

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To create protections for financial institutions that provide financial services to State-sanctioned marijuana businesses and service providers for such businesses, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MERKLEY (for himself and Mr. DAINES) introduced the following bill;  
which was read twice and referred to the Committee on

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## **A BILL**

To create protections for financial institutions that provide financial services to State-sanctioned marijuana 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.**

4 This Act may be cited as the “Secure And Fair En-  
5 forcement Banking Act of 2023” or the “SAFE Banking  
6 Act of 2023”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1           (1) BUSINESS OF INSURANCE.—The term  
2 “business of insurance” has the meaning given the  
3 term in section 1002 of the Consumer Financial  
4 Protection Act of 2010 (12 U.S.C. 5481).

5           (2) CBD.—The term “CBD” means  
6 cannabidiol.

7           (3) COMMUNITY DEVELOPMENT FINANCIAL IN-  
8 STITUTION.—The term “community development fi-  
9 nancial institution” has the meaning given the term  
10 in section 103 of the Community Development  
11 Banking and Financial Institutions Act of 1994 (12  
12 U.S.C. 4702).

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

15           (A) means—

16                   (i) a depository institution, as defined  
17 in section 3(c) of the Federal Deposit In-  
18 surance Act (12 U.S.C. 1813(c));

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

22                   (iii) a State credit union, as defined in  
23 section 101 of the Federal Credit Union  
24 Act (12 U.S.C. 1752); and

1 (B) includes any minority depository insti-  
2 tution, as defined in section 308 of the Finan-  
3 cial Institutions Reform, Recovery, and En-  
4 forcement Act of 1989 (12 U.S.C. 1463 note).

5 (5) FEDERAL BANKING REGULATOR.—The  
6 term “Federal banking regulator” means each of the  
7 Board of Governors of the Federal Reserve System,  
8 the Bureau of Consumer Financial Protection, the  
9 Federal Deposit Insurance Corporation, the Federal  
10 Housing Finance Agency, the Office of the Comp-  
11 troller of the Currency, the National Credit Union  
12 Administration, the Department of the Treasury (in-  
13 cluding the Financial Crimes Enforcement Network  
14 and the Office of Foreign Assets Control), or any  
15 Federal agency or department that regulates bank-  
16 ing or financial services, as determined by the Sec-  
17 retary of the Treasury.

18 (6) FINANCIAL PRODUCT OR SERVICE.—The  
19 term “financial product or service” has the meaning  
20 given the term in section 1002 of the Consumer Fi-  
21 nancial Protection Act of 2010 (12 U.S.C. 5481).

22 (7) FINANCIAL SERVICE.—The term “financial  
23 service”—

24 (A) means—

1 (i) a financial product or service, re-  
2 gardless of whether the customer receiving  
3 the product or service is a consumer or  
4 commercial entity; or

5 (ii) a financial product or service, or  
6 any combination of products and services,  
7 permitted to be provided by—

8 (I) a national bank or a financial  
9 subsidiary pursuant to the authority  
10 provided under—

11 (aa) the paragraph des-  
12 igned as the “Seventh” of sec-  
13 tion 5136 of the Revised Statutes  
14 (12 U.S.C. 24); or

15 (bb) section 5136A of the  
16 Revised Statutes (12 U.S.C.  
17 24a);

18 (II) a Federal credit union, pur-  
19 suant to the authority provided under  
20 the Federal Credit Union Act (12  
21 U.S.C. 1751 et seq.); or

22 (III) a community development  
23 financial institution; and

24 (B) includes—

25 (i) the business of insurance;

1                   (ii) whether performed directly or in-  
2                   directly, the authorizing, processing, clear-  
3                   ing, settling, billing, transferring for de-  
4                   posit, transmitting, delivering, instructing  
5                   to be delivered, reconciling, collecting, or  
6                   otherwise effectuating or facilitating the  
7                   payment of funds that are made or trans-  
8                   ferred by any means, including by the use  
9                   of credit cards, debit cards, other payment  
10                  cards, or other access devices, accounts,  
11                  original or substitute checks, or electronic  
12                  funds transfers;

