

Marijuana Policy Gap: Insurers' Uncertainty, Insurance Thought Leadership

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Despite states' legalization, Marijuana remains a controlled substance under federal law.

The number of states that have legalized marijuana use continues to grow, as 33 states have already approved medical use, with 10 of those states having approved recreational use, as well. According to New Frontier Data, a leading cannabis market research and data analysis firm, the legal cannabis market is expected to grow to \$25 billion by 2025. The industry reached \$10.4 billion by 2018, with \$10 billion of investments in North America, more than twice the amount of the last three years combined.?

Despite the trend toward legalization at the state level, marijuana remains a Schedule I controlled substance under federal law, thus creating the "Marijuana Policy Gap" as characterized by a March 2017 report of the Congressional Research Service, The Marijuana Policy Gap and the Path Forward. Under the Federal Controlled Substances Act (CSA), the cultivation, sale, distribution and possession of marijuana is illegal, irrespective of individual state constitutional provisions, statutes and regulations that legalize and regulate marijuana.

The Marijuana Policy Gap is creating uncertainty as businesses consider whether, and in what capacity, to enter the legal marijuana industry. As with any other industry, marijuana-related businesses (MRBs) require adequate insurance coverage to protect against a wide range of risks. However, the Marijuana Policy Gap is serving to limit insurance options available to MRBs to smaller specialized insurers and the excess and surplus lines market, as larger admitted carriers remain cautious with respect to the exposure associated with underwriting marijuana-related risk.