

9th Annual Gulf Coast AML Forum: Cannabis-Related Banking

Presented by:



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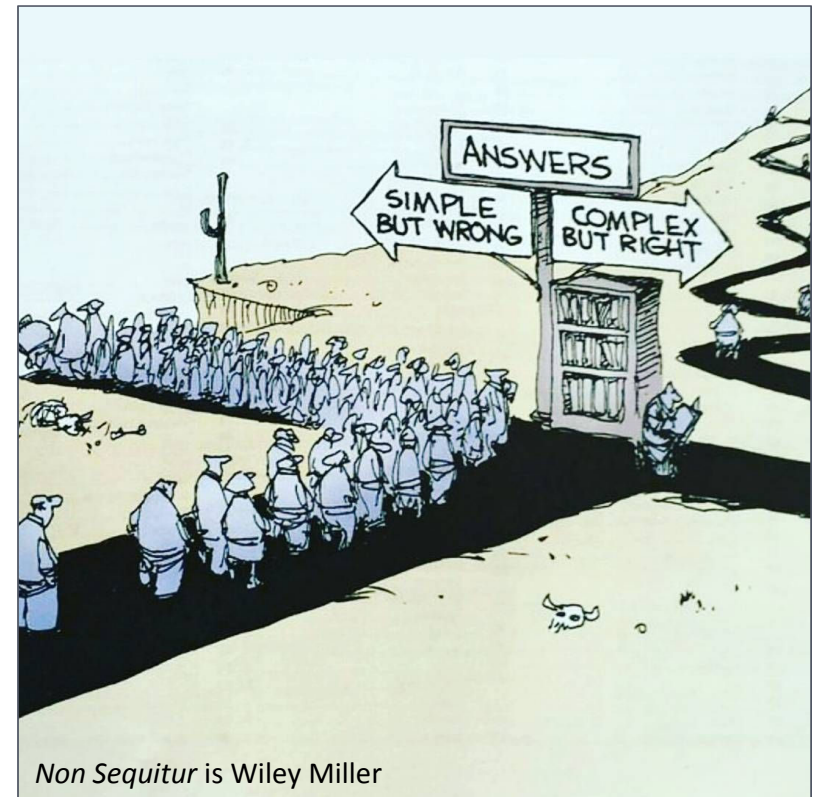
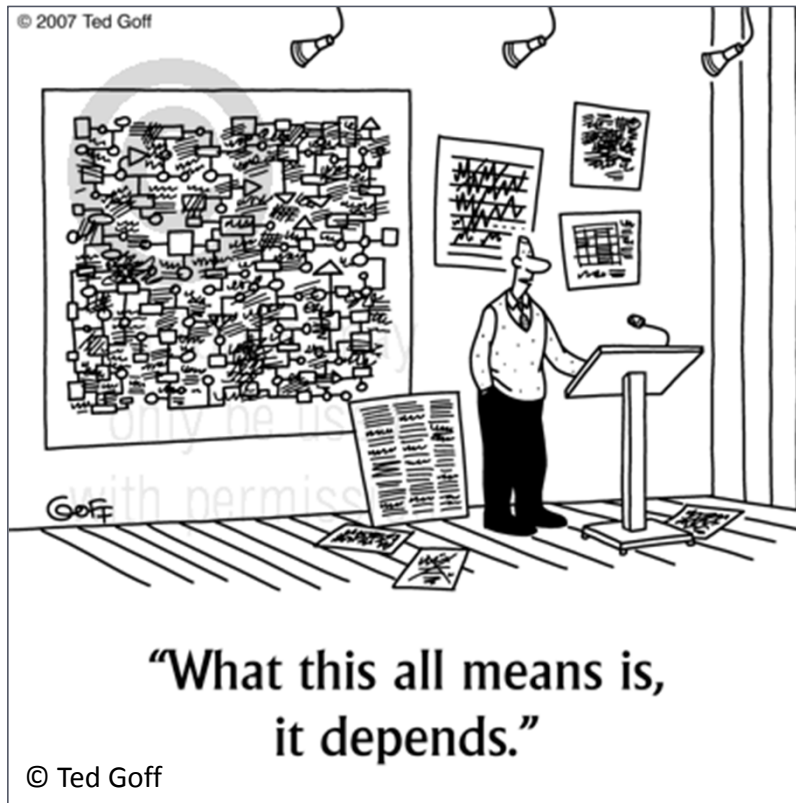


