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Cannabis Lending Industry Guidelines

Thank you to our authors!

EMC conveys great thanks to the Co-authors and Contributors to this piece of industry thought leadership. It has taken many months and hours to compile this guide, and many years of experience by our writers to develop the expertise and tools shared here. We hope readers will apply the educational tools shared here, and together we help to drive normalization of financial services and risk management in this emerging market – to the benefit of all.

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General Statement

This document is intended to assist financial institutions, private lenders, and other stakeholders who have chosen to serve the cannabis sector and are seeking to do so with sound, transparent, and risk-aware lending standards. See the Appendix for a Glossary of terms used in this document.

As of the writing of this document, while cannabis is legal for medical use in 40 states, three U.S. territories, and the District of Columbia—and for adult use in 24 states, three territories, and the District of Columbia—it remains federally illegal as a Schedule I substance under the Controlled Substances Act. Although the federal government has historically exercised discretionary enforcement in states with legal cannabis programs, these policies are subject to change and offer no formal legal protection. This legal uncertainty places cannabis-related businesses (“CRBs”), including cultivators, manufacturers, distributors, and retailers, in a precarious position when seeking access to credit or other financial services.

As a result, lending to cannabis businesses presents unique compliance, legal, and reputational risks. The intent of this document is not to suggest that any lending practice can fully insulate a financial institution or private lender from potential federal liability. Rather, the purpose is to outline current lending practices that are being used in the cannabis sector, and to establish a set of guidelines for risk-informed, transparent, and responsible underwriting in this evolving legal environment.

Cannabis lenders, whether institutional or private, should proceed only after fully evaluating the applicable legal risks—preferably in consultation with counsel experienced in cannabis and financial regulatory law. Lending institutions must also design and implement rigorous due diligence, monitoring, and compliance programs that take into account both state law requirements and federal risk signals, such as those historically outlined in the now-rescinded Cole Memo and current FinCEN guidance.

Given the current federal legal landscape, many lending solutions to CRBs remain “workarounds” rather than long-term, federally-sanctioned channels. Nevertheless, cannabis businesses cannot rely solely on self-financing or equity raises to sustain operations. Access to credit is essential for inventory growth, equipment purchases, property development, and operational continuity. However, traditional lending products such as SBA loans, federally-backed lines of credit, and mortgage lending through national banks are generally unavailable to the cannabis industry.

This document reviews a range of lending structures currently used in the cannabis sector—from secured asset-based loans and real estate-backed financing to revenue-based lending and invoice factoring. It also outlines key risks and considerations, such as regulatory compliance, collateral enforceability, interest rate structuring, and loan monitoring.

In writing about market sizing and forecasting, the authors were grateful for a preview of the document now out—the EmeraldIntel.ai mid-year report.

Cannabis Lending Overview

As financial institutions and private lenders increasingly explore lending opportunities within the cannabis sector, a nuanced understanding of the unique risks and regulatory complexities is essential. This document outlines the primary considerations, risks, and mitigating strategies associated with extending credit to marijuana-related businesses (“**CRBs**,” also referenced herein as “**CRBs**” or cannabis- related businesses), both direct and indirect.

Market Sizing/Scope: Cannabis Market Overall

a) Licensed Cannabis Market Growth

- The U.S. licensed cannabis market was valued at approximately \$38.5 billion in 2024, with projected growth to \$44.3¹ billion in 2025, and a compound annual growth rate of about 11.5% through 2030.
- Industry forecasts suggest total U.S. cannabis sales—including licensed medical and recreational markets—will continue expanding steadily,² highlighting opportunities across banking and fintech verticals.

b) Gray Market (Illicit & Gray-Market) Dominance

- New Frontier Data estimates illicit cannabis sales in the U.S. topped \$74 billion,³ significantly outpacing regulated market volumes as of recent analysis.
- Even earlier estimates place the black market at \$40–46 billion⁴ (2016), with legal sales still catching up—emphasizing the scale of under banked commerce.

c) Implications for Financial Services

- Licensed market (~\$38–44 billion) continues growing but remains smaller than the unlicensed market (~\$70–80 billion)—underscoring ongoing risk for financial institutions hesitant to serve cannabis operators.
- The persistent size of the unlicensed market highlights structural barriers—e.g., federal illegal status, IRS §280E constraints, and lack of compliant cross-border financial infrastructure—that drive consumers and businesses toward unlicensed channels.