13                  (iii) acting as a money transmitting  
14                  business that directly or indirectly makes  
15                  use of a depository institution in connec-  
16                  tion with effectuating or facilitating a pay-  
17                  ment for a State-sanctioned marijuana  
18                  business or service provider in compliance  
19                  with section 5330 of title 31, United  
20                  States Code, and any applicable State or  
21                  Tribal law; and

22                  (iv) acting as an armored car service  
23                  for processing and depositing with a depos-  
24                  itory institution or a Federal reserve bank  
25                  with respect to any monetary instruments,

1 as defined in section 1956(c)(5) of title 18,  
2 United States Code.

3 (8) HEMP.—The term “hemp” has the meaning  
4 given the term in section 297A of the Agricultural  
5 Marketing Act of 1946 (7 U.S.C. 1639o).

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

10 (A) engages in any activity described in  
11 subparagraph (B) in conformity with the Agri-  
12 culture Improvement Act of 2018 (Public Law  
13 115–334; 132 Stat. 4490), amendments made  
14 by that Act, and the regulations issued to im-  
15 plement that Act by the Department of Agri-  
16 culture, where applicable, and the law of a  
17 State, an Indian Tribe, or a political subdivision  
18 of a State; and

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

1           CBD products, and other hemp-derived  
2           cannabinoid products.

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

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

7                           (i) sells goods or services to a hemp-  
8                           related legitimate business; or

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

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

1           (11) INDIAN TRIBE.—The term “Indian Tribe”  
2           has the meaning given the term “Indian tribe” in  
3           section 102 of the Federally Recognized Indian  
4           Tribe List Act of 1994 (25 U.S.C. 5130).

5           (12) INSURER.—The term “insurer” has the  
6           meaning given the term in section 313(r) of title 31,  
7           United States Code.

8           (13) MANUFACTURER.—The term “manufac-  
9           turer” means a person who manufactures, com-  
10          pounds, converts, processes, prepares, or packages  
11          marijuana or marijuana products.

12          (14) MARIJUANA.—The term “marijuana” has  
13          the meaning given the term “marihuana” in section  
14          102 of the Controlled Substances Act (21 U.S.C.  
15          802).

16          (15) MARIJUANA PRODUCT.—The term “mari-  
17          juana product” means any article that contains  
18          marijuana, including an article that is a concentrate,  
19          an edible, a tincture, a marijuana-infused product,  
20          or a topical.

21          (16) PRODUCER.—The term “producer” means  
22          a person who plants, cultivates, harvests, or in any  
23          way facilitates the natural growth of marijuana.

24          (17) SERVICE PROVIDER.—The term “service  
25          provider”—



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

3 (i) sells goods or services to a State-  
4 sanctioned marijuana business; or

5 (ii) provides any business services, in-  
6 cluding the sale or lease of real or any  
7 other property, legal or other licensed serv-  
8 ices, or any other ancillary service, relating  
9 to a State-sanctioned marijuana business;  
10 and

11 (B) does not include a business, organiza-  
12 tion, or other person that participates in any  
13 business or organized activity that involves han-  
14 dling marijuana or marijuana products, includ-  
15 ing cultivating, producing, manufacturing, sell-  
16 ing, transporting, displaying, dispensing, dis-  
17 tributing, or purchasing marijuana or mari-  
18 juana products.

19 (18) STATE.—The term “State” means each of  
20 the several States, the District of Columbia, the  
21 Commonwealth of Puerto Rico, and any territory or  
22 possession of the United States.