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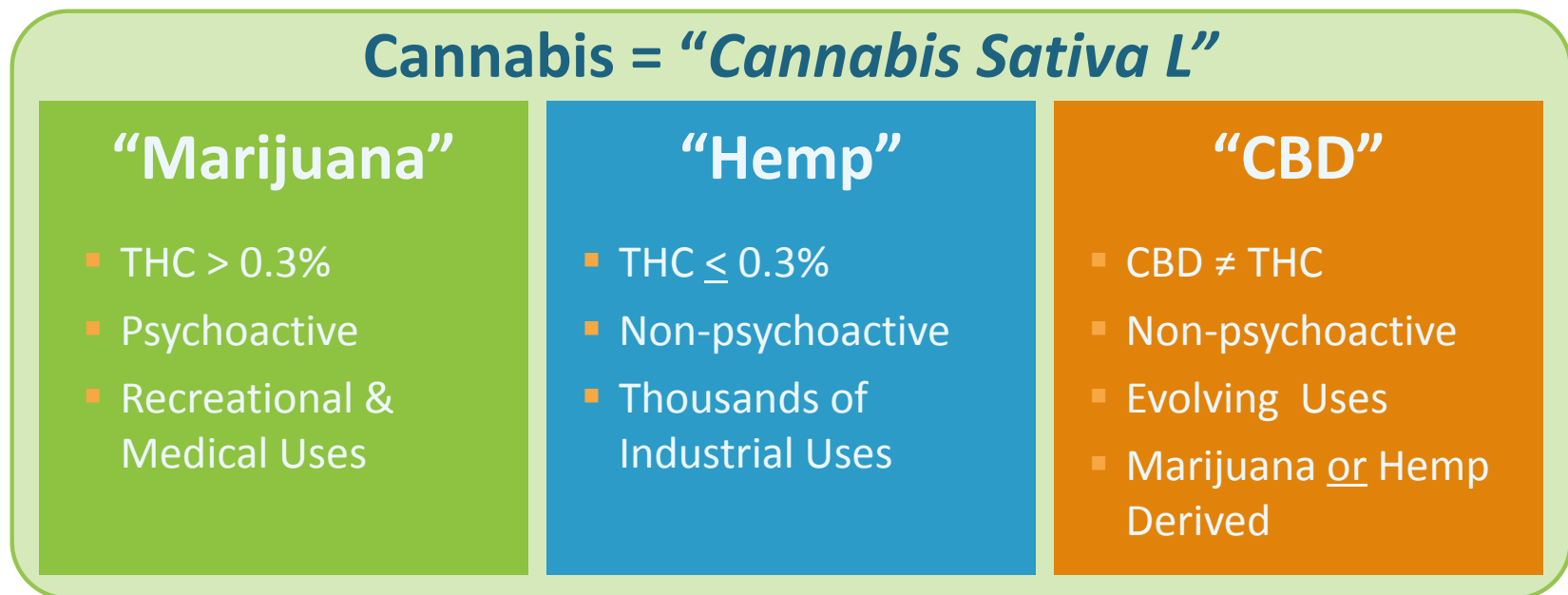
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“Cannabis”... It’s Complicated



Cannabis: Definitions & Segmentation

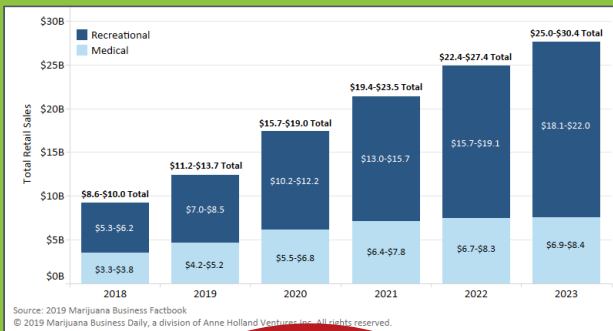
- Marijuana, Hemp and CBD are all “Cannabis”, but are NOT the same thing and should be considered/treated differently