Without enabling federal legislation (e.g., banking clarity or total legalization), cross-state border transactions and a full range of banking services (as are available to other high-risk markets), remain constrained, making fintech rails and blockchain innovations critical solutions now and for the future.

d) Factors Affecting Forecasts of Lending Opportunity

There are many factors involved in projecting the size and scope of CRB lending opportunities including:

Common economic factors:

¹ sources include: [New York Post](#), [Grand View Research](#)

² Sources include [MJBizDaily](#)

³ Sources include: [IndicaOnline+12HubSpot+12mg Magazine+12](#).

⁴ Sources include: [Wikipedia](#).

- Size of operation now and forecasted growth and profitability
- Age of business and positive cash flow and compliance records,
- State in which business is located
- Business history of principals and partners
- Operational risks from high volume cash business
- Limited credit history of borrowers
- Poor tax treatment of expenses
- Availability of strong collateral

Regulatory Impacts:

- Legalization scope and history within the state
- Medical versus adult use
- Support of state regulators
- Strong partner banks and credits unions in the state willing to lend to CRBs
- Access to private lenders
- State of federal regulation regarding rescheduling or descheduling, SAFE or SAFER Banking Act status, enforcement posture
- Lack of bankruptcy protection under federal Bankruptcy Act
- Need to include regulatory compliance personnel on staff
- Type of business –e.g.
 - plant touching,
 - ancillary/business derived from plant touching cannabis clients
 - vertically integrated

Cannabis Market Sizing/Scope

Segment	Market Size
Licensed (2024/2025)	\$38.5 b / ≈ \$44.3 b
Illicit & Gray Market	\$74 b (estimates)
Total Estimated U.S. Sales	Potentially > \$100 b/year

e) Thriving Cannabis Programs By State—a Sampling

Some states are experiencing significant growth and changes in licensure.

- New Jersey saw active licenses increase by 33% in cultivation and 26% in retail in first half of 2025, with total sales hitting \$1 billion in 2024.
- New York’s cannabis market grew by 93% in cultivation licenses and 19% in retail licenses in the first half of 2025, with total sales reaching \$995 million in 2024.
- Massachusetts experienced a slight decline in active licenses in the first half of 2025, but total sales reached a record \$1.64 billion in 2024.

- Ohio's cannabis market recorded \$230 million in Q1 2025 sales, with a 15% increase in cultivation licenses.

f) Shifting Tides Across States—a Sampling

Fluctuations in license counts and market dynamics are impacting other states.

- Vermont's cannabis sales doubled to \$128 million in 2024, but new applications for cultivation and retail licenses are on hold.
- Michigan's cannabis sales reached \$3.27 billion in 2024, but the market is facing oversaturation and calls for a pause in new licenses.
- Missouri's cannabis market remains healthy with consistent sales growth, despite the revocation of 25 microbusiness licenses for noncompliance. An additional 48 new microbusiness licenses are expected to be issued in 2025.
- Oklahoma's medical cannabis market is experiencing a decline in active licenses due to a moratorium on new business licenses.

Variabilities and Influencing Factors

Permitting Requirements

Cannabis companies face a complex local, state, and federal permitting regime, which varies significantly from state to state. Many states can also have varied intrastate permitting regimes depending upon the local authority (such as a municipality or county) where the cannabis business is located. These permitting regimes can significantly impact project timelines for initiation of operations and subject the project to additional fees and costs through local community benefits requirements or payments. Lenders must be familiar with these permitting requirements to ensure that the project can be successful as proposed and understand the possible risks involved concerning potential permit denial, increased transactional and regulatory costs, and the overall timeline for the commencement of operations.

