

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

# H. R. 1996

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## AN ACT

To create protections for financial 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Secure And Fair Enforcement Banking Act of 2021” or  
 4 the “SAFE Banking Act of 2021”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents; purpose.
- Sec. 2. Safe harbor for depository institutions.
- Sec. 3. Protections for ancillary businesses.
- Sec. 4. Protections under Federal law.
- Sec. 5. Rules of construction.
- Sec. 6. Requirements for filing suspicious activity reports.
- Sec. 7. Guidance and examination procedures.
- Sec. 8. Annual diversity and inclusion report.
- Sec. 9. GAO study on diversity and inclusion.
- Sec. 10. GAO study on effectiveness of certain reports on finding certain persons.
- Sec. 11. Application of this Act with respect to hemp-related legitimate businesses and hemp-related service providers.
- Sec. 12. Banking services for hemp-related legitimate businesses and hemp-related service providers.
- Sec. 13. Requirements for deposit account termination requests and orders.
- Sec. 14. Definitions.
- Sec. 15. Discretionary surplus funds.

7 (c) PURPOSE.—The purpose of this Act is to increase  
 8 public safety by ensuring access to financial services to  
 9 cannabis-related legitimate businesses and service pro-  
 10 viders and reducing the amount of cash at such busi-  
 11 nesses.

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

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

15 (1) terminate or limit the deposit insur-  
 16 ance or share insurance of a depository institu-  
 17 tion under the Federal Deposit Insurance Act

1 (12 U.S.C. 1811 et seq.), the Federal Credit  
2 Union Act (12 U.S.C. 1751 et seq.), or take  
3 any other adverse action against a depository  
4 institution under section 8 of the Federal De-  
5 posit Insurance Act (12 U.S.C. 1818) solely be-  
6 cause the depository institution provides or has  
7 provided financial services to a cannabis-related  
8 legitimate business or service provider;

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 service provider or to a State, polit-  
13 ical subdivision of a State, or Indian Tribe that  
14 exercises jurisdiction over cannabis-related le-  
15 gitimate businesses;

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

21 (A) the account holder is a cannabis-  
22 related legitimate business or service pro-  
23 vider, or is an employee, owner, or oper-  
24 ator of a cannabis-related legitimate busi-  
25 ness or service provider;

1 (B) the account holder later becomes  
2 an employee, owner, or operator of a can-  
3 nabis-related legitimate business or service  
4 provider; or

5 (C) the depository institution was not  
6 aware that the account holder is an em-  
7 ployee, owner, or operator of a cannabis-re-  
8 lated legitimate business or service pro-  
9 vider;

10 (4) take any adverse or corrective super-  
11 visory action on a loan made to—

12 (A) a cannabis-related legitimate busi-  
13 ness or service provider, solely because the  
14 business is a cannabis-related legitimate  
15 business or service provider;

16 (B) an employee, owner, or operator  
17 of a cannabis-related legitimate business or  
18 service provider, solely because the em-  
19 ployee, owner, or operator is employed by,  
20 owns, or operates a cannabis-related legiti-  
21 mate business or service provider, as appli-  
22 cable; or

23 (C) an owner or operator of real es-  
24 tate or equipment that is leased to a can-  
25 nabis-related legitimate business or service

1 provider, solely because the owner or oper-  
2 ator of the real estate or equipment leased  
3 the equipment or real estate to a cannabis-  
4 related legitimate business or service pro-  
5 vider, as applicable; or

6 (5) prohibit or penalize a depository insti-  
7 tution (or entity performing a financial service  
8 for or in association with a depository institu-  
9 tion) for, or otherwise discourage a depository  
10 institution (or entity performing a financial  
11 service for or in association with a depository  
12 institution) from, engaging in a financial service  
13 for a cannabis-related legitimate business or  
14 service provider.