23 (19) STATE-SANCTIONED MARIJUANA BUSI-  
24 NESS.—The term “State-sanctioned marijuana busi-

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

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

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

14 **SEC. 3. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

15       (a) PROHIBITION.—A Federal banking regulator may  
16       not—

17              (1) terminate or limit the deposit insurance or  
18              share insurance of a depository institution under the  
19              Federal Deposit Insurance Act (12 U.S.C. 1811 et  
20              seq.) or the Federal Credit Union Act (12 U.S.C.  
21              1751 et seq.) or take any other adverse action  
22              against a depository institution under the Federal  
23              Deposit Insurance Act (12 U.S.C. 1811 et seq.) or  
24              the Federal Credit Union Act (12 U.S.C. 1751 et  
25              seq.) solely because the depository institution pro-

1 vides or has provided financial services to a State-  
2 sanctioned marijuana business or service provider;

3 (2) prohibit, penalize, or otherwise discourage a  
4 depository institution from providing financial serv-  
5 ices to—

6 (A) a State-sanctioned marijuana business  
7 or service provider solely because the business  
8 or service provider is a State-sanctioned mari-  
9 juana business or service provider; or

10 (B) a State, an Indian Tribe, or a political  
11 subdivision of a State solely because that entity  
12 exercises jurisdiction over State-sanctioned  
13 marijuana businesses;

14 (3) recommend, incentivize, or encourage a de-  
15 pository institution not to offer financial services to  
16 an account holder, or to downgrade or cancel the fi-  
17 nancial services offered to an account holder, solely  
18 because—

19 (A) the account holder is a State-sanc-  
20 tioned marijuana business or service provider,  
21 or is an employee, owner, or operator of a  
22 State-sanctioned marijuana business or service  
23 provider;

24 (B) the account holder later becomes an  
25 employee, owner, or operator of a State-sanc-

1           tioned marijuana business or service provider;  
2           or

3                   (C) the depository institution was not  
4           aware, after conducting sufficient risk-based  
5           customer due diligence in accordance with ap-  
6           plicable requirements, that the account holder is  
7           an employee, owner, or operator of a State-  
8           sanctioned marijuana business or service pro-  
9           vider;

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

12                   (A) a State-sanctioned marijuana business  
13           or service provider, solely because the business  
14           is a State-sanctioned marijuana business or  
15           service provider;

16                   (B) an employee, owner, or operator of a  
17           State-sanctioned marijuana business or service  
18           provider, solely because the employee, owner, or  
19           operator is employed by, owns, or operates a  
20           State-sanctioned marijuana business or service  
21           provider, as applicable; or

22                   (C) an owner or operator of real estate or  
23           equipment that is leased to a State-sanctioned  
24           marijuana business or service provider, solely  
25           because the owner or operator of the real estate

1 or equipment leased the equipment or real es-  
2 tate to a State-sanctioned marijuana business  
3 or service provider, as applicable; or

4 (5) prohibit or penalize a depository institution  
5 (or entity performing a financial service for or in as-  
6 sociation with a depository institution) for, or other-  
7 wise discourage a depository institution (or entity  
8 performing a financial service for or in association  
9 with a depository institution) from, engaging in a fi-  
10 nancial service for a State-sanctioned marijuana  
11 business or service provider solely because the busi-  
12 ness or service provider is a State-sanctioned mari-  
13 juana business or service provider.

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

18 **SEC. 4. PROTECTIONS FOR PROVIDING SERVICES TO**  
19 **STATE-SANCTIONED MARIJUANA BUSI-**  
20 **NESSES.**

21 For the purposes of sections 1956 and 1957 of title  
22 18, United States Code, and all other provisions of Fed-  
23 eral law, the proceeds from marijuana-related activities of  
24 a State-sanctioned marijuana business or service provider  
25 that conducts all of its marijuana-related activity in com-

1 pliance with the marijuana-related law of the State, Indian  
2 Tribe, or political subdivision of the State shall not be con-  
3 sidered proceeds from an unlawful activity solely be-  
4 cause—

5 (1) the transaction involves proceeds from a  
6 State-sanctioned marijuana business or service pro-  
7 vider; or

8 (2) the transaction involves proceeds from—

9 (A) marijuana-related activities described  
10 in section 2(19)(B) conducted by a State-sanc-  
11 tioned marijuana business; or

12 (B) activities described in section 2(17)(A)  
13 conducted by a service provider.