- **Adult Use and Medical Cannabis:** As of this writing, 24 states and Washington D.C. have legalized cannabis for adult use. These states are primarily located in the West (i.e., Colorado, Washington, Oregon, California, and Arizona) and the Northeast (i.e., New York, New Jersey, Massachusetts, and Maine), with a handful of Midwest states. A far greater number of states have legalized medicinal cannabis. A total of 40 states and Washington D.C. have legalized the use of cannabis for medicinal purposes, with Nebraska the most recent state to do so. The only states that do not allow any form of legal cannabis are Idaho, Kansas, Wyoming, Wisconsin, Indiana, Tennessee, North Carolina, South Carolina, Tennessee, and Georgia. Even in those states, every state other than Idaho and Kansas allows for low-THC, high-CBD products to be provided for medical reasons.
- **State Regulation:** Each state has its own permitting regime regulating the cultivation, processing, distribution, and sale of cannabis. Each state requires, at a minimum, a license from the state agency designated to regulate and permit cannabis operations. Many states differentiate between different types of cannabis permits depending upon the type of proposed operation. For example, a company may need to obtain both a cultivation permit and a retail permit if it seeks to both grow and sell cannabis. Note that, particularly for cannabis cultivation operations, there may be other state authorizations required, such as water and wastewater permits, waste disposal permits, pesticide compliance, and compliance with other state environmental statutes.
- **Interstate Regulation:** Because cannabis is illegal under federal law, both federal and state regulations prohibit the interstate transport or distribution of cannabis products.
- **Local Regulation:** Many state cannabis laws authorize local authorities, such as municipalities, townships, and counties, to impose additional regulations and permitting requirements on cannabis operations. Some allow such local authorities to impose a moratorium or ban on cannabis operations within their jurisdiction. It is important to understand what local regulations may be involved and whether the local authorities are favorable or adverse to cannabis operations. Note that some such authorities may only

allow certain types of cannabis operations (i.e., retail shops) as opposed to others (such as delivery services or cultivation). In addition to a cannabis use permit, some local authorities may require additional traditional land use permits, such as a conditional use permit and/or development agreement.

- **Federal Regulation:** Even though cannabis is illegal under federal law, this does not exempt cannabis businesses from complying with applicable federal laws. Particularly for cannabis cultivation operations, this can include compliance with the Clean Water Act and potentially obtaining permits from the U.S. Army Corps of Engineers if the project involves a discharge to navigable waters, fill of wetlands, etc. With a few limited exceptions for medicinal uses, the U.S. Food and Drug Administration has not approved the use or distribution of cannabis-derived products and has not authorized them for interstate transport and distribution (although there is a robust existing interstate marketplace for CBD products).

280E and its Impact on Lending

Section 280E of the Internal Revenue Code (officially U.S. Code § 280E), typically referred to simply as 280E, prohibits CRBs from deducting many business expenses from their gross income when calculating their federal income tax. This is because cannabis remains a Schedule I controlled substance and is therefore illegal at the federal level. 280E is specifically directed at businesses that trade in controlled substances. There have been efforts to amend 280E in light of the legalization of cannabis use in so many states, but to date there has not been enough support in Congress to change the law. The actual financial impact on individual CRBs can be significant. The inability to deduct ordinary business expenses results in significantly higher tax bills for the CRB and can affect its profitability.

Cannabis lenders will want to review a CRB's books and tax records to get comfortable that their CRB borrowers are paying their taxes properly and in accordance with 280E. Failure to do so can result in large tax liens on the assets of the CRB, which may affect the security the lender has with respect to its loan. Large amounts of unpaid taxes can also affect the creditworthiness of the CRB.

Loan Categories

a) Types of Borrowers

In the cannabis lending ecosystem, borrowers fall into distinct categories based on their relationship to the CRB and the underlying real estate or collateral.

- **Direct CRB Owner-Occupied Borrowers** are state-licensed, plant-touching cannabis businesses that own and operate within the same property used as collateral. These businesses are directly engaged in the cultivation, processing, or retail sale of marijuana, and they hold legal title to the real estate securing the loan. Given their plant-touching nature and direct involvement in an activity still classified as federally illegal, these borrowers often face the most stringent underwriting scrutiny.
- **Indirect CRB Borrowers** are more varied and can be further subdivided into owner-occupied and non-owner-occupied categories:
 - **Indirect Owner-Occupied Borrowers** include operator-affiliated holding companies or ancillary cannabis businesses that legally own and occupy the collateral property. These entities may not be directly involved in the cultivation or sale of cannabis but support the industry through services like packaging, logistics, or security, and still require specialized underwriting due to their exposure to cannabis-related risk.

