
New York Legalizes Marijuana—Where Is the US Headed?

April 2, 2021

It's been an eventful week for the marijuana industry. After years of false starts, New York legalized the use of recreational marijuana on March 31—just hours later, New Mexico legislators passed a bill to do the same.¹ Meanwhile, Mexico is expected to legalize recreational marijuana later this month and, with a population of 120 million, is poised to become the biggest marijuana market in the world.² If Mexico's bill is enacted into law, Mexico would become the third country after Uruguay and Canada to legalize marijuana nationally. With these developments, many are asking: Is marijuana legalization at the federal level on the horizon?

Amid growing public support, momentum at the state level, and the shift of power in Washington, the prospects for marijuana reform legislation are as elevated as they have ever been. Last year, public support for legalization of marijuana in the United States hit a record 68%,³ and voters in Arizona, Montana, New Jersey and South Dakota approved ballot initiatives to legalize the cultivation, use and distribution of marijuana.⁴ In total, 47 states and the District of Columbia have legalized some form of marijuana use.⁵ Sixteen states have legalized recreational marijuana, while 36 states and the District of Columbia have legalized medical marijuana.⁶ With US marijuana sales hitting \$18.3 billion last year—a 71% increase in revenue over 2019—several more states are looking to marijuana legalization to increase revenue.⁷ In recent weeks, governors in Pennsylvania⁸

¹ [New Mexico set to legalize marijuana as New York ends its pot prohibition](#), Washington Post (April 1, 2021).

² [Mexico Set to Legalize Marijuana, Becoming World's Largest Market](#), N.Y. TIMES (March 10, 2021).

³ [Support for Legal Marijuana Inches Up to New High of 68%](#), GALLUP (Nov. 9, 2020).

⁴ [State Medical Marijuana Laws](#), NATIONAL CONFERENCE OF STATE LEGISLATURES (Jan. 11, 2021).

⁵ [State Medical Marijuana Laws](#), NATIONAL CONFERENCE OF STATE LEGISLATURES (Jan. 11, 2021).

⁶ Only Nebraska, Idaho and Kansas continue to criminalize any use of marijuana. *See* [State Medical Marijuana Laws](#), NATIONAL CONFERENCE OF STATE LEGISLATURES (Jan. 11, 2021).

⁷ [Marijuana sales data reveal Americans bought 71% more weed to survive 2020](#), LEAFLY (Nov. 9, 2020).

⁸ [Pennsylvania Gov. Tom Wolf Wants To See State Start Process To Legalize Adult-Use Of Marijuana In 2021](#), CBS PHILLY/ASSOCIATED PRESS (Feb. 17, 2021).

and Wisconsin⁹ have renewed calls or introduced proposals to legalize adult recreational use of marijuana, in part to raise revenue to fill COVID-19-related budget holes.

However, it remains unclear whether Congress and President Biden will enact legislation that would **legalize** marijuana at the federal level, given the razor-thin margins in the Senate, other pressing legislative priorities, and uncertainty as to whether congressional leaders and the Biden Administration want to expend political capital to push for full legalization. Legalization in Mexico is likely to add further momentum to the US legalization movement, but marijuana reform in the United States appears likely to take a more moderate approach. Below, we analyze the primary risks from engaging in business with US marijuana-related businesses (MRBs) and the potential legislative and other reforms that could alter those risks.

I. The Federal Legal Landscape

Notwithstanding the proliferation of marijuana-related commerce in states across the country, the manufacture, sale and distribution of marijuana remain prohibited under the federal Controlled Substances Act (CSA). MRBs are generally operating in violation of federal law, even in states where recreational or medical marijuana sales are legal.

As a result, engaging in business with MRBs carries two primary risks: First, depending on the specific facts and circumstances, engaging in business with an MRB could expose a company to risk of aiding and abetting or conspiring to commit a violation of federal narcotics law.¹⁰ Second, funds received from an MRB could expose a company to risk of violating the US money laundering laws. Federal money laundering laws criminalize conducting or engaging in a financial transaction with proceeds of “specified unlawful activity.” See 18 U.S.C. §§ 1956, 1957. Because proceeds from the manufacture, sale or distribution of marijuana are considered proceeds of “specific unlawful activity” in the money laundering context, a company could violate US money laundering laws by engaging in a financial transaction with an MRB with the knowledge that the transaction involved proceeds of marijuana sales and with the intent to promote the unlawful activity. If the transaction is in an amount greater than \$10,000, the risk is higher, because the government need not prove intent to promote unlawful activity. See 18 U.S.C. § 1957. In such cases, the government would only need to establish that a company knowingly engaged in a monetary transaction involving more than \$10,000 in funds derived from specified unlawful activity.¹¹

⁹ Gov. Tony Evers proposes legalization of recreational marijuana in his 2021-23 biennial budget, WISCONSIN STATE JOURNAL (Feb. 8, 2021).

