Feb. 14, 2014), https://www.fincen.gov/statutes_regs/ guidance/pdf/FIN-2014-G001.pdf.
[46] Second Cole Memo (Feb. 14, 2014), https://www.justice.gov/sites/default/files/usaodwa/legacy/2014/02/14/DAG%20Memo%20%20Guidance%20Regarding%20Marijuana%20Related%20Financial%20Crimes%202%2014%2014%20%282%29.pdf.
[47] *Id.* at pg. 2.
[48] *Id.* at pg. 3.
[49] *Id.* (emphasis added).
[50] 31 CFR § 1020.320.
[51] *See* Parrington, *supra* at 3.
[52] FinCEN Guidance Memo (Feb. 14, 2014), https://www.fincen.gov/statutes_regs/ guidance/pdf/FIN-2014-G001.pdf.
[53] *Id.*

business due to its anti-money laundering program, it should file a "Marijuana Termination" SAR.[54]

According to FinCEN, from February 2014 through January 2015, there were 3,157 marijuana-related SARs filings.[55] Of these filings, 1,736 were "Marijuana Limited" SARs in 25 different states, which mean that there were at least 1,736 active accounts at financial institutions doing business with marijuana-related businesses.[56]

e. Broker/Dealer Rules to Follow

Under the guidance set forth by the Cole Memos and the FinCEN Guidance, brokers and firms doing business with the cannabis industry have a special set of rules to follow.[57] For example, FINRA Rule 2111 requires that FINRA members have a reasonable basis to believe that a recommended transaction and investment strategy is suitable for the customer, based upon information obtained about the customer through reasonable due diligence.[58] In the event a customer is engaged in a marijuana-related business, the Cole Memos and FinCEN Guidance require that a FINRA member not only determine suitability for the particular transaction or strategy, but determine if the source of the funds being invested are from a marijuana-related business that is in compliance with the First Cole Memo priorities and applicable state law, for the purpose of filing the appropriate marijuana-related SAR.[59] Additionally, that FINRA member must perform due diligence on the sponsor of the investment product.[60]

An additional area in which the cannabis industry could be relevant to a broker/dealer firm pertains to registered brokers seeking approval to be involved in a marijuana-related business as outside business activities ("OBA").[61] For example, FINRA Rule 3270 requires advance notice to a broker/dealer firm before a FINRA member is engaged in a business activity outside the scope of his or her member firm.[62] Upon receipt of notice of an OBA, the broker/dealer firm is required to evaluate certain considerations, which require the firm to have an adequate understanding of the proposed activity including whether the activity is compliant with the First Cole Memo priorities and applicable state law when it is marijuana-related, especially given the obligations imposed upon the member firm as a financial institution governed by the BSA.[63] Furthermore, after an OBA is approved, the member firm will need to

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[54] *See* Parrington, *supra* at 3.
[55] Alison Jimenez, *Who is Filing Suspicious Activity Reports on the Marijuana Industry? New Data May Surprise You* (April 13, 2015), http://securitiesanalytics.com/marijuana_SARs.
[56] http://securitiesanalytics.com/marijuana_SARs.
[57] *See* Parrington, *supra* at 4; *see also* http://marijuanaindex.com/stock-quotes/marijuana-index-us-reporting/.
[58] FINRA Rule 2111(a).
[59] *See* Parrington, *supra* at 3; *see also* http://marijuanaindex.com/stock-quotes/marijuana-index-us-reporting/.
[60] *See* FINRA Notice to Member 10-22.
[61] *See* Parrington, *supra* at 4.
[62] FINRA Rule 3270.
[63] FINRA Rule 3270, Supp. Material .01.

ensure that it has the proper procedures in place to monitor the activity for changes that may raise red flags of violations of the First Cole Memo priorities or applicable state law.[64]

f. Disclosure of Risk Factors

Every business, cannabis or otherwise, that seeks to raise money through either a debt or an equity offering must inform investors of its basic business plan, what it intends to do with the capital it is raising, financial projections (including expected return window for the investor), and a list of risk factors that may lead the business to be unable to repay the investor.[65] These risk factors are essential, and need to be drafted by securities counsel. The factors are not boilerplate, as each business has its own risks. Factors may appear daunting and are the types of statements that should ward away risk-averse investors. That is the point, as risk-averse people should not be investing their funds into private companies, an inherently risky proposition.

