

MBank pulls out of Colorado a week after taking on cannabis accounts

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MBank seeks to serve marijuana businesses such as La Conte's Clone Bar and Dispensary in Denver on December 9, 2014.

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The Oregon community bank that a week ago openly welcomed Colorado marijuana industry customers has changed its mind, publicly saying it doesn't have the infrastructure to handle the overwhelming response for service.

But people familiar with the move say the retreat was pressed by federal banking regulators who stepped in late last week to tell MBank executives that crossing several states to work with an industry that remains illegal under federal law was simply too

risky.

"Following national press, the volume of inquiries in Oregon, Washington and Colorado has been so overwhelming that we don't currently have the infrastructure to adequately support all these customers," MBank CEO Jef Baker said Monday. "Colorado is the farthest from our market area and the most difficult to provide the quality customer service to."

There are nearly 2,200 pot retail, manufacturing and grow businesses in Colorado, according to state licensing data.

The bank will continue to serve legal marijuana businesses in Oregon and Washington, Baker said.

Industry insiders said the pullback was not unexpected.

"We've become accustomed to our banking solutions not actually working out," said Michael Elliott, executive director of the Marijuana Industry Group. "After they got all that press, I was wondering if they'd get increased scrutiny and pressure as a result — just like all the other banks have."

Part of the issue, Baker said, was MBank's lack of a Colorado branch, which would require approval from state banking authorities. It did not need approval to accept deposits from Colorado businesses.

Without a branch, cash deposits — millions of dollars that often must be treated with cleaners such as Febreze to remove the pungent marijuana smell — would have to be made at a Federal Reserve Bank, such as the one located in downtown Denver. From there, deposits would be electronically credited to MBank's accounts, then to its marijuana-business depositors.

Founded in 1995, the \$165 million bank has three Oregon locations in and around Portland. It nearly closed in 2009 following a string of problems that ranged from inadequate board

management to a balance sheet weighed down by toxic and poorly performing loans.

Baker said the five Colorado-based marijuana business accounts that were opened will most likely be closed. "I'm not 100 percent on that, but we're reviewing it."

Another 60 inquiries from Colorado pot shop owners will be shelved, he said.

When MBank went public with its desire to bank the marijuana sector last week, its brazenness raised industry eyebrows. Banking regulators, such as the Federal Deposit Insurance Corporation, which oversees MBank, have frowned on institutions that are overt about working with legal cannabis businesses.

Colorado's legal pot businesses have long lamented that their accounts are closed as soon as where they are banking becomes public.

"This is exactly the reason why the marijuana industry cannot say who they have a bank account with, and why the banks don't want it public," Elliott said.

Baker sidestepped questions about whether it was the FDIC — the agency he said offered its "tacit approval" to the idea only a week ago — that pushed MBank out of Colorado.

"We are regulated by the government, and the expectation is that we run our bank in a safe and sound manner. In the event we don't, we face severe repercussions from our regulators," Baker said. "Certainly regulators influence our decisions, but ultimately it is our call."

An FDIC spokesman said the agency does not comment about ongoing bank operations.

Others familiar with the outcome said the FDIC frowned at the public nature of MBank's move, making it unclear whether the plan would have met approval had it not been so well-publicized.

"The regulators have the gun and all the bullets," said one banking insider who is familiar with the FDIC and its methods. "Any of us who have survived (the financial crisis) knows exactly how this works. If we're not team players, our life becomes miserable."

Colorado has had several efforts of banking in the marijuana industry go awry, the most recent a long delay in the opening of the Fourth Corner Credit Union. The world's first credit union created specifically for the pot industry had expected to open at the new year, but it has not yet been granted a master account by the Federal Reserve Bank in Kansas City.

A move last year by the Colorado legislature set the stage for a banking cooperative similar to a credit union but has made no progress despite numerous discussions. That's because it, too, would require the same master account necessary to access the nation's money system.

Colorado Springs State Bank, the last Colorado bank to openly work with the marijuana industry, closed about 300 accounts in late 2011 amid concerns of working with companies that violate federal law.

Baker said he'll likely revisit the Colorado plan, but it might take some time.

"The position of state and federal regulators is that they do not object to banking services being provided to the cannabis industry," he said. "However, they absolutely expect the development of strong programs. Time and experience will allow programs to become stronger."

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