116TH CONGRESS
1ST SESSION

H. R. ____

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

Mr. PELMUTTER (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 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,
3 SECTION 1. SHORT TITLE; PURPOSE.
4 (a) Short Title.—This Act may be cited as the
5 “Secure And Fair Enforcement Banking Act of 2019” or
6 the “SAFE Banking Act of 2019”.


(Original Signature of Member)
(b) PURPOSE.—The purpose of this Act is to increase public safety by expanding financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses.

SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.

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 depository institution provides or has provided financial 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; and

(5) prohibit or penalize a depository institution, or entity performing services for the depository institution, for, or otherwise discourage a depository institution, or entity performing services for the depository institution, from, authorizing, processing, clearing, settling, billing, transferring, reconciling, or collecting payments for a cannabis-related legitimate business, where such payment is made by any means, in-
including a credit, debit, or other payment card, an account, check, or electronic funds transfer.

SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.

For purposes 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 financial services 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 that provides financial services to a cannabis-related legitimate business or service provider, and the officers, directors, and employees of that depository institution may not be held liable pursuant to any Federal law or regulation—
(1) solely for providing such financial services;

or

(2) for further investing any income derived

from such financial services.

(b) FORFEITURE.—A depository institution that has

a legal interest in the collateral for a loan or another fi-

nancial service provided to an owner or operator of a can-

nabis-related legitimate 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 pursuant to

any Federal law for providing such loan or other financial

service.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act shall require a depository institu-

tion to provide financial services to a cannabis-related le-

gitimate 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 8 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’ 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).

“(vi) SERVICE PROVIDER.—The term ‘service provider’ has the meaning given
that term in section 8 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.

(a) IN GENERAL.—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.

(b) ISSUANCE BY FEDERAL BANKING REGULATORS.—The Federal banking regulators shall each issue guidance and examination procedures for depository institutions that provide financial services to cannabis-related legitimate businesses and service providers that are consistent with the uniform guidance and examination procedures developed under subsection (a).

SEC. 8. DEFINITIONS.

In this Act:
(1) Cannabis.—The term “cannabis” has the meaning given the term “marihuana” in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) 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.

(3) 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 purchasing cannabis or cannabis products.

(4) Depository institution.—The term “depository institution” means—
(A) a depository institution as defined in section 3(e) 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 section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(5) Federal banking regulator.—The term “Federal banking regulator” means each of the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, or any Federal agency or department that regulates banking or financial services, as determined by the Secretary of the Treasury.

(6) Financial service.—The term “financial service” 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).
(7) INDIAN COUNTRY.—The term “Indian country” has the meaning given that term in section 1151 of title 18.

(8) 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).

(9) MANUFACTURER.—The term “manufacturer” means a person who manufactures, compounds, converts, processes, prepares, or packages cannabis or cannabis products.

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

(11) 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.

(12) 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.