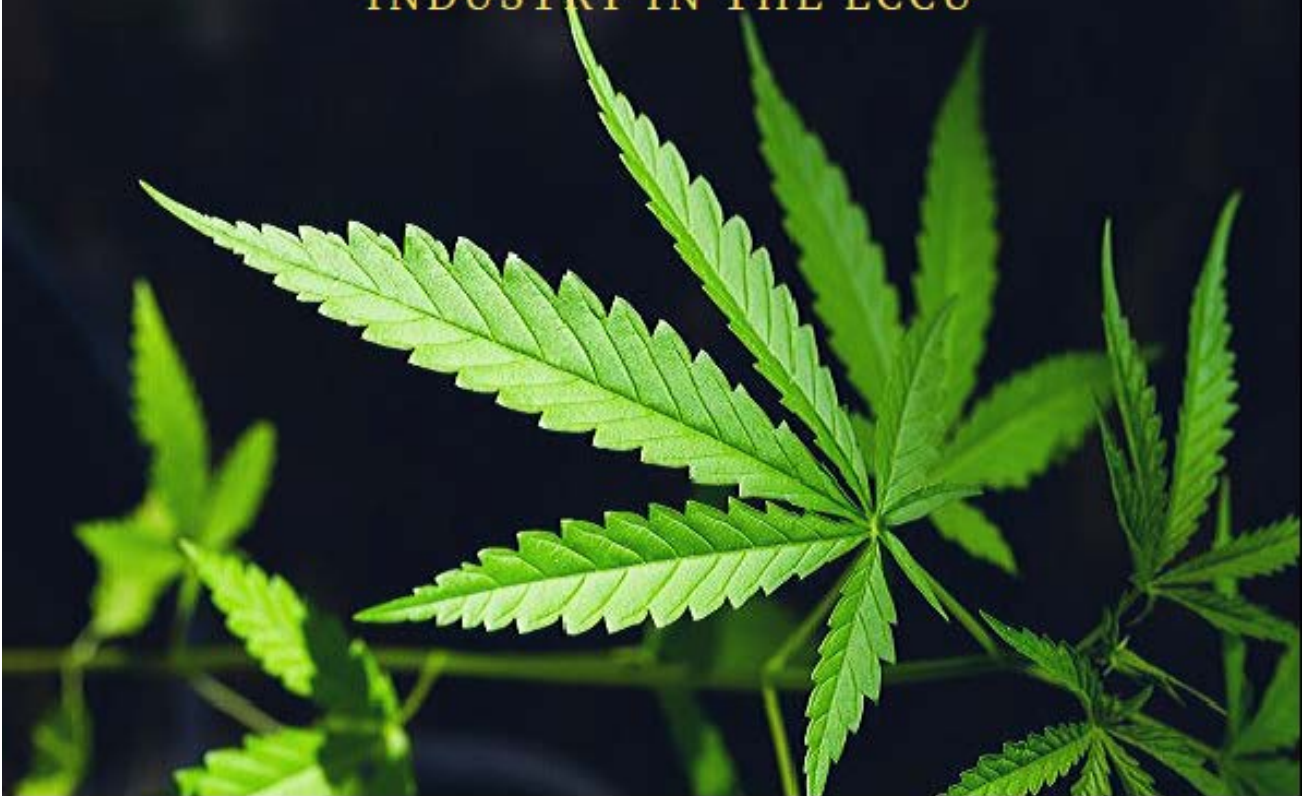




Flagship Report

The Medicinal Cannabis (R)evolution

CHALLENGES IN BANKING A BUDDING
INDUSTRY IN THE ECCU



EASTERN CARIBBEAN CENTRAL BANK

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The Medicinal Cannabis (R)evolution – Challenges in Banking a Budding Industry in the ECCU

The Eastern Caribbean Central Bank commissioned this inaugural Flagship Report on Medicinal Cannabis in response to the growing global and regional interest in medicinal cannabis.

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LIST OF ACRONYMS AND ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ATM	Automated Teller Machine
BSA	Bank Secrecy Act
CAGR	Compound Annual Growth Rate
ECCB	Eastern Caribbean Central Bank
ECCU	Eastern Caribbean Currency Union
FATF	Financial Action Task Force
GDP	Gross Domestic Product
ICT	Information and Communications Technology
IT	Information Technology
OECD	Organisation for Economic Cooperation and Development
SAFE	Secure and Fair Enforcement Banking Act
SIDS	Small Island Developing States
US/USA	United States of America
UN Convention	United Nations Single Convention on Narcotic Drugs 1961

GOVERNOR'S FOREWORD

The legal use of medicinal cannabis has expanded in the past ten years. Already, at least 30 countries have legalized the use of the drug for medicinal and therapeutic purposes. This inaugural flagship report styled **The Medicinal Cannabis Revolution: Challenges in Banking a Budding Industry in the ECCU** was commissioned by the Eastern Caribbean Central Bank in response to the growing global and regional interest in medicinal cannabis. Recent legislative developments in several member countries of the Eastern Caribbean Currency Union (ECCU) attest.

The Eastern Caribbean is renowned for its favourable climate and fertile soil, which could facilitate a premium product as is currently the case with cocoa in one member country. The Report explores the potential benefits of medicinal cannabis as a viable industry in the ECCU. In this regard, its

viability almost certainly depends on access to export markets.

The Report highlights the prospects and challenges to the industry in the ECCU. Specifically, it identifies the policy issues, which arise in the development of the industry, and is intended to serve as a guide to policy-makers and industry practitioners, including financial institutions; both in countries, which have already passed, and those now considering the enactment of enabling legislation.

Despite the potential economic benefits, which may accrue from the development of a medicinal cannabis industry in the ECCU, there are significant regulatory and compliance challenges within the financial sector which could inhibit the realisation of these benefits. These challenges are associated, in part, with differing legislative

regimes across ECCU member countries and the federal position of the US government.

The United States of America, in particular, presents a peculiar challenge. Although most states have either legalized or decriminalized the use of cannabis, it remains illegal at the federal level. In light of its classification at the federal level, many licensed financial institutions in the region have understandably, expressed some reluctance to transact with cannabis-related businesses.

The Bank recognises that in order for member countries to create a viable medicinal cannabis industry and realise the benefits therefrom, medicinal cannabis businesses will require banking services to facilitate domestic, regional and international transactions. This Report considers the

predicament of licensed financial institutions interested in facilitating the development of the industry while seeking to preserve correspondent banking relations in the USA.

The Bank acknowledges its role, as regulator, in the development of a framework to guide the conduct of the commercial banking sector in managing the relationships with conduct of the commercial banking sector in managing the relationships with participants of the medicinal cannabis industry.

Ultimately, the potential of medicinal cannabis in the ECCU will depend on favourable external developments combined with a strong risk management framework for licensed financial institutions willing to provide services to the industry.



1.0 INTRODUCTION

The use of cannabis for medical and therapeutic purposes remains a highly controversial but important subject of public policy and scientific interest. The recent surge in interest in the therapeutic use of cannabis has been due in part to legislative developments in several countries, which have helped to reinforce medicinal cannabis as a part of the future global economy. Given this growing significance, the policy implications of this budding industry for member countries of the Eastern Caribbean Currency Union (ECCU) warrant serious consideration.

The ECCU took a significant step towards the development of a medicinal cannabis industry in December 2018, when St Vincent and the Grenadines became the first member country to legalise medicinal cannabis, with the passage of the Medicinal Cannabis Industry Act 2018 and the Cannabis Cultivation (Amnesty) Act 2018. As at July 2019, the majority of the Medicinal Cannabis Industry Act¹ was enacted in St Vincent and Grenadines and the other parts are expected to come into effect subsequently. Antigua and Barbuda also enacted its Cannabis Act to regulate the use of cannabis for economic and religious purposes. The enactment of this legislation in Antigua and Barbuda followed decriminalization, which occurred in March 2018. Meanwhile, a number of other member governments are deliberating the possibility of legislating medicinal cannabis, including St Kitts and Nevis, which tabled a draft Cannabis Bill in its National Assembly in May 2019 and passed the Cannabis Bill 2020 in the Federal Parliament on 12 February 2020 as a precursor to its legislative reform. These reforms are the first steps in what the region hopes will result in the development of a lucrative medicinal cannabis industry.

¹ As at May 2019, Parts I, II, III, IV, V and VI had been enacted.

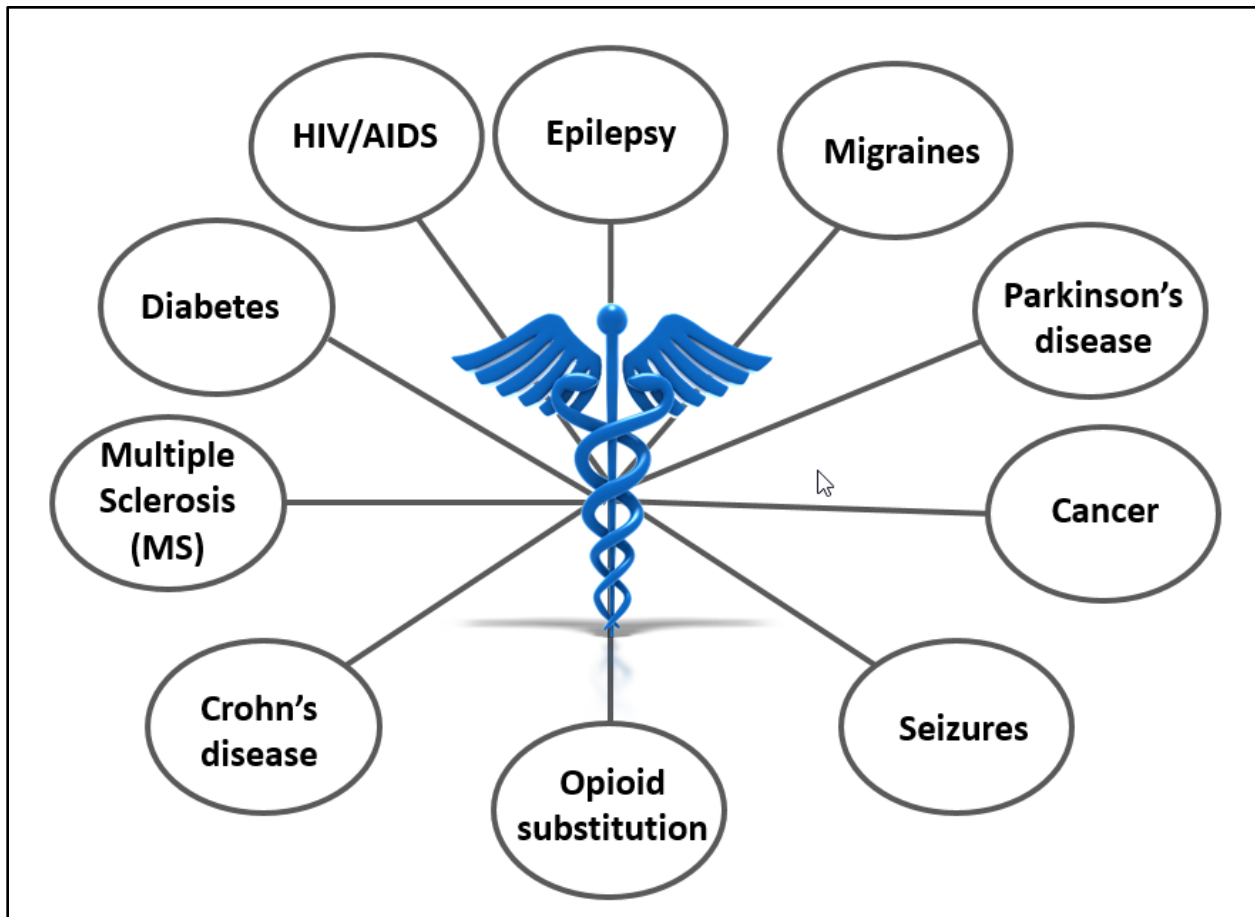
Within CARICOM, Jamaica was the first country to take that important step towards legalization, when its legislature voted to amend the country's laws in February 2015. Jamaica's framework allows for the decriminalisation of small quantities of cannabis and has removed restrictions on cannabis for medicinal, scientific and cultural uses. The developments in medicinal cannabis are not confined to CARICOM, but have been evident globally. As at May 2019, more than 30 countries worldwide, and more than 30 US states (Lopez, 2019) had legalised cannabis for medicinal and therapeutic purposes.² Israel was one of the first countries to initiate this process. The country has allowed medical cannabis since 1973, but its industry only began to take shape in the 1990's when a medical programme was developed. In 2001, Canada began granting access to patients to use medicinal cannabis under the Marijuana Medical Access Regulations. Within Latin America, Colombia regulated medicinal and scientific uses of cannabis in 2015 under a presidential decree, while Mexico legalised medicinal cannabis in 2017. Several countries in Europe have also legalised the use of medicinal cannabis in various forms, including the Czech Republic (2013), the Republic of Northern Macedonia (2016), Germany (2017) and the United Kingdom in 2018.