- **Indirect Non-Owner-Occupied Borrowers** are typically unaffiliated real estate investors, developers, or landlords who lease their properties to either Direct CRBs or ancillary businesses. Though they may not be directly engaged in the cannabis business, their tenant mix exposes them to regulatory and reputational risks, and therefore they are treated with heightened caution by lenders.

b) Types of Lenders

The lender landscape for cannabis-related real estate and business loans is equally diverse, encompassing both traditional financial institutions and a growing number of alternative capital sources:

- **Regulated Financial Institutions**, such as banks and credit unions, have begun cautiously participating in lending to the cannabis sector, particularly in limited-license states or through well-structured indirect lending. These institutions are bound by federal compliance frameworks and require sophisticated risk mitigation strategies.
- **Institutional Private Credit** firms, including publicly traded lenders, private debt funds, and real estate investment trusts, are increasingly active in the space. Some have dedicated cannabis verticals and are capable of underwriting and servicing larger, more complex transactions—including securitized loan pools.
- **Family Offices** often act as opportunistic lenders in the cannabis industry, capitalizing on high yields and inefficiencies in the market. These groups typically seek above-market returns and may be more flexible than traditional lenders.
- **Venture Debt Providers** extend capital to high-growth cannabis businesses, especially those with limited operating history but strong equity backing. These loans are often structured around enterprise value rather than collateral.
- **Non-Traditional Lenders**, including private individuals, bridge lenders, and opportunistic hedge funds, fill gaps left by more risk-averse capital sources. While often more expensive and less standardized, they play a vital role in the growth of the sector.

c) Pricing and Terms

Loans to CRB borrowers—especially Direct CRBs—carry higher pricing and more restrictive terms compared to mainstream commercial borrowers. This is due to a combination of factors:

- **Compliance Costs:** Lenders must invest in enhanced due diligence, Bank Secrecy Act (“BSA”)/Anti-Money Laundering (“AML”) compliance, and ongoing monitoring, all of which raise origination and servicing costs.
- **Risk Premiums:** The federal illegality of cannabis creates legal uncertainty, increased security requirements, and potential reputational risks for lenders, necessitating pricing that reflects this elevated risk.

- **Loan Structure Restrictions:** Borrowers may face lower loan-to-value (“LTV”) ratios, shorter maturities, more stringent covenants, and limited prepayment flexibility, attributable to the regulatory and legal risk associated with the underlying business and the limited alternative use and *go-dark value* of cannabis real property collateral.

d) Understanding CRB Loans and Collateral Types

Cannabis-related lending includes a diverse array of credit structures, ranging from traditional commercial real estate (“CRE”) loans to equipment financing and working capital facilities. Each type of loan is underwritten with heightened scrutiny due to the regulatory complexities of the cannabis industry, but lenders are increasingly deploying creative credit solutions to meet market demand.

CRE-Secured Cannabis Loans: CRE-secured loans are among the most common forms of credit extended to CRBs. These loans are generally backed by a first-position lien on real estate, either owner-occupied or leased to an CRB tenant, and are most frequently originated on stabilized, cash-flowing properties. Depending on the borrower profile, these can be broken down into Small Business (“SMB”) CRE loans and Enterprise Cannabis CRE (“CCRE”) credit facilities.

- **SMB CRE Secured Loans:** Typically ranging from \$1 million to \$10 million, these loans are issued to SMB owner-operators or to holding companies that lease property to affiliated or unaffiliated cannabis tenants. Borrowers are often single-state operators or local businesses managing cultivation, manufacturing, or retail facilities.
 - Loans are secured by cannabis-use real estate and often support property acquisitions, development, or refinance.
 - Lenders generally require personal guarantees from principal owners.
 - Risk-adjusted pricing reflects regulatory exposure, tenant dependency, and real estate market volatility in cannabis-zoned districts.
- **CCRE Facilities:** Larger and more complex, these facilities are structured for multi-state operators (“MSOs”) and vertically integrated cannabis companies with more institutional credit profiles.
 - Facilities may be secured by individual or pooled properties across state lines, subject to consolidated underwriting.
 - Rather than personal guarantees, lenders typically require a corporate guaranty from the borrowing entity or its parent company.
 - These loans may include corporate-level covenants and cross-default provisions, reflecting a higher level of credit sophistication.

- **Construction Loans** are sometimes extended to both SMB and CCRE / MSO entities for the purpose of licensed facility buildouts, with structured draws tied to project milestones, and total loan amounts based on a projected as-completed valuation for the collateral property. Confirmation of valid licensure for the borrower and proposed site are essential to mitigate risk under a construction loan structure, as the alternative use of the property may be limited.

Working Capital and C&I Lending: In addition to CRE-secured loans, CRBs have growing demand for commercial & industrial (“C&I”) credit, including:

- **Equipment Financing** for cultivation systems, extraction technology, and packaging lines.
- **Working Capital Lines** to support inventory purchases, expansion, and cash flow stabilization—this remains one of the most underserved credit needs due to the limited participation of traditional banks.
- **Unsecured or Soft-Secured Lines of Credit**, occasionally offered to ancillary operators or MSOs with strong balance sheets and recurring revenue.

