A Game of Cat and Mouse: Looping for Diversion

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ACCCE is dedicated to advancing the professional knowledge and skills of those committed to commercial cannabis risk management.

As the commercial cannabis industry becomes more entwined in the economy, it is of utmost importance to defend commercial cannabis businesses against bad actors.

As with many other industries, commercial cannabis has its offenders that, undeterred, could cause significant loss of reputation to the commercial cannabis industry and brands through their actions.

By instilling a risk culture starting with tone at top, the company can significantly reduce the potential risks of looping by utilizing the ACCCE Cannabis Risk Management Framework and implementing a risk-based approach. Cannabis products continue to have a large demand on the illicit market, and it is the risk professional's responsibility to guard against diversion. To prevent diversion, jurisdictions commonly have limits on the amount of cannabis a consumer can purchase in a single transaction. To get around the limit, a criminal or group of criminals may practice looping.

The Looping Example

Looping is the practice of evading the legal cannabis purchase limits by buying cannabis products at or below the legal limit repeatedly during a limited time period to obtain an illegal amount of cannabis product. The name comes quite literally from people going into the dispensary to purchase the maximum amount of cannabis, taking it to their car, and looping back around to the dispensary to repeat the process multiple times within the same day, or even the same hour.

It is not always as straight forward to catch looping. Looping can involve a single consumer, multiple consumers working together, inside collusion, and multiple stores.

The looping case against a large Colorado commercial cannabis business was the first of its kind and included budtenders, managers, and owners who received hefty fines or jail sentences. The Denver Police Department was initially tipped off after a citizen noticed seeing several people making multiple trips each day to and from their parked vehicles to the store, continuing these loops for several hours at a time.

It is not always this straight forward to catch looping. Looping can involve a single consumer, multiple consumers working together, inside collusion, and multiple stores. To manage the risk of looping, risk officers need to implement risk-based controls to keep their consumer sales locations safe from looping schemes and tactics.

How to Reduce Looping Risk

The risk officer should help the commercial cannabis business owners or executives craft a policy to prevent diversion. It is important for the owners or executives to set the tone and establish the company's intent to control diversion to enable the risk officer to effectively mitigate looping risks. The intention of the policy is to demonstrate to employees and vendors the reasonable efforts taken by the commercial cannabis business to control their points of diversion.

The risk officer should conduct a risk assessment that indicates the likely looping schemes to which the commercial cannabis business is exposed or may be exposed. For example, a customer base that routinely buys near the legal limit may increase the chance that loopers are hiding in legitimate transactions. Similarly, in judging geographic risk, being near a jurisdictional border may increase the likelihood that out-of-state loopers have access to a commercial cannabis business location. The risk assessment allows the risk officer to focus efforts on the most likely looping scenarios first and has the most effect on reducing overall looping risk.

Having identified the highest looping risks, the risk officer will then need to engage all staff to determine the control activities that will mitigate the inherent risks of looping identified in the risk assessment. Each commercial cannabis business will have a different looping risk profile, but there are standard controls across consumer sales that create a strong foundation. Creating a process for employees to raise looping concerns directly with the risk officer allows the commercial cannabis business to react quickly to poor controls or changes in their risk profile. Monitoring cannabis product transactions that are close to, or at the maximum purchase limit, throughout all locations is an effective means of identifying potential looping schemes.

To effectively manage looping risk, the risk officer should create reports that help management and the owners understand the effect of their work and present the results periodically. Standard reports should be created to assist management in understanding the scale and scope of looping risk. This should allow management to make appropriate risk-based decisions that consider this risk. For example, the level of looping risk at a commercial cannabis business may inform the extent of dual control expected at a store location.

A comprehensive risk program also includes risk-based training. Depending on the risk level of looping, the frequency of training may be more or less; however, it is common practice to have all consumer facing employees trained to spot consumers exhibiting suspicious behaviors. Risk-based training should include how to spot red flags of looping with a focus on the looping schemes that were identified as highest risk in the risk assessment. Training should also include how to report suspicious activity to the risk officer.

Conclusion

Looping will always be a risk for commercial cannabis businesses. To assure that anti-looping mitigation remains effective and efficient over time, the risk officer should consider periodic assurance activities. Some common assurance activities include hiring a secret shopper to visit store fronts to test controls, monitoring the number of suspected or confirmed looping attempts over time for increases, or conducting periodic audits of controls. These activities will assist the risk officer in balancing the cost of mitigation with the risk the business faces.

An effective risk-based approach to control looping will reduce the chances that a commercial cannabis business will be targeted by organized criminals attempting to divert product to the illicit market. A legal commercial cannabis business found complicit in looping could cause a loss of reputation or even loss of the commercial cannabis license. Not every looper can be stopped, but implementing an effective cannabis risk management framework can reduce the likelihood that a commercial cannabis business is found complicit in looping activity.

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