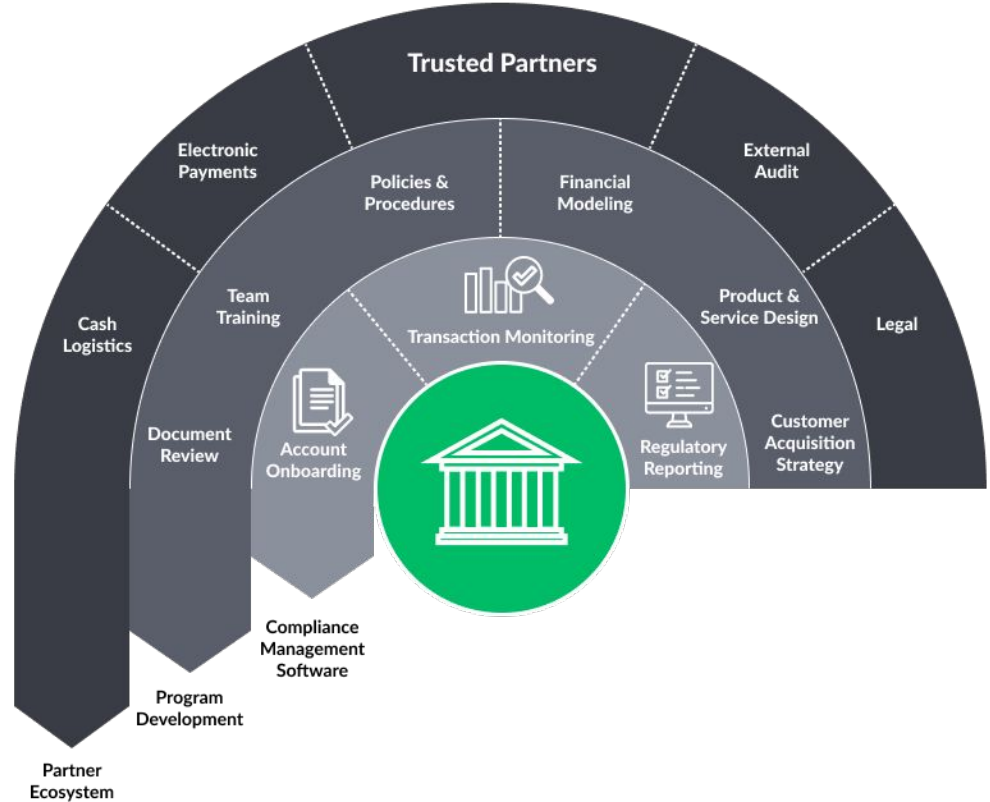


# Green Check Cannabis Banking Bootcamp

February 17, 2021

# About Green Check Verified

We offer **purpose-built software**, combined with **expert advisory services** and a rich **partner ecosystem** to deliver compliant, profitable cannabis banking programs.



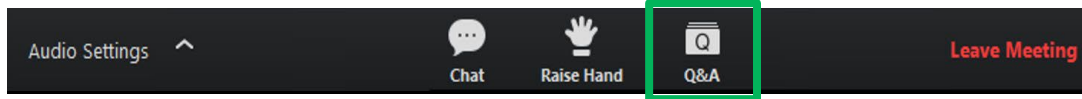
# Webinar Housekeeping

A recording of the presentation will be shared following the session

Attendees will be muted to avoid background noise

**Have a question during the session?**

Use the **Q&A** button in your Zoom window to submit a question



*Not available to those using the call-in only option*

**Post-webinar questions: [info@greencheckverified.com](mailto:info@greencheckverified.com)**

# Today's Presenters



**Paul Dunford**  
Program Development  
[pdunford@greencheckverified.com](mailto:pdunford@greencheckverified.com)



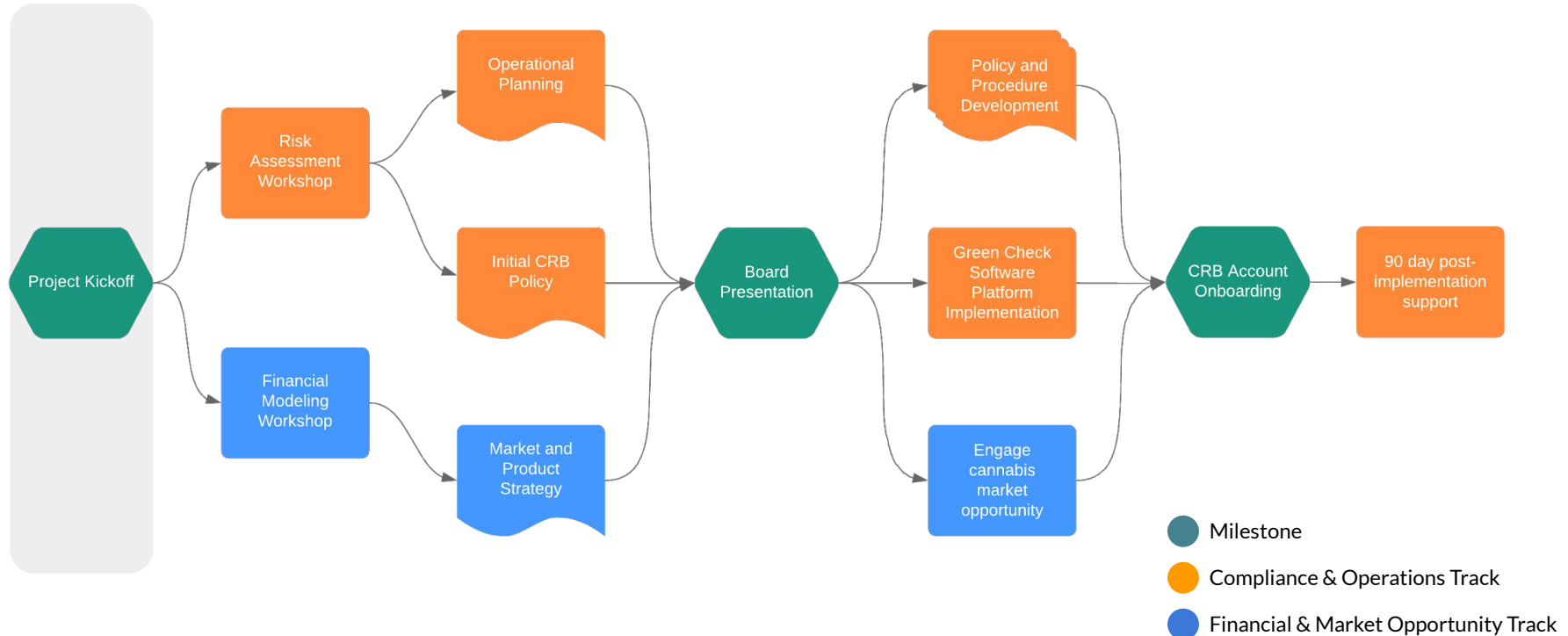
**Stacy Litke**  
Banking Compliance  
[slitke@greencheckverified.com](mailto:slitke@greencheckverified.com)