Trends with respect to the full legalization of cannabis have been more gradual. Uruguay became the first country to fully legalise recreational cannabis in 2013 while a major step was taken by Canada in October 2018 when it became the first G7 nation to legalise recreational cannabis use. The latter move has been viewed by advocates as a harbinger for further global liberalisation. A key motivation for cannabis' increasing popularity has stemmed from demand by patients, as they have sought more natural products to treat various health conditions. This has been accompanied by increasing research and anecdotal evidence on medical conditions to be treated by cannabis. Consequently, to date, medicinal cannabis is deemed beneficial for an increasing list of conditions (see Figure 1).³ With the growing adoption of cannabis as a pharmaceutical product, ECCU member governments have recognised the health, economic and social benefits of this fast-growing industry.

² This is not a homogenous group, as each country and/or state has its unique legislative framework for medicinal cannabis.

³ While patients exposed to medicinal cannabis have reported varying degrees of symptomatic benefit, benefits still require confirmation by good clinical science.

Figure 1: Qualifying Conditions Treated by Medicinal Cannabis



The budding industry is, however, not without its challenges. One of the challenges is the inability of stakeholders to trade and conduct commerce in countries where cannabis remains illegal, including the United States of America (USA), ostensibly the world's largest market. Accordingly, as interest in the medicinal cannabis industry within the region continues to advance, it is critical that the region establishes an industry that is appropriate to its unique circumstances and developmental goals, while avoiding the potential associated risks. The Eastern Caribbean Central Bank (ECCB) has acknowledged the growing interest and intention of ECCU member governments to legalise cannabis for medicinal purposes.

Accordingly, the ECCB has commissioned this flagship document as an introductory report to the medicinal cannabis industry in the ECCU, aimed at encouraging discussions at the regional level which may help guide practical policy solutions. The report will explore the potential benefits of

medicinal cannabis as a viable industry in the ECCU, and highlight financial, regulatory and other policy issues which may hinder its development. The banking sector may be vulnerable, particularly the ability of these financial institutions to maintain correspondent banking relationships. What should be noted however, is that in order to fully recognise the benefits of the medicinal cannabis industry, appropriate banking services must be provided to facilitate commerce. The situation in itself presents quite a conundrum, not only for financial institutions, but for ECCU member governments and the ECCB, as the regulator of licensed commercial banks.

The report continues as follows: section two considers the economic motivation for the development of the industry in the ECCU, while section three explores the potential global demand for medicinal cannabis as a foundation for assessing the industry's viability in the ECCU. The banking sector challenges associated with the development of the industry are examined in section 4. This section also presents a number of case studies, which highlight the experiences of three countries that are developing this industry. Given the highly regulated nature of this industry, the report considers the regional legal and regulatory framework in section 5. Section 6 concludes the report and some issues for policy consideration are presented in Section 7.

Before proceeding, some caveats are worth noting. Given the current embryonic state of the regional industry, as well as its previous illicit nature, there are no official or accurate data sources related to production, price, trading practices, or market demand, which may be used as a baseline for this report. Additionally, the extant literature is limited, particularly on the impact of the industry on the banking sector as legalisation across countries, including the US, remains dynamic, resulting in significant uncertainty regarding the policy implications for the sector.



2.0 ECONOMIC RATIONALE FOR DEVELOPING THE INDUSTRY

ECONOMIC IMPERATIVES

The agricultural sector is considered one of the most promising areas for the development of the medicinal cannabis industry.

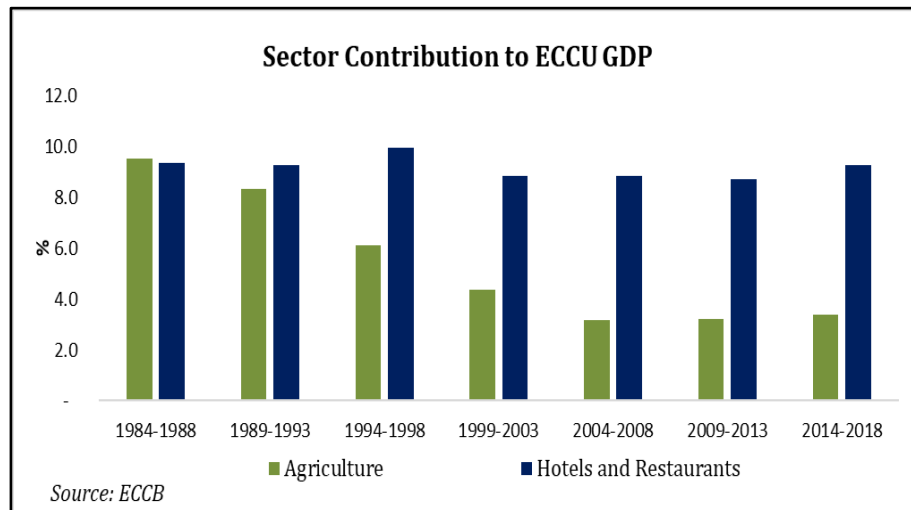
Global medical tourism trends indicate a market of significant size with exponential growth in the coming years due to aging, the incidence of chronic diseases and rising healthcare costs – which may augur positively for the burgeoning sector.

The rationale for development of the medicinal cannabis industry in the ECCU is multifaceted, and has included economic, health and social justice factors. Specifically, the potential economic benefits have been one of the main motivations for the region's legalisation drive. The cultivation of cannabis is expected to be a boon for the agricultural sector and for regional farmers.

The ECCU agricultural sector has experienced significant structural challenges in the past three decades. During this time, the agricultural sector witnessed a declining share of GDP, from approximately 10 per cent in the 1980's to approximately 3.5 per cent in 2018 (see Figure 2). These challenges were further compounded by the effects of the global financial crisis, which adversely affected a number of other sectors. These events resulted in significant job losses, continued fiscal deficits and mounting debt among a number of the ECCU's member governments. While the fiscal situation has improved since the crisis, unemployment has remained an intractable challenge for many ECCU member states; estimated at above 20.0 per cent for Grenada, Saint Lucia and St Vincent and the Grenadines (James et al., 2019). In response to some of these ongoing economic challenges, policy-makers have sought to consider alternative economic strategies, through the development of new industries, such as the budding medicinal cannabis industry, to help revitalise growth and employment.



Figure 2: Contribution of the Agricultural Sector to ECCU GDP



St Vincent and the Grenadines has identified the agricultural sector as one of the most promising sectors for the development of its cannabis industry. Despite the decline in agriculture's contribution to GDP, the sector continues to have a fundamental role in the economic development of St Vincent and the Grenadines and many other member countries of the ECCU. In setting its rationale for developing the sector, the Government of St Vincent and the Grenadines underscored that the country's ideal location, favourable climatic conditions, arable land and significant agricultural experience were all expected to give the country a competitive advantage in the industry's development (*see below*).

St Vincent and the Grenadines announced its intention to be a lead producer of organically certified medicinal cannabis, rivalling any other producer in the Western Hemisphere. Minister of Agriculture, Honourable Saboto Caesar indicated that the industry provides a unique opportunity for small island states, such as St Vincent and the Grenadines, to transform rural livelihoods and communities while changing the lives of patients who suffer medical conditions that are unresponsive to traditional pharmaceutical treatments. The Minister has identified 30 competitive advantages that St Vincent possesses relative to other larger markets such as the United States of America, Canada and Europe. These include the rich, volcanic soil and tropical climate which facilitate low-cost production, more than 2000 traditional cannabis farmers and the country's significant experience in cannabis cultivation.

Source: OECS

These views were confirmed in the 2018 Latin American Cannabis Report by the Cannabis Consultancy Research Group, Prohibition Partners, which identified a number of the unique benefits which the Latin American and Caribbean region which would facilitate the development of the industry (see Figure 3). Most of these benefits have been associated with the relatively high cost of cultivation in many advanced countries due to the cost of indoor cultivation relative to the low cost alternatives available in the region.

Figure 3: Potential Strengths and Barriers to the Cannabis Industry in the Region



Extracted and modified from the LATAM Cannabis Report: Prohibition Partners

Given the region's small population and limited prospective patient base, local demand is unlikely to yield significant economic benefits relative to the larger and advanced economies in Europe and North America. Accordingly, the export market has been targeted as the most viable. Without this ability to export to larger markets, new cannabis businesses may not be profitable, or be able to expand. In this regard, the inclusion of an export license framework, as part of the legislation in St Vincent and the Grenadines is deemed commendable. The development of an export market will, however, require a well-regulated framework which should encompass licensing and best

practices⁴ to ensure the product meets international standards. It is the apparent need to facilitate cross-border transactions which may compound the potential challenges for the financial sector through viable correspondent banking relations.⁵

The medicinal cannabis industry may also contribute to opportunities in the tourism sector of ECCU member countries, which have legalised or may consider legalisation of medicinal cannabis. The tourism industry globally continues to show significant growth and has been instrumental in job creation. According to the World Travel and Tourism Council (2019), the travel and tourism sector grew by 3.9 per cent in 2018, exceeding the growth of the global economy. In that year, the global tourism sector was estimated to have generated US\$8.8 trillion and created 319 million jobs. The sector has been an equally valuable source of growth and employment creation for many ECCU member countries, with direct contribution of hotels and restaurants being between 3 per cent and 15 per cent for many of the ECCU economies (*see Figure 2*).

