

# Federal Cannabis Developments: Executive Order on Marijuana Rescheduling and New Risks for the CBD Industry

December 23, 2025

On December 18, 2025, President Trump issued an executive order, “Increasing Medical Marijuana and Cannabidiol Research” (the “Executive Order”), directing the U.S. Attorney General to complete the process for reclassifying marijuana under the federal Controlled Substances Act (the “CSA”). The proposed change in marijuana’s treatment under the CSA (moving it from Schedule I to Schedule III) would facilitate medical research into marijuana and provide certain tax benefits to cannabis companies but would not legalize the drug or eliminate concerns that have led many financial institutions and others to refrain from providing services to those operating in the cannabis industry.

Separately, federal legislation enacted last month threatens the cannabidiol (“CBD”) industry. In the bill to reopen the federal government following the shutdown, Congress included a ban on hemp products containing even small amounts of the psychoactive compound tetrahydrocannabinol (“THC”). The ban goes into effect on November 12, 2026, and many consumer hemp products, including full-spectrum CBD products, will be treated as marijuana under federal law (reversing the Agriculture Improvement Act of 2018 (the “2018 Farm Bill”), which legalized hemp-derived CBD). However, the Executive Order notes that the Trump administration will work with Congress to maintain access to appropriate full-spectrum CBD products while preserving Congress’s intent to restrict the sale of products that pose serious health risks.

**Reclassification of Marijuana.** Currently, marijuana is classified under Schedule I of the CSA. Schedule I drugs, which include heroin and LSD, have no accepted medical use and a high potential for abuse. The Executive Order directs the federal government to reschedule marijuana to Schedule III, which includes drugs with a lower potential for physical and psychological dependence and less potential for abuse compared to Schedule I and Schedule II drugs. Substances in Schedule III have an accepted medical use and may be lawfully dispensed by prescription (if approved by the Food and Drug Administration (“FDA”)), while substances in Schedule I cannot under federal law.

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In 2023, a review by the FDA found support for medicinal marijuana use. The same year, based in part on the FDA review, the Department of Health and Human Services (“HHS”) recommended that the Drug Enforcement Administration reclassify marijuana from Schedule I to Schedule III.<sup>1</sup> The Biden administration initiated the rulemaking process for reclassifying marijuana in May 2024, but it was never completed.

The Executive Order notes that marijuana’s current Schedule I classification has impeded research into its safety and efficacy and sets forth the Trump administration’s policy to increase research to “close the gap” between medical marijuana use and knowledge of the related risks and benefits. Accordingly, the Executive Order instructs the U.S. Attorney General to expeditiously complete the rulemaking process to reschedule marijuana to Schedule III of the CSA. However, the rulemaking process—which can include public notice and comment, potential administrative hearings, interagency review and publication of a final rule—could take months or longer, particularly if procedural challenges or litigation arise.

If marijuana is reclassified, researchers would face regulatory hurdles, broader sourcing options, and reduced administrative and compliance burdens, further accelerating clinical studies to evaluate medical uses.

In addition, the reclassification of marijuana to Schedule III would provide tax benefits to medical and recreational marijuana businesses operating under state law; after reclassification, marijuana businesses would be able to deduct certain business expenses, including rent and utilities, payroll, marketing and advertising, professional services and insurance costs, in their federal tax returns.

It is also important to note what reclassification would not do. Reclassification would not federally legalize marijuana and, thus, the existing variance between marijuana’s treatment under federal and many state-level laws would not be resolved. This being the case, the Executive Order does not change the risks and related compliance issues for financial institutions and others contemplating dealing with the cannabis industry. For example, banks that choose to do business with cannabis companies would still need to consider how such business activities align with their anti-money laundering (“AML”) compliance policies and their suspicious activity reporting obligations.

**Access to CBD Products.** The 2018 Farm Bill removed hemp and certain hemp-derived products from the definition of cannabis in federal law. This change opened the door to rapid growth of the CBD market, as it allowed farmers, manufacturers and retailers to operate without the Schedule I restrictions that formerly applied to hemp-derived CBD.

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<sup>1</sup> Our prior update contains further details on the DEA’s 2024 proposed rescheduling of marijuana, *available [here](#)*.

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However, FDA still maintains the position that it is unlawful to market foods or dietary supplements containing CBD.

The November 12, 2025, law that reopened the government provides that hemp products containing even very low levels of THC will once again be controlled substances under the CSA. Under the new law, legal hemp must contain no more than 0.4 mg of total THC per container and excludes cannabinoids that are not naturally occurring in the cannabis plant or are synthesized outside the plant. The change takes effect on November 12, 2026, and means that many hemp-derived products, including full-spectrum CBD goods that exceed the THC limits, will no longer qualify as hemp and will instead revert back to being regulated as Schedule I controlled substances.

Financial institutions and others doing business with the hemp industry may need to consider the implications of this impending change to their activities and under their risk appetites and AML policies.

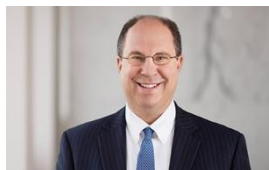
The Executive Order makes it clear that President Trump does not support the law going into effect as enacted last month. Instead, he directs the executive branch to work with Congress to update the statutory definition of hemp-derived CBD products to preserve consumer access to appropriate CBD products while maintaining Congress's objective of limiting the sale of hemp-derived products that present significant health risks. The Executive Order also directs the HHS Secretary, the FDA Commissioner and others in the federal government to develop research methods and models to improve access to hemp-derived cannabinoid products.

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We will continue to monitor developments. Please do not hesitate to contact us with any questions.



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