# Agenda

- **Module 1: Cannabis Fundamentals**
  - Cannabis Banking 101
- **Module 2: Building Your Program**
  - Assessing Risk
  - Financial Modeling
  - Products and Services
- **Module 3: Running a Compliant Program**
  - Engaging the market and onboarding CRBs
  - Verifying source of funds and ongoing monitoring
- **Optional: Special Topic**
  - Cannabis-related commercial real estate issues

**We're going to build a  
program for a financial  
institution in Colorado**

# Green Check's program development roadmap



# Cannabis Fundamentals

## Module 1



**Cannabis**  
**Marijuana**  
**Hemp**  
**THC**  
**CBD**

cannabis



# What is Marihuana?

[The] term “**marihuana**” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The term “marihuana” does not include—

(i) **hemp**, as defined in section 1639o of title 7;”

21 U.S. Code § 802

# What is Hemp?

The term “**hemp**” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a **delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent** on a dry weight basis.

Agriculture Improvement Act of 2018 (Farm Bill)

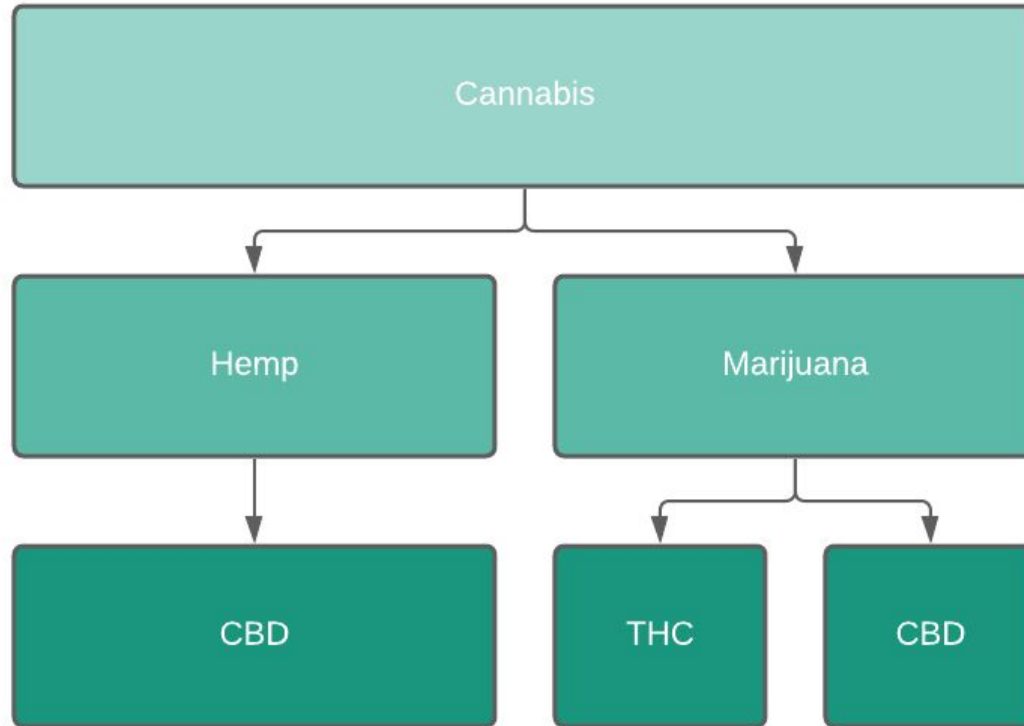
# CBD & THC are chemical compounds in cannabis

## Cannabidiol (CBD)

- FDA approved for the treatment of childhood epilepsy (*Epidiolex*)

## Delta-9 Tetrahydrocannabinol (THC)

- Significantly psychoactive
- FDA Approved for the treatment of chemotherapy-induced nausea (*Dronabinol*)
- Schedule I Controlled Substance

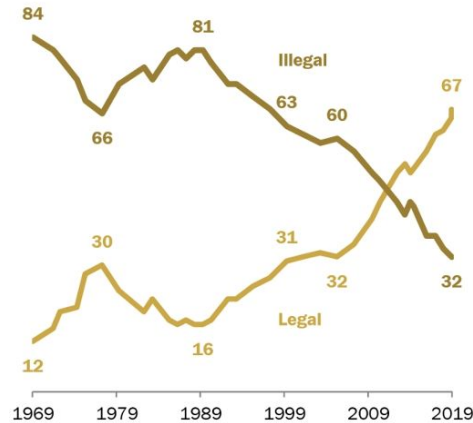




# Americans support marijuana legalization

## U.S. public opinion on legalizing marijuana, 1969-2019

Do you think the use of marijuana should be made legal, or not? (%)

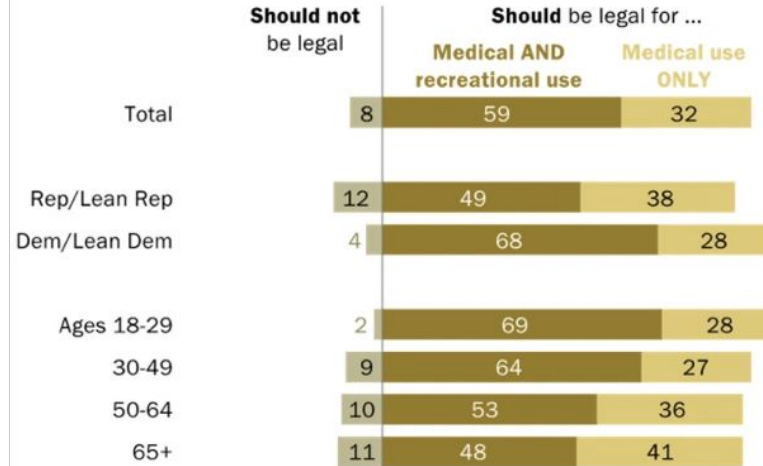


Note: No answer responses not shown. 2019 data from Pew Research Center's online American Trends Panel; prior data from telephone surveys. Data from 1969-1972 from Gallup; data from 1973-2008 from General Social Surveys.  
Source: Survey of U.S. adults conducted Sept. 3-15, 2019.

PEW RESEARCH CENTER

## Only about one-in-ten Americans oppose marijuana legalization for medical or recreational uses

% who say marijuana ...

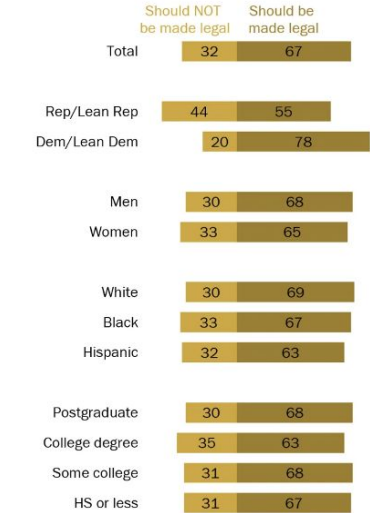


Note: No answer responses not shown.  
Source: Survey of U.S. adults conducted Sept. 3-15, 2019.