However, as noted by Wenner (2018), many Small Island Developing States (SIDS) are currently confronted with a relatively mature tourism industry, evidenced by declining competitiveness relative to other tourism destinations. These developments point to the need for rejuvenating the region's tourism product beyond the traditional "sun, sand and sea" attractions. With the legalisation of medicinal cannabis in ECCU member countries, this nascent industry may represent a valuable market opportunity in medical tourism.

Various sources suggest that the global medical tourism market is significant and is expected to grow exponentially in the coming years owing to trends related to aging, the prevalence of chronic diseases among various age groups as well as rising healthcare costs. The Organisation for Economic Cooperation and Development (OECD) cites other supportive developments for the sub-sector's growth including regulatory regimes such as General Agreement in Trade in Services, low costs of travel and advances in Information and Communications Technology (ICT).

⁴ For example, Good Agricultural and Collection Practices (GACP) and the European Good Manufacturing Practices (GMP)

⁵ However, even where countries opt to focus on internal demand for medicinal cannabis, banking sector challenges may persist as businesses would need to be provided with banking services.

Consequently, the number of developing countries are becoming popular destinations for medical tourists.

Unfortunately, there has been limited empirical research as to whether medicinal cannabis attracts or deters tourists to a destination. Most of the research in this area has, instead, been linked to recreational cannabis. One of the earlier cited case studies for recreational cannabis use in the tourism sector is the Dutch model. It can be noted that the authorities in the Netherlands have historically taken a more realistic approach to cannabis policy. The approach was adopted in the late 1970's and was an attempt to separate low-risk market from the market for more risky illegal drugs. The policy effectively decriminalized the personal possession of cannabis for adults, and tacitly allowed for the existence of "*coffeeshops*" for low-volume sales.

These outlets were however only allowed to operate under strict licensing conditions including age restrictions, a prohibition on the sale of other drugs and control on marketing. MacCoun (2011) noted that in the case of the Netherlands, data showed that of the four to five million tourists who visit Amsterdam, about a quarter visit a coffeeshop and about 10 per cent of them cite cannabis as one of the reasons that they visit. The Federal Reserve, in a 2018 article, indicated that the industry has had many positive spillover effects on the economy, through increased sales and significant increases in direct and related employment (Felix & Chapman, 2018). These initial results suggest that there are likely to be significant direct and indirect benefits for the tourism sector from both medicinal and recreational cannabis, by increasing the value of tourism expenditures and offering visitors other options through this new legal product.

Notwithstanding the limited empirical research, there may be significant linkages with the tourism industry. In fact, if one considers the types of qualifying conditions that medicinal cannabis may possibly treat (see Figure 1), the industry may provide member countries greater opportunities to deviate from the current seasonal nature of the industry and pursue opportunities for year-round growth through the promotion of health and wellness tourism. By its nature, this segment will necessitate regular medical check-ups and medical tests prior to being prescribed cannabis treatments. This opens up a range of other opportunities beyond those for recreational cannabis.

The Marijuana Business Factbook (2017) noted that for every dollar spent on cannabis,⁶ there was an additional \$3 in economic benefits for the industry, in activities such as real estate, legal and accounting services.

Initial data also point to the medicinal cannabis industry's growing potential. Grand View research has estimated a potential medicinal cannabis market size of approximately US\$37.0 billion in 2018 and expects a compound annual growth rate (CAGR) of 21.9 per cent from 2019 to 2026 in medical tourism. If member countries are to capitalise on the potential of this market, they will require adjustments to new trends in medical tourism, such as the establishment of proper health standards, having the requisite infrastructure, appropriate health and emergency facilities as well as competent medical personnel.

To appreciate some of the potential employment benefits of the legal cannabis industry, the report considers recent data from the USA and Canada. Based on estimates by Leafly, an online magazine related to the cannabis industry, the industry remains one of the fastest growing employment sectors in the USA. The online magazine noted that although cannabis remained federally illegal in the USA and therefore disregarded by the Bureau of Labour Statistics, the legal cannabis industry had created 211,000 full-time jobs in the USA (Leafly, 2019). These employment benefits, while extensive, cannot be replicated in developing countries such as in the ECCU. These advanced economies have been successful in generating significant jobs in the industry in large part because of the existence of a supportive institutional and policy environment, such as more advanced facilities including universities, laboratories, R&D, as well agricultural and ICT skills, all of which have supported medical cannabis research and investment. Without these advanced facilities, it may take several years before the region can achieve this potential.

The emerging sector is also likely to generate significant fiscal benefits to government, in the form of licence fees and sales taxes, assuming taxes are levied on medicinal cannabis. Given the nascent stage of the industry and the associated legislative framework, it may be difficult to assess the true extent of the fiscal benefits to governments from the new industry. A comprehensive assessment

⁶ The report considers both medicinal and recreational cannabis

of these benefits would depend on the specific licensing⁷ and fiscal framework applied by each member government, the number of licensed businesses, medical professionals and the potential global demand.

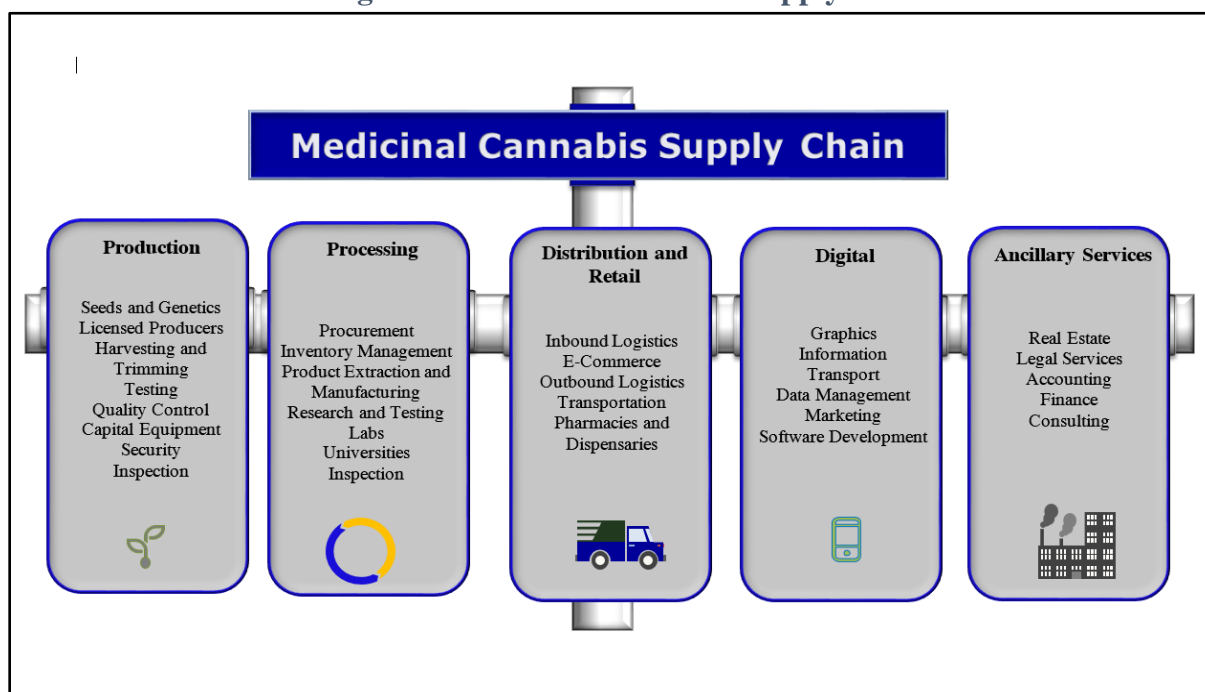
Another important motivating factor often cited for encouraging the development of the sector in the ECCU is related to its social justice benefits. This motivation has been three-fold: the first is providing small and displaced farmers the opportunity to actively participate in the economy, and second, allowing Rastafarians, who have traditionally used the plant for religious purposes, the freedom of religious expression. At the same time, it is expected that the industry would drastically reduce the black market supply of cannabis, by satisfying the demand through a controlled and regulated medicinal market (Antigua Observer, 2018). While there is no data on the number of small-scale farmers or Rastafarians who are likely to benefit from the legal industry in St Vincent and the Grenadines, or the other member countries, the number is expected to be significant. In developing such an inclusive model, member governments should consider reducing the barriers to entry, such as lowering licence fees for small farmers, thereby limiting the possible dominance by foreign investors. The regulations developed by St Vincent and the Grenadines have sought to encourage this inclusiveness by facilitating small farmer cooperatives and allowing individuals with prior convictions to participate in the legal cannabis industry. Notwithstanding these advantages, the benefits to the agricultural sector may not be immediate. For instance, the medicinal cannabis industry has expanded beyond traditional agriculture into more science and pharmaceuticals. Accordingly, farmers should not only have requisite knowledge about conventional cultivation practices but must also comply with rules related to manufacturing medicine of a certain quality, which may often require significant investment.

Ultimately, if the medicinal cannabis industry is expected to be fully viable, small and emerging businesses should seek to find opportunities across the supply chain, from “seed to sale,” (see Figure 4). In doing so, the regulatory and legislative framework should encourage the development of sectors such as extraction and manufacturing, retail sales, analytical research and

⁷ Further details on the regulatory framework will be discussed in section 5.

testing, as well as the development of ancillary sectors in marketing, IT support, distribution, finance and administration, which would help support the industry. Member countries that are seeking to attract local and foreign investment to the industry should therefore seek to improve their processes for Doing Business, including time and procedures related to issuing construction permits, registering property and trading across borders.

Figure 4: Medicinal Cannabis Supply Chain



Despite the significant potential benefits, the medicinal cannabis industry in the ECCU must cope with its own peculiar drawbacks. The first may be related to the diseconomies of scale which are characteristic of small countries, and could increase costs of bringing medicinal cannabis to market. Another challenge has been the trend towards domestic production and import substitution by more advanced markets (Hammersvik et al., 2012) and its potential impact on demand for ECCU cannabis exports. The most immediate drawback, however, has been the legal and regulatory concerns in the US, where cannabis is classified as a Schedule I⁸ substance.

⁸ Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse.