Cannabis: Market Segments Size & Growth

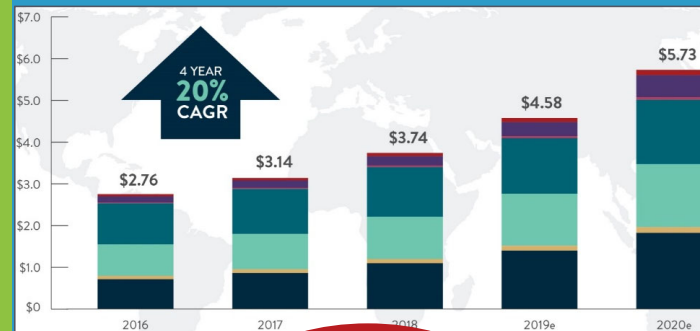
- Cannabis represents a lot of Risk AND Opportunity, if managed correctly

“Marijuana” (U.S. Retail)



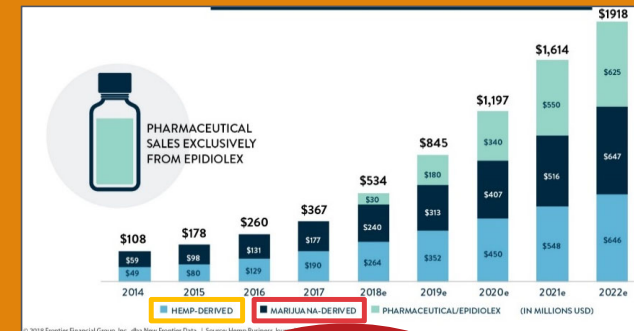
CAGR
22%
\$25-30B by 2020

“Hemp” (Global)



CAGR
20%
\$5.7B by 2020

“CBD” (North America)



CAGR
37%
\$1.9B by 2020

Cannabis: Legal & Regulatory Considerations

- Federal and State “legality,” rules/regulations, and oversight vary widely across each cannabis segment

“Marijuana”

- **Federal Legality** = ILLEGAL
- **State Legality** = Varies
- **Oversight** = DOJ/DEA/States

“Hemp”

- **Federal Legality** = Legal ... sort of
- **State Legality** = Varies
- **Oversight** = USDA/FDA/States

“CBD”

- **Federal Legality** = “It Depends”
- **State Legality** = Varies
- **Oversight** = FDA/States

Hemp Focus

2014 Farm Bill allowed for “pilot” research hemp programs

- 42 states currently have “pilot” hemp programs, which account for all current hemp production in the in USA



2018 Farm Bill legalized “Hemp” (cannabis with $\leq 0.3\%$ THC)

- More robust, federally-regulated version of 2014 hemp program
- 0 states have 2018 Farm Bill “approved” programs (ie, USDA review and approve)

