

Credit Unions Encouraged to Bank Hemp Business

Cannabis Business Legal News

on August 20, 2019

A regulatory alert (the “Alert”) issued by the National Credit Union Administration (the NCUA) this week makes clear that the NCUA supports banking relationships between its members and lawfully operating hemp-related businesses. The Alert reminds Federally Insured Credit Unions that pursuant to the Agricultural Improvement Act of 2018 (more commonly known as the “2018 Farm Bill”) hemp is no longer a controlled substance under the Controlled Substances Act (CSA) and is thus no longer federally illegal. However, the Alert also reminds its members that the actual production of hemp under the 2018 Farm Bill remains blocked until the United States Department of Agriculture (USDA) promulgates its implementing regulations on the topic – regulations and guidelines which the USDA has yet to release.

Regardless, the Alert lays out a number of considerations for credit unions that are currently serving or intend to serve hemp-related businesses – advising credit unions to incorporate certain additional processes into their existing Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) policies, procedures and systems. For example, the Alert reminds credit unions to maintain appropriate due diligence procedures for hemp-related businesses and to file Suspicious Activity Reports (SAR’s) when required. However, of particular interest, the Alert also states that “[i]t is the NCUA’s understanding that SAR’s are not required to be filed for the activity of hemp-related businesses operating lawfully, provided the activity is not unusual for that business.” While this was an understanding that a majority of those operating in this space shared, it is significant to see it stated with such clarity in the Alert and should provide solace to those still questioning whether providing financial services to hemp-related businesses alone triggers enhanced SAR filing requirements. The Alert also reminds its members to be ever cognizant of underlying state laws regulating hemp-related businesses as legality of hemp on the federal level does not necessarily equate to legality of hemp-related operations on a state level.

While true that the Alert does not change the state of the law regarding a credit union’s ability to provide financial services to hemp-related businesses, the strength and tone of the Alert should not go unnoticed. Nor should the timing of the Alert go unnoticed – coming both before the USDA announces its hemp regulations and before Congress addresses the wider issue of banking cannabis-related businesses again this fall. Refreshingly, the Alert is unequivocal in its support of the hemp industry noting that “[h]emp provides new opportunities for

communities with an economic base involving agriculture. The NCUA encourages credit unions to thoughtfully consider whether they are able to safely and properly serve lawfully operating hemp-related businesses within their fields of membership.” The Alert makes clear to federally insured credit unions that providing financial services to lawfully operating hemp-related businesses is not only permissible, but encouraged.

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