3.0 THE POTENTIAL GLOBAL DEMAND FOR CANNABIS

Estimating the prospective demand for medicinal cannabis is a challenging endeavour. This challenge stems in part from the fact that many of the estimates previously identified were based on demand for both recreational and medicinal cannabis, or the potential demand in a fully liberalized market. Given the dynamic nature of the global industry, evidenced by legalization trends across countries, consumer demand is likely to be affected by changing markets which may affect price, supply, quality and accessibility. The legal and regulatory impediments are also likely to impact the demand for the export of cannabis by ECCU member countries. Accordingly, it is important that estimates included in this report be treated with a certain degree of caution.

An assessment of the growth of the industry will depend on the demand for the product as well as the global financial and regulatory environment. Given the weak internal demand previously identified, this section highlights the viability of the medicinal cannabis industry in the ECCU by considering estimates in global demand. At the current juncture, it is expected that global demand for cannabis is likely to stem from continued legislative changes by countries worldwide. As noted above, over 30 countries have legalised the medicinal and therapeutic use of cannabis, and more than 30 US states have done so. It is expected that several

more countries are likely to do so in the coming years. With such promising developments, medicinal cannabis is estimated to be a significant potential market in coming years.



The Energias Market Research (2018) has estimated the global medicinal cannabis market to grow by a compound annual growth rate (CAGR) of 19.1 per cent from 2018 to 2024, from approximately US\$8.3 billion in 2017 to US\$28.1 billion in 2024. Meanwhile, Global Market Insights, in its research study published in 2018, estimated the medical cannabis market at US\$7.0 billion in 2017 and has projected growth of 36.0 per cent CAGR from 2018 to 2024. The research has also estimated that the market may exceed US\$55 billion by 2024.

A report by ArcView Market Research and BDS Analytics estimated consumer spending for the United States' legal cannabis market at approximately \$11 billion in 2018. According to the report, the growth in the industry has occurred despite the federal prohibition. The research group projected that the continuing opening of medicinal cannabis programmes by states could result in total spending of approximately \$23.4 billion by 2022, which is equivalent to a compound annual growth rate of 22 per cent in the 5-year forecast period. Unfortunately, the USA is not a viable market for international exports of medicinal cannabis, as it remains illegal at the federal level, and attempts to change the classification from Schedule I drug under the Controlled Substances Act of 1970 have failed repeatedly (Parker et al., 2019). The ArcView Research team has also estimated that legal cannabis spending in Canada would grow at a compound annual growth of 44.4 per cent from \$569m in 2018, which was the first year of adult-use sales, and expected to reach a value of \$5.2 billion by 2024.⁹

Prohibition Partners (2018) has suggested that Europe is likely to be one of the world's largest markets for cannabis, with Germany being the region's largest potential market (see Table 1). To meet this increasing demand, the report suggested that many of these countries will depend on the importation of medicinal cannabis from abroad.

⁹ www.bdsanalytics.com

Table 1: Healthcare Analysis and Potential Demand for Medicinal Cannabis

Country	Total Healthcare Expenditure (€b)	Total Pharmaceutical Spending (€b)	Estimated Cannabis Requirement 2018 (grams)	Estimated Medical Cannabis Market Value 2018 (€m)	Forecast Medical Cannabis Market Value 2028 (€b)
Germany	425.8	60.7	5,000,000	19.1	7.8
Spain	137.8	24.8	400,000	2.2	3.1
Netherlands	89.04	7.0	600,000	5.0	2.6
Italy	196.2	35.1	1,200,000	15	7.5
France	302.0	44.4	600,000	6.2	8.9

Source: Prohibition Partners, 2018

However, the European market has its own peculiar challenges. Some of the weaknesses that member countries may face include coping with a diverse set of regulatory agencies across various European jurisdictions, language barriers and a prescription-centric healthcare system which limits experimentation (Krane, 2018). These potential obstacles may limit the growth of patient population in Europe and curb the viability of an export market for ECCU member countries to these European jurisdictions.

In addition to many of the identified therapeutic conditions, medicinal cannabis is considered to have a strong potential in serving as a substitute for opioid painkillers, which have become a national health concern in many advanced countries. Opioids are consumed by more than 3.7 million Canadians (Statistics Canada)¹⁰ and over 12 million in England (Kirby, 2019). In the United States of America, it was estimated that opioids were responsible for over 400,000 deaths from overdose between the period 1999 to 2017 (Centers for Disease Control and Prevention).¹¹ As a result of this growing concern, a number of state governments have increasingly introduced marijuana legalization as a policy intervention to control this epidemic (Chihuri and Li, 2019). While the evidence is still modest, longitudinal analysis showed that the introduction of cannabis laws in a number of states resulted in a reduction in opioid prescriptions (Grinspoon, 2018).

¹⁰ Available at <https://www150.statcan.gc.ca/n1/daily-quotidien/190625/dq190625b-eng.htm>

¹¹ Available at <https://www.cdc.gov/drugoverdose/epidemic/index.html>

It is anticipated that the analgesic qualities of cannabis may gradually displace opioids and contribute to increasing demand for medicinal cannabis.

Global demand for medicinal cannabis is also likely to be boosted in light of further legal reforms worldwide. Recent reports (see for instance, Green, 2019) have highlighted that since the legalization of cannabis in Canada in October 2018, one in four Canadian medicinal cannabis users have cited supply shortages, as they have now found it more difficult to source medicinal cannabis. These references confirm the significant potential global demand for medicinal cannabis and potential markets for the ECCU's medicinal cannabis exports. If the economies could capture even a small fraction of estimated global demand, it would help to improve their economic fortunes.

Notwithstanding the significant potential demand, it is important that these estimates be treated with caution. As other authors have noted, it is often tempting for industry advocates to be over-optimistic about the projections from the analyses, which may result in unrealized expectations. Additionally, much of the potential demand cited above would depend on the rate at which legalisation takes place across countries, and especially, at the federal level in the United States of America.

Additionally, cross-border trade in medicinal cannabis is not without its drawbacks. Although some of this potential is already being developed by early-movers in medicinal cannabis legalization, ECCU member countries and firms transacting in medicinal cannabis business will need to adhere to the appropriate international treaties and strict jurisdictional requirements and standards prior to securing the required permits to export to legal developed markets such as



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Canada and Australia. Indeed, given the fragmented legislation across countries, there is still much uncertainty surrounding medicinal cannabis market and the degree of openness by countries stemming from increasing concerns for medical grade cannabis (Jelsma et al., 2019). To capitalize on these markets, industry stakeholders will be required to comply with country-level standards such as Good Agricultural Practices (GAP), Good Agricultural and Collection Practices, Good Laboratory Practices (GLP) and Good Manufacturing Practices. Compliance to these standards and best practices would increase opportunities for global export and ensures that production and testing are appropriate for the production of pharmaceuticals that would prevent harm to end users.



4.0 BANKING SECTOR ISSUES FOR THE CANNABIS INDUSTRY

While there may be tremendous financial and economic benefits associated with the introduction of medicinal cannabis, there are worrying implications to the financial sector which may inhibit the realisation of these benefits. This section discusses the significant role of the commercial banking sector in assisting the growth and sustainability of the medicinal cannabis industry.

It also highlights the challenges that the ECCU member countries may face with correspondent banking relationships, the growing concern regarding money laundering risk and the opportunities which the medicinal cannabis industry may bring to the banking sector.

4.1 De-risking and the Eastern Caribbean Currency Union

The importance of the financial system in facilitating commerce in any market is an established fact. It has been recognised that in order for member governments to realise the benefits of and create a viable medicinal cannabis industry, businesses engaged in the medicinal cannabis must have easy access to banking services. Medicinal cannabis businesses will require services to facilitate domestic, regional and international transactions.

International trade for the most part in the ECCU is facilitated through the commercial banking sector. The majority of these transactions are transmitted through correspondent banking relationships. The Bank for International Settlements states that *“Correspondent banking is an essential component of the global payment system, especially for cross-border transactions. Through correspondent banking relationships, banks can access financial services in different jurisdictions and provide cross-border payment services to their customers, supporting, inter alia, international trade and financial inclusion.”*

The loss of, or restrictions on correspondent banking could therefore have dire implications for the ECCU, through the reduction in foreign direct investment and international trade.

Over the last five years, commercial banks in all ECCU member countries have experienced some loss in correspondent banking relationships, with banks in the United States of America, Canada, United Kingdom and Europe. ECCU correspondent banking relationships are concentrated in the US, accounting for 32.0 per cent of total

De-risking “the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk.”...FATF

correspondent banking relationships. The loss of correspondent banking relationships has been termed ‘*de-risking*’. The Financial Action Task Force (FATF) defines de-risking as “*the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk.*” For the period 2015 - 2018, ECCU commercial banks reported the loss of 15 correspondent banking relationships which were concentrated within the domestic banking sector.

While the statistics are concerning, this phenomenon is not isolated to the ECCU region. The International Monetary Fund in its working paper titled “*Loss of Correspondent Banking Relationships in the Caribbean: Trends, Impact and Policy Options*” (Alleyne et al., 2017), noted that the Caribbean region suffered significant losses in correspondent banking relationships. The World Bank survey (2015) reiterated this research and cited that Latin America and the Caribbean experienced greater losses to correspondent banking relationships globally. Further, where relationships were not lost, the cost of doing business increased significantly for most commercial banks. There has been much debate surrounding the motivation for de-risking in the Caribbean region. Some of the arguments put forward include, reduced profitability given the small scale of the Caribbean market, increasing compliance cost to ensure adherence with anti-money laundering and combating the financing of terrorism (AML/CFT) regulatory standards and the changing risk appetite of global banks.

There is genuine concern that the perceived risk associated with the medicinal cannabis industry, given the historical association of marijuana with illicit drugs, could lead to further severing of correspondent banking relationships in the ECCU. The concept of de-risking does not only present an issue at the international level, but may also present challenges at the domestic level. In an attempt to maintain correspondent banking relationships and lower the risk profile of its institution, some commercial banks may refrain from offering banking services to businesses engaged in medicinal cannabis.

FATF defines money laundering as the processing of criminal proceeds to disguise their illegal origin. It is noteworthy that the Caribbean region has been viewed as a drug trafficking transshipment point and, as a result, the risk of money laundering has been considered high.¹² Given this perception, there may be a concern that the legalisation of medicinal cannabis may heighten the money laundering risk profile of ECCU member countries.

However, where medicinal cannabis has been legalised, proceeds from the sale by licensed companies should not be associated with money laundering within the domestic market. The issue of money laundering should only arise where attempts are made to transfer funds across borders to jurisdictions where medicinal cannabis is still considered illegal. What remains critical to the process are the risk management processes which commercial banks have instituted to ensure that funds derived from medicinal cannabis are not channeled through correspondent banks where medicinal cannabis has not been legalised. Despite the efforts identified above, it is noted that the region may not be able to predict the response of correspondent banks related to medicinal cannabis. **Appendix I** captures the legal framework for correspondent banking relationships in the United States of America and possible constraints regarding the cannabis industry.

