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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. PERLMUTTER (for himself, Mr. HECK, Mr. STIVERS, Mr. DAVIDSON of Ohio, Mr. AGUILAR, Ms. BARRAGÁN, Mr. BEYER, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BROWN of Maryland, Ms. BROWNLEY of California, Mr. CARRAJAL, Mr. CÁRDENAS, Mr. CARTWRIGHT, Ms. CASTOR of Florida, Mr. CICILLINE, Mr. CISNEROS, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. COHEN, Mr. COOPER, Mr. CORREA, Mr. COURTNEY, Mr. COX of California, Mr. CRIST, Mr. CROW, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. DEGETTE, Ms. DELAUCRO, Ms. DELBENE, Mr. DESaulnier, Ms. ESHOO, Mr. ESPAILLAT, Mr. FOSTER, Ms. FUDGE, Ms. GABBARD, Mr. GALLEGO, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. GONZALEZ of Texas, Mr. HASTINGS, Ms. HILL of California, Mr. HORSFORD, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Mr. KIANNA, Mr. KILMER, Mrs. KIRKPATRICK, Mr. KRISHNAMOORTHI, Mr. LAWSON of Florida, Ms. LEE of California, Mrs. LEE of Nevada, Mr. LEVIN of Michigan, Mr. LEVIN of California, Mr. TED LIEU of California, Mr. LUJÁN, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MEEKS, Mr. NEGUSE, Ms. NORTON, Mr. PANETTA, Mr. PAPPAS, Ms. PINGREE, Ms. PORTER, Mr. QUIGLEY, Mr. RASKIN, Mr. RUSH, Mr. RYAN, Mr. Rouda, Ms. SHAKowsky, Mr. SCHRADER, Mr. SHERMAN, Mr. SHERES, Mr. SMITH of Washington, Mr. SOTO, Ms. SPEIER, Mr. Swalwell of California, Ms. TITUS, Mrs. TORRES of California, Mr. VARGAS, Ms. Velázquez, Mrs. Watson Coleman, Mr. WELCH, Ms. WILD, Mr. YARMUTH, Mr. RODNEY DAVIS of Illinois, Mr. HUNTER, Mr. JOYCE of Ohio, Mr. NEWHOUSE, Mr. YOUNG, Mr. HIMES, Mr. LOEBsACK, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. CAROLYN B. MALoney of New York, Mr. SEAN Patrick MALoney of New York, Mr.
Takano, Mr. Thompson of California, Mr. Gaetz, Mr. Riggleman, Mr. David Scott of Georgia, Ms. Waters, and Ms. Schrier) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

June 5, 2019

Additional sponsors: Mr. Amodei, Mr. Balderson, Mr. Pocan, Mr. Connolly, Mr. McClintock, Mr. Bera, Mr. Pascrell, Mr. Larson of Connecticut, Mr. Peters, Mr. Stanton, Mr. Larsen of Washington, Ms. Sánchez, Mr. Grijalva, Mr. Harder of California, Mr. San Nicolas, Mr. Higgins of New York, Mr. Golden, Mr. Case, Ms. Meng, Mr. Castro of Texas, Mr. Moulton, Ms. Dean, Ms. Haaland, Mr. Evans, Ms. Kuster of New Hampshire, Mr. Kildee, Mr. Nadler, Mr. Ruiz, Mr. Neal, Ms. Pressley, Mr. Lamb, Ms. Slotkin, Mr. Deutch, Mr. Michael F. Doyle of Pennsylvania, Mr. Clay, Ms. Stevens, Ms. Wexton, Ms. Scanlon, Ms. Bass, Mrs. Murphy, Mrs. Lawrence, Ms. Sherrill, Mrs. Bustos, Mr. Mcnerney, Mrs. Luria, Mr. Brindisi, Mr. Steube, Mr. Trone, Mr. Massie, Mr. Reschenthaler, Mr. Norcross, Mr. Upton, Mr. Sarbanes, Mr. Banks, Ms. Finkenauer, Mrs. Dingell, Ms. Traib, Ms. Davids of Kansas, Mr. Meuser, Mr. Malinowski, Mr. Armstrong, Mr. Vela, Mr. Bishop of Georgia, Mr. Gibbs, Ms. Moore, Mrs. Axne, Mr. Delgado, Ms. Torres Small of New Mexico, Ms. Kendra S. Horn of Oklahoma, Mr. Van Drew, Ms. Blunt Rochester, Ms. Spanberger, Ms. Houlahan, Mr. Kennedy, Ms. Underwood, Mr. Jeffries, Mr. Comer, Mr. Garamendi, Miss González-Colón of Puerto Rico, Mr. Tonko, Mr. Bacon, Mr. Payne, Mr. Thompson of Mississippi, Ms. Mucarsel-Powell, Mr. Schiff, Ms. Shalala, Ms. Judy Chu of California, Ms. Roybal-Allard, Ms. Escobar, Ms. Adams, Ms. Frankel, Mr. Casten of Illinois, Mr. Graves of Georgia, Mr. Collins of New York, Mr. Gonzalez of Ohio, Mr. Morelle, Mr. Cleaver, and Mr. Costa
JUNE 5, 2019
Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 5, 2019
Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 7, 2019]
A BILL

