



Asociación  
de Bancos de  
Puerto Rico

## **Aspectos Bancarios y el Cannabis Medicinal**

Lcda. Zoimé Alvarez Rubio  
Vicepresidenta Ejecutiva

# Cannabis and Banking

---



- ▶ **Banks face challenges when offering banking services to marijuana-related businesses.**
  - ▶ Despite changes to state laws, federal law still makes the possession and distribution of marijuana illegal.
  - ▶ Banks are required to abide by federal law. Because federal law still criminalizes the possession or distribution of marijuana, offering banking services to marijuana-related businesses means banks run the risk of being accused of money laundering.
  - ▶ The growing number of states that allow the sale and use of marijuana raises practical and safety issues that must be addressed.

# Cannabis and Banking

---



- ▶ The time has come for Congress and the regulatory agencies to provide greater legal clarity to banks operating in states where marijuana has been legalized for medical or adult use.

# Example: Letter to the Congress



September 19, 2019

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

On behalf of the undersigned state bankers associations, representing banks throughout the country, we write to express our support for H.R. 1595, the Secure and Fair Enforcement (SAFE) Banking Act of 2019, which will soon be considered before the House of Representatives.

Since 1996, 33 states comprising 68 percent of the nation's population have legalized cannabis for medical or adult use, and that number is only expected to grow. Despite this ever-growing voter preference, current federal law continues to prevent banks from offering products and services to these businesses without fear of federal sanctions. Inevitably, leaving the cannabis industry unbanked presents serious public safety, revenue administration, and legal compliance concerns and must be remedied immediately.

As a result of the federal prohibition and lack of regulatory clarity, legal cannabis businesses must operate on an all-cash basis, subjecting their employees and the general public to serious risk of criminal activity and harm. These businesses also must remit payments for state taxes and licensing fees in cash, denying the states the efficiencies and safety of more modern payment methods. This in turn significantly increases state compliance auditing costs, since operating on an all-cash basis leaves no paper trails for auditors to follow.

The impact on local economies is also significant. As the cannabis industry continues to grow in states where it is legal, unrelated businesses that provide products and services to the industry also become ensnared in the problem. Because revenue paid to them by cannabis businesses can be considered monies derived from illegal activities, and financial institutions that bank the unrelated businesses can be accused of violating anti-money laundering laws. If banks are forced to discontinue relationships with these unrelated businesses, a significant portion of the economy in states where cannabis is legal will be cut off from the regulated banking system.

Although we do not take a position on the legalization of marijuana, our members are committed to serving the financial needs of their communities – including those that have voted to legalize cannabis. That is why we support H.R. 1595. This is fair and balanced legislation that will permit depository institutions to serve the needs of their customers in states where cannabis is legal. The bill provides a mechanism for the cannabis industry and its service providers to deposit their cash in regulated financial institutions, which allows banks to meet the needs of their communities and helps those communities reduce cash-motivated crimes, increase the efficiency of tax collections, and improve the financial transparency of the cannabis industry.

We urge you to support H.R. 1595 when this legislation comes before the House.

Sincerely,

Alabama Bankers Association  
Alaska Bankers Association  
Arizona Bankers Association  
Arkansas Bankers Association  
California Bankers Association  
Colorado Bankers Association  
Connecticut Bankers Association  
Delaware Bankers Association  
Florida Bankers Association  
Georgia Bankers Association  
Hawaii Bankers Association  
Idaho Bankers Association  
Illinois Bankers Association  
Indiana Bankers Association  
Iowa Bankers Association  
Kansas Bankers Association  
Louisiana Bankers Association  
Maine Bankers Association  
Maryland Bankers Association  
Massachusetts Bankers Association  
Michigan Bankers Association  
Minnesota Bankers Association  
Mississippi Bankers Association  
Missouri Bankers Association  
Montana Bankers Association  
Nebraska Bankers Association  
Nevada Bankers Association  
New Hampshire Bankers Association  
New Jersey Bankers Association  
New Mexico Bankers Association  
New York Bankers Association  
North Carolina Bankers Association  
North Dakota Bankers Association  
Ohio Bankers League  
Oklahoma Bankers Association  
Oregon Bankers Association  
Pennsylvania Bankers Association  
Puerto Rico Bankers Association  
Rhode Island Bankers Association  
South Carolina Bankers Association  
South Dakota Bankers Association  
Tennessee Bankers Association

Texas Bankers Association  
Utah Bankers Association  
Vermont Bankers Association  
Virginia Bankers Association  
Washington Bankers Association  
West Virginia Bankers Association  
Wisconsin Bankers Association  
Wyoming Bankers Association

cc: Members of the U.S. House of Representatives



116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1595

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

---

## AN ACT

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses and service providers for such 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,*

# Regulatory Guidance

---



- ▶ To date, there has been limited guidance from the federal banking regulators on serving hemp related businesses.
- ▶ In a presentation on October 10, the FDIC reminded bankers to consider the risks, BSA requirements and the possible need to consult qualified legal counsel:  
<https://www.fdic.gov/communitybanking/2019/2019-10-10-supervision-part-ii.pdf>



