



CALIFORNIA STATE TREASURER JOHN CHIANG

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Feasibility Study Finds Public Cannabis Bank Too Risky for California

Treasurer Chiang Vows to Find Alternate Way to Support California Businesses

SACRAMENTO, CA – At a public hearing at the California State Capitol this afternoon, the Cannabis Banking Working Group (CBWG), chaired by California State Treasurer John Chiang, was presented with the results of an independent study that found that establishment of a public cannabis bank would pose too great of a legal and financial risk to the State of California.



Members of the Cannabis Banking Working Group, chaired by Treasurer Chiang, are presented results of the cannabis banking feasibility study.

“While today’s announcement may not lay out the path some of us had hoped, it did reinforce the inconvenient reality that a definitive solution will remain elusive until the federal government takes action — they must either remove cannabis from its official list of banned narcotics or approve safe harbor legislation that protects banks serving cannabis businesses from prosecution,” Treasurer Chiang stated at today’s hearing. “Red, blue, and purple states — 33 so far — have legalized the adult use of recreational or medicinal cannabis. So it’s finally

time that the slow, clunky machinery of the federal government work, in a bipartisan fashion, to change federal law to reflect the values and growing consensus of the people it serves.”

Following the passage of Proposition 64 in 2016 and the subsequent legalization of the sale and distribution of recreational cannabis that began on January 1, 2018, many of California’s cannabis businesses were left in a legal limbo, where they were classified as legal by the State of California, but still illegal by the federal government, since federal law categorizes cannabis as a Schedule 1 drug.

This stalemate created numerous banking issues for these businesses: by putting banks that might accept deposits from cannabis businesses at risk of losing the federal authority to operate, as well as forcing cannabis businesses to deal in large amounts of cash — making them targets for violent crimes and putting the general public in danger. Security and procedural concerns about dealing with a cash-only industry also created a nightmare for state and local government revenue-collecting agencies.

Treasurer Chiang added, “It is not only unfair, but a public safety risk to require a legal industry to haul duffle bags of cash to pay taxes, employees, and utility bills. The reliance on cash has painted a target on the backs of cannabis operators, and has made them and the general public vulnerable to violence and organized crime.”

Treasurer Chiang subsequently created the CBWG — made up of 18 representatives that included law enforcement, regulators, banks, taxing authorities, local governments, and the cannabis industry — to find practical and timely ways to address the state-federal conflict.

Based on one of the recommendations from a 2017 CBWG report, the State Treasurer’s Office commissioned San Diego-based Level 4 Ventures and the State Attorney General’s Office this past August to settle the lingering critical questions about whether a public cannabis bank would be possible.

The 151-page feasibility report — prepared by Level 4 and released today — detailed virtually insurmountable “legal, schedule, mission and financial” risks the State of California would face if it were to move forward to create a public cannabis bank.

Instead, Level 4 recommended the state establish a state project office to work towards improving access to banking by the cannabis industry through greater facilitation, communication, and coordination.

The cannabis bank feasibility study also examined alternative approaches to creating a state-backed bank to handle the billions in annual revenues California’s year-old recreational cannabis industry is expected to generate.

The alternatives included versions of a public bank that would provide services:

- Exclusively to the industry,
- Primarily to the industry, but also to other individuals and businesses, and

- To other commercial banks through a state-run “correspondent bank.”

The feasibility report noted that there is “a high probability” federal regulators will not issue the necessary master account for a public bank to operate, and if that happens after the state begins spending an anticipated \$35 million on start-up costs for any of the three alternatives examined, all taxpayer funds expended to that date “would be wasted.” Similarly, the report finds that a public cannabis bank would require approximately \$1 billion in initial capital investment, and that the bank could lose money for 12 years before it is able to begin repaying that capital. Furthermore, the State of California may not be able to begin receiving net dividends for 25 to 30 years after the bank opens, meaning the initial investment may go decades without producing any kind of return on investment.

The report also found that the ambiguous path the cannabis industry faces only adds to the numerous issues at hand, noting “If federal regulations change during this time and cannabis banking becomes legal, the bank would most likely be closed at that point due to a decreased business demand for the bank and thereby incur a significant loss. If federal regulators begin to aggressively enforce federal laws the bank would be closed and deposits subject to confiscation...Even if federal regulators maintain the current ambiguous situation, commercial banks will offer competing services to the industry by the time a public bank could open.”

Furthermore, the report found that a public bank would be hard pressed to work in California because of the hurdles public banks have faced across the country. During a 100 year period, between 1917 and 2017, approximately 29 public banks were chartered and operated in the United States, but “all public banks have ceased to exist either by regulatory order, financial failure, or the state or municipality closing the public bank, with the sole exceptions of the Bank of North Dakota and the recently approved Territorial Bank of American Samoa.” Neither the Bank of North Dakota nor the Territorial Bank of American Samoa, however, were created with the intention to serve the cannabis industry.

Other solutions examined and determined to be unfeasible, because they would still run afoul of current federal law, included a public credit union, the state purchase of a private bank, and various so-called FinTech solutions that would attempt to solve the problem by relying on such transactional tools as cryptocurrency.

The feasibility study’s findings were echoed by a separate analysis produced for Treasurer Chiang by California Attorney General Xavier Becerra and the California Department of Justice, which looked into the legal hurdles such an institution would face.

The Attorney General’s office concluded that a state-run financial institution “designed to provide financial services to cannabis-related businesses...would violate several federal criminal statutes...[that] carry severe potential penalties. The state is not immune under federal law.”

While there may be ways to reduce risks to a public cannabis bank, there is no way to eliminate them, the report concludes.

“In sum, a public cannabis financial institution would unavoidably incur a high risk of criminal penalties and face other legal impediments that cannot be eliminated,” adds a letter from the Attorney General’s office summarizing the obstacles to a public cannabis bank in California.

Treasurer Chiang concluded, “In the two years since the passage of Prop 64, I have been proud to lead this fight and will continue to look for alternate ways to support our legal businesses, the will of our citizens, and stakeholders across this state. But today’s news makes it clearer than ever that the path forward must include action by the federal government.”

For a full version of today’s report by Level 4 Ventures, [click here](#).

For a summary of today’s report by Level 4 Ventures, [click here](#).

For a letter from the Attorney General’s Office on legal obstacles to a public cannabis bank, [click here](#).

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