

Cannabis Banking and its Challenges in Canada

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In 2018, Canada became the second country to legalize the cultivation, possession, purchase, and consumption of recreational cannabis. This means that an adult can legally possess 30 grams of dried or equivalent legal cannabis in public, buy from a provincially-registered retailer, grow up to four cannabis plants for personal use, and make cannabis products¹. Cannabis-related businesses are gradually developing and the number of cannabis users in Canada is on a steady rise, as seen in charts below. This article will highlight the banking barrier faced by cannabis companies and its remediation.

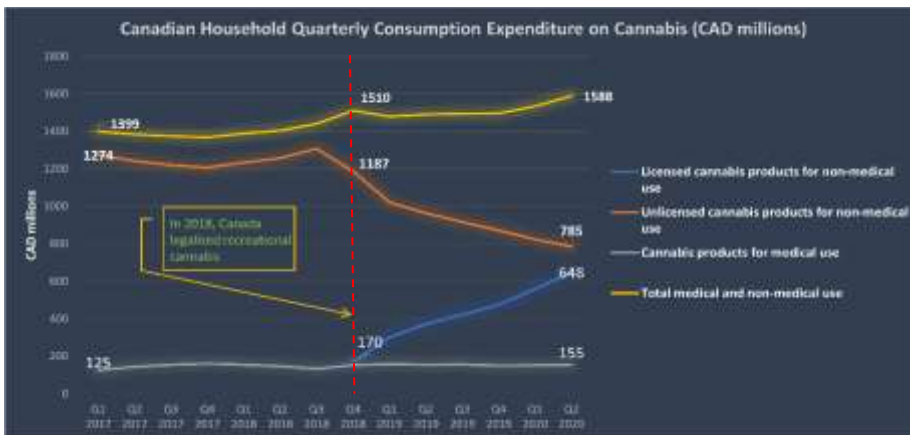


Chart 1:

The chart tells us that since 2017, the total consumption of cannabis, regardless its use, has significantly increased to CAD 1.6 billion in the second quarter of 2020. That is an increase of 13% from the time of legalization.

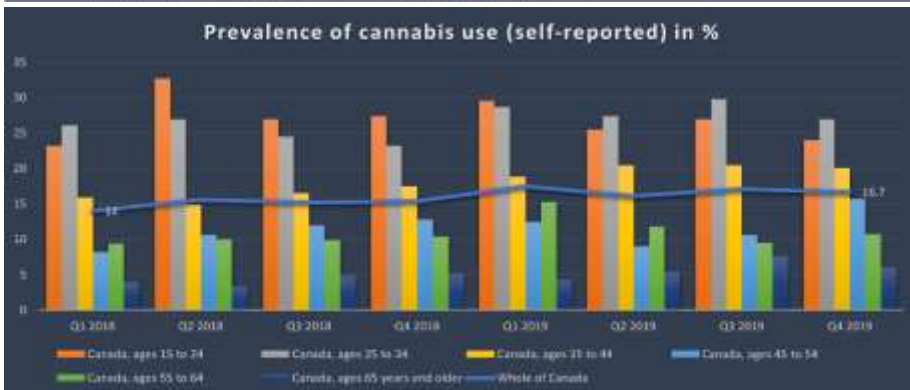


Chart 2:

The chart below shows that overall, the percentage of Canadians that reported self-use of cannabis increased by 2.7% from the first quarter in 2018 to the final quarter in 2019. The chart also shows the percentage of increase among difference age groups.

One of the barriers faced by Licensed Producers ('LPs') is limited access to traditional banking². A company that is licensed by Health Canada to grow, process, sell for medical purposes, research and conduct analytical tests is a licensed producer.³ Banks consider cannabis-related business as high-risk and tend to be hesitant to provide financial services to such companies. While some banks support companies that are in the medical field, others shy away from this industry, since it adds to the challenge of conducting enhanced due diligence while some are simply not on board with the legalization of cannabis.⁴ The U.S. federal government deems the use, sale, and possession of cannabis with over 0.3% tetrahydrocannabinol (THC) illegal despite the fact that it is legal in 11 states. This creates a conundrum for banks in Canada since banks fall under federal jurisdiction in the U.S.⁵ Hence, they could be accused