15 (b) **SAFE HARBOR APPLICABLE TO DE NOVO INSTI-**  
16 **TUTIONS.**—Subsection (a) shall apply to an institution ap-  
17 plying for a depository institution charter to the same ex-  
18 tent as such subsection applies to a depository institution.

19 **SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.**

20 For the purposes of sections 1956 and 1957 of title  
21 18, United States Code, and all other provisions of Fed-  
22 eral law, the proceeds from a transaction involving activi-  
23 ties of a cannabis-related legitimate business or service  
24 provider shall not be considered proceeds from an unlawful  
25 activity solely because—

1 (1) the transaction involves proceeds from a  
2 cannabis-related legitimate business or service pro-  
3 vider; or

4 (2) the transaction involves proceeds from—

5 (A) cannabis-related activities described in  
6 section 14(4)(B) conducted by a cannabis-re-  
7 lated legitimate business; or

8 (B) activities described in section  
9 14(13)(A) conducted by a service provider.

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

11 (a) IN GENERAL.—With respect to providing a finan-  
12 cial service to a cannabis-related legitimate business  
13 (where such cannabis-related legitimate business operates  
14 within a State, political subdivision of a State, or Indian  
15 country that allows the cultivation, production, manufac-  
16 ture, sale, transportation, display, dispensing, distribution,  
17 or purchase of cannabis pursuant to a law or regulation  
18 of such State, political subdivision, or Indian Tribe that  
19 has jurisdiction over the Indian country, as applicable) or  
20 a service provider (wherever located), a depository institu-  
21 tion, entity performing a financial service for or in associa-  
22 tion with a depository institution, or insurer that provides  
23 a financial service to a cannabis-related legitimate busi-  
24 ness or service provider, and the officers, directors, and  
25 employees of that depository institution, entity, or insurer

1 may not be held liable pursuant to any Federal law or  
2 regulation—

3           (1) solely for providing such a financial service;

4           or

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

7           (b) PROTECTIONS FOR FEDERAL RESERVE BANKS  
8 AND FEDERAL HOME LOAN BANKS.—With respect to  
9 providing a service to a depository institution that pro-  
10 vides a financial service to a cannabis-related legitimate  
11 business (where such cannabis-related legitimate business  
12 operates within a State, political subdivision of a State,  
13 or Indian country that allows the cultivation, production,  
14 manufacture, sale, transportation, display, dispensing, dis-  
15 tribution, or purchase of cannabis pursuant to a law or  
16 regulation of such State, political subdivision, or Indian  
17 Tribe that has jurisdiction over the Indian country, as ap-  
18 plicable) or service provider (wherever located), a Federal  
19 reserve bank or Federal Home Loan Bank, and the offi-  
20 cers, directors, and employees of the Federal reserve bank  
21 or Federal Home Loan Bank, may not be held liable pur-  
22 suant to any Federal law or regulation—

23           (1) solely for providing such a service; or

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

1           (c) PROTECTIONS FOR INSURERS.—With respect to  
2 engaging in the business of insurance within a State, polit-  
3 ical subdivision of a State, or Indian country that allows  
4 the cultivation, production, manufacture, sale, transpor-  
5 tation, display, dispensing, distribution, or purchase of  
6 cannabis pursuant to a law or regulation of such State,  
7 political subdivision, or Indian Tribe that has jurisdiction  
8 over the Indian country, as applicable, an insurer that en-  
9 gages in the business of insurance with a cannabis-related  
10 legitimate business or service provider or who otherwise  
11 engages with a person in a transaction permissible under  
12 State law related to cannabis, and the officers, directors,  
13 and employees of that insurer may not be held liable pur-  
14 suant to any Federal law or regulation—

15           (1) solely for engaging in the business of insur-  
16           ance; or

17           (2) for further investing any income derived  
18           from the business of insurance.