These structures are typically offered by private credit providers, family offices, and a limited number of cannabis-specialized regulated financial institutions. In addition to real property and equipment, receivables and even applicable cannabis business licenses may be included in the collateral package for these facilities.

e) Alternative Lending Opportunities and Types

As the cannabis capital markets continue to evolve, lenders are exploring non-traditional collateral to unlock liquidity for cannabis operators and investors. One emerging area involves the use of cryptocurrency and digital assets as collateral. Institutional lenders and private capital providers are increasingly looking toward technology-enabled custody solutions that allow for the secure and compliant pledge of digital assets.

These digital asset-based structures may allow borrowers—especially those with significant treasury holdings in cryptocurrency—to access credit while preserving asset appreciation potential. Key innovations include third-party custodianship, programmable smart contracts, and overcollateralization mechanisms to mitigate volatility.

Although still nascent in cannabis lending, the convergence of digital finance and alternative credit strategies is expanding the frontier for asset-based lending beyond traditional real estate or equipment. This trend reflects a broader move toward flexible, technology-forward lending solutions in the cannabis space—mirroring the fintech innovations that are reshaping financial services more broadly, many of which were created in order to serve underbanked and high-compliance verticals such as cannabis.

Beyond cryptocurrency, a range of more traditional business financing solutions have emerged to meet the complex and evolving capital needs of cannabis operators. These forms of credit

often fill gaps left by regulated lenders and are critical to maintaining operational continuity and growth in the industry.

- **Inventory Financing & Terms-Based Lending** Short-term loans secured by unsold product inventory—such as packaged cannabis goods, extraction material, or wholesale flower—allow operators to convert stock into working capital without immediate sale. Terms-based programs from suppliers may also be structured to include repayment windows tied to sell-through velocity.
- **Receivables Financing and Factoring** Cannabis businesses, particularly wholesalers and manufacturers, often face delayed payment cycles from dispensary or distribution clients. Factoring allows companies to sell receivables at a discount to access immediate cash, while receivables-based lending uses outstanding invoices as collateral for revolving lines.
- **Merchant Cash Advances (“MCAs”)** An increasingly common form of fast-turnaround funding in cannabis, MCAs provide immediate capital in exchange for a share of future revenue—often repaid through daily or weekly ACH transfers. While expensive, they are accessible to operators with consistent sales but poor credit or limited collateral.
- **Energy Incentive Financing** Energy-efficient facility upgrades such as LED lighting, HVAC retrofits, or solar installations may be financed through programs like Property Assessed Clean Energy or state-specific clean energy finance entities (e.g., the Colorado Clean Energy Fund). These loans may be repaid via property tax assessments or structured as subordinated tranches in project finance stacks. Many of these programs can also be leveraged in connection with energy efficiency grant and rebate programs administered by local energy utilities.
- **Other Specialty Lenders** Cannabis operators increasingly turn to equipment lenders for lease-to-own and structured capital expenditure financing, insurance premium financiers for annual policy prepayments, and niche lenders that serve hyper-specific needs (e.g., license acquisition, branding/IP rollouts, or seasonal working capital).

Together, these alternative lending channels support a more agile and adaptive capital environment, essential for operators navigating a high growth but fragmented and federally constrained industry.

Secondary Market

a) Standardization

A key challenge in cannabis credit markets is the lack of uniform standards across originators and lenders. The development of a secondary market will depend heavily on improvements in:

- **Loan Policy Standardization:** Establishing best practices for underwriting CRB loans, including credit scoring, risk classification, and tenant exposure thresholds.
- **Collateral Underwriting Guidelines:** Standard methods for valuing CRB-linked real estate, factoring in zoning, local ordinances, and tenant risk.
- **Documentation and Security Perfection:** Ensuring enforceable lien positions, proper UCC filings, and contractual protections against federal forfeiture or license revocation events.

b) Syndication and Participation

As CRB lending scales, syndication and participation strategies are emerging to spread risk and increase liquidity:

- **Structures:** Participations (typically *pari passu*) and syndications (with agent and participant roles) allow multiple lenders to share exposure on a single credit facility.
- **Requirements:** Shared standards around servicing, reporting, and compliance are critical to attract participants and facilitate risk-sharing.
- **Facilitation:** Technology platforms, brokers, and clearinghouses are emerging to facilitate deal flow, documentation, and ongoing administration.
- **Considerations:** Legal enforceability, servicing responsibilities, and borrower disclosures remain complex and often require bespoke intercreditor agreements.