PEW RESEARCH CENTER

## Wide partisan gap in opinions about legalizing marijuana use

% who say the use of marijuana ...



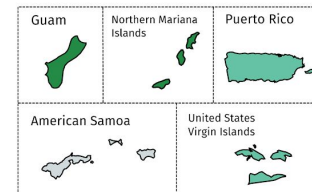
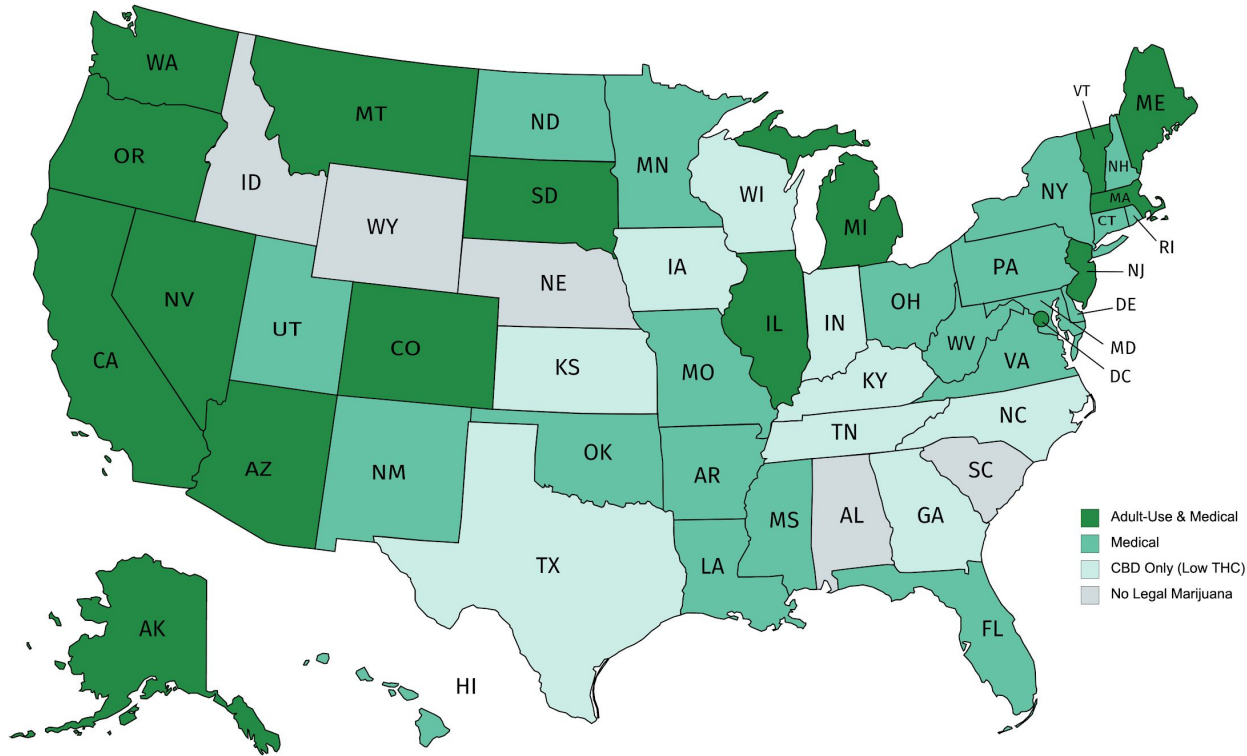
Note: Figures may not add to 100% because of rounding. Whites and blacks include only those who are not Hispanic; Hispanics are of any race. No answer responses not shown.  
Source: Survey of U.S. adults conducted Sept. 3-15, 2019.

PEW RESEARCH CENTER

# How did we get here?

1970	The Controlled Substances Act classifies “marihuana” as a Schedule I drug
1996	California approves Proposition 215 (Compassionate Care Act) legalizing medical marijuana
2009	Department of Justice’s Ogden Memo lays out preliminary federal law enforcement priorities
2012	Colorado and Washington become first states to legalize cannabis for adult use
2013	Department of Justice’s Cole Memo details law enforcement priorities regarding state-legal marijuana businesses
2014	FinCEN releases “BSA Expectations Regarding Marijuana-Related Businesses”, including Cole Memo priorities, identifying banking-specific red flags, and defining Marijuana SARs (Limited, Priority, Termination)
2018	Farm Bill legalizes hemp, and places it under the regulatory authority of the USDA & FDA



