

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PERLMUTTER (for himself, Mr. HECK, Mr. STIVERS, and Mr. DAVIDSON of Ohio) introduced the following bill; which was referred to the Committee on _____

A BILL

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure And Fair En-
5 forcement Banking Act of 2019” or the “SAFE Banking
6 Act of 2019”.

7 **SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

8 A Federal banking regulator may not—

1 (1) terminate or limit the deposit insur-
2 ance or share insurance of a depository institu-
3 tion under the Federal Deposit Insurance Act
4 (12 U.S.C. 1811 et seq.) or the Federal Credit
5 Union Act (12 U.S.C. 1751 et seq.) solely be-
6 cause the depository institution provides or has
7 provided financial services to a cannabis-related
8 legitimate business;

9 (2) prohibit, penalize, or otherwise discour-
10 age a depository institution from providing fi-
11 nancial services to a cannabis-related legitimate
12 business or to a State, political subdivision of a
13 State, or Indian Tribe that exercises jurisdic-
14 tion over cannabis-related legitimate businesses;

15 (3) recommend, incentivize, or encourage a
16 depository institution not to offer financial serv-
17 ices to an account holder, or to downgrade or
18 cancel the financial services offered to an ac-
19 count holder solely because—

20 (A) the account holder is a manufac-
21 turer or producer, or is the owner, oper-
22 ator, or employee of a cannabis-related le-
23 gitimate business;

1 (B) the account holder later becomes
2 an owner or operator of a cannabis-related
3 legitimate business; or

4 (C) the depository institution was not
5 aware that the account holder is the owner
6 or operator of a cannabis-related legitimate
7 business; and

8 (4) take any adverse or corrective super-
9 visory action on a loan made to an owner or op-
10 erator of—

11 (A) a cannabis-related legitimate busi-
12 ness, solely because the owner or operator
13 owns or operates a cannabis-related legiti-
14 mate business; or

15 (B) real estate or equipment that is
16 leased to a cannabis-related legitimate
17 business, solely because the owner or oper-
18 ator of the real estate or equipment leased
19 the equipment or real estate to a cannabis-
20 related legitimate business.

21 **SEC. 3. TREATMENT OF PROCEEDS UNDER FEDERAL LAW.**

22 For purposes sections 1956 and 1957 of title 18,
23 United States Code, and all other provisions of Federal
24 law, the proceeds from a transaction conducted by a can-
25 nabis-related legitimate business shall not be considered

1 as proceeds from an unlawful activity solely because the
2 transaction was conducted by a cannabis-related legiti-
3 mate business.

4 **SEC. 4. PROTECTIONS UNDER FEDERAL LAW.**

5 (a) IN GENERAL.—In a State, political subdivision of
6 a State, or Indian country that allows the cultivation, pro-
7 duction, manufacture, sale, transportation, display, dis-
8 pensing, distribution, or purchase of cannabis pursuant to
9 a law or regulation of such State, political subdivision, or
10 Indian Tribe that has jurisdiction over the Indian country,
11 as applicable, a depository institution that provides finan-
12 cial services to a cannabis-related legitimate business, and
13 the officers, directors, and employees of that depository
14 institution may not be held liable pursuant to any Federal
15 law or regulation—

16 (1) solely for providing such financial services
17 pursuant to the law or regulation of such State, po-
18 litical subdivision, or Indian Tribe; or

19 (2) for further investing any income derived
20 from such financial services.

21 (b) FORFEITURE.—A depository institution that has
22 a legal interest in the collateral for a loan or another fi-
23 nancial service provided to an owner or operator of a can-
24 nabis-related legitimate business, or to an owner or oper-
25 ator of real estate or equipment that is leased or sold to

1 a cannabis-related legitimate business, shall not be subject
2 to criminal, civil, or administrative forfeiture of that legal
3 interest pursuant to any Federal law for providing such
4 loan or other financial service.

5 **SEC. 5. RULE OF CONSTRUCTION.**

6 Nothing in this Act shall require a depository institu-
7 tion to provide financial services to a cannabis-related le-
8 gitimate business.

9 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
10 **REPORTS.**

11 Section 5318(g) of title 31, United States Code, is
12 amended by adding at the end the following:

13 “(5) REQUIREMENTS FOR CANNABIS-RELATED
14 LEGITIMATE BUSINESSES.—

15 “(A) IN GENERAL.—With respect to a fi-
16 nancial institution or any director, officer, em-
17 ployee, or agent of a financial institution that
18 reports a suspicious transaction pursuant to
19 this subsection, if the reason for the report re-
20 lates to a cannabis-related legitimate business,
21 the report shall comply with appropriate guid-
22 ance issued by the Financial Crimes Enforce-
23 ment Network. The Secretary shall ensure that
24 the guidance is consistent with the purpose and
25 intent of the SAFE Banking Act of 2019 and

1 does not inhibit the provision of financial serv-
2 ices to a cannabis-related legitimate business in
3 a State, political subdivision of a State, or In-
4 dian country that has allowed the cultivation,
5 production, manufacture, transportation, dis-
6 play, dispensing, distribution, sale, or purchase
7 of cannabis pursuant to law or regulation of
8 such State, political subdivision, or Indian
9 Tribe that has jurisdiction over the Indian
10 country.