¹⁰ To aid and abet a violation of the CSA, a person or organization must “take[] an affirmative act in furtherance of that offense,” with the “intent of facilitating the offense’s commission.” *Rosemond v. United States*, 572 U.S. 65, 71 (2014).

¹¹ For a more detailed overview of US narcotics and money laundering law and analysis of the risks in providing financial products and services to MRBs, see Michelle Nicole Diamond, et al., [Developments in the Marijuana Industry and the Implications for Financial Institutions](#), WilmerHale (Feb. 7, 2019).

II. Predictions on Marijuana Reform Legislation

The prospect of major reform of federal marijuana laws remains uncertain as a closely divided Congress and new Biden Administration work to address numerous competing crises. While there is currently no federal marijuana legalization bill that has been introduced in either chamber of Congress, leading congressional Democrats have announced their intent to introduce “comprehensive cannabis reform legislation” in “the early part of this year.”¹² In the last session of Congress, the House of Representatives passed two marijuana reform bills that could significantly alter the risks of doing business with MRBs: (1) the Secure and Fair Enforcement (SAFE) Banking Act and (2) the Marijuana Opportunity Reinvestment and Expungement (MORE) Act. And in late January, Representative Greg Steube (R-FL) introduced the first marijuana reform bill of 2021—the Marijuana 1-to-3 Act of 2021. The SAFE Banking Act and the MORE Act appear to be the two most likely paths to marijuana reform legislation, though other bills, such as the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act, may also receive renewed support.

A. SAFE Banking Act

Many financial institutions refrain from providing banking services to marijuana businesses given the risk of violating the US narcotics or money laundering laws. As a result, many MRBs operate on a cash-only basis or pay exorbitant fees to maintain bank accounts with state-chartered banks. In response to increasing public support for decriminalization/legalization of marijuana and the marijuana industry’s chronic lack of access to banking and financial services, several members of Congress have supported legislation to create safe harbors for financial institutions that provide banking services to the marijuana industry.

On September 25, 2019, the House of Representatives passed the SAFE Banking Act with broad bipartisan support, garnering votes from 229 Democrats, 91 Republicans and one Independent. In total, 321 representatives supported the bill compared with 103 who opposed its passage. The SAFE Banking Act was reintroduced on March 18, 2021.¹³ While dozens of advocacy and industry groups, such as the American Bankers Association, quickly expressed their support for the bill, many of these groups also supported the 2019 version of the law.¹⁴ To date, there is no indication that senators who did not support the bill in 2019 will change their position and support the current version of the bill.

The SAFE Banking Act was designed to increase public safety by providing “cannabis-related legitimate businesses”—i.e., state-licensed MRBs—with access to financial services and by

¹² [Press Release](#), Booker, Wyden, Schumer Joint Statement on Cannabis Reform Legislation (Feb. 1, 2021).

¹³ [Press Release](#), SAFE Banking Act Reintroduced as Momentum for Cannabis Reform Continues to Grow (March 18, 2021).

¹⁴ [Financial Group Throws Support Behind New Pot Banking Bill](#), LAW360 (March 17, 2021).

reducing the amount of cash held by such businesses.¹⁵ The proposed law would create several protections for financial institutions that serve MRBs. First, the SAFE Banking Act would create a safe harbor for financial institutions by directing federal banking regulators not to “prohibit, penalize, or otherwise discourage a depository institution from providing financial services to a cannabis-related legitimate business or service provider.”¹⁶ It would also forbid bank regulators from terminating or limiting deposit insurance for financial institutions solely for providing services to MRBs,¹⁷ and protect financial institutions from “criminal, civil and administrative forfeiture” of any collateral interest in financial products or services provided to MRBs or owners of real estate and equipment leased or sold to MRBs.¹⁸ The SAFE Banking Act would also protect employees, officers and directors of financial institutions from potential criminal liability based solely on providing financial services to or investing income from providing such services to MRBs.¹⁹ Finally, the SAFE Banking Act would direct FinCEN to issue written guidance for financial institutions serving MRBs, and mandate that such guidance “not significantly inhibit the provision of financial services” to MRBs.²⁰