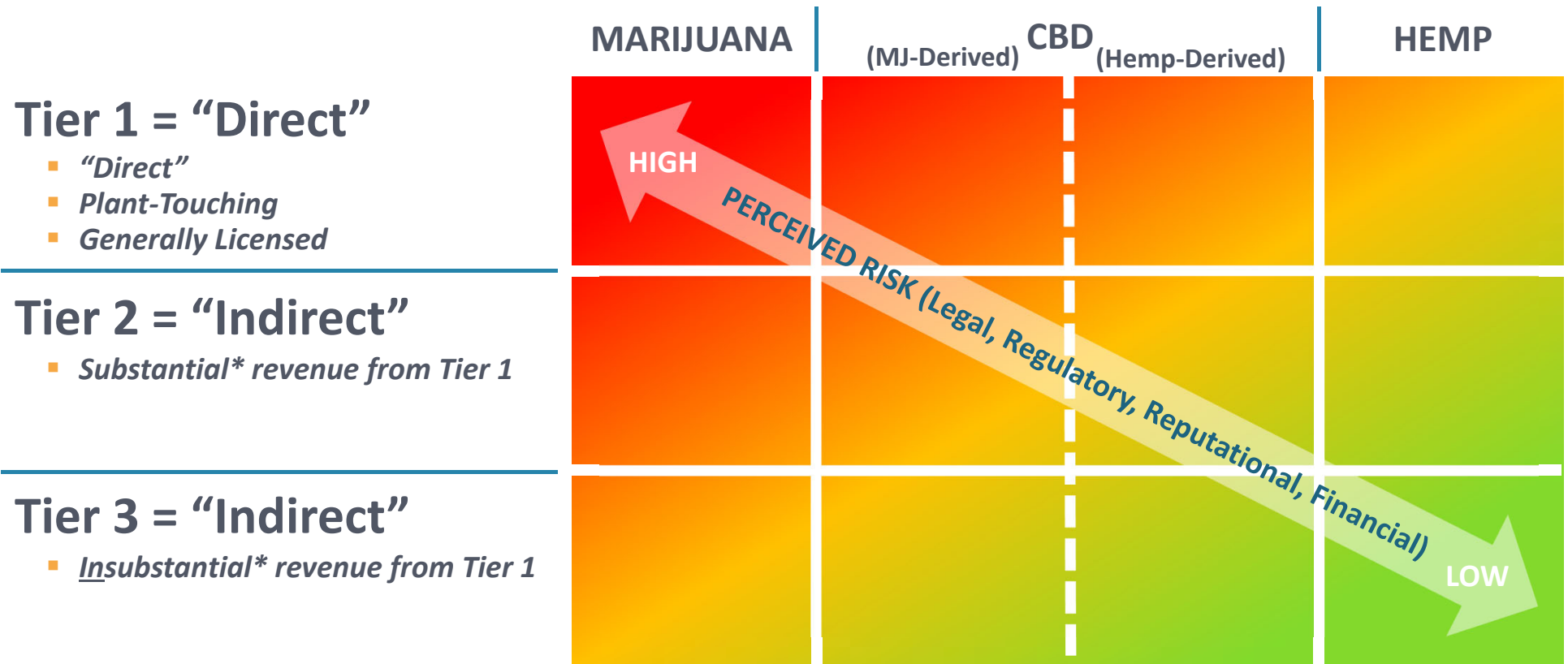
Full implementation of 2018 Farm Bill likely to take years

- USDA to develop national hemp regulations → 2019/2020
- States to develop hemp rules, programs, agencies, etc
- Then USDA review and approve/disapprove state programs → NO state currently has a “2018 Farm Bill” compliant program

Until then, **2014** Farm Bill programs “grandfathered”

FDA retains authority over cannabis in food/bev, drugs and cosmetics...including **CBD**

Cannabis: A Risk-Based Tiering Framework



*% of revenue measure is hard to determine and somewhat subjective; best determined by each institution

Texas Cannabis Laws

- “Texas Compassionate Use Act” – legalizing low-THC (<0.5%) “cannabis oil” for medical use – 2015
 - Only 3 licensed “dispensing organizations” in Texas; Sep 16th DPS announced for more
- Hemp (<0.3% THC) was legalized very recently (June 2019)
 - **Unintended consequence:** no tests available for low-THC; this effectively decriminalized marijuana
- Several counties and cities have enacted “cite and release” or “diversion programs” for enforcement of marijuana laws
- Texas Department of Public Safety is no longer arresting low-level marijuana offenders as of July 2019

Louisiana Cannabis Laws

- In 2015, SB 143 was passed which significantly reduced the penalties for marijuana possession
- Also in 2015, HB 149 was passed which created a framework for dispensing medical marijuana
- Several laws have been passed surrounding the framework for dispensing medical marijuana since 2015 – only started dispensing in August 2019
- New Orleans passed decriminalization of marijuana in 2016
- Marijuana Tax Stamps

Banking the Cannabis Industry

- BSA Officer needs to understand that the knowledge expectations are unrealistic
 - Too many unknowns and gray areas, however; do not get discouraged as it is doable, as evidenced by how many FIs are currently servicing the industry.
- Understand the Industry
 - Too much to understand, however; there are great resources out there to follow
- Solve their issues
 - These are complicated relationships, however; with a risk-based approach, these issues are solvable... mostly.

