

HOSPITALITY INFORMATION MEMO

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New York's Social Equity Program for Cannabis Businesses

Since New York's Office of Cannabis Management (OCM) and Cannabis Control Board (CCB) issued and [approved regulations regarding conditional retail dispensary licenses for the general public](#), businesses should start thinking about how they will incorporate social equity programs into their business plans. The Marijuana Regulation and Taxation Act (the Act) created a robust plan that focuses on helping "social and economic equity applicants" succeed in the state's new cannabis industry. Included in the Act's definition of "social and economic equity applicants" are members of communities disproportionately impacted by the war on drugs, minority or women-owned businesses, distressed farmers and service-disabled veterans.

For purposes of New York's social and economic equity program:

- Whether a community is "disproportionately impacted" by the war on drugs depends on its history of drug-related arrests, convictions and other law enforcement practices compared to the rest of the state.
- Minority or women-owned businesses must be at least 51% owned by a woman or member of a minority group and meet certain other requirements.
- Distressed farmers include New York residents or businesses that: (i) operate small farms; (ii)(a) are members of a group that has been historically underrepresented in farm ownership or (b) have been disproportionately impacted and face the loss of farmland through suburban development; and (iii) meet other qualifications as will be defined by the CCB.
- Service-disabled veterans include individuals or businesses owned at least 51% by veterans who received a compensation rating of at least 10% from the U.S. Department of Defense or Department of Veteran Affairs due to a service-connected disability or have incurred such injury in the line of duty equivalent to the same level of compensation rating, and meet certain other requirements.

Incentivizing Participation

The OCM and CCB intend to issue regulations outlining plans to actively support social and economic equity applicants by mentoring potential applicants and prioritizing their applications. Additionally, one of the Act's stated goals is to award 50% of all adult-use licenses to individuals disproportionately impacted by cannabis prohibition.

OCM will also create a program that provides direct support to social and economic equity applicants, including educational programming, business and financial coaching and counseling and compliance services. Financial assistance in the form of low-interest loans, fee waivers and business and application assistance will also be offered to these applicants. Part of this financial assistance will come from one-time licensing fees medical cannabis businesses are required to pay in order to convert their medical

dispensaries to dual medical and recreational cannabis stores. The revenues generated by this fee would help fund low-interest loans, business training and incentive programs.

Eliminating Barriers to Entry

Other states have struggled to successfully implement social and economic equity programs because of the economic hurdles for similar applicants related to starting a new business. The Act eliminated this issue: New York's structure does not permit the complete vertical integration of the cannabis supply chain except in certain instances. The division of the supply chain will allow social and economic equity applicants to enter the industry by engaging in a single aspect of the process (i.e., cultivation, processing, distribution or retail), thereby reducing initial cash needs. Additionally, social and economic equity licensees won't be allowed to transfer their license for the first three years of issue except to a qualified social equity applicant after first obtaining CCB's prior written approval.

Community Reinvestment

The Act aims to reinvest 40% of the adult-use cannabis tax revenue toward rebuilding communities harmed by the war on drugs. These funds would be available to support community revitalization efforts, including but not limited to financial literacy, mental health treatment, nutrition services, afterschool and childcare services, job placement and skills services, education and housing. Previous convictions for marijuana-related activities that are now legal will also be removed from an individual's criminal record, and criminal possession limits have been set at levels such that only possession of large amounts of marijuana will be penalized.

Even with the current guidelines of the state's social and economic equity program in place, there are still unanswered questions that need further clarification from the CCB and OCM. For example, how will New York further define a "community disproportionately impacted by the marijuana prohibition"? In any event, New York's social equity programs are likely the most expansive out of all the states that have legalized recreational marijuana thus far. The cannabis attorneys at Bond can help guide your business through the complicated regulatory landscape of the cannabis industry and obtain some of the state's first-ever cannabis business licenses.

If you have any questions about any of the information provided above or the cannabis industry in general, please contact [Dustin M. Dorsino](#), [Jeffrey B. Scheer](#) or the Bond attorney with which you are regularly in contact.

