

## Cannabis



MAY 1, 2024

## DEA to Move to Reclassify Cannabis to Schedule III

After years of speculation, the Associated Press (“AP”) announced yesterday that the U.S. Drug Enforcement Administration (“DEA”) will move to reclassify cannabis from a Schedule I to a Schedule III substance under the Controlled Substances Act, as confirmed by anonymous sources familiar with the DEA’s regulatory review of marijuana. This pivotal move would mark a significant shift in the landscape of drug policy and would bring promising implications for the cannabis industry.

The White House Office of Management and Budget (“OMB”) must first review the proposal for reclassification. Following OMB’s approval, the DEA will take public comment prior to publishing a final rule. Regulatory frameworks will need to be established, as rescheduling changes will need to make their way through bureaucratic processes. However, immediate impacts of the announcement can already be seen. Many cannabis stocks surged on Tuesday, with some major players seeing their stocks rise as much as 37 percent.

The shift to Schedule III would be welcomed with open arms by the burgeoning but stifled cannabis industry, as many struggling businesses and operators would benefit greatly from the regulatory shift. Reclassification would relieve cannabis operators from being subject to the burdensome tax implications of Section 280E of the Internal Revenue Code, which forbids cannabis businesses from deducting otherwise ordinary expenses from gross income associated with the “trafficking” of Schedule I or II substances. Rescheduling will also likely allow an operator to uplist their stock from the OTC markets to the U.S. stock exchanges, which would open the capital floodgates for some of the larger multi-state operators. Additionally, credit card processors, banks, and financial institutions will be less averse to doing business with cannabis companies, which could result in easier and more commercially reasonable access to credit and capital.

The DEA’s decision to reclassify cannabis from Schedule I to Schedule III is undoubtedly a watershed moment in the history of drug policy in the United States. Rescheduling would reflect a growing acknowledgment of the medical utility of cannabis and recognition that cannabis has less potential for abuse than other scheduled drugs under the Controlled Substances Act. This shift would represent a significant milestone for the cannabis industry, as new regulations would reshape the cannabis market.

For more information or assistance, contact [Frank A. Segall](#), [Scott H. Moskol](#), [Marc A. Polito](#), or another member of Blank Rome’s [Cannabis practice](#).

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As of May 1, 2024, Blank Rome is proud to welcome Frank A. Segall and Scott H. Moskol as the national co-chairs of its Cannabis practice, along with the entire Cannabis team and stellar clients. Frank and Scott are nationally recognized pioneers and trailblazers in the cannabis industry and founders of their prior firm’s Cannabis Business Advisory Group, which was recently recognized as *Law360’s* 2023 Cannabis Practice Group of the Year. Read more about this group joining Blank Rome in our [press release](#).