Important to the marijuana industry more broadly, the SAFE Banking Act also would create protections for “ancillary businesses” that engage in financial transactions with MRBs. Section 3 provides that funds received from state-licensed MRBs will not be considered proceeds of specified unlawful activity (i.e., crime proceeds) for purposes of the US money laundering (and other) laws solely because the funds come from marijuana-related activity.²¹ Because the majority of money laundering violations must be predicated on a transaction involving crime proceeds, the SAFE Banking Act would mitigate one of the main risks of doing business with MRBs. There are, however, still some unanswered questions about the act: Does the term “ancillary businesses”—which is not defined within the act—apply to *all* businesses, or are there limitations? Given that the act does not legalize recreational marijuana, could an ancillary business still be prosecuted for aiding and abetting the MRB’s activity in violation of the CSA while being protected from prosecution under the US money laundering laws? Given the clear language of Section 3 and the lack of any explicit limitation on what counts as an ancillary business, it would likely be difficult for prosecutors to bring money laundering charges against a company for engaging in a financial

¹⁵ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 1(b).

¹⁶ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 2(b).

¹⁷ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 2(a).

¹⁸ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 4(d).

¹⁹ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 4(d).

²⁰ H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 6.

²¹ Under Section 3, funds received from cannabis-related legitimate business “shall not be considered proceeds from an unlawful activity solely because the transaction was conducted by a cannabis-related legitimate business” for purposes of prosecution under Section 1956 and Section 1957 of the US money laundering laws, as well as under any other provision of federal law. See H.R. 1595, Secure And Fair Enforcement Banking Act of 2019, § 3.

transaction with an MRB (and complicated to bring charges under the CSA), but the SAFE Banking Act would benefit from clarity on these issues.

B. MORE Act

The MORE Act would enact more sweeping changes than would the SAFE Banking Act. The MORE Act would remove marijuana and THC from the CSA and related schedules,²² effectively legalizing the manufacture, sale and distribution of marijuana in the United States. MRBs would no longer be operating in violation of federal narcotics law, and, therefore, engaging in business with MRBs should not expose companies to risk of aiding and abetting or conspiring to violate the CSA (absent extenuating circumstances). Nor would companies risk violating the US money laundering laws solely by engaging in a financial transaction with proceeds from marijuana-related activity.

Importantly, the MORE Act also has several features that are aimed at rectifying the racial disparities of criminal prosecution of marijuana-related crimes. The proposed law explicitly calls for the expungement of all prior convictions or juvenile delinquency adjudications resulting from “non-violent Federal cannabis offenses” dating back to the enactment of the CSA in 1971.²³ The MORE Act also addresses the collateral consequences of these convictions by forbidding the federal government from denying an individual benefits and protections under immigration law or access to federal public benefits such as welfare, unemployment or food assistance based on that individual's conviction for cannabis-related offenses.²⁴ In addition, the bill would tax the sale of marijuana, direct the collection of racial data for marijuana business owners, and create a fund for investment in communities and individuals adversely impacted by the prior criminalization of marijuana.²⁵ However, the MORE Act would have no impact on state laws that continue to criminalize marijuana,²⁶ and it would not address other federal regulatory regimes such as the Food and Drug Administration's (FDA) regulation of marijuana additives in foods, drugs and cosmetics.²⁷

In December 2020, the House of Representatives passed the MORE Act, with some bipartisan support: 228 representatives voted in favor (including five Republicans and one Independent), and 164 voted against.²⁸

²² H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, § 3.

²³ H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, § 10.

²⁴ H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, §§ 8, 9.

²⁵ H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, §§ 4, 5.

²⁶ H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, § 13.

²⁷ H.R. 3884, Marijuana Opportunity Reinvestment and Expungement Act of 2020, § 3(e).

²⁸ H.R. 3884: [MORE Act of 2019](#), GOVTRACK (Dec. 4, 2020).

C. Other Options for Reform

The SAFE Banking Act and the MORE Act appear to be the most likely paths to reform, given that both passed the House of Representatives in the last session of Congress. However, several other marijuana reform bills were introduced into Congress over the past several years.