c) Securitization and Institutional Consolidation

The long-term viability of cannabis lending as a scaled asset class will likely hinge on access to the securitization markets and broader institutional consolidation:

- **Current Market:** To date, cannabis loan securitizations remain rare but not unprecedented. Those that have succeeded in underwriting and placement in the public market have been backed by well-performing CRE assets leased to creditworthy multistate operators in stable, regulated jurisdictions.
- **Future Predictions:** As more cannabis lenders adopt standardized loan policies, documents, and reporting protocols—and as federal legalization or banking reform

progresses—the door opens for rated securitizations, warehouse lines, and eventual public asset-backed securities transactions.

Cannabis Lending Considerations, Risks and Mitigants

Lending to CRBs offers growth potential but demands a robust risk management framework. By proactively addressing compliance, credit, recovery, and collateral challenges, financial institutions can responsibly navigate this evolving sector while safeguarding their portfolios.

a) BSA/AML Risk

Engaging with CRBs increases the cost and complexity of BSA and AML compliance. Whether taking a CRB as a deposit and loan customer or as a loan-only customer, enhanced BSA/AML due diligence will need to be conducted to ensure funds coming into the institution are from legal sources. Managing the entire relationship allows for more comprehensive monitoring of cash flows for BSA/AML purposes and helps address compliance risks. If not serving as the primary depository, institutions need controls in place to identify the source of repayment from an external qualified cannabis deposit account. Additionally, depending on the primary borrower—whether an investor, ancillary company, or plant-touching entity—ongoing SAR filing may be necessary.

Policy updates regarding CRB exposure should involve enhanced due diligence protocols and transaction monitoring tailored to the cannabis sector. Purpose-built BSA/AML compliance solutions with activity alerts, automated report filing, and rich data analysis simplifies the collection of ongoing due diligence requirements for BSA teams and provides additional insights for credit portfolio managers without requiring extra work by the borrower. Decisions related to FinCEN reporting and the structure of monitoring processes may affect ongoing compliance costs, potentially requiring additional staffing, technology investments, and training to meet regulatory expectations.

b) Credit Risk

CRB borrowers present a distinct credit profile characterized by a combination of operational, financial, and regulatory challenges:

- Limited financial and operating history, often due to the nascent nature of the legal cannabis market.
- High operating costs, driven by specialized equipment and elevated energy consumption.
- Outsized tax obligations, including burdensome state and local taxes and the impact of IRS Code Section 280E, which disallows standard business deductions.
- Limited liquidity, restricting the borrower's ability to respond to a shifting market and competition.

- Higher debt service requirements, as compliance costs are frequently passed through to borrowers, and are calibrated to account for shifting market and regulatory environments.
- Regulatory uncertainty, with evolving federal and state frameworks posing ongoing risks.

To address these risks, institutions establish CRB concentration limits and apply policy thresholds for LTV ratios and guarantor creditworthiness. Another approach is to use participation networks to share exposure. Loan covenants and portfolio management practices enable institutions to detect problem credits early and take action to limit exposure. A leading practice is to develop risk monitoring programs and to set a cadence for ongoing risk monitoring – with soft triggers set forth in the loan covenants, thus enabling the lending institution to intervene when triggers are hit - to address problems early. The data and procedures used to monitor BSA/AML risk can also inform lending decisions.

c) Loan Workouts and Recovery Considerations

Loan workouts in the cannabis sector diverge from traditional industries due to the lack of bankruptcy protection for cannabis businesses. This legal gap complicates recovery strategies:

- Collateral seizure is more complex, particularly when tied to business assets directly involved in cannabis operations.
- Liens on licenses are often prohibited, limiting the lender's security options.
- Receivership provisions vary widely across jurisdictions, adding another layer of complexity.

To navigate these challenges, lenders often prioritize strong personal guarantees and, where feasible, cross-collateralization with non-cannabis assets. Institutions must also develop strategies for holding and transferring collateral within the constraints of state and federal law.

d) Collateral Valuation and Management

Collateral in the CRB space often includes real estate with green value premiums, such as cultivation facilities and processing centers. Landlords can command premium rents for properties involved in cannabis operations, and this rental premium contributes to what is referred to as the green value of the property and should be factored into both appraisals and loan underwriting. In the context of cannabis operations, green value reflects the premium associated with mitigating regulatory risk and in some cases, the specialized infrastructure designed to support cultivation, processing, or distribution.

