



IBAT Insights

(Ask IBAT Anything)

An Exclusive Benefit for Members of:

The Independent Community Bankers Association of New Mexico

Question:

We have a medical doctor that would like to bank with us that treats and prescribes to medicinal marijuana patients. If we elect to open this account, would we have to file SARs on this doctor?

Answer:

If that doctor is a 'Qualified' physician under §169.002 of the Occupations Code, they are legally allowed to treat and prescribe to medicinal marijuana patients. That same doctor could write a prescription for a controlled substance like a narcotic, so the fact they could write a prescription for marijuana would not require filing a SAR '...so long as there is not any other suspicious activity that would otherwise warrant the filing of a SAR.

Below is a response IBAT received from FinCEN regarding those 'indirectly' involved in a 'marijuana related business.' The relevant passage was underlined for emphasis.

...snip

FinCEN does not expect a financial institution to file SARs in accordance with FIN-2014-G001 on the basis that a customer relationship indirectly involves a state-regulated marijuana-related business, so long as there is not any other suspicious activity that would otherwise warrant the filing of a SAR. For example, a bank providing account services to an individual who is an employee of a state-regulated marijuana-related business does not need to file a SAR on that individual solely because he or she is an employee of that business. Similarly, a bank providing services to a state, such as Colorado or Washington, for purposes of collecting fees or taxes from marijuana-related businesses regulated by that state does not need to file a SAR solely because the fees or taxes are being paid by those businesses. While a financial institution may file SARs in such circumstances, the activity associated with these indirect relationships is not the focus of the Marijuana Guidance, and such reports may be of limited value with respect to the priorities of FinCEN and its stakeholders. However, to be clear, financial institutions should file SARs in circumstances when there is other suspicious activity that would serve as an independent basis for filing SARs.

Regards,
FinCEN's Resource Center

Logically, the same would hold true for those involved in the 'consumable hemp product' (CHP) business because that is also a 'state regulated' business (hemp) that is allowed to operate legally in states that have legalized hemp and CHPs under the 2018 Farm Bill.