



STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
LANSING

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
LANSING

ANITA G. FOX  
DIRECTOR

**DATE:** January 08, 2020  
**LETTER NO:** 2020-CU-01  
**TO;** The Board of Directors and Management of Michigan State-Chartered Credit Unions  
**SUBJECT:** DIFS Issuance of Memo regarding Financial Services to the Marijuana Industry

The changes in the legalization of marijuana under Michigan law, though continuing to be illegal under federal law, impacts all financial institutions in Michigan. Boards and management must continue to exercise prudent caution, make informed decisions related to this matter, and manage all related risks which their credit union is exposed to directly or indirectly.

The Department of Insurance and Financial Services (DIFS) has provided the attached reference information regarding its current position, and the very basic responsibilities of credit union boards and management when deliberating on this issue.

Management and Board's must seek appropriate counsel, apply prudent safe and sound standards, and implement appropriate risk management/control standards to any offered product or service. The information contained herein is intended to provide a starting reference point for state-chartered credit union officials for their consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Denise Schultheiss".

Denise Schultheiss  
Director, Office of Credit Unions  
Deputy Director, DIFS



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## Memorandum

**DATE:** January 7, 2020  
**TO:** Interested Persons *AF*  
**FROM:** Anita G. Fox, Director  
**SUBJECT:** Financial Services and the Michigan Marijuana Industry

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The Memorandum issued March 08, 2018 by the Department of Insurance and Financial Services (DIFS) regarding "Financial Services and Michigan Medical Marijuana"<sup>1</sup> provided information regarding entities regulated by DIFS providing financial services to those engaged in the marijuana<sup>2</sup> industry. This memo is intended to reiterate and provide additional information in light of recent changes in the regulatory environment.<sup>3</sup>

Acknowledging the disparity between state and federal legislation surrounding this industry, DIFS' regulated entities are reminded that nothing stated or implied in this memo releases any individual or entity from the requirement to comply with any applicable state and federal legislation or regulation. Other enforcement authorities may still exercise their authority to enforce pertinent rules and statutes. This communication is not intended to be, nor is to be used as, a defense for any individual or entity should civil or criminal charges result from engaging in activity which is prohibited under state or federal law.

### DIFS' Position

DIFS remains neutral regarding whether financial institutions (or other entities) regulated by DIFS should provide financial services to individuals or entities involved in the marijuana or marijuana-related industries. It remains imperative that any decision to provide or not provide such services be made by the financial institution with a complete understanding of the associated risks.

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<sup>1</sup> Michigan law sometimes employs the spelling "marihuana" rather than the more common "marijuana" – both terms are used throughout this document with the same meaning.

<sup>2</sup> All references herein to "the marijuana industry" refer to individuals and entities operating pursuant to Michigan laws and regulations and local ordinances.

<sup>3</sup> While the legislation surrounding the hemp industry differs from the legislation governing the marijuana industry, institutions providing services to entities engaged in the hemp industry should adhere to this guidance, and should continue to apply additional scrutiny to these activities, as there are many corresponding risks.

DIFS remains committed to monitoring related legislative changes and continues to actively support federal legislative solutions to the conflicting statutes which are causing the present dilemma for our financial institutions.

DIFS will review the potential impact of marijuana-related financial services on an institution's overall risk profile as part of any examination assessment and ratings process. Examiners will continue to utilize risk-based examination procedures, and regulator expectations for the institution's risk management functions will be commensurate with the inherent risk to the institution's safety and soundness. DIFS will not take regulatory action based merely on the involvement of the marijuana industry in any financial institution's products, services, or activities. However, regulatory action will result if the financial institution fails to identify, manage, account for, or provide sufficient safeguards related to the risks of marijuana-related financial products or services.

### **Financial Institution Responsibility**

Financial institutions should consult their own legal counsel for advice based upon their particular circumstances, applicable state and federal law, and all related regulatory guidance. Boards of directors must establish and document their policies regarding services to entities and individuals operating in or within the periphery of the marijuana industry, regardless of whether the institution decides to offer such services, and must ensure appropriate risk management systems are in place to support the board's determination.

Preserving the safety and soundness of financial institutions is of paramount importance. As with any product, service, or customer or member relationship with elevated risks, financial institutions must demonstrate that they have, at a minimum:

- Performed thorough initial and ongoing due diligence, which must include detailed evaluation of the legal, compliance, strategic, reputational, liquidity, and transactional risks, with detailed risk-mitigating plans and factors to limit the institution's exposure to individual and overall risk.
- Performed a detailed analysis of the institution's capacity to absorb potential losses, and to endure the potential impacts of risks, without jeopardizing the ongoing safety and soundness of the institution or otherwise becoming detrimental to ongoing operations.
- Established sufficiently sophisticated risk management systems for the risks being assumed. Institutions must satisfactorily measure, monitor and control related risk, and possess a robust risk management system to ensure compliance with applicable federal and state laws and reporting requirements.
- Have in place knowledgeable staff and an effectively functioning compliance system, commensurate with the risks being assumed. Particularly for cash-intensive activities, this must include a robust BSA/AML program with effective processes for ensuring appropriate Cash Transaction Reporting (CTRs) and Suspicious Activity Reporting (SARs).
- Exit strategies which can be swiftly executed should the product or service later present unexpected and/or undue risk to the institution.