19           (d) FORFEITURE.—

20           (1) DEPOSITORY INSTITUTIONS.—A depository  
21           institution that has a legal interest in the collateral  
22           for a loan or another financial service provided to an  
23           owner, employee, or operator of a cannabis-related  
24           legitimate business or service provider, or to an  
25           owner or operator of real estate or equipment that



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

6 (2) FEDERAL RESERVE BANKS AND FEDERAL  
7 HOME LOAN BANKS.—A Federal reserve bank or  
8 Federal Home Loan Bank that has a legal interest  
9 in the collateral for a loan or another financial serv-  
10 ice provided to a depository institution that provides  
11 a financial service to a cannabis-related legitimate  
12 business or service provider, or to an owner or oper-  
13 ator of real estate or equipment that is leased or  
14 sold to a cannabis-related legitimate business or  
15 service provider, shall not be subject to criminal,  
16 civil, or administrative forfeiture of that legal inter-  
17 est pursuant to any Federal law for providing such  
18 loan or other financial service.

19 **SEC. 5. RULES OF CONSTRUCTION.**

20 (a) NO REQUIREMENT TO PROVIDE FINANCIAL  
21 SERVICES.—Nothing in this Act shall require a depository  
22 institution, entity performing a financial service for or in  
23 association with a depository institution, or insurer to pro-  
24 vide financial services to a cannabis-related legitimate  
25 business, service provider, or any other business.

1 (b) GENERAL EXAMINATION, SUPERVISORY, AND  
2 ENFORCEMENT AUTHORITY.—Nothing in this Act may be  
3 construed in any way as limiting or otherwise restricting  
4 the general examination, supervisory, and enforcement au-  
5 thority of the Federal banking regulators, provided that  
6 the basis for any supervisory or enforcement action is not  
7 the provision of financial services to a cannabis-related le-  
8 gitimate business or service provider.

9 (c) BUSINESS OF INSURANCE.—Nothing in this Act  
10 shall interfere with the regulation of the business of insur-  
11 ance in accordance with the Act of March 9, 1945 (59  
12 Stat. 33, chapter 20; 15 U.S.C. 1011 et seq.) (commonly  
13 known as the “McCarran-Ferguson Act”) and the Dodd-  
14 Frank Wall Street Reform and Consumer Protection Act  
15 (12 U.S.C. 5301 et seq.).

16 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**  
17 **REPORTS.**

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

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

22 “(A) IN GENERAL.—With respect to a fi-  
23 nancial institution or any director, officer, em-  
24 ployee, or agent of a financial institution that  
25 reports a suspicious transaction pursuant to

1 this subsection, if the reason for the report re-  
2 lates to a cannabis-related legitimate business  
3 or service provider, the report shall comply with  
4 appropriate guidance issued by the Financial  
5 Crimes Enforcement Network. Not later than  
6 the end of the 180-day period beginning on the  
7 date of enactment of this paragraph, the Sec-  
8 retary shall update the February 14, 2014,  
9 guidance titled ‘BSA Expectations Regarding  
10 Marijuana-Related Businesses’ (FIN–2014–  
11 G001) to ensure that the guidance is consistent  
12 with the purpose and intent of the SAFE  
13 Banking Act of 2021 and does not significantly  
14 inhibit the provision of financial services to a  
15 cannabis-related legitimate business or service  
16 provider in a State, political subdivision of a  
17 State, or Indian country that has allowed the  
18 cultivation, production, manufacture, transpor-  
19 tation, display, dispensing, distribution, sale, or  
20 purchase of cannabis pursuant to law or regula-  
21 tion of such State, political subdivision, or In-  
22 dian Tribe that has jurisdiction over the Indian  
23 country.

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

1           “(i) CANNABIS.—The term ‘cannabis’  
2           has the meaning given the term ‘mari-  
3           huana’ in section 102 of the Controlled  
4           Substances Act (21 U.S.C. 802).

5           “(ii) CANNABIS-RELATED LEGITIMATE  
6           BUSINESS.—The term ‘cannabis-related le-  
7           gitimate business’ has the meaning given  
8           that term in section 14 of the SAFE  
9           Banking Act of 2021.