¹ Tattrie, J. (2019, October 17). Cannabis Legalization in Canada. Retrieved November 05, 2020, from <https://www.thecanadianencyclopedia.ca/en/article/marijuana-legalization-in-canada>

² Woodin, H. (2019, September 30). Financial institutions reluctant to bankroll cannabis entrepreneurs. Retrieved November 05, 2020, from <https://www.westerninvestor.com/news/finance/financial-institutions-reluctant-to-bankroll-cannabis-entrepreneurs-1.23962148>

³ Canada, H. (2020, July 02). Government of Canada. Retrieved November 18, 2020, from <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/industry-licensees-applicants/applying-licence.html>

⁴ *Ibid.*

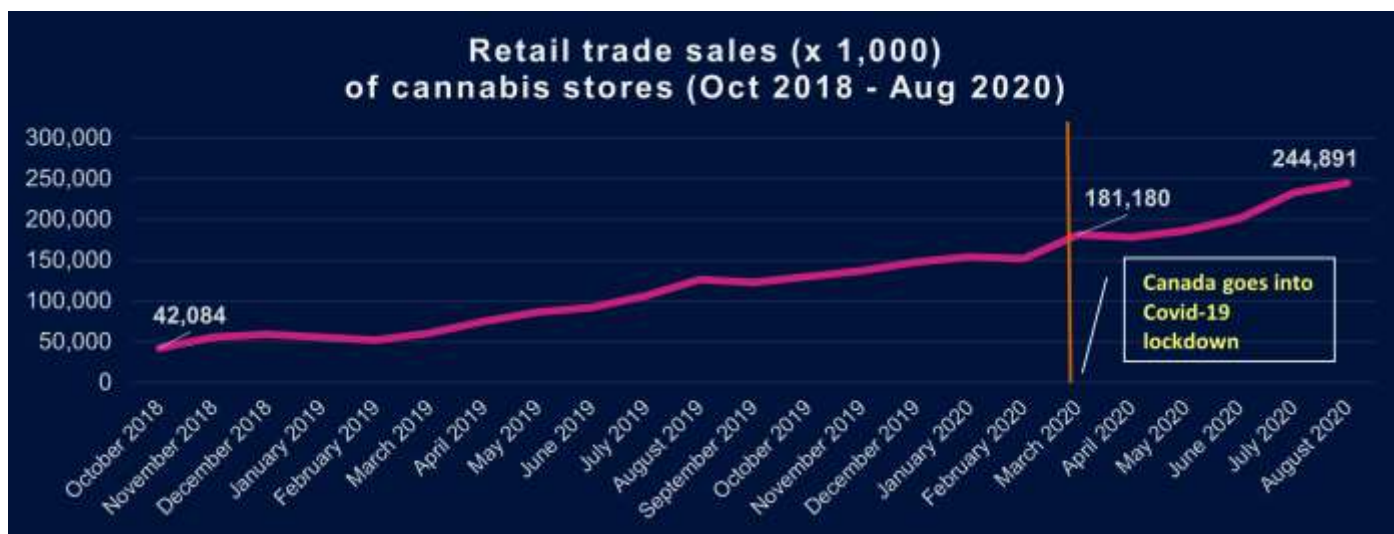
⁵ <https://learn.na.bambora.com/wp-content/uploads/2019/02/Marketing-Cannabis-White-Paper.pdf>

of money laundering for supporting cannabis-related businesses, as anything federally illegal -- including cannabis -- violates the Bank Secrecy Act.

Some cannabis companies have turned to blockchain technology to add transparency and accountability to their supply chain management of cannabis businesses which could potentially bring positive effects to the social stigma surrounding cannabis use.⁶ For example, TruTrace has partnered with Shoppers Drug Mart, Canada's largest pharmacy chain, to create blockchain-secured programs to track and trace cannabis production from genome to distribution.⁷ The information obtained will remain unaltered in an open, decentralised distributed ledger that uses cryptography to link growing list of blocks. This will effectively show that trail from the growers all the way to the users. With high transparency and accountability, banks may be more inclined to do business with cannabis companies.