Common Weaknesses + Best Practices

Weak cannabis-related policies and procedures cause significant control gaps, resulting in inconsistent and ineffective compliance programs

Weakness	Best Practice
Unwritten Cannabis Policy	Written Cannabis Policy
No differentiation between “cannabis” segments: <i>Marijuana, Hemp, and CBD</i>	Differentiate between “cannabis” segments Note: A “no cannabis” policy is fine, if you realize that it includes marijuana, hemp and CBD. But a “no marijuana” policy does NOT include hemp or CBD.
No differentiation between Tier 1/2/3 (Direct/Indirect).	Utilize a framework. Blanket “0% tolerance” statements increasingly unrealistic and <i>de facto</i> ineffective.
No Cannabis/Marijuana Questions on Applications	Just ask the question – provides “positive defense”
Not factoring in “owner(s) or manager(s), or...seemingly unrelated businesses”	Be aware of and look-out for – FinCEN specifically identifies as marijuana “Red Flags”
No effective control to consistently enforce policies	<u>Screen</u> to show <u>effective</u> CIP. Same workflow as PEPs. Be ready for “spot checks” by examiners.

Appendix & Case Studies

FinCEN “Marijuana-Related” Guidance

- Focused on “Marijuana”, but KYC concepts also generally apply to “cannabis”
- Contemplates “Direct” and “Indirect” marijuana-related businesses
- Red Flags include:
 - commingling of funds with the personal account of the business’s owner(s) or manager(s), or ... seemingly unrelated businesses
 - attempt to disguise funds derived from [marijuana-related] activity
 - designed to evade regulations promulgated under the BSA
- Expectations unlikely to change with federal legalization

Source: FinCEN Memo “BSA Expectations Regarding Marijuana-Related Businesses” (February 2014)

CBD Focus

CBD is a compound found in “cannabis”

- Can be extracted from either “marijuana” or “hemp”
- CBD is not THC, but “CBD Oil” can have trace amounts of THC

“Under the 2018 Farm Bill, there will be more broadly available, legal, CBD products; however, this does not mean that all CBD products are legal moving forward.”¹

CBD is the primary driver of the US Hemp industry

- Expected to account for ~50% of all hemp cultivation²
- But on-going legal uncertainty

(1) “The Farm Bill, hemp legalization and the Status of CBD: An Explainer” <https://www.brookings.edu/blog/fixgov/2018/12/14/the-farm-bill-hemp-and-cbd-explainer/>

(2) “Cannabis Companies Beginning To Ante Up For Bets On Hemp” Feb 27, 2019 <https://finance.yahoo.com/news/cannabis-companies-beginning-ante-bets-222746649.html>

CBD Focus: Legality in Question¹

- **One** FDA-approved form of purified CBD: Epidiolex
- FDA has to issue regulations to allow CBD use in food or dietary supplements → multi-year process
- FDA has issued numerous warnings and actions
- Much of CBD sold falls into legal gray area, whether due to FDA rules, questionable sources (ie, legal hemp?), THC content, state laws, etc

(1) "The CBD craze is getting out of hand. The FDA needs to act."

https://www.washingtonpost.com/opinions/the-cbd-craze-is-getting-out-of-hand-the-fda-needs-to-act/2019/07/30/94c8024c-b211-11e9-8f6c-7828e68cb15f_story.html

CBD Focus: Case Study

March 21, 2019

CVS has started selling cannabis-based products in 8 states

April 3, 2019

Outgoing FDA Chief Gottlieb raises 'concern' over Walgreens, CVS selling CBD products

July 22, 2019

FDA issues warning to Curaleaf for 'illegally selling' CBD products with 'unsubstantiated claims'

July 22, 2019

CVS to pull Curaleaf products from CBD offerings after FDA warning; marijuana stocks fall