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

13           “(iv) INDIAN TRIBE.—The term ‘In-  
14           dian Tribe’ has the meaning given that  
15           term in section 102 of the Federally Rec-  
16           ognized Indian Tribe List Act of 1994 (25  
17           U.S.C. 479a).

18           “(v) FINANCIAL SERVICE.—The term  
19           ‘financial service’ has the meaning given  
20           that term in section 14 of the SAFE  
21           Banking Act of 2021.

22           “(vi) SERVICE PROVIDER.—The term  
23           ‘service provider’ has the meaning given  
24           that term in section 14 of the SAFE  
25           Banking Act of 2021.

1                   “(vii) STATE.—The term ‘State’  
2                   means each of the several States, the Dis-  
3                   trict of Columbia, the Commonwealth of  
4                   Puerto Rico, and any territory or posses-  
5                   sion of the United States.”.

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

7           Not later than 180 days after the date of enactment  
8 of this Act, the Financial Institutions Examination Coun-  
9 cil shall develop uniform guidance and examination proce-  
10 dures for depository institutions that provide financial  
11 services to cannabis-related legitimate businesses and  
12 service providers.

13 **SEC. 8. ANNUAL DIVERSITY AND INCLUSION REPORT.**

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

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

20                   (2) any regulatory or legislative recommenda-  
21                   tions for expanding access to financial services for  
22                   minority-owned and women-owned cannabis-related  
23                   legitimate businesses.

1 **SEC. 9. GAO STUDY ON DIVERSITY AND INCLUSION.**

2 (a) STUDY.—The Comptroller General of the United  
3 States shall carry out a study on the barriers to market-  
4 place entry, including in the licensing process, and the ac-  
5 cess to financial services for potential and existing minor-  
6 ity-owned and women-owned cannabis-related legitimate  
7 businesses.

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

10 (1) containing all findings and determinations  
11 made in carrying out the study required under sub-  
12 section (a); and

13 (2) containing any regulatory or legislative rec-  
14 ommendations for removing barriers to marketplace  
15 entry, including in the licensing process, and ex-  
16 panding access to financial services for potential and  
17 existing minority-owned and women-owned cannabis-  
18 related legitimate businesses.

19 **SEC. 10. GAO STUDY ON EFFECTIVENESS OF CERTAIN RE-**  
20 **PORTS ON FINDING CERTAIN PERSONS.**

21 Not later than 2 years after the date of the enact-  
22 ment of this Act, the Comptroller General of the United  
23 States shall carry out a study on the effectiveness of re-  
24 ports on suspicious transactions filed pursuant to section  
25 5318(g) of title 31, United States Code, at finding individ-  
26 uals or organizations suspected or known to be engaged

1 with transnational criminal organizations and whether any  
2 such engagement exists in a State, political subdivision,  
3 or Indian Tribe that has jurisdiction over Indian country  
4 that allows the cultivation, production, manufacture, sale,  
5 transportation, display, dispensing, distribution, or pur-  
6 chase of cannabis. The study shall examine reports on sus-  
7 picious transactions as follows:

8           (1) During the period of 2014 until the date of  
9           the enactment of this Act, reports relating to mari-  
10          juana-related businesses.

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

14 **SEC. 11. APPLICATION OF THIS ACT WITH RESPECT TO**  
15                   **HEMP-RELATED LEGITIMATE BUSINESSES**  
16                   **AND HEMP-RELATED SERVICE PROVIDERS.**

17          (a) **IN GENERAL.**—The provisions of this Act (other  
18 than sections 6 and 10) shall apply with respect to hemp-  
19 related legitimate businesses and hemp-related service pro-  
20 viders in the same manner as such provisions apply with  
21 respect to cannabis-related legitimate businesses and serv-  
22 ice providers.

23          (b) **DEFINITIONS.**—In this section:

24           (1) **CBD.**—The term “CBD” means  
25          cannabidiol.