¹² The 2018 United States Department of State Bureau of International Narcotics and Law Enforcement Affairs- International Narcotics Controls Strategy Report March 2018

4.2 Challenges and Opportunities for the Commercial Banking Sector

The legalisation of medicinal marijuana brings with it many opportunities for the banking sector (Figure 4). It is anticipated that there will be opportunities for increased revenue from services offered to medicinal cannabis businesses. Additionally, given the resources associated with monitoring these types of accounts, there are also opportunities to ensure that the fees are commensurate with the risk profile of the customer. At a country level, the development of the industry presents the opportunity to enhance the legislative framework governing money laundering and terrorist financing in an effort to mitigate associated risks. This includes a robust legal framework to ensure that only licensees conduct medicinal marijuana related business. Section 5 of the report lays out the legal framework for various licences which can be issued to persons engaged in the medicinal cannabis industry. Financial institutions should ensure that adequate due diligence is conducted, by verifying that customers engaged in the industry are duly licensed, in keeping with the domestic medicinal cannabis legislation.

Figure 5: Challenges and Opportunities for the Commercial Banking Sector



Despite the potential benefits, there can be challenges associated with banking the proceeds from medicinal cannabis (*see Figure 5*). The foremost challenges are the resources required to ensure that controls are adequate to monitor and manage the funds derived from medicinal cannabis, and restrict the transfer of these funds to jurisdictions where medicinal cannabis remains illegal.

Banking the proceeds from the sale of medicinal cannabis, in the context of the ECCU member countries where medicinal cannabis has been legalised, should not present a challenge. Once within the risk appetite of the commercial bank, acceptance of proceeds from licensed medicinal cannabis dealers should be guided by established policies and procedures of the institution and in keeping with legislative requirements regarding customer due diligence, source of funds and wealth.

This heightened risk, whether real or perceived, may increase the risk profile of commercial banks and may have implications for correspondent banking relationships. An effective risk management framework would be critical in managing the risk associated with medicinal cannabis customer accounts. Such a framework should include the ring-fencing of funds obtained from medicinal cannabis customers to ensure that funds are not transferred through correspondent accounts in jurisdictions where activities associated with medicinal cannabis is illegal. Important to this process is the understanding that these transactions cannot be denominated in US currency as funds derived from cannabis remain illegal at the federal level in the USA.

The Constitution of the United States of America sets out the boundaries of federal law however, the governing body in each State has sovereignty. Nevertheless, state law should not infringe on any federal constitutional rights. Where state law is in conflict with federal law, then federal law prevails and federal prosecutors can prosecute a person for violating federal law. Although cannabis is legal under state law, federal law enforcement could arrest and prosecute persons under federal law. One can understand why commercial banks may be cautious in accepting funds from cannabis businesses, as they can be prosecuted under federal law.

As a result, any attempt to filter funds derived from cannabis is seen as an act of money laundering. This is a critical issue for the ECCU, as the region has strong investment ties to the US market. Equally of importance is the need to operate within transparent rules and regulations as set forth by the authority. As such, efforts to circumvent the established regulatory framework should be met with strict sanctions to dissuade potential offenders.

The following case studies in boxes 2, 3 and 4 highlight some of the banking challenges faced by territories which have passed legislation legalising medicinal and, in some cases, recreational cannabis. The case studies focus on the experiences of Uruguay, Jamaica and St Vincent and the Grenadines.

Box 2: Uruguay

In 2013 Uruguay was recognized as one of the first countries to legalise and regulate the use of cannabis for both medicinal and non-medicinal purposes. To facilitate the process, Uruguay developed and implemented a robust regulatory framework to ensure compliance with the United Nations Drug Control Treaties. Whilst there is still much debate on Uruguay's adherence to the provisions of the 1961 Single Convention, the fact remains that the cultivation, processing and distribution of cannabis is a legal and lucrative business within the country. In order to recognize the benefits of the cannabis industry Uruguay implemented comprehensive reforms to safeguard the industry and provide adequate banking services.

In 2017, two major US financial institutions threatened to discontinue banking services to pharmacies or businesses engaged in the sale of cannabis, referencing section 320 of the US Patriot Act. Under the Act banks are prohibited from serving accounts that commit an offence which involves the manufacture, importation, sale or distribution of a controlled substance. The provisions were included following the September 11, 2001 attacks, in an effort to address gaps within the international banking system. This development caused major concerns for the Uruguayan Government as most banks in Uruguay routed funds through international banks in the USA. In March 2018 the Centre for Effective Public Management questioned the authority of the US Patriot Act in other territories. The report noted that section 319 of the Act extends to non US banks that hold interbank accounts in the USA, including Central Banks.

Despite its cautious approach to the distribution of cannabis and strong regulatory controls for the industry, cannabis businesses in Uruguay were faced with two options, to either discontinue cannabis related businesses or maintain a cash only business in an effort to maintain access to banking. In an effort to remediate the ongoing situation, other solutions have come to the fore, including the creation of a central cannabis account through the Central Bank of Uruguay or facilitating banking services through the domestic credit unions. Notwithstanding, the report recognised that given the Central Banks interaction with international financial institutions, similar concerns regarding loss of services would remain.

In its April 2019 report the BBC noted that the challenges within the banking system has limited profitability, particularly in the recreational cannabis sector. However, there was greater prospective in the medicinal cannabis sector with greater potential for export markets.

Box 3: The Experience of Jamaica

In his address to the Second Cannabiz Conference held in Jamaica in March 2019, the Minister of Industry, Commerce, Agriculture and Fisheries Honourable Audley Shaw noted that “*challenges such as the reluctance of traditional lenders to provide funding as well as the slow pace of the acceptance of medicinal and economic benefits*” were some of the areas which needed further discussions. In its June 2019 article, the Jamaica Gleaner reiterated the comments of the Minister, and noted the reservation of local banks in funding the growth of the medical cannabis industry. The underlying reason for this conservative approach by local banks is the fear of being de-risked. In his May 2019, address at the Global Health Catalyst Summit at the Harvard Medical School in Boston, the Minister highlighted that financial institutions in Jamaica and many international jurisdictions were not allowing transactions for legally licensed medical cannabis companies due to restrictions imposed by the US banks through correspondent banking relationships. He noted that if this matter was not adequately addressed opportunities for growth in the cannabis sector would be lost.

The onset of this issue has altered not only the financing landscape for cannabis related businesses but also the payment method for persons purchasing recreational cannabis in Jamaica. For the most part local herb houses maintain cash only businesses, which in most cases increases the cost of doing business due to security risks. Obtaining financing for cannabis related business has also presented challenges as traditional funding methods are limited. ‘Weedtrepreneurs’ have had to raise capital through equity financing and new funding methods such as *streaming*¹³ and *royalty*¹⁴ have emerged.

To address this issue, Jamaica has embarked on an aggressive engagement with key stakeholders in the US market to pass legislation geared towards creating a safe harbour for banks to serve cannabis related businesses. By establishing a safe harbour it is anticipated that the risk associated with banking cannabis related entities particularly ‘*cash and carry*’ operations, will be reduced and bring such businesses into the regulatory reporting compliance framework (Jamaica Observer, May 2019).

Cognizant of the need to have a strong regulatory framework governing the cannabis industry Jamaica has drafted regulations called the Dangerous Drugs (Cannabis Import and Export Licensing) Regulations

¹³ Streaming- a purchaser provides an upfront deposit to a cannabis company in exchange for a right to a percentage of future production at a discounted price.

¹⁴ Royalty - an investor provides an immediate capital infusion for the cannabis company in exchange for future payments based on financial metrics such as grams of cannabis produced.

2019. The purpose of the regulations is to ensure compliance with the Single Convention on Narcotic Drugs 1961. The regulations are expected to be promulgated by end of 2019.

Jamaica remains hopeful given the legalisation of medicinal and recreational cannabis in Canada, noting that this may alleviate some of the correspondent banking issues.

Box 4: St Vincent and the Grenadines

In 2018, St Vincent and the Grenadines, passed legislation legalising the cannabis for medicinal purposes. The Cannabis Industry Act 2018 provides for the establishment of the Medicinal Cannabis Authority, the Board of Directors and the Medicinal Cannabis Advisory Council.

Licensing Classification

Licence	Licence Class	Acres	Renewal Period
Traditional Cultivator	Traditional Cultivator	Up to 5	2 years
Vincentian Cultivation, Manufacturing, Transport and Research Licence Fees	A	Up to 1	1 year
	B	More than 1 and up to 5	2 years
	C	More than 5 and up to 25	3 years
	D	More than 25 and up to 100	4 years
	E	More than 100 and up to 300	5 years

In its 2019 Budget address, the Government of St Vincent and the Grenadines anticipated revenues of approximately \$5.0m from medicinal cannabis licenses in 2019.

One of the major challenges facing the medicinal cannabis industry has been access to banking services, given the conservative approach taken by most of the local financial institutions. To date banking of the budding industry in St Vincent and the Grenadines has been very conservative, with only the Bank of St Vincent and the Grenadines (BOSVG) leading the charge in this regard. As part of its risk management framework, BOSVG has implemented systems to identify and monitor accounts which engage in the medicinal cannabis industry. Dedicated resources have been allocated for monitoring these accounts and related transactions to avoid the comingling of funds. A zero tolerance approach has been implemented to ensure that funds are transacted through designated correspondent banking relationships which have been established for such transactions. Like many other jurisdictions, due to the disparities

in legislative frameworks both regionally and internationally, due care has to be exercised by BOSVG, to ensure that funds are not transferred through financial institutions in jurisdictions where medicinal cannabis has not been legalised. The legalisation of cannabis in Canada, presents a viable route for the financial sector in St Vincent and the Grenadines.

It is increasingly recognised that continuous collaboration and engagement with the financial institutions government and regulatory authorities regarding transactions for the medicinal cannabis business is necessary. Additionally, collaboration between the financial institutions and correspondent banks, augmented with a strong risk management and governance framework is fundamental in banking the medicinal cannabis industry.

4.3 Broader Financial Sector Challenges

Relationships with Visa and MasterCard in the ECCU are conducted through the USA. As cannabis remains classified as a controlled substance in the USA, Visa, MasterCard and American Express will not process transactions related to cannabis. The same applies for debit card transactions, although financial institutions in the ECCU issue their own debit cards, financial institutions still utilize Visa or MasterCard proprietary networks. Therefore, purchases related to medicinal cannabis remain prohibited and can be considered an act of money laundering.