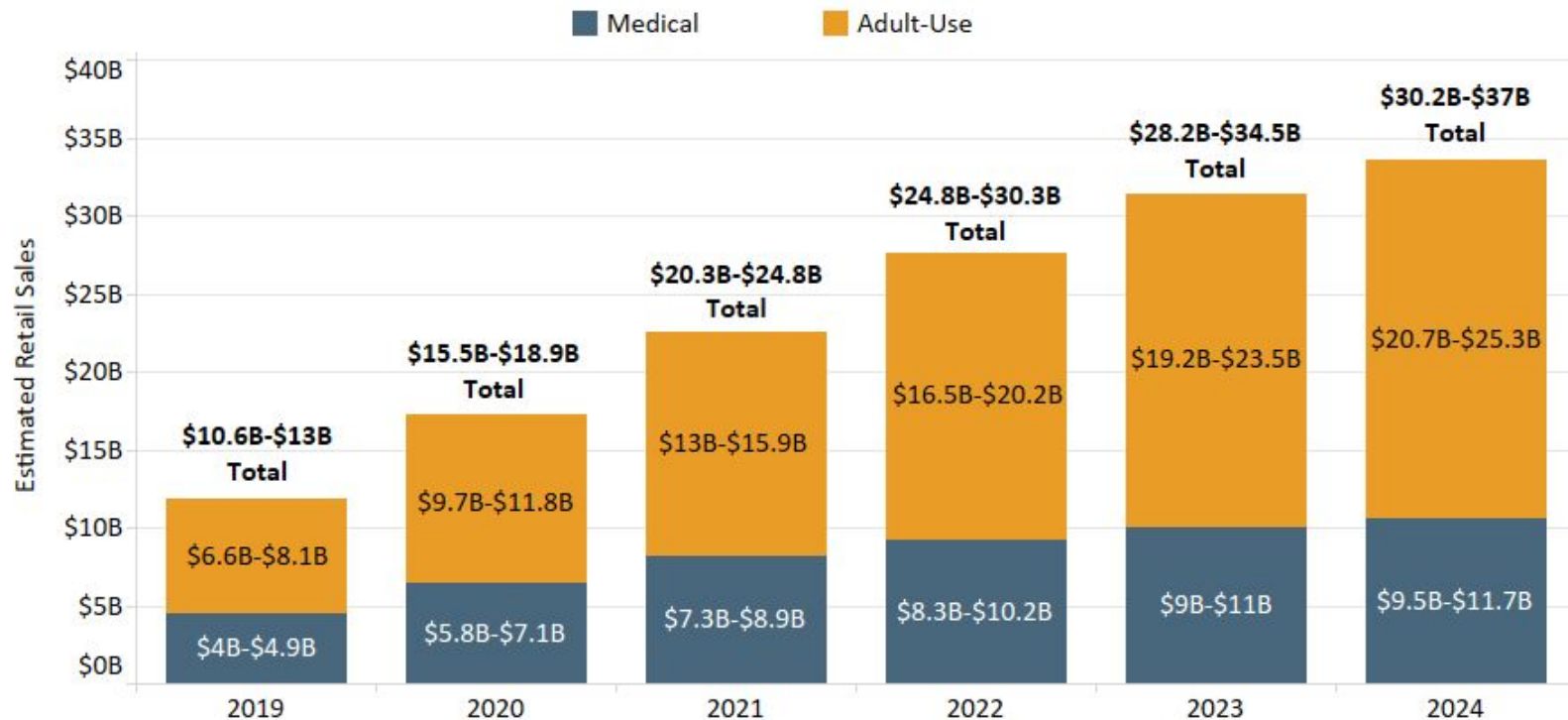


# Legal status of cannabis 2021



# Chart of the Week

## U.S. Cannabis Retail Sales Estimates: 2019 - 2024



Source: Marijuana Business Factbook

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# Case Study: Colorado's Legal Cannabis Program

# Colorado Department of Revenue Marijuana Sales

## Total Marijuana Sales to Date

2020 \$9,978,794,073

2019 \$7,787,702,393

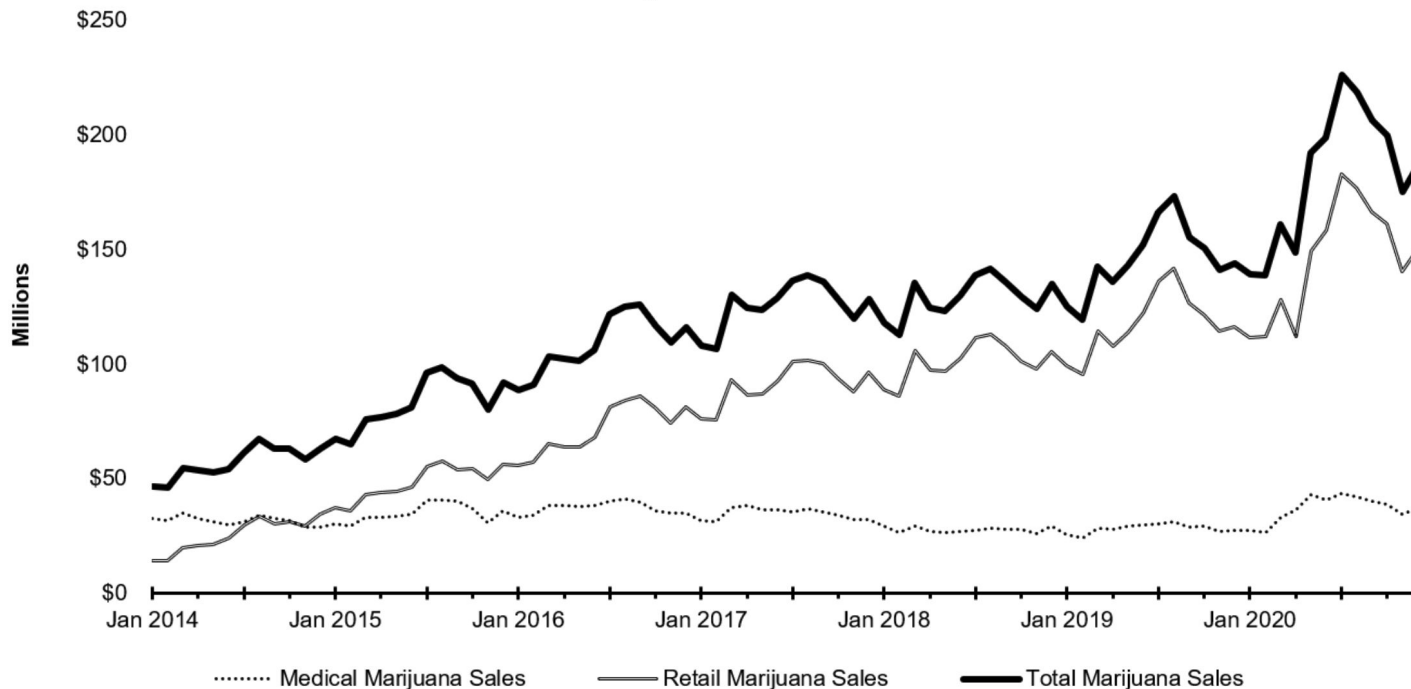
2018 \$6,039,711,766

2017 \$4,494,020,686

2016 \$2,986,318,467

2015 \$1,679,114,994

2014 \$683,523,739



Source: State Sales Tax Returns (DR 100) and Retail Marijuana Sales Tax Returns

Prepared by: Office of Research and Analysis, Colorado Department of Revenue | dor\_ora@state.co.us.

Publish date: February 2021

# Colorado Overview

## Key Dates

- 2000: Amendment 20 legalizes medical marijuana (54% voters approved)
- 2012/2014: Amendment 64 legalizes marijuana for all adults 21+

## Regulators

- Colorado Department of Revenue, Marijuana Enforcement Division
- Colorado Department of Revenue, Specialized Business Group
- Colorado Department of Public Health & Environment, Medical Marijuana Center

## Taxes

- Retail: 2.9% standard sales tax + 10%
- Cultivator to Businesses: wholesale price + 15% excise tax

# Colorado Licenses: February 1, 2021

	Medical	Adult / Retail
Cultivations	462	717
Delivery Permits	6	-
Operators	7	9
Product Manufacturers	217	292
Development & Research	1	-
Stores	428	605
Testing Facilities	10	11
Transporters	6	12
Hospitality	-	3

# Buying, selling, & using retail marijuana in CO

- Purchaser must be 21+ and show ID
- It is a felony to provide marijuana to anyone under 21
- Adults can purchase and possess up to 1 ounce of marijuana at a time
- Adults 21+ can give but not sell up to 1 ounce of marijuana to another adult
- Public use of marijuana is illegal (including hotels)
- Employers can test for marijuana and use that as a basis for making hiring decisions
- Purchases can only be made between 8AM and Midnight

<https://www.colorado.gov/pacific/marijuana/laws-about-marijuana-use>

# Notable elements of Colorado's program

- Municipal licensing restrictions
- Marijuana vending machines
- Consumption lounges
- Social Equity Accelerator Program