14 **SEC. 5. PROTECTIONS UNDER FEDERAL LAW.**

15 (a) IN GENERAL.—With respect to providing a finan-  
16 cial service to a State-sanctioned marijuana business  
17 (where such State-sanctioned marijuana business operates  
18 within a State, an Indian Tribe, or a political subdivision  
19 of a State that allows the cultivation, production, manu-  
20 facture, sale, transportation, display, dispensing, distribu-  
21 tion, or purchase of marijuana pursuant to a law or regu-  
22 lation of such State, Indian Tribe, or political subdivision,  
23 as applicable) or a service provider (wherever located), a  
24 depository institution, an entity performing a financial  
25 service for or in association with a depository institution,

1 a community development financial institution, or an in-  
2 surer that provides a financial service to a State-san-  
3 tioned marijuana business or service provider, and the of-  
4 ficers, directors, employees, and agents of that depository  
5 institution, entity, community development financial insti-  
6 tution, or insurer may not be held liable pursuant to any  
7 Federal law or regulation—

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

9 or

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

12 (b) PROTECTIONS FOR FEDERAL RESERVE BANKS  
13 AND FEDERAL HOME LOAN BANKS.—With respect to  
14 providing a service to a depository institution that pro-  
15 vides a financial service to a State-sanctioned marijuana  
16 business (where such State-sanctioned marijuana business  
17 operates within a State, an Indian Tribe, or a political  
18 subdivision of a State that allows the cultivation, produc-  
19 tion, manufacture, sale, transportation, display, dis-  
20 pensing, distribution, or purchase of marijuana pursuant  
21 to a law or regulation of such State, Indian Tribe, or polit-  
22 ical subdivision, as applicable) or service provider (wher-  
23 ever located), a Federal reserve bank or Federal Home  
24 Loan Bank, and the officers, directors, and employees of  
25 the Federal reserve bank or Federal Home Loan Bank,

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

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

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

6 (c) PROTECTIONS FOR INSURERS.—With respect to  
7 engaging in the business of insurance within a State, an  
8 Indian Tribe, or a political subdivision of a State that al-  
9 lows the cultivation, production, manufacture, sale, trans-  
10 portation, display, dispensing, distribution, or purchase of  
11 marijuana pursuant to a law or regulation of such State,  
12 Indian Tribe, or political subdivision, as applicable, an in-  
13 surer that engages in the business of insurance with a  
14 State-sanctioned marijuana business or service provider or  
15 that otherwise engages with a person in a transaction per-  
16 missible pursuant to a law (including regulations) of such  
17 State, Indian Tribe, or political subdivision related to  
18 marijuana, and the officers, directors, and employees of  
19 that insurer, may not be held liable pursuant to any Fed-  
20 eral law or regulation—

21 (1) solely for engaging in the business of insur-  
22 ance; or

23 (2) for further investing any income derived  
24 from the business of insurance.

25 (d) FORFEITURE.—



1           (1) DEPOSITORY INSTITUTIONS AND COMMU-  
2           NITY DEVELOPMENT FINANCIAL INSTITUTIONS.—A  
3           depository institution or community development fi-  
4           nancial institution that has a legal interest in the  
5           collateral for a loan or another financial service pro-  
6           vided to an owner, employee, or operator of a State-  
7           sanctioned marijuana business or service provider, or  
8           to an owner or operator of real estate or equipment  
9           that is leased or sold to a State-sanctioned mari-  
10          juana business or service provider, shall not be sub-  
11          ject to criminal, civil, or administrative forfeiture of  
12          that legal interest pursuant to any Federal law sole-  
13          ly for providing such loan or other financial service.

