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January 17, 2018

GH 34-18-1411
Speaker Benjamin J.F. Cruz

Honorable Congresswoman Madeline Z. Bordallo
United States House of Representative
Delegate, Territory of Guam
2441 Rayburn House Office Building
Washington, DC 20515

JAN 18 2018
Time: 8:30 AM / PM File No 34-141
Received By: [illegible]

Re: Banking Legislation for Legalized Use of Marijuana – Bipartisan Letter by the National Association of Attorneys General

Hafa Adai Madame Congresswoman:

Today a bipartisan letter from nineteen (19) State and Territorial Attorneys General was sent urging Congress to advance legislation that would allow states that have legalized medical or recreational use of marijuana to bring that commerce into the banking system.

The people of Guam voted to allow use of medical marijuana to be legalized in the territory. Patients are still awaiting the establishment of infrastructure by the government of Guam for the regulation of this industry on Guam. One component of that infrastructure is providing banking services for these businesses. Only Congress can provide for the financial protections needed to curtail grey market financial activities.

We recognize that federal law continues to criminalize the use of marijuana throughout our nation, and that the recent position taken by the Attorney General of the United States, has called into question the future of state action legalizing the use of marijuana. The recent rescission of guidance by the federal government, has made the need for Congressional action to get the cash generated by this industry into a regulated banking sector even more urgent. I ask for your support of legislation on this issue as it is presented in either the House or Senate.

2018 JAN 18 AM 11:29

Sincerely,

1411

ELIZABETH BARRETT-ANDERSON
Attorney General of Guam

Cc: Governor of Guam
All Senators

January 16, 2018

Hon. Paul Ryan
Speaker of the House
H-232, The Capitol
Washington, DC 20515

Hon. Nancy Pelosi
Minority Leader
H-204, The Capitol
Washington, DC 20515

Hon. Mitch McConnell
Majority Leader
317 Russell Bldg
Washington, DC 20510

Hon. Charles E. Schumer
Minority Leader
322 Hart Bldg.
Washington, DC 20510

Hon. Kevin McCarthy
Majority Leader
H-107, The Capitol
Washington, DC 20515

Hon. Steny Hoyer
Minority Whip
1705 Longworth Office Building
Washington, DC 20515

Hon. John Cornyn
Majority Whip
517 Hart Bldg.
Washington, DC 20510

Hon. Richard J. Durbin
Minority Whip
711 Hart Bldg.
Washington, DC 20510

Hon. Mike Crapo
Chair
Senate Committee on Banking,
Housing & Urban Affairs
534 Dirksen Senate Building
Washington, DC 20510

Hon. Sherrod Brown
Ranking Member
Senate Committee on Banking,
Housing & Urban Affairs
534 Dirksen Senate Building
Washington, DC 20510

Dear Congressional Leaders:

We are a bipartisan group of state attorneys general who recognize that the states and federal government share a strong interest in protecting public safety and bringing grey market activities into the regulated banking sector. To address these goals, we urge Congress to advance legislation that would allow states that have legalized medical or recreational use of marijuana to bring that commerce into the banking system.

Twenty-nine states and several U.S. territories have legalized the medical use of marijuana. Among those, eight states and the District of Columbia, also allow recreational use by adults over 21 years of age. However, because the federal government classifies marijuana as an illegal substance, banks providing services to state-licensed cannabis businesses could find themselves subject to criminal and civil liability under the Controlled Substances Act and certain federal banking statutes. This risk has significantly inhibited the willingness of financial institutions to provide services to these businesses.

Despite the contradictions between federal and state law, the marijuana industry continues to grow rapidly. Industry analysts report that sales grew by 30% to $6.7 billion in 2016 and expect those totals to exceed $20 billion by 2021. Yet those revenues often exist outside of the regulated banking space. Businesses are forced to operate on a cash basis. The grey market makes it more difficult to track revenues for taxation purposes, contributes to a public safety threat as cash intensive businesses are often targets for criminal activity, and prevents proper tracking of large swaths of finances across the nation.

To address these challenges, we are requesting legislation that would provide a safe harbor for depository institutions that provide a financial product or service to a covered business in a state that has implemented laws and regulations that ensure accountability in the marijuana industry such as the SAFE Banking Act (S. 1152 and H.R. 2215) or similar legislation. This would bring billions of dollars into the banking sector, and give law enforcement the ability to monitor these transactions. Moreover, compliance with tax requirements would be simpler and easier to enforce with a better-defined tracking of funds. This would, in turn, result in higher tax revenue.

Prior Department of Justice guidance outlined how financial institutions could provide services to state-licensed marijuana businesses consistent with their obligations under federal law and created some space for the banking industry to work with those businesses, though challenges remained in many areas. The recent rescission of that guidance has made the need for Congressional action to get the cash generated by this industry into a regulated banking sector even more urgent.

Our banking system must be flexible enough to address the needs of businesses in the various states, with state input, while protecting the interests of the federal government. This includes a banking system for marijuana-related businesses that is both responsive and effective in meeting the demands of our economy. We look forward to working with you as you move forward in this process and lending our voice and expertise as you develop legislation.

Sincerely,

Jahna Lindemuth
Alaska Attorney General

Karl A. Racine
District of Columbia Attorney General

Doug Chin
Hawaii Attorney General

Wayne Stenehjem
North Dakota Attorney General

Xavier Becerra
California Attorney General

Cynthia Coffman
Colorado Attorney General

George Jepsen
Connecticut Attorney General

Lisa Madigan
Illinois Attorney General

Janet T. Mills
Maine Attorney General

Maura Healey
Massachusetts Attorney General

Eric T. Schneiderman
New York Attorney General

Josh Shapiro
Pennsylvania Attorney General

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Brian Frosh
Maryland Attorney General

Hector Balderas
New Mexico Attorney General

Ellen F. Rosenblum
Oregon Attorney General

T.J. Donovan
Vermont Attorney General