One of those other bills was the STATES Act, which was designed to prevent federal interference in states that have legalized marijuana. Introduced in the Senate and the House in June 2018, the STATES Act amends the CSA so that its provisions would not apply to anyone who possesses, produces or distributes marijuana in compliance with state law.²⁹ The bill also provides that proceeds from transactions in compliance with the STATES Act may not be considered crime proceeds for the purposes of federal money laundering statutes, and that conduct in compliance with the STATES Act cannot be the basis of asset forfeiture.³⁰ The STATES Act failed to receive a floor vote in either chamber of Congress in 2018. It was reintroduced in April 2019 in both the House and the Senate. The reintroduced bill won over nine cosponsors in the Senate and 65 cosponsors in the House, but again never received a vote.

Most recently, Representative Steube reintroduced the Marijuana 1-to-3 Act of 2021, which would direct the Attorney General to reschedule marijuana from Schedule I to Schedule III of the CSA. Schedule I is reserved for substances that have “a high potential for abuse” and “no currently accepted medical use in treatment in the US.”³¹ Schedule I substances include marijuana, heroin, and LSD, MDMA and GHB, whereas Schedule III includes substances that require a prescription, such as Tylenol with codeine. Although relocating marijuana to Schedule III would not legalize marijuana, it would have a number of effects. It would allow MRBs to deduct business expenses from their taxes (which is currently prohibited under tax provision 280E), expand opportunities for scientific research involving marijuana and permit businesses to advertise marijuana sales, among other things. The bill currently has no cosponsors, has no parallel bill in the Senate and has not been marked up in any committee.³² Similar bills have been regularly introduced since the 1980s, but none have gained much traction.

Finally, Senator Bob Menendez (D-NJ) introduced the Clarifying Law Around Insurance of Marijuana (CLAIM) Act of 2021, which is cosponsored by Senator Rand Paul (R-KY) and Senator Jeff Merkley (D-OR).³³ If enacted, the bill would help the legal marijuana industry and related businesses gain access to comprehensive and affordable business insurance. Currently, many

²⁹ S. 3032, STATES Act, § 2.

³⁰ S. 3032, STATES Act, § 5(b).

³¹ 21 U.S.C. § 812(b)(1)(A), (B).

³² H.R. 365: [Marijuana 1-to-3 Act of 2021](#).

³³ [Press Release](#), Menendez Introduces Bipartisan Marijuana Insurance Bill as More States Enact Cannabis Laws (March 18, 2021).

MRBs are denied access to insurance because insurers fear that these businesses could face federal prosecution or other penalties.³⁴

D. Support for Marijuana Reform

On the Senate side, the efforts to legalize marijuana are spearheaded by Senator Cory Booker (D-NJ) and Senator Ron Wyden (D-OR). In February of this year, the two senators issued a joint statement with Majority Leader Chuck Schumer (D-NY), affirming that marijuana legalization is a “priority” and underscoring that they “are committed to working together to put forward and advance comprehensive cannabis reform legislation” in early 2021.³⁵ Both Senator Booker and Senator Wyden were cosponsors of the MORE Act, and presumably would support its passage in the Senate.

But with a 50-50 split in the Senate, marijuana legalization will require support of moderate senators from both parties. Senators Joe Manchin (D-WV), Lisa Murkowski (R-AK) and Susan Collins (R-ME) have all indicated support for marijuana reform that falls short of full legalization at the federal level.³⁶ In fact, the Biden Administration has not clearly stated whether it would support federal legalization of marijuana. During the Democratic primary and the general election, the Biden campaign expressed support for decriminalization of possession or use of marijuana, but the campaign did not go so far as to express support for federal legalization of recreational marijuana use.³⁷ Further, it is not clear whether President Biden is himself personally in favor of legalization; some observers believe he is not. Notably, then-Senator Kamala Harris led the push for passing the MORE Act in the previous Congress and has expressed support for legalization, but she too used the term “decriminalization” once she joined the Democratic ticket.³⁸ And just this month, several White House staffers were suspended, placed on remote work assignments or asked to resign because of prior marijuana use.³⁹ Although few details have been released, and it appears that ongoing or aggravated circumstances were involved, this action undermines the notion that legalization is imminent.

³⁴ [Menendez Introduces Bill Protecting Cannabis Co. Insurers](#), LAW360 (March 18, 2021).

³⁵ [Press Release](#), Booker, Wyden, Schumer Joint Statement on Cannabis Reform Legislation (Feb. 1, 2021).