The aforementioned presents yet another challenge towards the development of the cannabis industry in the ECCU and yet another area of concern for financial institutions, as even within the domestic context, cannabis businesses will not be able to utilise credit cards or point of sales terminals to facilitate trade related to medicinal cannabis. Further, the cost of compliance by financial institutions in monitoring credit card transactions will undoubtedly increase. Visa, MasterCard and American Express have agreed to facilitate these transactions for their Canadian counterparts given the legalisation of medicinal and recreational cannabis in Canada but this requires buyers to hold a Canadian issued credit card. The previous case studies highlighted some of the banking challenges faced by cannabis-related businesses in three (3) jurisdictions; the overarching challenge being access to banking services. In light of this issue, the situation has resulted in large cash based transactions, which significantly increases the cost of doing business due to security risk. Operating a cash only cannabis business makes growers and employees

vulnerable to crime, hindering the growth of the industry. This dependence on cash brings with it other issues, which include the inability of regulators to adequately monitor the financial operations of cannabis related businesses.

Box 5: United States of America

The Controlled Substances Act of 1970 makes it illegal to possess or distribute cannabis. As such, possession or distribution of cannabis violates federal law and financial institutions that provide support for such activities are at risk of facing prosecution (Case Western Reserve Law Review, 2015). Businesses in the cannabis industry continue to report difficulty in securing access to banking services where cannabis has been legalized at the State level. This reluctance by the banking industry creates uncertainty as financial institutions remain concerned about whether or not they will be held liable for facilitating transactions to cannabis related businesses.

In 2013, the Department of Justice issued the Cole Memo, which sought to provide guidance to financial institutions offering services to marijuana related businesses. In February 2014 Financial Crimes Enforcement Network (FinCen) issued guidelines articulating the expectations under the Bank Secrecy Act (BSA) regarding marijuana related businesses. The guidelines aimed to provide clarity on how financial institutions could extend services to businesses in the cannabis industry whilst adhering to its obligations under the BSA. The guidelines however did not provide the assurance of a safe harbour to financial institutions, or acknowledge the legalisation of the activity. In 2018, the Cole Memo was rescinded by the Trump administration.

The uncertainty in the regulatory market has led to a low tolerance by financial institutions to on-board such customers. Where financial institutions decide to bank such businesses, high bank fees are applied. In a 2015 article the Case Western Reserve Law Review, indicated that “banking the marijuana industry may not make economic sense” as the cost of compliance outweighed the associated profitability. The report noted that the paperwork associated with anti-money laundering reporting may be enough to dissuade some institutions from banking some marijuana businesses.

The Case Fourth Corner Credit Union vs Federal Reserve Bank of Kansas City

In 2014 the Fourth Corner Credit Union, an institution established strictly to service the cannabis industry, applied for a master account from the Federal Reserve Bank of Kansas City. In July 2015, the Federal Reserve Bank denied the application for the master account stating, “that the Credit Union posed

too great a risk to the Federal Reserve System – in large part because of its focus on serving marijuana related businesses.” The inability to acquire a master account would impede the operations of the financial institution.

The Credit Union filed an injunction against the Reserve Bank requiring that it issue the master account. The district court dismissed the action, ruling that the Credit Union’s stated purpose, providing banking services to marijuana-related businesses, violated the Controlled Substances Act. The ruling was later appealed by Fourth Corner, and the US Court of Appeals Tenth Circuit voided the previous court decision. In February 2018, the Federal Reserve Bank informed Fourth Corner of a “*conditional approval*” to hold a master account. Fourth Corner altered its business strategy to ensure that it will not serve “*plant-touching businesses*”, however it will focus on advocacy groups, charities and ancillary companies in the cannabis industry essentially prohibiting services to the persons which the institution was set up to serve.

While this remains a major victory for the cannabis industry, there remains significant hurdles for Fourth Corner Credit Union, such as acquiring deposit insurance from the National Credit Union Administration. These are all matters which would need to be addressed prior to the institution opening its doors to business.

If there is reluctance by licensed financial institutions in the ECCU to offer banking services to medicinal cannabis related businesses, the issue of cash only transactions may arise and present a handicap to the industry. Whilst the development of the industry is at a nascent stage, based on discussions, many licensed financial institutions are adopting a very conservative approach to banking the medicinal cannabis industry, with many of the foreign branch banks opting to abstain from the market at present. Where a decision has been taken to serve the market, risk management systems, resources, practices and controls have been augmented to mitigate any risk associated with the industry. The primary concern of licensed financial institutions in the ECCU, similar to that of Jamaica and Uruguay, is the fear of being de-risked by correspondent banks.











4.4 Banking and Payment Processing Solutions for the Cannabis Industry

With the growing demand for medicinal cannabis and limited access to banking services, on an international scale, there has been the emergence of new mechanisms outside the traditional banking system for facilitating cannabis related transactions.

Cryptocurrency

The use of blockchain technology to facilitate the cannabis related transactions has been increasing post-haste, particularly in the USA, given some of the challenges facing the industry. A number of cannabis related cryptocurrencies have emerged (*Figure 6*).

Figure 6: Cannabis Cryptocurrency Coins

#	Name	Marketcap	Price	Volume	Location	Blockchain	Change 24h	Change 7d	
1	 PotCoin POT	\$1.62M	\$0.00725	\$117	N/A	Own Blockchain	+2.48%	+10.94%	...
2	 Paragon PRG	\$383.84K	\$0.01724	\$3	Los Angeles, CA U.S.	Ethereum (ERC20)	+3.87%	-10.65%	...
3	 HempCoin THC	\$349.63K	\$0.00138	\$146	N/A	Own Blockchain	-60.44%	-63.73%	...
4	 DopeCoin DOPE	\$208.74K	\$0.00179	\$5,658	N/A	Own Blockchain	-6.7%	+1.61%	...
5	 Tokes TKS	\$197.29K	\$0.14913	\$1	N/A	Waves	-0.07%	+108.48%	...
6	 CannabisCoin CANN	\$93.17K	\$0.00121	\$37	N/A	Own Blockchain	-52.44%	+58.27%	...
7	 Cannation CNNC	\$4.88K	\$0.00197	\$1	N/A	Own Blockchain	+4.43%	+16.75%	...
8	 GreenMed GRMD	\$2.56K	\$0.00017	\$27	Los Angeles, CA U.S.	Ethereum (ERC20)	-50.62%	+38.89%	...
9	 Budbo BUBO	N/A	\$0.00774	\$814	Newport Beach, CA, U.S.	Ethereum (ERC20)	+128.88%	+128.88%	...
10	 BlazerCoin BLAZR	N/A	\$0.00010	\$2	N/A	Own Blockchain	+0.01%	+0.01%	...

DATA PROVIDED BY CRYPTOSLATE, OPENMARKETCAP AND COINMARKETCAP

Source: <https://cryptoslate.com/cryptos/cannabis/>

This therefore begs the question, could this be an alternative for the ECCU for facilitating transactions related to medicinal cannabis, thereby limiting the risks associated with correspondent banking activities? There are a number of advantages associated with cryptocurrency, which would assist tremendously in the development of the medicinal cannabis industry:

1. It provides instant access to funds, settlement is immediate;
2. Ease of doing business is enhanced as funds between parties can be easily transferred;
3. Minimum processing fees;
4. Transactions are conducted over a secured network and allows for complete transparency.

However, cryptocurrency is simply one of the many options available using the more expansive blockchain technology. What may be more beneficial for the burgeoning industry is its adoption of the broader blockchain technology. The advantage of blockchain is its ability to provide a decentralized, encrypted ledger to store records in an efficient, verifiable manner without requiring assistance from intermediaries. Consequently, it would be able to oversee medicinal cannabis operations along the entire supply chain from cultivation, from cultivation to its ultimate sale.

Cashless ATMs

Another innovation which has emerged to deal with banking constraints at the domestic level for medicinal cannabis related businesses has been the introduction of cashless ATMs. Cashless ATMs operate similar to a point of sale terminal, however they do not rely on proprietary networks such as Visa and MasterCard. Users of cashless ATMs can swipe debit or credit cards but rather than receive cash, a voucher or scrip is given to the user, who can then use it to redeem products from a store. There has been increasing use of cashless ATMs to facilitate the purchase of medicinal cannabis at the domestic level. Whilst this may address retail purchases, large transactions from investors and payments by vendors would be unable to utilise this system.

Additionally, cashless ATMs have been shrouded in controversy as they have been known to be used for not only for the purchase of legal medicinal cannabis but also funding illegal activities, thereby increasing the risk profile of institutions offering this type of service. For such a system to operate effectively, there will be need for a strong regulatory and supervisory framework to mitigate the associated risk.

4.5 The Changing Landscape

In September 2019, the US House of Representatives passed the Secure and Fair Enforcement Banking Act (SAFE), which seeks to protect deposit institutions that provide financial services to cannabis related businesses and service providers. It is anticipated that the passage of the SAFE Act will help banks better serve the cannabis industry. Whilst this move does not legalise cannabis at the federal level, it is however an indication of the favourable consideration being given to the industry; the recognition that success of the industry would only be viable with access to adequate banking services. The American Bankers Association, in its letter dated September 2019, supported the SAFE Bill and noted that by providing the cannabis industry with access to the

banking system, the Act would help reduce cash motivated crimes, increase efficiency of tax collections and improve financial transparency for the industry. The Association also highlighted that the Act would allow for increased oversight of cannabis related business account activities as these will now be monitored in accordance with existing BSA requirements.

In November 2019, the House Judiciary Committee approved the Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2019 that would effectively end cannabis prohibition. The Act, once passed, would federally decriminalize cannabis by removing it from the Controlled Substances Act, and would require the expungement of past federal cannabis convictions.

There has been a slow change in the appetite of large financial institutions in engaging in medicinal cannabis related businesses in Canada. In its July 2019 article, Bloomberg noted the growing interest of large US Banks in offering equity investments in cannabis-related Canadian companies, including institutions such as Goldman Sachs and Bank of America. This follows its October 2017 report which identified Toronto Dominion and Bank of Montreal as the lead financial institutions in providing business accounts to cannabis companies. Although promising, the offer of these accounts attract significant costs as was cited in the July 2019 article '*Canadian Bank's unfair cannabis fees add to financial hurdles of lottery hopefuls*', which highlighted the challenges faced by clients given the account monitoring and maintenance fees associated with cannabis related accounts. Whilst no doubt a significant step in the right direction for the industry, there is much more work to be done to recognise the full potential of the industry.



5.0 RECENT LEGISLATIVE DEVELOPMENTS IN ECCU MEMBER COUNTRIES

The United Nations Single Convention on Narcotic Drugs 1961 (UN Convention 1961), classifies marijuana or ‘*cannabis or extracts and tinctures of cannabis*’ as a Schedule I and IV drug. Drugs in this classification must be subjected to measures of control. Article 2(5)(b) of the UN Convention 1961 states:

“A Party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only, including clinical trials therewith to be conducted under or subject to the direct supervision and control of the Party”.