For cannabis-related businesses, the risk factors look even scarier. They may say things like: "the federal government may raid us, seize all of our equipment and inventory, and arrest all of our employees, officers, and investors, *including you.*"[66] Companies are not supposed to downplay the risks of the investment. It may seem counterintuitive, but notifying investors at the outset of the full extent of their risks is what provides companies with legal protection. If the company ends registrations unable to pay back its investors, the company needs to be able to show that the investor knew all of the risks and knew the investment was anything but secured/guaranteed.[67]

IV. Banking Complications & Anti-Money Laundering

Legal marijuana businesses are having a difficult time depositing their profits into traditional bank accounts.[68] Banks are refusing to open new accounts for medical marijuana businesses and several financial institutions that once opened accounts for marijuana businesses are now closing them.[69] At a time when banks should be flocking to serve the emerging billion-dollar marijuana industry, they are prevented from doing so by federal law.[70] However, the laws against money laundering are having a significant adverse impact. Money laundering, which is commonly known as the act of making illegal funds appear legitimate, is a federal crime and the statutory provisions making money laundering a federal crime were added by the Money Laundering Control Act of 1986 ("MLCA").[71] In general terms, the MLCA prohibits financial transactions involving criminal proceeds, including transactions designed to conceal or disguise

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[64] *See* Parrington, *supra* at 4; *see also* http://marijuanaindex.com/stock-quotes/marijuana-index-us-reporting/.
[65] *See* Robert McVay, *Marijuana Investments: Securities Law 101* (Dec. 10, 2014), http://www.cannalawblog.com/marijuana-investments-securities-law-101/.; *see also* Hilary Bricken, *Cutting Through The Haze Of Securities Laws And Marijuana* (March 23, 2015), http://abovethelaw.com/2015/03/cutting-through-the-haze-of-securities-laws-and-marijuana/.
[66] *See id.*
[67] *See id.*
[68] *See* Gali-Velazquez, *supra* at 135.
[69] *See id.*
[70] *See id.* at 137-38.
[71] 18 U.S.C. §§ 1956 and 1957 (2016).

the source, nature, location, ownership, or control of the proceeds, or to facilitate another crime.[72]

Anti-money laundering duties of banks and other types of financial institutions in the United States arise principally from the BSA of 1970.[73] The BSA recruits banks in the fight against money laundering by requiring banks to assist the United States federal government in its enforcement efforts. Financial institutions are required to report suspicious transactions relevant to a possible violation of the law, and the failure to report such suspicious transactions could result in criminal liability for those financial institutions and its directors, officers, employees and agents, under the BSA.[74] Broker/dealer firms fall within the definition of a "financial institution" under the BSA.[75] Therefore, broker dealer firms and their registered representatives must be careful to navigate carefully and delicately through the relevant rules, regulations, guidance, and laws when deciding to do business in the cannabis industry.[76]

With respect to marijuana-related transactions, a bank may commit money laundering by conducting a banking transaction with a customer involving the proceeds of a known "specified unlawful activity" with the "intent to promote the carrying on of such specified unlawful activity" or while "knowing that the transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified unlawful activity or to avoid a transaction reporting requirement under State or Federal law."[77]

V. Conclusion

Although the Cole Memos and FinCEN Guidance provide guidance for brokers and their firms doing business with the cannabis industry, those documents merely provide guidance on how to best avoid being the subject of an investigation or prosecution for violating federal law. As the Cole Memos and FinCEN Guidance make clear, even 100% compliance does not guarantee a lack of investigation or prosecution by the Department of Justice.[78]

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[72] *See* Gali-Velazquez, *supra* at 140.
[73] CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT (popularly known as the Bank Secrecy Act), Pub. L. No. 91-508, 84 Stat. 1114 (1970), codified as amended in 12 U.S.C. §§ 1829(b), 1951-1959; 31 U.S.C. §§ 5311-5330.; The USA PATRIOT ACT amended and strengthened the requirements under the BSA. UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM (USA PATRIOT) Act, Pub. L. No. 107-56, 115 Stat. 272 (2001) (codified as amended in scattered sections of the U.S.C.).; *see also id.* at 141.
[74] 31 U.S.C. § 5318(g).
[75] 31 U.S.C. § 5312(a)(2)(H).
[76] *See* Parrington, *supra* at 2.
[77] 18 U.S.C.A. § 1956 (a)(1)(A)(i) and 1956(B); s*ee* Gali-Velazquez, *supra* at 141.
[78] *See* Parrington, *supra* at 4-5.