1           (2) HEMP.—The term “hemp” has the meaning  
2           given that term under section 297A of the Agricultural  
3           Marketing Act of 1946 (7 U.S.C. 1639o).

4           (3) HEMP-RELATED LEGITIMATE BUSINESS.—  
5           The term “hemp-related legitimate business” means  
6           a manufacturer, producer, or any person or company  
7           that—

8                   (A) engages in any activity described in  
9                   subparagraph (B) in conformity with the Agricultural  
10                  Improvement Act of 2018 (Public Law  
11                  115–334) and the regulations issued to imple-  
12                  ment such Act by the Department of Agriculture,  
13                  where applicable, and the law of a  
14                  State or political subdivision thereof or Indian  
15                  Tribe; and

16                   (B) participates in any business or orga-  
17                  nized activity that involves handling hemp,  
18                  hemp-derived CBD products, and other hemp-  
19                  derived cannabinoid products, including culti-  
20                  vating, producing, extracting, manufacturing,  
21                  selling, transporting, displaying, dispensing, dis-  
22                  tributing, or purchasing hemp, hemp-derived  
23                  CBD products, and other hemp-derived  
24                  cannabinoid products.



1           (4) HEMP-RELATED SERVICE PROVIDER.—The  
2 term “hemp-related service provider”—

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

5           (i) sells goods or services to a hemp-  
6 related legitimate business; or

7           (ii) provides any business services, in-  
8 cluding the sale or lease of real or any  
9 other property, legal or other licensed serv-  
10 ices, or any other ancillary service, relating  
11 to hemp, hemp-derived CBD products, or  
12 other hemp-derived cannabinoid products;  
13 and

14           (B) does not include a business, organiza-  
15 tion, or other person that participates in any  
16 business or organized activity that involves han-  
17 dling hemp, hemp-derived CBD products, or  
18 other hemp-derived cannabinoid products, in-  
19 cluding cultivating, producing, manufacturing,  
20 selling, transporting, displaying, dispensing, dis-  
21 tributing, or purchasing hemp, hemp-derived  
22 CBD products, and other hemp-derived  
23 cannabinoid products.

1 **SEC. 12. BANKING SERVICES FOR HEMP-RELATED LEGITI-**  
2 **MATE BUSINESSES AND HEMP-RELATED**  
3 **SERVICE PROVIDERS.**

4 (a) FINDINGS.—The Congress finds that—

5 (1) the Agriculture Improvement Act of 2018  
6 (Public Law 115–334) legalized hemp by removing  
7 it from the definition of “marihuana” under the  
8 Controlled Substances Act;

9 (2) despite the legalization of hemp, some hemp  
10 businesses (including producers, manufacturers, and  
11 retailers) continue to have difficulty gaining access  
12 to banking products and services; and

13 (3) businesses involved in the sale of hemp-de-  
14 rived CBD products are particularly affected, due to  
15 confusion about the legal status of such products.

16 (b) FEDERAL BANKING REGULATORS’ HEMP BANK-  
17 ING GUIDANCE.—Not later than the end of the 90-day pe-  
18 riod beginning on the date of enactment of this Act, the  
19 Federal banking regulators shall update their existing  
20 guidance, as applicable, regarding the provision of finan-  
21 cial services to hemp-related legitimate businesses and  
22 hemp-related service providers to address—

23 (1) compliance with financial institutions’ exist-  
24 ing obligations under Federal laws and imple-  
25 menting regulations determined relevant by the Fed-  
26 eral banking regulators, including subchapter II of

1 chapter 53 of title 31, United States Code, and its  
2 implementing regulation in conformity with this Act  
3 and the Department of Agriculture’s rules regulating  
4 domestic hemp production (7 CFR 990); and

5 (2) best practices for financial institutions to  
6 follow when providing financial services, including  
7 processing payments, to hemp-related legitimate  
8 businesses and hemp-related service providers.

