Chairman Winfield, Chairman Stafstrom, Ranking Member Kissel, Ranking Member Rebimbas and honorable members of the Judiciary Committee, thank you for the opportunity to submit written testimony in support of SB 16, An Act Concerning the Adult Use of Cannabis.

Since the legalization of marijuana for medical use, banking a controlled substance has presented challenges to the financial services industry. These challenges remain and without changes at the federal level, banking marijuana-related businesses (MRB) will be limited. For context, it may be good to provide some background to the committee on the intersection of MRB and financial services.

While the Controlled Substances Act ("CSA") makes it illegal under federal law to manufacture, distribute, or dispense marijuana, many states have legalized it in some form, including Connecticut. As you may be aware, under the Obama Administration U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the “Cole Memo”) to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the CSA, which provided some clarity. In 2018, then Attorney General Jeff Sessions rescinded the memo. However, during testimony at a Senate appropriations committee hearing in April of 2019, Acting Attorney General William Barr said that he has not given any internal guidance to the DOJ to address these difficult issues other than the general guidance that he is “accepting the Cole Memorandum for now.”

The Financial Crimes Enforcement Network (FinCEN) is the law enforcement agency of the Treasury Department responsible for establishing and implementing policies to detect money laundering and other financial crimes. FinCEN developed guidelines, relying on the Cole Memo, for regulated financial institutions providing clear and detailed compliance requirements for MRB activity. The Department requires institutions within its jurisdiction to have a strong Bank Secrecy Act/Anti-Money Laundering program in place; adhere to the guidance provided by FinCEN; and have an exit plan should the federal position change. Ultimately, the decision to bank MRBs lies with each financial institution. Through their board of directors, institutions must weigh, among other factors, the risk, costs, and their ability to adhere to the regulatory guidance governing this activity. The Department stands ready to assist institutions engaged or
considering engaging in MRB activity, and there are financial institutions today in Connecticut that offer banking services to MRBs.

Additionally, the Department stands ready and able to fulfill the requirements under Section 37 of this legislation. These requirements include the making of recommendations regarding facilitation of electronic transactions within the industry and access to depository banking by the industry. We thank Governor Lamont for recognizing the importance of the banking sector to the functioning of the market for adult use cannabis.

The Department supports efforts at the federal level to clarify or change the law as it relates to the classification of marijuana as a controlled substance. Singly, this is the greatest obstacle financial institutions face when considering providing financial services to MRBs.