# Providing Financial Services to Cannabis-Related Businesses

# Cannabis-Related Businesses (CRBs)

## Marijuana-Related Businesses (MRBs)

### **Direct MRB (Medical / Adult Use)**

A business licensed by the state's marijuana authority

### **Indirect MRB**

A business that derives 51% or more revenue from a Direct MRB

## Hemp-Related Businesses

### **Industrial HRB**

A business licensed by the state or federal (USDA) hemp regulatory authority

### **CBD HRB**

A business that derives its revenue from the extraction, production, or commercial distribution of CBD

# Business challenges faced by MRBs Specifically

- MRBs are ineligible for Small Business Administration loans
- MRBs must often pay state and federal taxes in cash
- 26 U.S. Code § 280E: Expenditures in connection with the illegal sale of drugs
- Can not use most valuable assets (controlled substances) as loan collateral
- Can not seek bankruptcy protection per Office of US Trustees
- May not accept credit card payments processed on the Visa, Mastercard, and American Express networks
- Many armored transport services will not work with CRBs

# **BSA Expectations Regarding Marijuana-Related Businesses (FinCEN 2014)**

# Providing Financial Services to MRBs

“In general, the decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution. These factors may include its particular **business objectives**, an **evaluation of the risks** associated with offering a particular product or service, and its **capacity to manage those risks** effectively. Thorough customer due diligence is a critical aspect of making this assessment.”

“This FinCEN guidance should enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses.”

# Due Diligence Requirements (1/2)

- (i) verifying with the appropriate state authorities whether the business is duly licensed and registered;
- (ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
- (iii) requesting from state licensing and enforcement authorities available information about the business and related parties;
- (iv) developing an understanding of the normal and expected activity for the business, including the types of products to be sold and the type of customers to be served (e.g., medical versus recreational customers);

# Due Diligence Requirements (2/2)

- (v) ongoing monitoring of publicly available sources for adverse information about the business and related parties;
- (vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and
- (vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk.

“With respect to information regarding state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.”

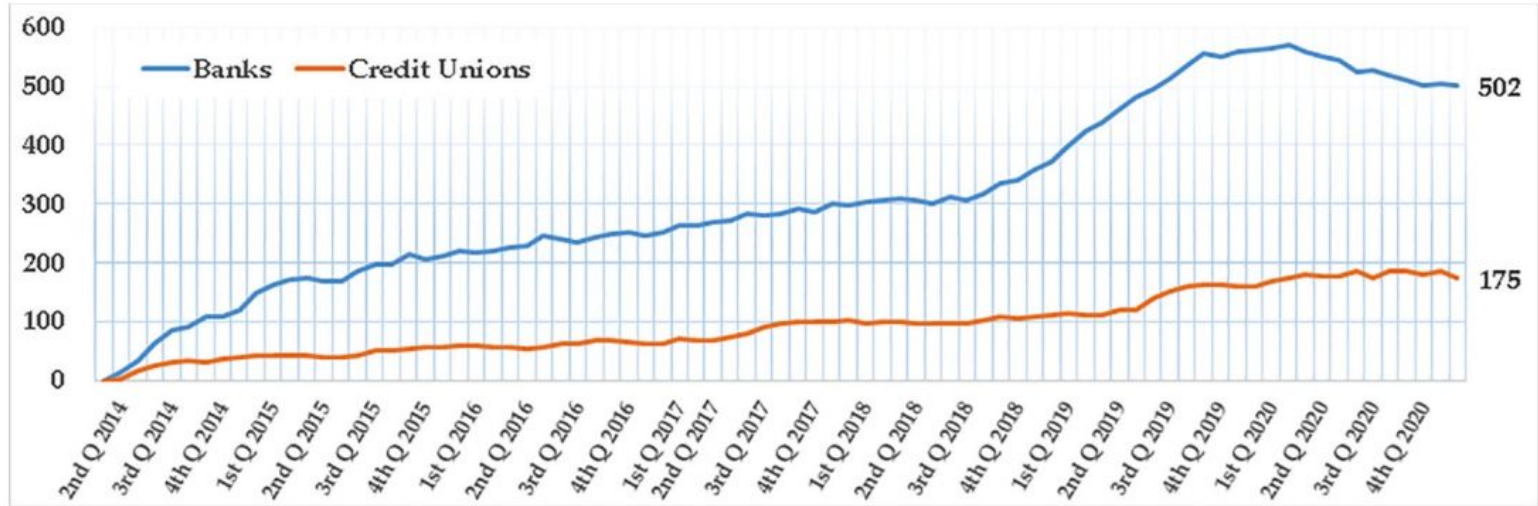
# Marijuana Suspicious Activity Reports (SARs)

“a financial institution is required to file a SAR on activity involving a marijuana-related business (including those duly licensed under state law), in accordance with this guidance and FinCEN’s suspicious activity reporting requirements and related thresholds.”

- **Marijuana Limited**
  - No reason to believe the marijuana-related business is violating state law
- **Marijuana Priority**
  - Suspicion that the marijuana-related business is violating state law
- **Marijuana Termination**
  - Termination of a marijuana-related business account



**Depository Institutions (by type) Providing Banking  
Services to Marijuana-Related Businesses<sup>1</sup>**  
(SARs filed through 30 September 2020)



# Hemp & CBD Regulatory Oversight

## United States Department of Agriculture (USDA)

- Growing hemp
- Processing hemp
- Testing hemp for THC content

## Food and Drug Administration (FDA)

- CBD in consumer products intended for:
  - Ingestion by humans and animals
  - Treatment of any medical condition

# USDA Interim Final Rules for Hemp Production

- Hemp must be tested to make sure that its THC content does not exceed 0.3% (within a margin of error)
- **Growing “hot hemp” is not, in and of itself, tantamount to growing marijuana as long as the producer can demonstrate that it was unintentional.**
- States and Tribal governments have the option to develop their own hemp regulatory programs
- The USDA will audit licensed hemp producers in order to verify their physical location, the status of their license, and their commitment to producing cannabis with less than 0.3% THC
- The USDA will maintain a database of legal hemp activities and make it available to federal, state, and tribal law enforcement agencies
- Neither States nor Tribal governments may prohibit the transportation of legally-grown hemp through their territory

# FDA's Position on CBD

“Despite the 2018 Farm Bill removing hemp — defined as cannabis and cannabis derivatives with very low concentrations (no more than 0.3% on a dry weight basis) of THC — from the definition of marijuana in the Controlled Substances Act, CBD products are still subject to the same laws and requirements as FDA-regulated products that contain any other substance. [...] **We are aware that there may be some products on the market that add CBD to a food or label CBD as a dietary supplement. Under federal law, it is illegal to market CBD this way.**

“What You Need to Know (And What We’re Working to Find Out) About Products Containing Cannabis or Cannabis-derived Compounds, Including CBD” 11/25/2019

# **FinCEN Guidance Regarding Due Diligence Requirements under the Bank Secrecy Act for Hemp-Related Business Customers (FinCEN 2020)**

# Hemp Due Diligence Requirements

- “Financial institutions should obtain basic identifying information about hemp-related businesses through the application of the financial institutions’ customer identification programs and risk-based CDD processes, including beneficial ownership collection and verification, as they would for all customers.”
- “confirm the hemp grower’s compliance with state, tribal government, or the USDA licensing requirements”
- “The extent to which a financial institution will seek additional information beyond the steps outlined above will depend on the financial institution’s assessment of the level of risk posed by each customer. Additional information might include crop inspection or testing reports, license renewals, updated attestations from the business, or correspondence with the state, tribal government, or USDA.”