³⁶ [Clip of Senator Joe Manchin Town Hall Meeting](#), C-SPAN (March 18, 2017); US Senators Lisa Murkowski, Dan Sullivan and Don Young have added their support for legislation to protect states, like Alaska, that have legalized marijuana, [Press Release](#) (April 7, 2019); [35 US Senate seats are up for grabs, and several would be key wins for the cannabis sector](#), MARIJUANA BUSINESS DAILY (Oct. 19, 2020), (“From a federal perspective, if there were a bill in the Senate to legalize marijuana, I would vote against it,” Collins said in 2018.)

³⁷ *See, e.g.*, [Joe Biden supports decriminalizing marijuana, stops short of calling for legalization](#), CNN (May 16, 2019).

³⁸ Full [transcript](#) of vice presidential debate between Mike Pence and Kamala Harris, USA TODAY (Oct. 8, 2020).

³⁹ *See* [Biden White House Sandbags Staffers, Sidelines Dozens for Pot Use](#), DAILY BEAST (March 19, 2021).

Despite the promise from Senators Schumer, Booker and Wyden to put forth a “comprehensive reform [bill] to ensure restorative justice, protect public health and implement responsible taxes and regulations,”⁴⁰ it seems more likely that the Biden Administration and congressional leaders will end up proceeding with a piecemeal approach. The more broadly supported SAFE Banking Act, which creates protections for financial institutions and other ancillary businesses that work with MRBs, is the likely front-runner.⁴¹ However, some Democrats have indicated that they would not support legislation that protects large corporations without remedying the harms of historical marijuana-related enforcement. The restorative justice elements of the MORE Act, such as expungement of marijuana-related convictions, could be included in a criminal justice bill while the complete removal of marijuana from CSA schedules could be left off the agenda.

III. Executive Action

Congress is not the only path to marijuana reform. The executive branch could also enact reforms and/or provide greater certainty to companies within or interacting with the legal marijuana industry. Executive action is most likely to take the form of deprioritization of marijuana-related enforcement by the Department of Justice (DOJ). Attorney General Merrick Garland has signaled that he may reinstate guidance from the Obama Administration directing US Attorney’s Offices not to prosecute marijuana-related activity absent extenuating circumstances (such as a connection to organized crime or sales to minors). But federal law and regulations also allow the Attorney General to reschedule marijuana, in coordination with the US Department of Health & Human Services (HHS).

A. Revival of the Cole Memoranda

During the Obama Administration, the DOJ issued the “Cole memoranda,” a series of three guidance memos for federal prosecutors, which deprioritized federal criminal prosecutions involving state-regulated marijuana business. While the Cole memoranda did not change the law, these guidance documents deprioritized enforcement of state-licensed marijuana-related activity and thus changed the risk of prosecution for marijuana-related activity.

In January 2018, this regulatory regime changed again when then-Attorney General Jefferson Sessions rescinded the Cole memoranda and allowed individual US Attorney’s Offices to set enforcement priorities related to marijuana-related crimes. Then, during his confirmation process to be Sessions’ successor as Attorney General, William Barr indicated he had not decided whether to formally reinstate the Cole memoranda but also announced that he “[did] not intend to go after parties who had complied with state law in reliance on the Cole memoranda.”⁴² While Attorney

⁴⁰ [Press Release](#), Booker, Wyden, Schumer Joint Statement on Cannabis Reform Legislation (Feb. 1, 2021).

⁴¹ S. 1200: [SAFE Banking Act of 2019](#); H.R. 1595: [Secure and Fair Enforcement Banking Act of 2019](#).

⁴² [Questions for the Record: William P. Barr, Nominee to Be United States Attorney General](#), Senate Judiciary Committee.

General Barr did not overtly oppose the marijuana industry, a whistleblower testified in Congress in June 2020 that the DOJ's antitrust division investigated 10 proposed mergers in the cannabis section because of Attorney General Barr's personal dislike of the industry.⁴³

Early signs suggest the Biden Administration will return to the Obama-era deprioritization of marijuana-related prosecutions. During his confirmation hearings, Attorney General Garland questioned whether it would be “a useful use of limited resources that we have, to be pursuing prosecutions in states that have legalized and that are regulating the use of marijuana, either medically or otherwise.” While indicating that prosecutions of “criminal enterprises” that are doing “end-runs around state laws” must continue, Garland noted that federal prosecution in “states that have already authorized” recreational use of marijuana would only confuse the public.⁴⁴ Although the guidance memoranda issued by Attorney General Garland would have no impact on the legality of operating or doing business with an MRB, the positions taken by the DOJ would change the risk of prosecution under the CSA, money laundering statutes and other federal laws.