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

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the “Se-
cure And Fair Enforcement Banking Act of 2019” or the
“SAFE Banking Act of 2019”.

(b) PURPOSE.—The purpose of this Act is to increase
public safety by ensuring access to financial services to can-
nabis-related legitimate businesses and service providers
and reducing the amount of cash at such businesses.

SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—A Federal banking regulator may
not—

(1) terminate or limit the deposit insurance
or share insurance of a depository institution
under the Federal Deposit Insurance Act (12
U.S.C. 1811 et seq.), the Federal Credit Union
Act (12 U.S.C. 1751 et seq.), or take any other
adverse action against a depository institution
under section 8 of the Federal Deposit Insurance
Act (12 U.S.C. 1818) solely because the deposi-
tory institution provides or has provided finan-
cial services to a cannabis-related legitimate
business or service provider;
(2) prohibit, penalize, or otherwise discourage a depository institution from providing financial services to a cannabis-related legitimate business or service provider or to a State, political subdivision of a State, or Indian Tribe that exercises jurisdiction over cannabis-related legitimate businesses;

(3) recommend, incentivize, or encourage a depository institution not to offer financial services to an account holder, or to downgrade or cancel the financial services offered to an account holder solely because—

(A) the account holder is a cannabis-related legitimate business or service provider, or is an employee, owner, or operator of a cannabis-related legitimate business or service provider;

(B) the account holder later becomes an employee, owner, or operator of a cannabis-related legitimate business or service provider; or

(C) the depository institution was not aware that the account holder is an employee, owner, or operator of a cannabis-related legitimate business or service provider;
(4) take any adverse or corrective supervisory action on a loan made to—

(A) a cannabis-related legitimate business or service provider, solely because the business is a cannabis-related legitimate business or service provider;

(B) an employee, owner, or operator of a cannabis-related legitimate business or service provider, solely because the employee, owner, or operator is employed by, owns, or operates a cannabis-related legitimate business or service provider, as applicable; or

(C) an owner or operator of real estate or equipment that is leased to a cannabis-related legitimate business or service provider, solely because the owner or operator of the real estate or equipment leased the equipment or real estate to a cannabis-related legitimate business or service provider, as applicable; or

(5) prohibit or penalize a depository institution (or entity performing a financial service for or in association with a depository institution) for, or otherwise discourage a depository
institutions (or entity performing a financial service for or in association with a depository institution) from, engaging in a financial service for a cannabis-related legitimate business or service provider.

(b) SAFE HARBOR APPLICABLE TO DE NOVO INSTITUTIONS.—Subsection (a) shall apply to an institution applying for a depository institution charter to the same extent as such subsection applies to a depository institution.

SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.

For purposes of sections 1956 and 1957 of title 18, United States Code, and all other provisions of Federal law, the proceeds from a transaction conducted by a cannabis-related legitimate business or service provider shall not be considered as proceeds from an unlawful activity solely because the transaction was conducted by a cannabis-related legitimate business or service provider, as applicable.

SEC. 4. PROTECTIONS UNDER FEDERAL LAW.

(a) IN GENERAL.—With respect to providing a financial service to a cannabis-related legitimate business or service provider within a State, political subdivision of a State, or Indian country that allows the cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase of cannabis pursuant to a law or regulation of such State, political subdivision, or
Indian Tribe that has jurisdiction over the Indian country, as applicable, a depository institution, entity performing a financial service for or in association with a depository institution, or insurer that provides a financial service to a cannabis-related legitimate business or service provider, and the officers, directors, and employees of that depository institution, entity, or insurer may not be held liable pursuant to any Federal law or regulation—

(1) solely for providing such a financial service;

or

(2) for further investing any income derived from such a financial service.