# No Hemp Marijuana SAR Requirement

“... because hemp is no longer a Schedule I controlled substance under the CSA, financial institutions are not required to file a Suspicious Activity Report (SAR) on customers solely because they are engaged in the growth or cultivation of hemp in accordance with applicable laws and regulations”

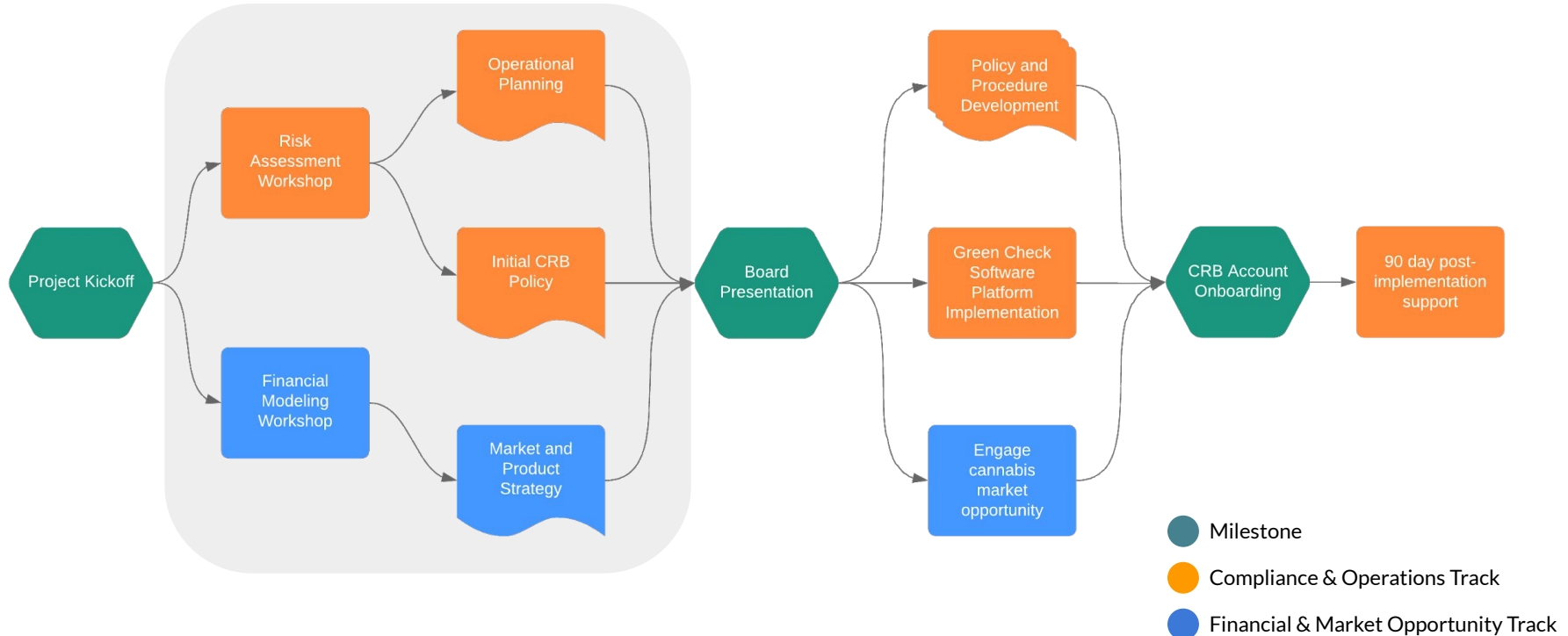
# Q&A



# Building Your Program

## Module 2

# Green Check's program development roadmap



# Case Study: Colorado Financial Institution

# Profile: Colorado Financial Institution

Asset Size: \$1.5 billion

Currently flush with deposits, but wants to service the industry for fee revenue opportunity and for this reason they will also consider lending to MRBs

CEO introduced to MRB Owner at local Chamber of Commerce event, has a need for banking relationship including Operating account, ACH, and online account management tools

# Assessing Risk

# Objective: Assess Risk

Assess readiness to bank cannabis before developing a cannabis banking program

Evaluate your existing controls environment as it applies to cannabis banking

Understand what controls will need to be in place in order to reduce risk and meet Examiner expectations

Review at least annually, and modify as your program changes

# Using Green Check's Risk Assessment Tool

# Categories of Risk

## Financial | Oversight

What is the impact to financial and regulatory oversight?

## Strategic

Does this new line of business complement or compete with other initiatives?

## CRB Compliance

Are we able to effectively monitor CRB compliance with state laws?

## Reputation

How do we address potential account holder concerns?

## Transaction | Operations

What limitations will we place on this high-risk line of business?

## Credit

What are the risks specific to lending to CRBs?



# Determining the Level of Inherent and Residual Risk

POTENTIAL IMPACT	Extreme	5	10	15	20	25
	Very High	4	8	12	16	20
	Moderate	3	6	9	12	15
	Low	2	4	6	8	10
	Very Low	1	2	3	4	5
		Rare	Unlikely	Possible	Likely	Certain
POTENTIAL LIKELIHOOD						

# Example Risk Item - Financial

Foreseeable Risk, Threat, Vulnerability	Potential Impact	Potential Likelihood	Inherent Risk Rating (1-25)
Consideration has <b>NOT</b> been given to impact on Liquidity in the event of significant increases and decreases in deposits.	Moderate	Unlikely	6

Mitigating Control Description	Control Effectiveness	Residual Risk Rating (1-25)	Acceptable Risk?
FI is in a strong liquidity position. This will be closely monitored by our ALM committee. A financial model has been created with <b>Green Check</b> .	50%	3	YES

# Example Risk Item - Strategic

Foreseeable Risk, Threat, Vulnerability	Potential Impact	Potential Likelihood	Inherent Risk Rating (1-25)
Failure to consider the impact on other significant strategic initiatives	Moderate	Possible	9

Mitigating Control Description	Control Effectiveness	Residual Risk Rating (1-25)	Acceptable Risk?
All new products and services are evaluated by RAC, they have indicated the recent merger activity has concluded, and there are adequate resources for this project.	66.67%	3	YES

# Example Risk Item - MRB Compliance

Foreseeable Risk, Threat, Vulnerability	Potential Impact	Potential Likelihood	Inherent Risk Rating (1-25)
Failure to ensure that CRB has established a system to prevent the distribution of cannabis to minors.	Very High	Possible	12

Mitigating Control Description	Control Effectiveness	Residual Risk Rating (1-25)	Acceptable Risk?
<b>Green Check</b> verifies each transaction from the MRB, including age of purchaser. MRBs with vending machines must provide additional documentation to show access is granted only to consumers of legal age.	66.67%	4	YES

# Colorado Point of Sale Regulations

You must present a **valid ID proving you're at least 21 years old**, so be prepared.