9 (c) DEFINITIONS.—In this section:

10 (1) FINANCIAL INSTITUTION.—The term “fi-  
11 nancial institution”—

12 (A) has the meaning given that term under  
13 section 5312(a) of title 31, United States Code;  
14 and

15 (B) includes a bank holding company, as  
16 defined under section 2(a) of the Bank Holding  
17 Company Act of 1956 (12 U.S.C. 1841(a)).

18 (2) HEMP TERMS.—The terms “CBD”,  
19 “hemp”, “hemp-related legitimate business”, and  
20 “hemp-related service provider” have the meaning  
21 given those terms, respectively, under section 11.

22 **SEC. 13. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**  
23 **NATION REQUESTS AND ORDERS.**

24 (a) TERMINATION REQUESTS OR ORDERS MUST BE  
25 VALID.—

1           (1) IN GENERAL.—An appropriate Federal  
2 banking agency may not formally or informally re-  
3 quest or order a depository institution to terminate  
4 a specific customer account or group of customer ac-  
5 counts or to otherwise restrict or discourage a de-  
6 pository institution from entering into or maintain-  
7 ing a banking relationship with a specific customer  
8 or group of customers unless—

9           (A) the agency has a valid reason for such  
10 request or order; and

11           (B) such reason is not based solely on rep-  
12 utation risk.

13           (2) TREATMENT OF NATIONAL SECURITY  
14 THREATS.—If an appropriate Federal banking agen-  
15 cy believes a specific customer or group of customers  
16 is, or is acting as a conduit for, an entity which—

17           (A) poses a threat to national security;

18           (B) is involved in terrorist financing;

19           (C) is an agency of the Government of  
20 Iran, North Korea, Syria, or any country listed  
21 from time to time on the State Sponsors of  
22 Terrorism list;

23           (D) is located in, or is subject to the juris-  
24 diction of, any country specified in subpara-  
25 graph (C); or

1           (E) does business with any entity described  
2           in subparagraph (C) or (D), unless the appro-  
3           priate Federal banking agency determines that  
4           the customer or group of customers has used  
5           due diligence to avoid doing business with any  
6           entity described in subparagraph (C) or (D),  
7           such belief shall satisfy the requirement under para-  
8           graph (1).

9           (b) NOTICE REQUIREMENT.—

10           (1) IN GENERAL.—If an appropriate Federal  
11           banking agency formally or informally requests or  
12           orders a depository institution to terminate a spe-  
13           cific customer account or a group of customer ac-  
14           counts, the agency shall—

15                   (A) provide such request or order to the  
16                   institution in writing; and

17                   (B) accompany such request or order with  
18                   a written justification for why such termination  
19                   is needed, including any specific laws or regula-  
20                   tions the agency believes are being violated by  
21                   the customer or group of customers, if any.

22           (2) JUSTIFICATION REQUIREMENT.—A jus-  
23           tification described under paragraph (1)(B) may not  
24           be based solely on the reputation risk to the deposi-  
25           tory institution.

1 (c) CUSTOMER NOTICE.—

2 (1) NOTICE REQUIRED.—Except as provided  
3 under paragraph (2) or as otherwise prohibited from  
4 being disclosed by law, if an appropriate Federal  
5 banking agency orders a depository institution to  
6 terminate a specific customer account or a group of  
7 customer accounts, the depository institution shall  
8 inform the specific customer or group of customers  
9 of the justification for the customer’s account termi-  
10 nation described under subsection (b).

11 (2) NOTICE PROHIBITED.—

12 (A) NOTICE PROHIBITED IN CASES OF NA-  
13 TIONAL SECURITY.—If an appropriate Federal  
14 banking agency requests or orders a depository  
15 institution to terminate a specific customer ac-  
16 count or a group of customer accounts based on  
17 a belief that the customer or customers pose a  
18 threat to national security, or are otherwise de-  
19 scribed under subsection (a)(2), neither the de-  
20 pository institution nor the appropriate Federal  
21 banking agency may inform the customer or  
22 customers of the justification for the customer’s  
23 account termination.

