

## Legalization of Cannabis in United States Takes Step Backward

January 4, 2018

Days after recreational cannabis legalization in California, Attorney General Jeff Sessions announced the rescission of the "[Cole memo](#)," moving to change the country's policy on non-interference with cannabis-friendly state laws. In his [one-page memo](#) addressed to all United States' attorneys, Sessions announced that "previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately."

In 2013, the then-Deputy Attorney General Jim Cole, under the Obama-administration, issued the Cole memo that outlined new priorities for federal prosecutors in cannabis-friendly states, as long as the legalization of cannabis did not threaten other federal priorities, such as preventing the distribution of drugs by criminal gangs and preventing minors from accessing it.

In addition to rescinding the Cole memo, Sessions' memo states that "in deciding which marijuana activities to prosecute under these laws with the Department's finite resources, prosecutors should follow the well-established principles that govern all federal prosecutions." The principles outlined by Sessions are the seriousness of the crimes, deterring criminal activities, and the cumulative impact of crimes on the community.

It remains to be seen how this change in policy will affect the cannabis-friendly states, of which eight have legalized recreational use and a majority of states allow the use of medical cannabis. These states will likely have to wait-and-see how federal prosecutors react to the memo, creating a climate of legal uncertainty.

[In our blog post from October 17, 2017](#), we profiled the Canadian Securities Administrator's (the CSA) Staff Notice that addressed the existing uncertainty in the legalization of cannabis in the United States, given the change from the Obama-administration, and noted that "issuers with ongoing business activities that violate US federal law regarding marijuana are not complying with the Toronto Stock Exchange and TSX Venture Exchanges' Requirements."

The CSA Staff notice goes on to state that in the event of a US federal government change in policy, "CSA staff would re-examine the views outlined" in the notice. It remains unclear as to how Sessions' policy shift will affect the CSA Staff Notice, or Canadian cannabis companies more generally.

**We Can Help**

# Cassels

For more information on how Cassels can assist your business, please contact a member of our firm's cross-disciplinary Cannabis Group.

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