**No minors allowed:** According to the retail marijuana rules passed by the Department of Revenue, no one under 21 is allowed in the restricted portion of a retail store.

**Packaging requirements:** Retail and medical marijuana businesses are required to sell all marijuana products in packaging that's resealable, child-resistant and not see-through.

**Labeling requirements:** The Department of Revenue requires that all retail marijuana products use [a standardized caution symbol] on packaging.

<https://www.colorado.gov/pacific/marijuana/laws-about-marijuana-use>

# Colorado Product Warning Labels & Packaging



# Financial Modeling

# Objective: Financial Modeling

Review the cannabis banking opportunity in your market, and determine the pace in which best works for your institution

Determine what products and services you want to offer

Develop a pricing model based on your priorities

Forecast and track the performance of the cannabis banking program



# Cannabis Banking Products, Services, and Fees

Deposit services

Wires

Operating Account

Positive Pay

Online/Mobile banking

Line of Credit, fixed term loans

Electronic payments:

Employee accounts

- ACH Origination
- Bill Pay
- EFTPS

# Program Costs and Staffing Considerations

## Manual Program (22% of Revenue)

- Collecting documentation through fax, email, etc
- Review documentation, record review and approval
- Set calendar invites to review licenses
- Receive daily transaction spreadsheets to compare and record legal sales to deposits
- Manually filling out SARs and staying on top of ongoing reports
- Tracking program performance in multiple spreadsheets with complex pivot tables, etc
- Expensive ongoing training requirements

## Automation (9% of Revenue)

- CRB uploads all documents securely through web-based portal
- Workflows for:
  - Reviewing documentation and approval audit trail
  - Reconciling incoming deposits to sales
  - FinCEN Reporting (CTRs and SARs)
- Automatic transaction verification against state compliance rules
- Account Monitoring
  - 360 insight into program performance
  - Board reporting

# Using Green Check's Financial Modeling Tool

# Financial Model Parameters

Pace of program growth: 1 new CRB account per month, years 1-5

\$1,000 application and setup fee

\$1,000 monthly fee + 1.0% Deposit verification fee

Offering ACH and Wire services

Offering CRB Employee Accounts

Lending to CRBs, which provides for higher average yield

Using Green Check Verified platform for automation

# Getting your Board on Board

## What to bring:

Risk Assessment

Financial Model

Products and Services list and Pricing

Cannabis Banking Policy

## What to anticipate:

“It’s federally illegal and we don’t want to lose our charter.”

“Our existing customers/members will be upset and leave.”

“Does the possible reward outweigh the immediate risk?”

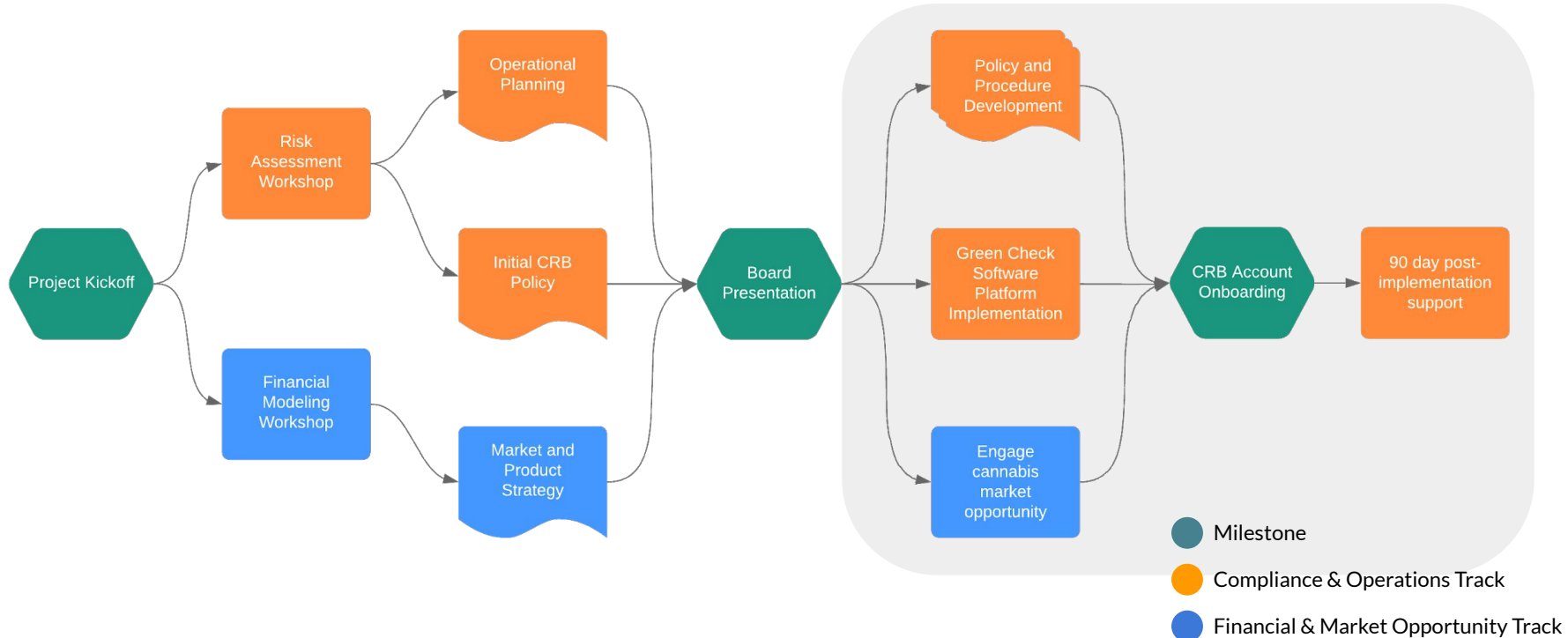
“We can’t afford to hire a new BSA officer just for marijuana.”