CBD Focus: Questions to Consideration

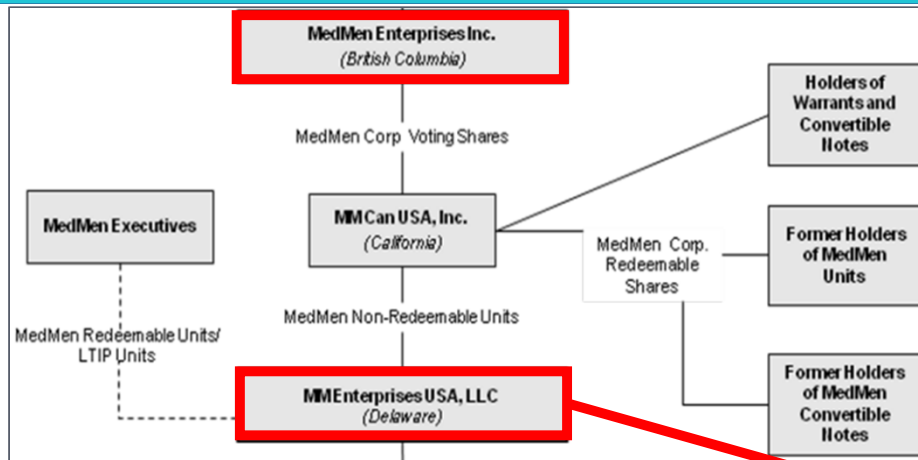
“Legality” of CBD depends on a number of considerations:

1. Hemp- or marijuana-derived?
2. Hemp grown legally?
3. Hemp grown legally in the state where CBD is sold?
4. CBD legal in the state?
5. Trace THC \leq 0.3%?
6. Usage? Medicine, nutritional supplements, food/bev?

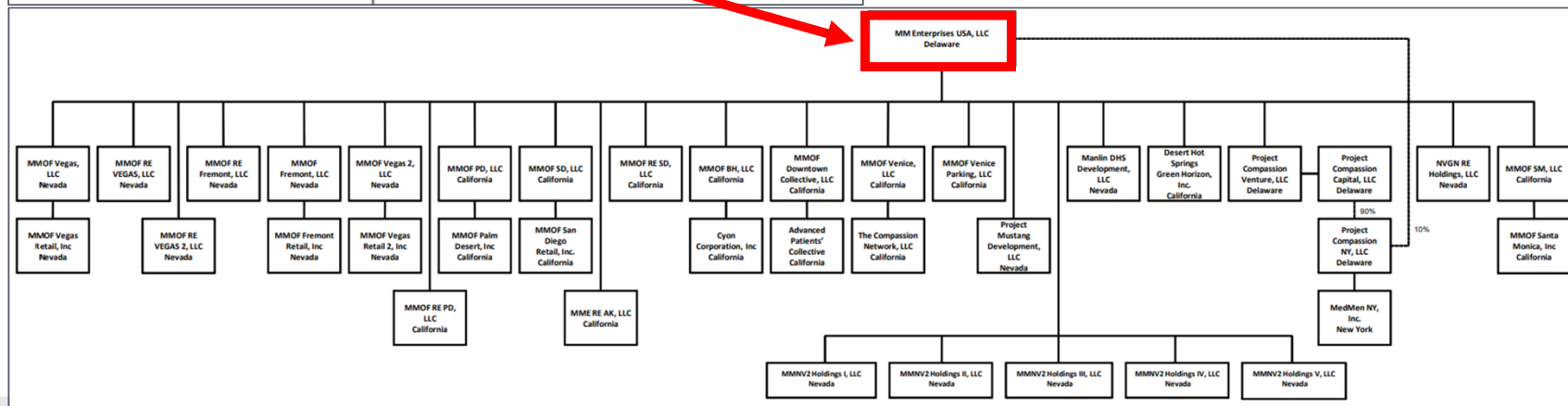


Request **CRB Monitor's**
“CBD Decision Tree”
for more details.

Increasingly Complex Corporate Structures



- Multi-levelled
- Multi-state (Med & Rec)
- International
- Publicly Traded



Source: MedMen Enterprises Inc. CSE FORM 2A (May 28, 2018)