Accurate valuation requires a tailored approach:

- Valuation strategies should be based on property type (e.g., warehouse, manufacturing, retail), and the type and percentage of plant touching activities.

- Institutions should engage appraisers with experience in green value adjustments to ensure accurate assessments.
- Title insurance must be confirmed and available, as some insurers are hesitant to underwrite cannabis-related properties.
- Insurance specific to the type of business (e.g. property casualty, directors and officers, more).

Government Relations: Proactive Engagement with Government Entities

In high-risk industries and emerging technologies, it is essential that financial services companies maintain proactive engagement with government stakeholders—including legislators, regulators, law enforcement, and tax authorities—at the federal, state, and local levels. This collaboration is not only beneficial but necessary to ensure the safety and soundness of the broader financial system.

Many of the EMC’s contributors to this document have spent years working in financial sectors characterized by regulatory uncertainty or elevated risk. A consistent lesson from that experience is clear: regulators and legislators are eager to understand new financial technologies and business models so they can craft rules that protect both consumers and institutions. Their goal is not to stifle innovation but to ensure that innovation does not outpace regulation in a way that opens the door to fraud, abuse, or systemic threats.

This was underscored at a Capitol Hill briefing on a new financial technology, where a senior regulator confided to the keynote speaker (one of the co-authors of this paper): “Our big fear is that you’ll innovate faster than we can regulate—and the bad guys will exploit that gap.”

EMC and our member organizations continuously seek opportunities to meet with policymakers (legislative, regulatory, examiners, law enforcement, tax authorities) to share real-time insights from the field. By exchanging information about emerging trends and technologies, and aligning on fraud prevention strategies, we aim to build trust and reduce risk across the ecosystem.

One of the primary motivations behind EMC’s work to drive industry collaboration in crafting standards, best practices, and guidelines is precisely this: to foster informed, collaborative rulemaking. As industry experts, we believe our role is to help shape a regulatory environment that is effective, responsive, and grounded in real-world knowledge—so that innovation can flourish without compromising integrity or security.

Closing Statement: Cannabis Lending Guidelines

This is a living document. In a rapidly evolving landscape of legislation, regulation, and financial innovation, new lending models and underwriting strategies are continuously emerging and being tested. The EMC Lending Guidelines Task Force will review and revise this document regularly, with input from EMC Members, Advisors, and industry stakeholders.

Each lender must assess its own unique risk profile and develop a risk management framework tailored to its operations and objectives. While risk is inherent in lending to CRBs, it is critical that every institution weigh the potential rewards and mission alignment against its own risk tolerance.

Laws and regulatory frameworks vary significantly from state to state. Lenders, underwriters, and service providers will also differ in each jurisdiction. Therefore, it is essential to evaluate the lending structures, partnerships, and practices that are most appropriate for your institution and your borrowers.

These Guidelines are designed to educate and inform—offering a broad overview of lending approaches currently used in the cannabis sector. This document is not definitive. You may have access to resources, structures, or service providers in your state that differ from or improve upon what is presented here. Carefully assess any lending model against your state’s laws, consult experienced legal counsel, and evaluate all lending activities within the bounds of your institution’s compliance capacity and risk appetite.

Normalizing access to financial services—including capital and credit—is a core mission of EMC Members, Advisors, partners, and alliances. By promoting education and responsible standards across the lending landscape, we aim to bring together financial institutions, cannabis operators, investors, and regulators in pursuit of a transparent, traceable, and stable cannabis economy.

Thank you for taking the time to read this important industry driven material, and Emerging Markets Coalition welcomes your engagement.

Thank you! EMC conveys great thanks to the Co-authors and Contributors to this piece of industry thought leadership. It has taken many much time and talent to compile this guide, and many years of experience by our writers to develop the expertise and tools shared here. We hope readers will apply the educational tools shared here, and together we help to drive normalization of financial services and risk management in this emerging market—to the benefit of all.

Appendix

Glossary of Cannabis Banking Terms Used in These Industry Guidelines

In an environment of shifting federal policy and regulatory scrutiny, industry professionals need clarity on both day-to-day terminology and emerging policy proposals. This glossary serves readers seeking to navigate and anticipate opportunities in cannabis financial services.