# FDIC Presentation:

## Onboarding and Maintaining Hemp Customers



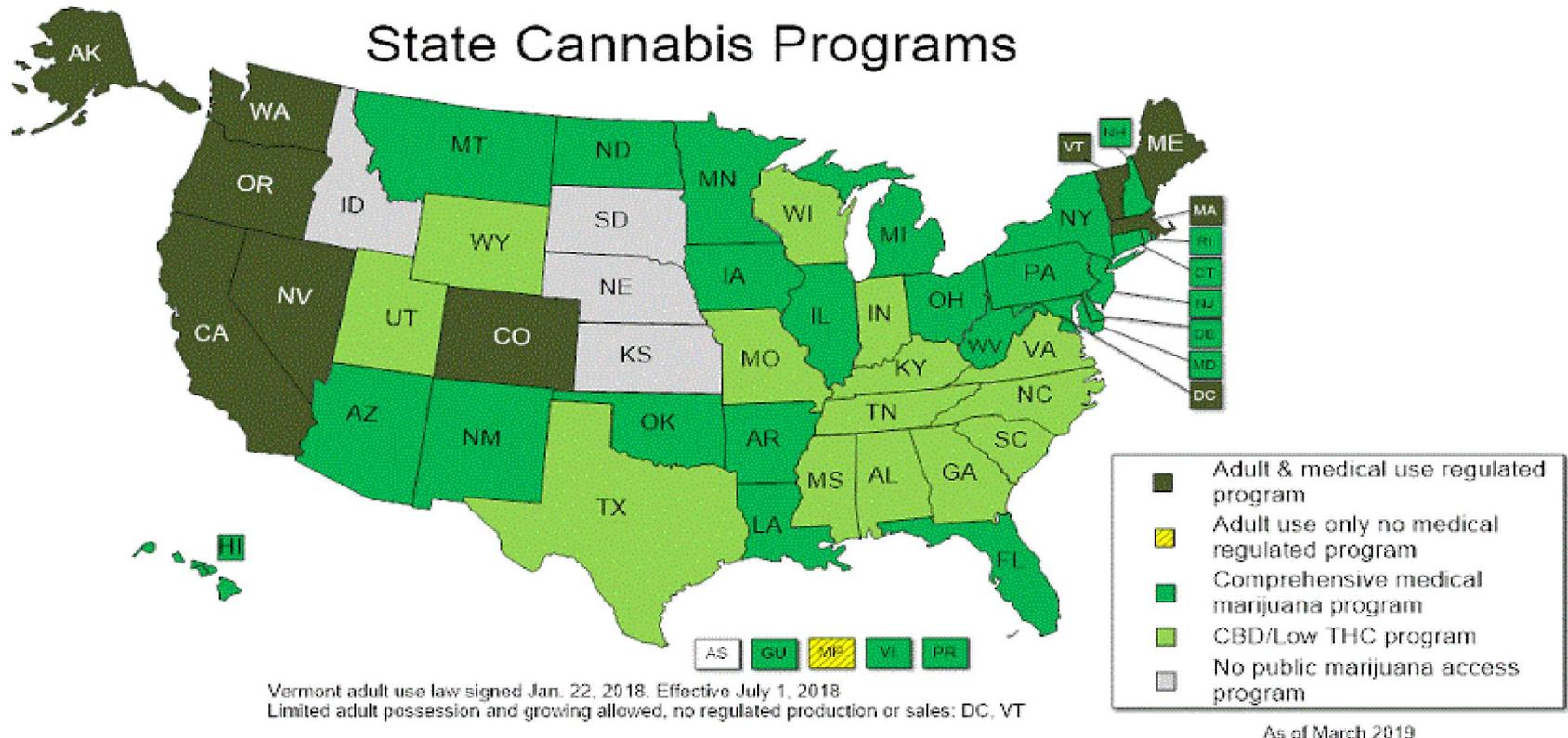
- ▶ Depository institutions providing, or planning to provide, services to hemp customers may wish to consult qualified legal counsel.
- ▶ Obligations include suspicious activity monitoring and reporting (as appropriate) as well as risk-based customer due diligence for all customer relationships including participants in the hemp industry.
- ▶ Depository institutions are required to establish reasonably designed procedures to ensure compliance with Bank Secrecy Act/Anti-Money laundering regulations.



# FDIC Presentation: Landscape of Cannabis Industry



- Marijuana/Cannabis is still illegal under federal law.



- FinCEN's 2014 guidance, **BSA Expectations Regarding Marijuana-Related Businesses**, is applicable.

# Conclusion



- ▶ Since Congress has classified marijuana as a dangerous narcotic, only Congress can change that status and well-intentioned regulatory guidance does not change federal statutory law.
- ▶ Financial institutions face significant risk for violating federal law, including a possible loss of charter.
- ▶ All banks are subject to federal law, whether the bank is a national bank or state-chartered bank. At a minimum, all banks maintain federal deposit insurance which requires adherence to federal law. And, all banks must have access to the payment system which also is subject to federal jurisdiction. Violation of federal law could subject a bank to loss of its charter.

