

CLIENT ALERT

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CROSS BORDER

UPDATE: US ISSUES NEW GUIDANCE FOR CANADIAN TRAVELERS INVOLVED IN LEGAL CANNABIS INDUSTRY

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This is an important update to Dickinson Wright's September 28, 2018 Client Alert styled [Canada, Cannabis, and Crossing the Continent: Considerations for Canada-U.S. Companies, Business Travellers, and Investors](#) which provided an exhaustive analysis of the immigration issues relating to Canada's legalization of cannabis.

U.S. Customs and Border Protection (CBP) appears to be listening to the concerns raised in Dickinson Wright's Client Alert and issued updated guidance. Specifically, CBP issued on October 9, 2018 an updated ["Statement on Canada's Legalization of Marijuana and Crossing the Border."](#) The new guidance provides that "[a] Canadian citizen working in or facilitating the proliferation of the legal marijuana industry in Canada, coming to the U.S. for reasons unrelated to the marijuana industry will generally be admissible to the U.S. however, if a traveler is found to be coming to the U.S. for reason related to the marijuana industry, they may be deemed inadmissible."

The new CBP policy statement provides clarity to Scenario 4 of Dickinson Wright's Client Alert namely, when a Canadian is employed by or invests in a legal cannabis business in Canada but travels to the U.S. for reasons unrelated to the cannabis operations. Our prior analysis highlighted this scenario as an area of significant concern because of the possibility that an employee could be found inadmissible based on engaging in activities that might be determined to aid in illicit trafficking of a controlled substance. The updated guidance clarifies this scenario and weighs in favor of admissibility to a limited degree. It will be very important for workers and investors in the legal Canadian cannabis industry to consult with legal counsel and document "non-industry" related reasons for potential visits to the U.S. with the clear understanding that visitors' actions can be subject to investigation within the U.S. Visits to the U.S. to address investor questions or to recruit investors in the industry certainly appear to be off limits potentially, even if the investment would be made in the legal cannabis industry in Canada.

We emphasize that the CBP policy statement is limited in scope and does not change the analysis of the other scenarios in our Client Alert. All persons involved in the cannabis industry that intend to cross the Canada-U.S. border must review their specific circumstances prior to entry.

Dickinson Wright's immigration law team is available to assist.

This client alert is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the field of cross border law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in here.

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