(b) Protections for Federal Reserve Banks.— With respect to providing a service to a depository institution that provides a financial service to a cannabis-related legitimate business or service provider (where such financial service is provided within a State, political subdivision of a State, or Indian country that allows the cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase of cannabis pursuant to a law or regulation of such State, political subdivision, or Indian Tribe that has jurisdiction over the Indian country, as applicable), a Federal reserve bank, and the officers, directors, and employees of the Federal reserve bank, may not be held liable pursuant to any Federal law or regulation—
(1) solely for providing such a service; or

(2) for further investing any income derived
from such a service.

(c) FORFEITURE.—

(1) DEPOSITORY INSTITUTIONS.—A depository
institution that has a legal interest in the collateral
for a loan or another financial service provided to an
owner, employee, or operator of a cannabis-related le-
gitimate business or service provider, or to an owner
or operator of real estate or equipment that is leased
or sold to a cannabis-related legitimate business or
service provider, shall not be subject to criminal, civil,
or administrative forfeiture of that legal interest pur-
suant to any Federal law for providing such loan or
other financial service.

(2) FEDERAL RESERVE BANKS.—A Federal re-
serve bank that has a legal interest in the collateral
for a loan or another financial service provided to an
owner, employee, or operator of a depository institu-
tion that provides a financial services to a cannabis-
related legitimate business or service provider, or to
an owner or operator of real estate or equipment that
is leased or sold to such a depository institution, shall
not be subject to criminal, civil, or administrative
forfeiture of that legal interest pursuant to any Fed-
eral law for providing such loan or other financial service.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act shall require a depository institution, entity performing a financial service for or in association with a depository institution, or insurer to provide financial services to a cannabis-related legitimate business or service provider.

SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY REPORTS.

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

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

“(A) IN GENERAL.—With respect to a financial institution or any director, officer, employee, or agent of a financial institution that reports a suspicious transaction pursuant to this subsection, if the reason for the report relates to a cannabis-related legitimate business or service provider, the report shall comply with appropriate guidance issued by the Financial Crimes Enforcement Network. The Secretary shall ensure that the guidance is consistent with the purpose and intent of the SAFE Banking Act of 2019
and does not significantly inhibit the provision of financial services to a cannabis-related legitimate business or service provider in a State, political subdivision of a State, or Indian country that has allowed the cultivation, production, manufacture, transportation, display, dispensing, distribution, sale, or purchase of cannabis pursuant to law or regulation of such State, political subdivision, or Indian Tribe that has jurisdiction over the Indian country.

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

“(i) CANNABIS.—The term ‘cannabis’ has the meaning given the term ‘marihuana’ in section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(ii) CANNABIS-RELATED LEGITIMATE BUSINESS.—The term ‘cannabis-related legitimate business’ has the meaning given that term in section 11 of the SAFE Banking Act of 2019.

“(iii) INDIAN COUNTRY.—The term ‘Indian country’ has the meaning given that term in section 1151 of title 18.
“(iv) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

“(v) FINANCIAL SERVICE.—The term ‘financial service’ has the meaning given that term in section 11 of the SAFE Banking Act of 2019.

“(vi) SERVICE PROVIDER.—The term ‘service provider’ has the meaning given that term in section 11 of the SAFE Banking Act of 2019.

“(vii) STATE.—The term ‘State’ means each of the several States, the District of Columbia, Puerto Rico, and any territory or possession of the United States.”.

SEC. 7. GUIDANCE AND EXAMINATION PROCEDURES.

Not later than 180 days after the date of enactment of this Act, the Financial Institutions Examination Council shall develop uniform guidance and examination procedures for depository institutions that provide financial services to cannabis-related legitimate businesses and service providers.
SEC. 8. ANNUAL DIVERSITY AND INCLUSION REPORT.

The Federal banking regulators shall issue an annual report to Congress containing—

(1) information and data on the availability of access to financial services for minority-owned and women-owned cannabis-related legitimate businesses; and

(2) any regulatory or legislative recommendations for expanding access to financial services for minority-owned and women-owned cannabis-related legitimate businesses.

SEC. 9. GAO STUDY ON DIVERSITY AND INCLUSION.

(a) STUDY.—The Comptroller General of the United States shall carry out a study on the barriers to marketplace entry, including in the licensing process, and the access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.

(b) REPORT.—The Comptroller General shall issue a report to the Congress—

(1) containing all findings and determinations made in carrying out the study required under subsection (a); and

(2) containing any regulatory or legislative recommendations for removing barriers to marketplace entry, including in the licensing process, and expand-
ing access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.

SEC. 10. GAO STUDY ON EFFECTIVENESS OF CERTAIN REPORTS ON FINDING CERTAIN PERSONS.