B. Administrative Rescheduling

Federal law and regulations confer upon the Drug Enforcement Administration (DEA) the authority to administer and implement the CSA, including the authority to make decisions on scheduling of controlled substances. See 21 U.S.C. § 811; 28 C.F.R. § 0.100(b). The DEA Administrator can initiate administrative rescheduling of marijuana on his or her own motion or can do so upon receipt of a petition from either HHS or “any interested party.”⁴⁵ Before the rescheduling process begins, the DEA would have to request a scientific and medical evaluation of marijuana from the FDA. In conducting this evaluation, the FDA would have to consider statutorily prescribed factors, including the actual or relative potential for abuse of marijuana, scientific evidence of marijuana's pharmacological effect, the state of current scientific knowledge regarding marijuana and whether marijuana poses any risk to public health. See 21 U.S.C. § 811(c). Based on those factors, the FDA would issue a scheduling recommendation to the DEA.

If the FDA's recommendation is that marijuana should not be a controlled substance at all, that decision is binding on the DEA, and marijuana must be removed from the schedule of controlled substances. See 21 U.S.C. § 811(b). If the FDA's recommendation is that marijuana remain a controlled substance, the DEA must evaluate the recommendation and consider the same statutory factors before determining whether marijuana should maintain its Schedule I status or be rescheduled or removed from the schedules altogether. See *id.* Finally, if the DEA Administrator decides to remove or reschedule marijuana, the DEA must implement that decision through the

⁴³ [Attorney General Barr ordered antitrust probes of 10 cannabis mergers, because he dislikes the industry, prosecutor says](#), MARKETWATCH (June 6, 2020).

⁴⁴ [Attorney General nominee Garland signals friendlier marijuana stance](#), MARIJUANA BUSINESS DAILY (Feb. 22, 2021).

⁴⁵ 21 U.S.C. § 811(a).

notice-and-comment rulemaking process under the Administrative Procedure Act. See 5 U.S.C. § 500, et seq. Accordingly, the DEA must provide the public with adequate notice of the proposed scheduling decision, and must provide meaningful opportunities for the public to comment.

As the Biden Administration's leadership teams at HHS and FDA settle in, there are no clear indications of how they may approach petitions to reschedule marijuana. Secretary of HHS Xavier Becerra has expressed support for legalization of marijuana in the past,⁴⁶ but he has not commented specifically on rescheduling marijuana and has provided no indication that rescheduling marijuana is one of his priorities.⁴⁷ Meanwhile, President Biden has not yet put forth a nominee for the role of FDA Administrator.

Conclusion

Cannabis industry insiders believe that if the United States finds itself sandwiched between two marijuana-friendly neighbors, there will be added pressure for the United States to reform its restrictive marijuana laws at the federal level.⁴⁸ But it remains to be seen whether that pressure will drive Congress to pass its first marijuana legislation since the CSA and, if so, how that law will impact MRBs and companies that work with them. Given the current political climate, any marijuana reform bill is most likely to pass as part of a broader criminal and social justice bill. From the President's first day in office, the Biden Administration has emphasized its commitment to diversity and inclusion,⁴⁹ and it is likely that these goals will also motivate any efforts to overhaul federal marijuana laws.

⁴⁶ [California AG defends state's marijuana laws](#), POLITICO (May 11, 2017).

⁴⁷ [Testimony of Xavier Becerra before the US Senate Committee on Health, Education, Labor and Pensions](#) (Feb. 23, 2021).

⁴⁸ *See, e.g.*, [Mexico's move to greenlight marijuana may pressure Biden](#), POLITICO (March 11, 2021); [Tilray CEO says he expects US federal cannabis legalization within two years](#), CNBC (Jan. 26, 2021); [Mexico Set to Legalize Marijuana, Becoming World's Largest Market](#), N.Y. TIMES (March 10, 2021).

⁴⁹ *See* [President Biden's Executive Actions: Focus on Diversity and Equity](#), WilmerHale (Jan. 22, 2021). For more on the Biden Administration's priorities, please refer to WilmerHale's [Biden Administration Resource Center](#).

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