24 (B) NOTICE PROHIBITED IN OTHER  
25 CASES.—If an appropriate Federal banking

1           agency determines that the notice required  
2           under paragraph (1) may interfere with an au-  
3           thorized criminal investigation, neither the de-  
4           pository institution nor the appropriate Federal  
5           banking agency may inform the specific cus-  
6           tomer or group of customers of the justification  
7           for the customer’s account termination.

8           (d) REPORTING REQUIREMENT.—Each appropriate  
9           Federal banking agency shall issue an annual report to  
10          the Congress stating—

11                 (1) the aggregate number of specific customer  
12                 accounts that the agency requested or ordered a de-  
13                 pository institution to terminate during the previous  
14                 year; and

15                 (2) the legal authority on which the agency re-  
16                 lied in making such requests and orders and the fre-  
17                 quency on which the agency relied on each such au-  
18                 thority.

19           (e) DEFINITIONS.—For purposes of this section:

20                 (1) APPROPRIATE FEDERAL BANKING AGEN-  
21                 CY.—The term “appropriate Federal banking agen-  
22                 cy” means—

23                         (A) the appropriate Federal banking agen-  
24                         cy, as defined under section 3 of the Federal  
25                         Deposit Insurance Act (12 U.S.C. 1813); and

1 (B) the National Credit Union Administra-  
2 tion, in the case of an insured credit union.

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

5 (A) a depository institution, as defined  
6 under section 3 of the Federal Deposit Insur-  
7 ance Act (12 U.S.C. 1813); and

8 (B) an insured credit union.

9 **SEC. 14. DEFINITIONS.**

10 In this Act:

11 (1) BUSINESS OF INSURANCE.—The term  
12 “business of insurance” has the meaning given such  
13 term in section 1002 of the Dodd-Frank Wall Street  
14 Reform and Consumer Protection Act (12 U.S.C.  
15 5481).

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

19 (3) CANNABIS PRODUCT.—The term “cannabis  
20 product” means any article which contains cannabis,  
21 including an article which is a concentrate, an edi-  
22 ble, a tincture, a cannabis-infused product, or a top-  
23 ical.

24 (4) CANNABIS-RELATED LEGITIMATE BUSI-  
25 NESS.—The term “cannabis-related legitimate busi-



1       ness” means a manufacturer, producer, or any per-  
2       son or company that—

3               (A) engages in any activity described in  
4               subparagraph (B) pursuant to a law established  
5               by a State or a political subdivision of a State,  
6               as determined by such State or political subdivi-  
7               sion; and

8               (B) participates in any business or orga-  
9               nized activity that involves handling cannabis or  
10              cannabis products, including cultivating, pro-  
11              ducing, manufacturing, selling, transporting,  
12              displaying, dispensing, distributing, or pur-  
13              chasing cannabis or cannabis products.

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

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

19              (B) a Federal credit union as defined in  
20              section 101 of the Federal Credit Union Act  
21              (12 U.S.C. 1752); or

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

1           (6) FEDERAL BANKING REGULATOR.—The  
2 term “Federal banking regulator” means each of the  
3 Board of Governors of the Federal Reserve System,  
4 the Bureau of Consumer Financial Protection, the  
5 Federal Deposit Insurance Corporation, the Federal  
6 Housing Finance Agency, the Financial Crimes En-  
7 forcement Network, the Office of Foreign Asset  
8 Control, the Office of the Comptroller of the Cur-  
9 rency, the National Credit Union Administration,  
10 the Department of the Treasury, or any Federal  
11 agency or department that regulates banking or fi-  
12 nancial services, as determined by the Secretary of  
13 the Treasury.