Article 28 gives provision for the cultivation of the cannabis plant given certain conditions:

- 1. If a Party permits the cultivation of the cannabis plant for the production of cannabis or cannabis resin, it shall apply thereto the system of controls as provided in article 23 respecting the control of the opium poppy.*
- 2. This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes.*
- 3. The Parties shall adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant.*

The UN Convention recognised a need to include an exception for medical and scientific research and it is reasonable to say that this type of research should eventually lead to a treatment for medical conditions.

With this in mind, the legalisation of cannabis falls within the sovereign right of a jurisdiction and where a country has taken the decision to pursue this, the convention outlines the conditions for the cultivation of the cannabis plant as identified above. This section explores the legislation governing medicinal cannabis and the framework for the safe and efficacious administration of the medicinal cannabis industry. The legislation of Antigua and Barbuda, St Christopher and Nevis and St Vincent and the Grenadines will therefore be explored.

5.1 The Medicinal Cannabis Industry Legislation – St Vincent and the Grenadines¹⁵

The Medicinal Cannabis Industry Act No. 28 of 2018 of St Vincent and the Grenadines is arranged in ten parts. The Preamble outlines the rationale of the Act and clearly sets out the policy position being implemented. The purpose is to state the objective of the Act as intended by Parliament, which is:

*“To provide for the establishment of a Medicinal Cannabis Industry to regulate cultivation, supply, possession, production and use of cannabis for medicinal purposes; that is, for the treatment of persons with qualifying medical conditions; to provide for the establishment of the Medicinal Cannabis Authority and the Medicinal Cannabis Advisory Council; and for matters and purposes incidental thereto”.*¹⁶

While the reason and purpose of the Act are some important elements, who the Act will affect is equally important. Part I sets out the short title, the interpretation clause and of utmost importance the Objects of the Act. It is noteworthy that the Objects of the Act outline the persons affected by the Act and state that:

*“The objects of the Act are to establish a Medicinal Cannabis Industry to provide for the lawful access to medicinal cannabis as an alternative treatment for persons who are suffering from a qualifying medicinal condition and to provide for a comprehensive licensing scheme to regulate the cultivation, supply, possession, production and use of medicinal cannabis”.*¹⁷

¹⁵ Medicinal Cannabis Industry Act No 28 of 2018, Saint Vincent and the Grenadines

¹⁶ Ibid

¹⁷ Section 3 of the Medicinal Cannabis Industry Act No 28 of 2018, Saint Vincent and the Grenadines

The Medicinal Cannabis industry requires a regulatory and supervisory authority. Their duties, powers and functions should be mandated in the Act to give the Medicinal Cannabis Authority (“the Authority”) the autonomy needed. Part II makes provisions for the powers, duties and functions of the Authority, which includes, among other things:

- Developing policies, procedures and guidelines regarding availability of medicinal cannabis to patients in a safe and efficient manner;
- Regulating the medicinal cannabis industry; and
- Issuing licences and other authorisation regarding cultivation, supply, use and possession of medicinal cannabis.

The purpose of the Authority is to allow the medicinal cannabis industry to develop into a sustainable industry for persons with qualifying conditions, while not affecting citizens who do not require or may be opposed to medicinal cannabis. Additionally, the Authority has the mandate to develop policies, procedures and guidelines that ensure that the Medicinal Cannabis Industry has the ability to benefit citizens as a new viable industry for economic growth.

The Medicinal Cannabis Advisory Council (“the Council”) is dealt with in Part III of the Act and comprises medical doctors, pharmacists and other persons with the expertise of controlled substances for medicinal use. The Council will advise the Medicinal Cannabis Authority on: medicinal symptoms or conditions that may be added to the list for qualifying medicinal conditions; research and related resources; the maximum period for which a qualifying condition can be treated by medicinal cannabis; among other things. The Council provides an additional layer of responsible governance for the medicinal cannabis industry.

Part IV sets out the provisions which allow patients access to medicinal cannabis. A medical doctor shall apply to the Authority to obtain authorisation to prescribe medicinal cannabis.

This allows a medical doctor to prescribe medicinal cannabis to patients,¹⁸ which in turn allows patients to have prescribed medicinal cannabis, and an issued identification card and medical certificate to obtain, possess, store and use medicinal cannabis. Additionally, regulating access to medicinal cannabis by the Authority will be done on the advice of the Council.

Under the Act, a pharmacist is the only person that can be authorised to dispense medicinal cannabis. The pharmacist is obligated to issue a detailed receipt which includes information such as the name, address and registration number/identification number of the pharmacy, and the names of the pharmacist, patient and caregiver, among other things.

Part VII¹⁹ of the Act gives the Authority the ability to designate inspectors. Inspectors are required to obtain information regarding investigations under the Act and are given powers to carry out such investigations.

5.2 Medicinal Cannabis Regulations²⁰

The aim of the Medicinal Cannabis Regulations is to operationalise the Medicinal Cannabis Act. The Regulations is the First Schedule to the Act and is referred to as the “Regulations for the Issuing of Licences.”

5.2.1 Licences

Under Part VI of the Medicinal Cannabis Industry Act, a licence is required for different industry activities. The Authority has the power to issue different types of licences and each type of licence could vary with the imposition of conditions. Noteworthy are the different types of licences: cultivation, manufacturing, dispensing, importing, exporting, research, transporting and a traditional cultivator. The First Schedule provides more details on licensing applications, including evaluation of applications and due diligence checks on the applicant. Additionally, there are separate Regulations for licensing fees.²¹

¹⁸ Under the Act “patient” means a person with a qualifying medical condition

¹⁹ As at May 2019, Part VII had not come into force

²⁰ Medicinal Cannabis Industry (Licensing) Regulations, 2018

²¹ The Medicinal Cannabis Industry (Licences Fees) Regulations No. 9 of 2019 addresses the applicable licensing fees.

The requirements for obtaining a licence and the distinction between different types of licences are important ways of tracking activities and developing standards based on these activities. The legislation will be operationalised in such a way that allows the Authority to track each licence and, therefore, track individual revenue streams from the industry. This information can also be useful if financial institutions are required to ring-fence the funds related to the industry.

5.3 The Cannabis Legislation – Antigua and Barbuda²²

The Cannabis Act No. 28 of 2018 of Antigua and Barbuda is arranged in two divisions. Division I outlines cannabis use for sacramental and religious purposes, and Division II deals with medicinal cannabis. Under Division I the supply, possession or use of cannabis for sacramental and religious purposes requires authorization by applying to the Minister of Government responsible for justice and legal affairs. The application is required for the cultivation, sacramental dispensary or to have a place of worship be an authorised place of worship for religious purposes. A person, organization of persons or religious group trying to use cannabis for religious purposes will therefore require authorization at least four times, one for cultivation, one for transportation, one for sacramental dispensary and one for the place of worship

Division II, section 14 outlines several functions for the Medicinal Cannabis Authority such as; enforcing policy; charging fees for services; reviewing, investigating and approving or denying applications for licences; tracking and monitoring the medicinal cannabis industry; facilitate scientific research; enforce proper labelling of medicinal cannabis containers, among other things. Noteworthy is that Antigua and Barbuda, under section 45, gives authorised medical professionals the authority to prescribe or recommend medicinal cannabis.

As at May 2019, Antigua and Barbuda had not issued Regulations regarding the Act. By not issuing regulations simultaneously with the Act, the operationalisation of the framework set out in the Act for medicinal cannabis may be delayed, thereby inhibiting the benefits of this new industry.

²² The Cannabis Act No. 28 of 2018 of Antigua and Barbuda

5.4 The Cannabis Bill – Saint Christopher and Nevis

Saint Christopher and Nevis, has tabled a draft Cannabis Bill in its National Assembly in May 2019. The Cannabis Bill 2019 of Saint Christopher and Nevis is arranged in thirteen parts. Part I deals with the commencement, short title and interpretation sections of the Bill. The Bill's intention is stated as; *“A Bill to provide for the regulation and control of cannabis for religious use, by documented members of registered religious organizations, to uphold the constitutional rights afforded to each citizen of Saint Christopher and Nevis, to establish the Saint Christopher and Nevis Medicinal Cannabis Authority whose functions will be described herein, to authorize medicinal and alternative medicinal cannabis, and to establish a licensing structure and complete tracking system for medicinal cannabis business.”* It is noted that the provisions of this Bill is very similar to Antigua and Barbuda as it provides for, cannabis use for religious purposes and access to medicinal cannabis. The parliamentary process for this Bill was stalled at the time of writing this report therefore, there is an opportunity for further consultations with stakeholders and the possibly of the provisions in the Bill changing.



6.0 CONCLUSION

This paper was commissioned to respond to the growing global interest in medicinal cannabis and the legislative developments by a number of the ECCU member countries. It is intended to highlight the potential benefits and challenges to the burgeoning industry in the ECCU. In so doing, it is expected to underscore the policy issues which the new industry may raise and to guide policy-makers, both in countries which have passed and those considering enacting legislation, to develop this industry.

The legal use of medicinal cannabis has expanded in the last ten years, as more than 30 countries have legalized the use of the drug for medicinal and therapeutic purposes. As more countries around the world become more amenable to medicinal cannabis, the economic prospects for the local and regional economy are promising.

As at September 2019, two ECCU member governments, St Vincent and the Grenadines and Antigua and Barbuda, are actively pursuing this emerging industry through the passage of laws that would help guide and regulate the industry. Given the favourable climate and rich agricultural experience in many of the member countries, the region may be well-suited to developing this industry through a viable domestic and export market. Although the trends in advanced economies indicate significant potential for the growth of the industry, there has been much research in this area for emerging economies. Research has also been constrained in light of the dynamic nature of legislative developments in the industry. However, most experts agree that the industry is likely to be a lucrative global business, as it continues to go mainstream. However, in order to secure the economic benefits, it may be necessary to ensure that the appropriate licensing controls are in place to encourage a competitive market that includes small-scale farmers and producers, while ensuring that systems are in place to prevent diversion.

7.0 POLICY CONSIDERATIONS

Recognising the complex and dynamic environment of the nascent medicinal cannabis industry, the report identifies a number of key policy recommendations for the consideration of policy-makers in the development of the industry in the ECCU. The key policy considerations are summarized below:

- Member countries that have introduced, and are considering introducing legislation for medicinal cannabis should seek to broaden the industry's benefits beyond the primary cultivation sector. While the agricultural sector is expected to benefit from this industry, it will also be useful to develop a comprehensive strategy for development of the entire supply chain for medicinal cannabis - by creating linkages in agriculture, but also expanding into manufacturing, research, distribution and ancillary activities that cater to the burgeoning industry.
- Many proponents of the industry are concerned that the industry may soon be dominated by large corporate and foreign interests. The potential dominance by large-scale farmers suggest that the regulatory framework should provide the necessary incentives to ensure that small-scale farmers benefit from the emerging industry.
- The report notes the benefits of the need to develop the export sector. It is noted that export/trade options regarding medicinal cannabis or derivatives of medicinal cannabis requires the establishment of an appropriate quality and standards framework. It is noted that quality and standards framework can be complex and rigorous, as countries are obligated to meet the requirements under the guidelines of Good Manufacturing Practices (GMP) and Good Agricultural Practices (GAP), among others. The GMP's core objectives

are consistent product quality, avoidance of contamination and record keeping. The GAP framework integrates responsible agricultural operation and production including packing. Specific pieces of legislation and national regulatory agencies in different countries follow the guidelines of GMP and GAP. Policy makers in the ECCU should be familiar with these guidelines.

