

**From:** Dumontet, Susan (DFI) **On Behalf Of** Riccobono, Rick (DFI)  
**Sent:** Tuesday, August 12, 2014 2:49 PM  
**To:** [REDACTED]  
**Cc:** Dumontet, Susan (DFI)  
**Subject:** Marijuana and banks: SARs

Dear [REDACTED],

Thank you for your question seeking to clarify DFI's position on indirect banking of marijuana-related businesses. As we discussed in the open forum on June 24th, FinCEN specifically contemplated this issue and addressed it in the FINCEN guidance (FIN-2014-G001), page 4, footnote 7, with the example of a landlord having a tenant selling marijuana. That footnote indicates that where services are provided indirectly, the financial institution may file a SAR based on existing regulations. The institution does not have to file a "marijuana limited" or "marijuana priority" SAR.

- (1) A SAR is not required simply because a marijuana business is indirectly involved. FinCEN wants banks to use their judgment in determining if there is a need to file a SAR in an indirect relationship; in other words, file a SAR if there is actually some suspicious activity.
- (2) If you chose to file a SAR as a precautionary measure because your collateral is occupied by a marijuana related business or part of your source of cash flow is coming from a marijuana related business, then please note you will need to file continuous SARs as long as the "activity" you are reporting continues.
- (3) Another consideration for the bank on whether or not to file a SAR is if a marijuana-related tenant in a CRE building is the predominant source of cash flow for the loan, then it would be prudent for the bank to inquire as to whether the marijuana-related tenant has a banking relationship. That relationship would indicate that another bank (or licensed money transmitter) will have the responsibility of filing "marijuana limited and marijuana priority" SARs on the tenant. If the tenant does have such a relationship, your bank should document that in your file as part of the due diligence process.

Thank you for bringing to our attention the discrepancy between this perspective on filing SARs on indirect relationships with marijuana-related businesses and that which is quoted in the 7/8/2014 article in the Tacoma News Tribune. It was not the reporter's fault, but my mistake in, perhaps, getting into far too much detail on the new requirements. Please consider this email to be DFI's position on the issue and disregard the position stated in the article. We apologize for any confusion.

Sincerely,

Richard M. Riccobono  
Director of Banks