# Q&A

# Running a Compliant Program

Module 3

# Green Check's program development roadmap





# Engaging the market

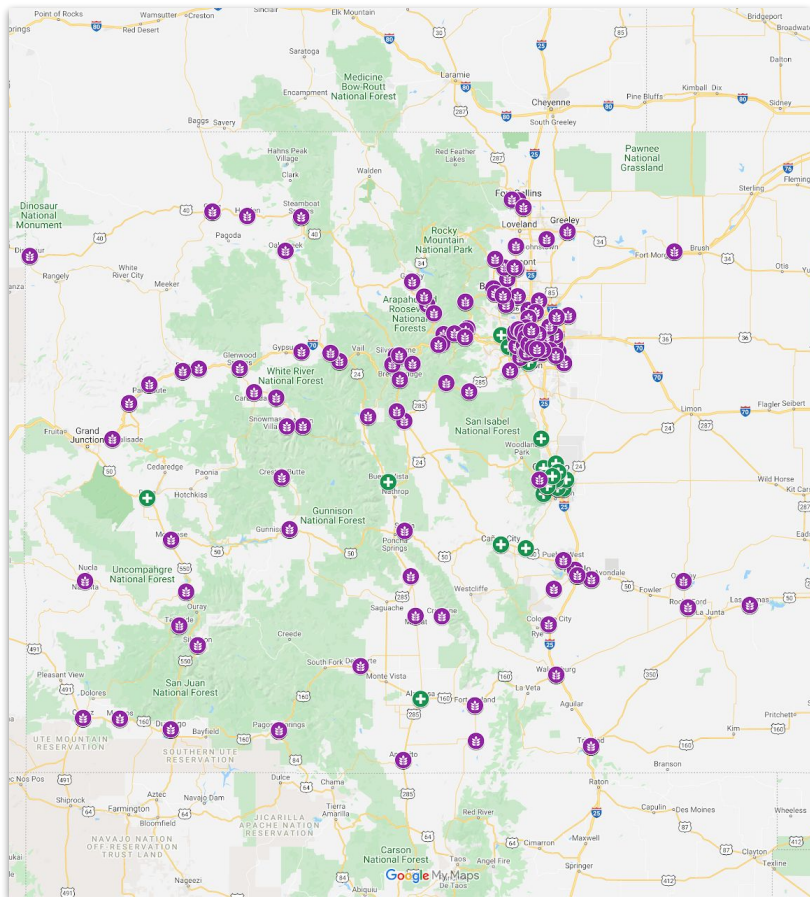
What makes a “good” CRB?

- Transparent and responsive to document requests
- Site visit
- Understand the licensing requirements in your state

Find the CRBs you want to work with

- Word of mouth
- Engage industry associations
- Reach out to ancillary service providers (accountants, lawyers, plumbers, etc)
- Green Check

# Case Study: Colorado Market Outreach



**Colorado Department of Revenue  
Marijuana Sales Summary  
Sales from December 2020**

Medical Marijuana Sales <sup>1</sup>	
County	December 2020 Sales
Adams	\$681,126
Alamosa	NR
Arapahoe	\$1,036,551
Boulder	\$1,264,318
Chaffee	NR
Delta	NR
Denver	\$15,893,478
Eagle	\$143,959
El Paso	\$12,331,305
Fremont	NR
Garfield	\$107,589
Grand	NR
Jefferson	\$1,763,015
La Plata	NR
Larimer	\$860,400
Las Animas	NR
Mesa	NR
Moffat	NR
Montezuma	NR
Montrose	NR
Morgan	NR
Otero	NR
Park	NR
Pitkin	NR
Pueblo	\$864,921
Routt	NR
San Miguel	NR
Summit	NR
Weld	\$381,658
<b>Total *</b>	<b>\$36,651,909</b>

Retail Marijuana Sales <sup>2</sup>	
County	December 2020 Sales
Adams	\$12,682,090
Arapahoe	\$15,890,336
Archuleta	\$1,473,262
Bent	NR
Boulder	\$10,458,568
Chaffee	\$609,568
Clear Creek	\$763,454
Conejos	NR
Costilla	\$522,280
Crowley	NR
Denver	\$42,853,367
Eagle	\$2,196,488
El Paso	NR
Garfield	\$2,253,585
Gilpin	\$249,569
Grand	\$857,364
Gunnison	\$768,567
Huerfano	\$270,637
Jefferson	\$5,819,236
Lake	\$290,620
La Plata	\$3,263,824
Larimer	\$9,928,725
Las Animas	\$5,280,324
Mesa	\$2,531,159
Moffat	\$1,317,621
Montezuma	\$2,377,939
Montrose	NR
Morgan	\$1,580,399
Otero	\$328,434
Ouray	\$903,226
Park	\$647,233
Pitkin	\$1,354,243
Pueblo	\$8,692,454
Routt	\$990,930
Saguache	\$379,800
San Juan	\$28,116
San Miguel	\$473,494
Sedgwick	\$1,212,661
Summit	\$3,173,188
Weld	\$2,893,054
<b>Total *</b>	<b>\$149,691,299</b>

Source: State Sales Tax Returns (DR 100) and Retail Marijuana Sales Tax Returns  
 Note: This table represents a snapshot of the returns at the time the data was retrieved.  
 NR - Not releasable due to taxpayer confidentiality requirements. Total includes NR data.

<https://www.colorado.gov/pacific/enforcement/med-licensed-facilities>

<https://cdor.colorado.gov/data-and-reports/marijuana-data/marijuana-sales-reports>

# Three Major Workflows

## Onboarding

- Enhanced due diligence requirements
- Know your state's program

## Transaction Verification

- Verifying that every dollar is the result of a state-legal sale

## FinCEN Reporting

- Ongoing Marijuana Limited SARs at account opening and every 90 days

# Ongoing monitoring

Quarterly account reviews

Measure CRB performance against peer group

Look for unusual transactions

Set up news alerts and follow industry media

Don't forget your existing transaction monitoring software

# Examiner Feedback and Recommendations

“Not Banking” cannabis is no longer an option in any state with a legal program

You must be able to demonstrate that every dollar is the result of a state-legal sale

Managing a program manually is no longer sufficient

Be ready to explain how you’re only banking “good” and compliant CRBs

Demonstrate that you can detect existing accounts that have not disclosed their involvement in the cannabis industry

You need to show that you’re able to leave the line of business if necessary

**What's next?**

# What you can expect following this session

Email from Green Check that includes:

- Your certificate of participation
- Access to session recording
- Links to supplemental resource documents like:
  - Presentation slides
  - Risk Assessment sample questions
  - Financial model Board summary PDF
  - Cannabis banking policy template



# Q&A

**Optional: Special Topic**

# Cannabis-related commercial real estate issues

# Common Questions and Concerns

- ❑ Is a landlord automatically a marijuana business because they are renting out space to a marijuana dispensary?
- ❑ What do I do if the landlord has a mortgage with us?
- ❑ Can/should I alter the terms of the mortgage if I find out that a landlord is leasing space to a dispensary?
- ❑ If I find out one of my customers/members is leasing space to a grow facility, and we don't bank MRBs, do I need to close the customer/member account?
- ❑ What are my obligations to monitor the marijuana-related activities of my customer/member's tenant?
- ❑ What if I find out that the tenant has been operating an illegal business?

# Legal Disclaimer

This document is provided for informational purposes only and should not be relied upon as legal advice. This document should not be construed as including complete coverage of all policy elements required by your institution and must be modified by your institution to appropriately conform it to your institution's organizational structure, risk profile, and business lines.

# Thank you!