- The inconsistency between the state and federal levels has led to a number of challenges for the regional banking sector as the financial industry seeks to preserve correspondent banking relations, particularly as it relates to the USA. It has been noted that 32.0 per cent of correspondent banking relationships are concentrated with US banks. Given this concentration, it is therefore recommended that both the regulator and financial institutions continue to engage with correspondent banks, not only to preserve existing relationships but also to establish new relationships.
- There is need for the implementation of a strong supervisory framework to guide the conduct of the medicinal cannabis industry. This would be critical to the process, in ensuring that the benefits of the medicinal cannabis industry are fully recognised. It is recommended that the ECCB develop and implement supervisory guidelines to assist licensed financial institutions in managing the relationships with participants of the medicinal cannabis industry. Part of this framework should include the requirement to ensure that funds obtained from medicinal cannabis is adequately controlled, through an effective ring-fencing system and the establishment of a Chinese wall to ensure that funds are not comingled and transferred through correspondent banks in jurisdictions where medicinal cannabis remains illegal. A robust legislative framework for the regulation and supervision of the medicinal cannabis industry should be achieved. Specifically, the licensing authority for medicinal cannabis needs to effectively implement its responsibility of developing, implementing, maintaining and enforcing systems to supervise and regulate the cultivation, transportation, distribution and use of medicinal cannabis.

- The Medicinal Cannabis legislation should be crafted to ensure that the framework for supplying, issuing a licence and accessing medicinal cannabis is robust and stringent. It is very important to have a licensing authority that will be responsible for the supervision and regulation of the medicinal cannabis industry and appropriate steps should be taken to protect the financial sector in the ECCU. The legislation should be constructed to protect the public by creating a framework to monitor medicinal cannabis so that it is not accessible to the youth, keep profits from cannabis out of the hands of criminals and allow persons with medical conditions that require medicinal cannabis a legal and safe way to obtain it. The region is in unfamiliar waters and experience is the only guide, experience predicates that a strict and comprehensive regulatory and supervisory regime is necessary.
- As a new area of therapeutic practice, medicinal cannabis will entail significant trials and testing before eventually resulting in concrete approvals. A stronger research agenda for the industry may therefore be necessary to help guide policy-makers in the areas of health, financial regulation and agriculture, with respect to the numerous trends that are emerging in the industry. This may call for enhanced regional collaboration across regional universities, hospitals and national and regional think-tanks to devise solutions to help guide policy-makers and health practitioners.
- Countries should consider establishing bilateral or multilateral treaty arrangements to allow trade, explore technological advancements, agricultural knowledge and techniques, health benefits, and financial and regulatory solutions regarding the medicinal cannabis industry and any other related information. Policy makers should consider the possible impact these types of treaties may have regarding corresponding banking relationships in the country that is a party to the treaty.

Appendix I - US Patriot Act and Correspondent Banking Relationships

Although cannabis has been legalized in 33 states in the United States, possession, distribution or sale of marijuana remains illegal under federal law. The following sections of the US Patriot Act sets the boundaries for the administration of correspondent banking relationships and the offense of money laundering under federal law.

Section 312

Special Due Diligence for Correspondent Accounts and Private Banking Accounts.

- a. IN GENERAL- Section 5318 of title 31, United States Code, is amended by adding at the end the following:

- i. DUE DILIGENCE FOR UNITED STATES PRIVATE BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS. IN GENERAL- Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts.

2. ADDITIONAL STANDARDS FOR CERTAIN CORRESPONDENT ACCOUNTS –

A. IN GENERAL- Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating-- i. under an offshore banking license; or ii. under a banking license issued by a foreign country that has been designated-- I. as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; or II. by the Secretary of the Treasury as warranting special measures due to money laundering concerns.

B. POLICIES, PROCEDURES, AND CONTROLS- The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps - i. to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank,

and the nature and extent of the ownership interest of each such owner; ii. **to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under subsection (g); and iii.) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).**

Sec. 320. Proceeds of Foreign Crimes.

Section 981(a)(1)(B) of title 18, United States Code, is amended to read as follows:

B. Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense—

i. involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);

ii. would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and

iii. would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.'.

Source: US Patriot Act

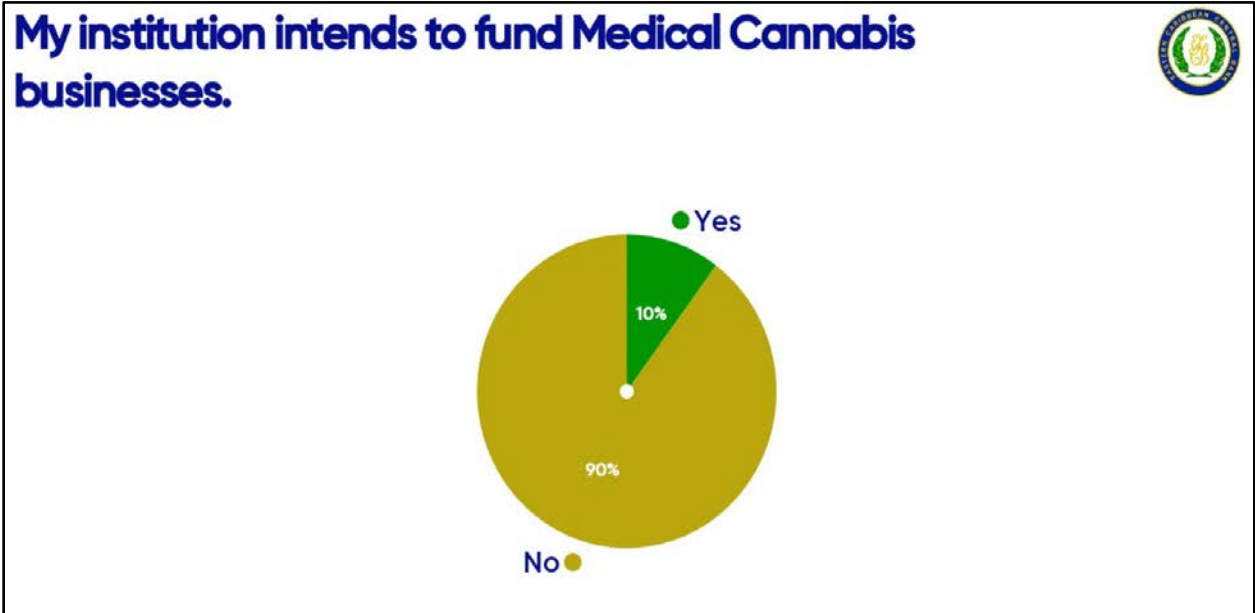
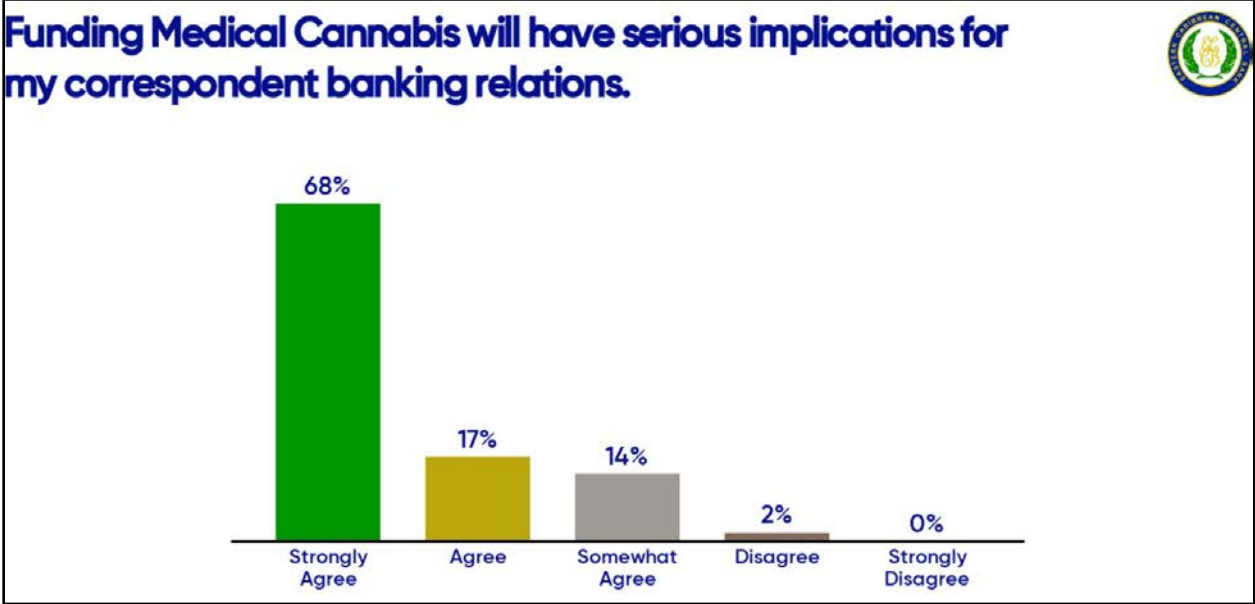
Financial Crimes Enforcement Network (FinCen) Guidance

In 2014 FinCen issued guidance to financial institutions seeking to provide services marijuana related businesses. The objective of the guidance was to advise financial institutions on how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations. Though comprehensive the guidance note does not consider foreign institutions and also prohibits transfer of funds to states where cannabis has not been legalized.

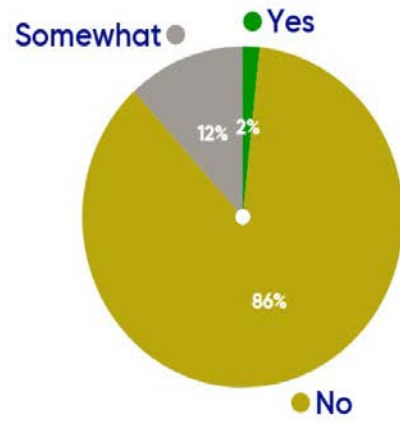
The following are highlights from the guidance:

Source: FinCen

Appendix II - Results of Mentimeter at the Inaugural Meeting with Financial Institutions



The risks associated with financing Medical Cannabis are similar to what obtains for the typical investment in the agricultural sector



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