Automated Clearing House (“ACH”) A U.S.-based electronic funds-transfer system for batch processing of credit and debit transactions—used in payroll, business-to-business payments, and more. ACH infrastructure is essential to regulated cannabis finance programs.

Anti-Money Laundering (“AML”) Regulations, procedures, and controls designed to detect and prevent the integration of illicit proceeds into the financial system. Cannabis-related businesses require structured AML programs aligned with FinCEN and BSA standards.

Bank Secrecy Act (“BSA”) Federal law requiring financial institutions to maintain records, conduct customer due diligence, monitor transactions, and file Suspicious Activity Reports (SARs)—especially for transactions over \$10,000—to support law enforcement and tax authorities.

Card Network Payment systems such as Visa, Mastercard, Discover, and American Express that manage rules and infrastructure for credit and debit account transactions. These networks currently prohibit cannabis-related transactions at the federal level, driving the need for alternative payment rails.

Cannabis Related Business (“CRB”) also known as CRB or Marijuana Related Business.

Cost of Goods Sold (COGS) The direct costs tied to producing goods sold by the business, including materials and labor. Due to IRS Code §280E, cannabis enterprises must rigorously allocate COGS to reduce taxable income.

Enhanced Due Diligence (“EDD”) An advanced level of customer onboarding and monitoring applied to higher-risk clients—typically necessary for cannabis-related businesses (CRBs) due to elevated regulatory scrutiny and reputational considerations.

FDIC & NCUA The **Federal Deposit Insurance Corporation** and **National Credit Union Administration** insure deposit accounts up to \$250,000 per depositor. Cannabis-serving institutions must carefully manage BSA/AML compliance to mitigate risk of losing deposit insurance coverage.

Financial Crimes Enforcement Network (“FinCEN”) The Treasury Department bureau that receives SARs and financial intelligence data. Its 2014 cannabis guidance remains foundational for compliant banking programs today.

IRS Code Section 280E A tax provision barring deductions or credits for businesses involved in Schedule I or II substances. Only costs directly attributable to COGS are deductible.

Merchant Account A financial account enabling businesses to accept card payments. Traditional merchant services often exclude cannabis payments, driving reliance on niche service providers.

Money Services Business (“MSB”) Regulatory classification for non-bank financial institution that provides services like money transmission, currency exchange, and check cashing, and is required to register with FinCEN and comply with BSA/AML regulations including SAR and CTR filings.

Marijuana Related Business (“CRB”) also known as CRB—cannabis related businesses.

Office of the Comptroller of the Currency (“OCC”) A federal regulator of national banks and savings associations. To date, the OCC has not authorized national banks to engage with cannabis businesses, shifting responsibility to state-chartered institutions.

Federal government bills (sampling as of writing of this paper):

- **Secure and Fair Enforcement (“SAFE”) / SAFER Banking Act** Proposed federal legislation (H.R. 2891 / S. 2860) offering safe-harbor protections for depository institutions that serve legal cannabis businesses Aims to prevent regulators from penalizing banks or credit unions for offering routine financial services to CRBs.
- **Suspicious Activity Report (“SAR”)** A formal report filed with FinCEN when a financial institution observes transactions that may involve money laundering or other illicit activity. Cannabis-serving banks must file marijuana-specific SAR types per 2014 guidance.
- **MORE Act Marijuana Opportunity Reinvestment and Expungement Act** (H.R. 3617 & 5601) Seeks to deschedule cannabis and remove federal criminal penalties. Includes provisions for expungement of certain prior cannabis convictions, and equity reinvestment programs.
- **CAOA / CAO Act Cannabis Administration & Opportunity Act** Establishes a federal regulatory structure (via FDA, ATF, TTB) for cannabis, similar to alcohol and tobacco. Also provides automatic expungement and sentencing reform for non-violent cannabis offenses.
- **SRA (States Reform Act)** H.R. 5977 Removes cannabis from the CSA and defers commercial and regulatory authority to the states—permitting interstate commerce between compliant states while preserving local regulatory autonomy.
- **HOPE Act Harnessing Opportunity by Pursuing Expungement Act.** Authorizes DOJ grants to support state/local expungement programs and requires DOJ to report on the personal and economic impacts of cannabis criminal records.
- **STATES Act / STATES 2.0 Strengthening the Tenth Amendment Through Entrusting States Act** Removes state-legal cannabis markets from federal CSA enforcement, enabling legal sales and commerce in compliance with state law, including reintroduced versions through 2025.