11 “(B) DEFINITIONS.—For purposes of this
12 paragraph:

13 “(i) CANNABIS.—The term ‘cannabis’
14 has the meaning given the term ‘mari-
15 huana’ in section 102 of the Controlled
16 Substances Act (21 U.S.C. 802).

17 “(ii) CANNABIS-RELATED LEGITIMATE
18 BUSINESS.—The term he term ‘cannabis-
19 related legitimate business’ has the mean-
20 ing given that term in section 8of the
21 SAFE Banking Act of 2019.

22 “(iii) INDIAN COUNTRY.—The term
23 ‘Indian country’ has the meaning given
24 that term in section 1151 of title 18.

1 “(iv) INDIAN TRIBE.—The term ‘In-
2 dian Tribe’ has the meaning given that
3 term in section 102 of the Federally Rec-
4 ognized Indian Tribe List Act of 1994 (25
5 U.S.C. 479a).

6 “(v) FINANCIAL SERVICE.—The term
7 ‘financial service’ means a financial prod-
8 uct or service as defined in section 1002 of
9 the Dodd-Frank Wall Street Reform and
10 Consumer Protection Act (12 U.S.C.
11 5481).”.

12 **SEC. 7. GUIDANCE AND EXAMINATION PROCEDURES.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of enactment of this Act, the Financial Institutions
15 Examination Council shall develop uniform guidance and
16 examination procedures for depository institutions that
17 provide financial services to cannabis-related legitimate
18 businesses.

19 (b) ISSUANCE BY FEDERAL BANKING REGU-
20 LATORS.—The Federal banking regulators shall each issue
21 guidance and examination procedures for depository insti-
22 tutions that provide financial services to cannabis-related
23 legitimate businesses that are consistent with the uniform
24 guidance and examination procedures developed under
25 subsection (a).

1 **SEC. 8. DEFINITIONS.**

2 In this Act:

3 (1) CANNABIS.—The term “cannabis” has the
4 meaning given the term “marihuana” in section 102
5 of the Controlled Substances Act (21 U.S.C. 802).

6 (2) CANNABIS PRODUCT.—The term “cannabis
7 product” means any article which contains cannabis,
8 including an article which is a concentrate, an edi-
9 ble, a tincture, a cannabis-infused product, or a top-
10 ical.

11 (3) CANNABIS-RELATED LEGITIMATE BUSI-
12 NESS.—The term “cannabis-related legitimate busi-
13 ness” means a manufacturer, producer, or any per-
14 son or company that—

15 (A) engages in any activity described in
16 subparagraph (B) pursuant to a law established
17 by a State or a political subdivision of a State;
18 and

19 (B)(i) participates in any business or orga-
20 nized activity that involves handling cannabis or
21 cannabis products, including cultivating, pro-
22 ducing, manufacturing, selling, transporting,
23 displaying, dispensing, distributing, or pur-
24 chasing cannabis or cannabis products or dis-
25 tributing or deriving any proceeds, directly or

1 indirectly, from cannabis or cannabis products;

2 or

3 (ii) provides—

4 (I) any financial service, including re-
5 tirement plans or exchange traded funds,
6 relating to cannabis; or

7 (II) any business services, including
8 the sale or lease of real or any other prop-
9 erty, legal or other licensed services, or any
10 other ancillary service, relating to can-
11 nabis.

12 (4) DEPOSITORY INSTITUTION.—The term “de-
13 pository institution” means—

14 (A) a depository institution as defined in
15 section 3(c) of the Federal Deposit Insurance
16 Act (12 U.S.C. 1813(c));

17 (B) a Federal credit union as defined in
18 section 101 of the Federal Credit Union Act
19 (12 U.S.C. 1752); or

20 (C) a State credit union as defined in sec-
21 tion 101 of the Federal Credit Union Act (12
22 U.S.C. 1752).

23 (5) FEDERAL BANKING REGULATOR.—The
24 term “Federal banking regulator” means each of the
25 Board of Governors of the Federal Reserve System,

1 the Bureau of Consumer Financial Protection, the
2 Federal Deposit Insurance Corporation, the Office of
3 the Comptroller of the Currency, the National Credit
4 Union Administration, or any Federal agency or de-
5 partment that regulates banking or financial serv-
6 ices, as determined by the Secretary of the Treas-
7 ury.

8 (6) FINANCIAL SERVICE.—The term “financial
9 service” means a financial product or service as de-
10 fined in section 1002 of the Dodd-Frank Wall Street
11 Reform and Consumer Protection Act (12 U.S.C.
12 5481).

13 (7) INDIAN COUNTRY.—The term “Indian coun-
14 try” has the meaning given that term in section
15 1151 of title 18.

16 (8) INDIAN TRIBE.—The term “Indian Tribe”
17 has the meaning given that term in section 102 of
18 the Federally Recognized Indian Tribe List Act of
19 1994 (25 U.S.C. 479a).

20 (9) MANUFACTURER.—The term “manufac-
21 turer” means a person who manufactures, com-
22 pounds, converts, processes, prepares, or packages
23 cannabis or cannabis products.

1 (10) PRODUCER.—The term “producer” means
2 a person who plants, cultivates, harvests, or in any
3 way facilitates the natural growth of cannabis.

4 (11) STATE.—The term “State” means each of
5 the several States, the District of Columbia, Puerto
6 Rico, and any territory or possession of the United
7 States.