

Management Service Agreements (MSAs) & Financial Service Agreements (FSAs): What you need to know



MSAs and FSAs are agreements a cannabis business applicant may consider entering to assist with the management, operations, or financing of their prospective cannabis business. They can be beneficial, but they can also be used to skirt caps on licenses, conceal business ownership and controlling interests, and in the worst cases, to exploit inexperienced business owners.

The Cannabis Regulatory Commission's rules for recreational cannabis prohibit unfair and commercially unreasonable management services agreements and financial source agreements.

DO:

- Review the provisions in [NJAC 1730 Personal Use Cannabis.pdf](#) – particularly N.J.A.C. 17:30-6.9 (Management Services Agreements) and N.J.A.C. 17:30-6.10 (Financial Source Agreements).
- Have an attorney review agreements to determine whether the provisions of the proposed agreement are commercially reasonable and compliant with CRC's regulations.
- Conduct due your diligence on all potential management services contractors and financial sources.
- Ensure the agreement is bargained at arm's length – that each party acts independently, in their own self-interest without either party attempting to exert influence over the other.

DON'T:

- Agree to any management services agreement or financial agreement that has not been reviewed by your attorney.
- Agree to any provisions that could be considered unfair or unreasonable. Such provisions may include but are not limited to:
 - a. where the management contractor or financial source receives a greater percentage of profits than the license applicant or license holder;
 - b. where the interest rate for a loan associated with the agreement is deemed excessive, or over 20%;
 - c. where the cannabis business must guarantee excessive "shelf space" – over 50% -- for products of the financial source, management services contractor or an entity designated by the financial source or management services contractor;
 - d. where the cannabis business must promise to buy an excessive amount – over 50% -- of its products or materials from the management service contractor, financial source or an entity designated by the financial source or management services contractor, or has to promise not to purchase from other entities.
 - e. any non-compete clauses, or any clauses that grant complete control in decision-making to the management services contractor or financial source.