

July 19, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing,
& Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing,
& Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown,

We write as former Directors of the Office of National Drug Control Policy and former Administrators of the Drug Enforcement Administration to warn about the unintended consequences of the SAFE Banking Act to legalize the banking of federally illegal proceeds from the sale of marijuana.

Some Members of your Committee may be familiar with the Black Market Peso Exchange that has been in operation for several decades. This scheme has enabled international drug cartels to launder billions of U.S. dollars through international monetary exchanges and has ensnared many banks and mainstream U.S. companies.

The lesson that the Black Market Peso Exchange teaches us is that cartels will go to enormous lengths and use sophisticated and complex methods to move cash into banks—since laundering money is the life-blood of criminal organizations. It is therefore a virtual certainty that cartels will seek to exploit the SAFE Banking act if it provides them with an easier and more cost-effective means to launder their money.

Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.

Consider the current landscape of offering banking services to cash-intensive marijuana businesses. Even if customers are offered the opportunity to pay in credit, many customers will choose to pay cash to avoid being tracked within the state seed-to-sale tracking system.

While banks know how much cash to expect from other cash-intensive businesses like dry cleaners or convenience stores, it will be very difficult to figure out when a marijuana dispensary is participating in a money laundering scheme. The scale of the marijuana industry is already such that there are huge opportunities for these dispensaries to be the destination for cartel cash. Indeed, we have already seen many cases of cartels using the cover of legalization to operate

illicit marijuana grows and black market activity. Two recent examples within the past year involved organized efforts to expel Mexican drug cartels growing marijuana in Northern Californiaⁱ—including a request to use the California National Guardⁱⁱ, and the May 2019 bust of the largest international drug trafficking organization in Colorado law enforcement history, with over 80,000 plants in over 250 locations and 4.5 tons of finished marijuana productsⁱⁱⁱ.

We urge the Senate Banking Committee to reject the SAFE Banking Act and other legislation that would give these cartels more cover and more access to the U.S. financial system.

Sincerely,

Mr. R. Gil Kerlikowske
Former Director
May 7, 2009 to March 6, 2014
Office of National Drug Control Policy

Ms. Michele M. Leonhart
Former Administrator
November 10, 2007 to May 14, 2015
Drug Enforcement Administration

Mr. John P. Walters
Former Director
December 7, 2001 to January 20, 2009
Office of National Drug Control Policy

Ms. Karen P. Tandy
Former Administrator
July 31, 2003 to November 9, 2007
Drug Enforcement Administration

General Barry R. McCaffrey, USA (Ret.)
Former Director
February 29, 1996 to January 20, 2001
Office of National Drug Control Policy

Mr. John C. Lawn
Former Administrator
July 26, 1985 and March 23, 1990
Drug Enforcement Administration

Mr. Lee P. Brown
Former Director
July 19, 1993 to January 1996
Office of National Drug Control Policy

Mr. Peter B. Bensinger
Former Administrator
February 23, 1976 to July 10, 1981
Drug Enforcement Administration

Mr. Robert Martinez
Former Director
March 28, 1991 to January 20, 1993
Office of National Drug Control Policy

Mr. William J. Bennett
Former Director
March 13, 1989 to December 13, 1990
Office of National Drug Control Policy

ⁱ <https://www.justice.gov/usao-edca/pr/us-attorney-joins-forces-federal-state-and-local-leaders-and-experts-combat-devastating>

ⁱⁱ <https://www.gov.ca.gov/wp-content/uploads/2019/02/2.11.19-Letter.pdf>

ⁱⁱⁱ <https://www.justice.gov/usao-co/pr/forty-two-individuals-arrested-one-largest-black-market-marijuana-takedowns-colorado>