

# Intelligence MEMOS



From: Denis Meunier  
To: Canada's Financial Regulators and Policymakers  
Date: June 19, 2018  
Re: **LET'S MAKE SURE WE KNOW WHO RUNS CANADA'S NEW CANNABIS INDUSTRY**

---

Political expediency to enact *The Cannabis Act* may yet override the threat to public safety posed by organized crime's infiltration into the legalized cannabis industry.

Organized crime has already arrived, according to senior police officials, who also warn that the use of tax havens helps mask its involvement.

No one should assume that investments sourced from so-called tax havens are automatically illegal or tainted, however red flags should not be ignored either. How will the Canadian government ensure that due diligence is conducted on the beneficial ownership of the current and future cannabis licensees if it doesn't know who the beneficial owners or beneficiaries are and when law enforcement expresses such concerns? How will it know if the investments are not sourced from the proceeds of crime?

Two weeks ago, in response to these concerns, the Senate voted for several amendments to *The Cannabis Act*. One aimed to compel the public identification of the name of every holder of a cannabis production licence or permit, and any person who controls the organization, directly or indirectly. That amendment also set a 5 percent ownership threshold as one of the triggers to define whose name should be publicly disclosed.

But a week later the House of Commons rejected this amendment. The reason given was that the amendment would present significant operational challenges and privacy concerns.

The privacy argument can be challenged for both publicly traded corporations and privately held corporations based on a double standard.

Securities laws already require the public disclosure of information of "insiders," persons who hold 10 percent or more of the voting rights to a corporation. The purpose is to ensure transparency in securities transactions, combat insider trading and protect shareholders.

Privately held corporations and trusts are not required to publicly disclose, respectively, their beneficial owners, trustees, protectors (if any) or beneficiaries. Yet, privately held corporations and trusts are among the most vulnerable legal structures to abuse from money-laundering and terrorist financing as assessed in Canada's own 2015 [risk-assessment](#).

Some privately held corporations have argued that the introduction of the amendment to publicly disclose beneficial ownership singles out their industry. That is true and for good reason, given the threat posed by organized crime's infiltration of the industry.

The government has also not explained what operational challenges arise. If the 5 percent threshold on control/ownership recommended by the Senate is too stringent and causes a compliance burden, then revise it to 10 percent. There would be no change for the publicly traded corporations because they are already required to report at that threshold.

If the government cannot see the value in publicly disclosing the names of the owners/controllers of privately held corporations and those involved in trusts who produce and distribute cannabis, then the government should, at a minimum, aim to safeguard public safety and assist its various enforcement agencies by allowing the Minister to disclose that information to police, financial intelligence, tax and securities enforcement agencies. There is a threat to public safety now and ignoring it will only make it worse over time.

*Denis Meunier is an independent consultant specializing in anti-money laundering and compliance issues.*

*To send a comment or leave feedback, email us at [blog@cdhowe.org](mailto:blog@cdhowe.org).*

*The views expressed here are those of the author. The C.D. Howe Institute does not take corporate positions on policy matters.*