While the majority of recreational cannabis dispensaries are still dealing with cash, a few have already started accepting cryptocurrencies as a viable payment option for customers. Assets like cryptocurrencies – that are based on blockchain technology – could potentially give LPs access to banking services that are not provided by traditional banks⁸. Realising that there is an underserved market in the industry, CanaKush set up a decentralized banking infrastructure by accepting cryptocurrencies as payment. Although this keeps both the customer and the company safe, the system still depends on national banking and payment processing networks, as cryptocurrencies need to be converted to fiat money⁹. Banks that accept cryptocurrencies from cannabis companies could only be adding more pressure and increasing risk to their cumbersome compliance program.¹⁰

During the COVID-19 pandemic, observers in the cannabis industry saw some changes to policies that helped companies to stay afloat. Health Canada streamlined and amended policies which benefitted LPs in that to allow for more flexibility and accelerate some processes¹¹. Provinces also initiated faster payment models to help LPs with cash flow issues. During the pandemic, the retail sales from cannabis stores rose steadily to about 35% since the lockdown in March, as shown in the chart below.



Across the border, the scientific community hinted that cannabis may be beneficial in preventing COVID-19,¹² which garnered support to change the Secure and Fair Enforcement (SAFE) Banking Act from a bill into a

⁶ Inc., T. (2019, August 14). Shoppers Drug Mart and TruTrace Technologies Successfully Complete Phase 1 of the Medical Cannabis Verification Pilot Program. Retrieved November 09, 2020, from <https://www.newswire.ca/news-releases/shoppers-drug-mart-and-trutracer-technologies-successfully-complete-phase-1-of-the-medical-cannabis-verification-pilot-program-899840698.html>

⁷ *Ibid.*
⁸ Pearson, J. (2019, April 19). For Some Legal Weed Businesses, Cryptocurrency Actually Makes Sense. Retrieved November 03, 2020, from <https://www.vice.com/en/article/qv7pzw/for-some-legal-weed-businesses-cryptocurrency-actually-makes-sense>

⁹ Sater, S. (2019, April 3). Banking Cannabis. Retrieved November 4, 2020 from <https://ssrn.com/abstract=3365132>.

¹⁰ *Ibid.*
¹¹ Canada, P. (2020, April 22). Government of Canada. Retrieved November 03, 2020, from <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/health-professionals/covid-19-pandemic-guidance-health-care-sector.html>

¹² Hoban, R. (2020, August 18). The Cannabis Industry Needs Banking Now. Retrieved November 07, 2020, from <https://www.forbes.com/sites/roberthoban/2020/08/18/the-cannabis-industry-needs-banking-now/?sh=68687aa83a58>

legislation. This will provide a safe harbor for banks and others providing financial services,¹³ by allowing basic financial services to these cannabis-related businesses¹⁴. The talk around this bill has certainly triggered an awareness on the extremely restrictive financial constraints which the legal cannabis industry currently faces.¹⁵ It is clear that there is an economic growth in cannabis related-businesses and as in any developing industry, investments and financial incentives will drive the economic momentum forward, which is crucially needed in this industry. As everyone benefits from the taxes that come from the sales of legalized cannabis, should not they also benefit from the same financial services enjoyed in other business industries.

¹³ Hoban, R. (2020, October 06). As COVID-19 Rattles Global Markets, Cannabis Commerce Shows Resilience. Retrieved November 07, 2020, from <https://www.forbes.com/sites/roberthoban/2020/09/21/as-covid-19-rattles-global-markets-cannabis-commerce-shows-resilience/>

¹⁴ Avidor, J. (2020, May 31). Examining the SAFE Banking Act's Potential Impact on the Cannabis Industry. Retrieved November 08, 2020, from <https://masur.com/lawtalk/examining-the-safe-banking-act/>

¹⁵ Alini, E. (2020, October 30). The U.S. election could change the cannabis industry. Is Canada ready? Retrieved November 09, 2020, from <https://globalnews.ca/news/7429457/u-s-election-cannabis-industry-canada/>