14           (7) FINANCIAL SERVICE.—The term “financial  
15 service”—

16           (A) means a financial product or service,  
17 as defined in section 1002 of the Dodd-Frank  
18 Wall Street Reform and Consumer Protection  
19 Act (12 U.S.C. 5481), regardless if the cus-  
20 tomer receiving the product or service is a con-  
21 sumer or commercial entity;

22           (B) means a financial product or service,  
23 or any combination of products and services,  
24 permitted to be provided by—

1 (i) a national bank or a financial sub-  
2 subsidiary pursuant to the authority provided  
3 under—

4 (I) the provision designated  
5 “Seventh” of section 5136 of the Re-  
6 vised Statutes of the United States  
7 (12 U.S.C. 24); or

8 (II) section 5136A of the Revised  
9 Statutes of the United States (12  
10 U.S.C. 24a); and

11 (ii) a Federal credit union, pursuant  
12 to the authority provided under the Fed-  
13 eral Credit Union Act;

14 (C) includes the business of insurance;

15 (D) includes, whether performed directly or  
16 indirectly, the authorizing, processing, clearing,  
17 settling, billing, transferring for deposit, trans-  
18 mitting, delivering, instructing to be delivered,  
19 reconciling, collecting, or otherwise effectuating  
20 or facilitating of payments or funds, where such  
21 payments or funds are made or transferred by  
22 any means, including by the use of credit cards,  
23 debit cards, other payment cards, or other ac-  
24 cess devices, accounts, original or substitute  
25 checks, or electronic funds transfers;

1 (E) includes acting as a money transmit-  
2 ting business which directly or indirectly makes  
3 use of a depository institution in connection  
4 with effectuating or facilitating a payment for  
5 a cannabis-related legitimate business or service  
6 provider in compliance with section 5330 of  
7 title 31, United States Code, and any applicable  
8 State law; and

9 (F) includes acting as an armored car  
10 service for processing and depositing with a de-  
11 pository institution or a Federal reserve bank  
12 with respect to any monetary instruments (as  
13 defined under section 1956(e)(5) of title 18,  
14 United States Code.

15 (8) INDIAN COUNTRY.—The term “Indian coun-  
16 try” has the meaning given that term in section  
17 1151 of title 18.

18 (9) INDIAN TRIBE.—The term “Indian Tribe”  
19 has the meaning given that term in section 102 of  
20 the Federally Recognized Indian Tribe List Act of  
21 1994 (25 U.S.C. 479a).

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

1           (11) MANUFACTURER.—The term “manufac-  
2           turer” means a person who manufactures, com-  
3           pounds, converts, processes, prepares, or packages  
4           cannabis or cannabis products.

5           (12) PRODUCER.—The term “producer” means  
6           a person who plants, cultivates, harvests, or in any  
7           way facilitates the natural growth of cannabis.

8           (13) SERVICE PROVIDER.—The term “service  
9           provider”—

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

12                   (i) sells goods or services to a can-  
13                   nabis-related legitimate business; or

14                   (ii) provides any business services, in-  
15                   cluding the sale or lease of real or any  
16                   other property, legal or other licensed serv-  
17                   ices, or any other ancillary service, relating  
18                   to cannabis; and

19           (B) does not include a business, organiza-  
20           tion, or other person that participates in any  
21           business or organized activity that involves han-  
22           dling cannabis or cannabis products, including  
23           cultivating, producing, manufacturing, selling,  
24           transporting, displaying, dispensing, distrib-

1           uting, or purchasing cannabis or cannabis prod-  
2           ucts.

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

7 **SEC. 15. DISCRETIONARY SURPLUS FUNDS.**

8           Section 7(a)(3)(A) of the Federal Reserve Act (12  
9           U.S.C. 289(a)(3)(A)) is amended by reducing the dollar  
10          figure by \$6,000,000.

          Passed the House of Representatives April 19, 2021.

Attest:

*Clerk.*



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

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**H. R. 1996**

**AN ACT**

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