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall carry out a study on the effectiveness of reports on suspicious transactions filed pursuant to section 5318(g) of title 31, United States Code, at finding individuals or organizations suspected or known to be engaged with transnational criminal organizations and whether any such engagement exists in a State, political subdivision, or Indian Tribe that has jurisdiction over Indian country that allows the cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase of cannabis. The study shall examine reports on suspicious transactions as follows:

(1) During the period of 2014 until the date of the enactment of this Act, reports relating to marijuana-related businesses.

(2) During the 1-year period after date of the enactment of this Act, reports relating to cannabis-related legitimate businesses.
SEC. 11. DEFINITIONS.

In this Act:

(1) BUSINESS OF INSURANCE.—The term “business of insurance” has the meaning given such term in section 1002 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481).

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

(3) CANNABIS PRODUCT.—The term “cannabis product” means any article which contains cannabis, including an article which is a concentrate, an edible, a tincture, a cannabis-infused product, or a topical.

(4) CANNABIS-RELATED LEGITIMATE BUSINESS.—The term “cannabis-related legitimate business” means a manufacturer, producer, or any person or company that—

(A) engages in any activity described in subparagraph (B) pursuant to a law established by a State or a political subdivision of a State, as determined by such State or political subdivision; and

(B) participates in any business or organized activity that involves handling cannabis or cannabis products, including cultivating, producing, manufacturing, selling, transporting,
displaying, dispensing, distributing, or pur-
chasing cannabis or cannabis products.

(5) DEPOSITORY INSTITUTION.—The term “de-
pository institution” means—

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

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

(C) a State credit union as defined in sec-
ction 101 of the Federal Credit Union Act (12

(6) FEDERAL BANKING REGULATOR.—The term
“Federal banking regulator” means each of the Board
of Governors of the Federal Reserve System, the Bu-
reau of Consumer Financial Protection, the Federal
Deposit Insurance Corporation, the Financial Crimes
Enforcement Network, the Office of Foreign Asset
Control, the Office of the Comptroller of the Currency,
the National Credit Union Administration, the De-
partment of the Treasury, or any Federal agency or
department that regulates banking or financial serv-
ices, as determined by the Secretary of the Treasury.
(7) FINANCIAL SERVICE.—The term “financial service”—

(A) means a financial product or service, as defined in section 1002 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481);

(B) includes the business of insurance;

(C) includes, whether performed directly or indirectly, the authorizing, processing, clearing, settling, billing, transferring for deposit, transmitting, delivering, instructing to be delivered, reconciling, collecting, or otherwise effectuating or facilitating of payments or funds, where such payments or funds are made or transferred by any means, including by the use of credit cards, debit cards, other payment cards, or other access devices, accounts, original or substitute checks, or electronic funds transfers;

(D) includes acting as a money transmitting business which directly or indirectly makes use of a depository institution in connection with effectuating or facilitating a payment for a cannabis-related legitimate business or service provider in compliance with section 5330 of title
31, United States Code, and any applicable
State law; and

(E) includes acting as an armored car serv-
ice for processing and depositing with a deposi-
tory institution or the Board of Governors of the
Federal Reserve System with respect to any
monetary instruments (as defined under section
1956(c)(5) of title 18, United States Code.

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

(9) INDIAN TRIBE.—The term “Indian Tribe”
has the meaning given that term in section 102 of the
Federally Recognized Indian Tribe List Act of 1994

(10) INSURER.—The term “insurer” has the
meaning given that term under section 313(r) of title
31, United States Code.

(11) MANUFACTURER.—The term “manufac-
turer” means a person who manufactures, compounds,
converts, processes, prepares, or packages cannabis or
cannabis products.

(12) PRODUCER.—The term “producer” means a
person who plants, cultivates, harvests, or in any way
facilitates the natural growth of cannabis.
(13) SERVICE PROVIDER.—The term “service provider”—

(A) means a business, organization, or other person that—

(i) sells goods or services to a cannabis-related legitimate business; or

(ii) provides any business services, including the sale or lease of real or any other property, legal or other licensed services, or any other ancillary service, relating to cannabis; and

(B) does not include a business, organization, or other person that participates in any business or organized activity that involves handling cannabis or cannabis products, including cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing, or purchasing cannabis or cannabis products.

(14) STATE.—The term “State” means each of the several States, the District of Columbia, Puerto Rico, and any territory or possession of the United States.
A BILL

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.

JUNE 5, 2019

Reported from the Committee on Financial Services with an amendment

JUNE 5, 2019

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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.

H. R. 1595

[Report No. 116–104, Part I]