14          (2) FEDERAL RESERVE BANKS AND FEDERAL  
15          HOME LOAN BANKS.—A Federal reserve bank or  
16          Federal Home Loan Bank that has a legal interest  
17          in the collateral for a loan or another financial serv-  
18          ice provided to a depository institution that provides  
19          a financial service to a State-sanctioned marijuana  
20          business or service provider, or to an owner or oper-  
21          ator of real estate or equipment that is leased or  
22          sold to a State-sanctioned marijuana business or  
23          service provider, shall not be subject to criminal,  
24          civil, or administrative forfeiture of that legal inter-

1 est pursuant to any Federal law for providing such  
2 loan or other financial service.

3 (3) FEDERAL NATIONAL MORTGAGE ASSOCIA-  
4 TION, FEDERAL HOME LOAN MORTGAGE CORPORA-  
5 TION, AND FEDERAL AGENCIES MAKING, INSURING,  
6 OR GUARANTEEING MORTGAGE LOANS OR SECURI-  
7 TIES.—The Federal National Mortgage Association,  
8 the Federal Home Loan Mortgage Corporation, and  
9 any Federal agency that has a legal interest in the  
10 collateral for a residential mortgage loan, including  
11 individual units of condominiums and cooperatives,  
12 provided that the collateral is a property designed  
13 principally for the occupancy of 1 to 4 families and  
14 underwritten, in whole or in part, based on income  
15 from a State-sanctioned marijuana business or serv-  
16 ice provider, shall not be subject to criminal, civil, or  
17 administrative forfeiture of that legal interest pursu-  
18 ant to any Federal law for providing, insuring, guar-  
19 anteeing, purchasing, securitizing, or guaranteeing  
20 payments from a security based on such loan.

21 (4) OTHER PARTIES TO MORTGAGE LOANS.—A  
22 nondepository lender that makes a federally backed  
23 mortgage loan, as defined in section 9(a), and any  
24 person who otherwise has a legal interest in such a  
25 loan or in the collateral of the loan, including indi-

1       vidual units of condominiums and cooperatives, pro-  
2       vided that the collateral is a property designed prin-  
3       cipally for the occupancy of 1 to 4 families and un-  
4       derwritten, in whole or in part, based on income  
5       from a State-sanctioned marijuana business or serv-  
6       ice provider, shall not be subject to criminal, civil, or  
7       administrative forfeiture of that legal interest pursu-  
8       ant to any Federal law for providing, purchasing,  
9       securitizing, accepting, and making payments related  
10      to such federally backed mortgage loan solely be-  
11      cause loan payments or underwriting are based on  
12      income that is in whole or in part from a State-sanc-  
13      tioned marijuana business or service provider.

14               (5) DEFINITION.—In this subsection, the term  
15      “collateral” does not include marijuana or a mari-  
16      juana product.

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

19      Section 5318(g) of title 31, United States Code, is  
20      amended—

21               (1) by redesignating paragraph (11) as para-  
22      graph (12); and

23               (2) by inserting after paragraph (10) the fol-  
24      lowing

1           “(11) REQUIREMENTS FOR STATE-SANCTIONED  
2           MARIJUANA BUSINESSES.—

3           “(A) IN GENERAL.—With respect to a fi-  
4           nancial institution, or any director, officer, em-  
5           ployee, or agent of a financial institution, that  
6           reports a suspicious transaction pursuant to  
7           this subsection, if the reason for the report re-  
8           lates to a State-sanctioned marijuana business  
9           or service provider, the report shall comply with  
10          appropriate guidance issued by the Secretary of  
11          the Treasury. Not later than the end of the  
12          180-day period beginning on the date of enact-  
13          ment of the Secure And Fair Enforcement  
14          Banking Act of 2023, the Secretary shall  
15          amend the February 14, 2014, guidance titled  
16          ‘BSA Expectations Regarding Marijuana-Re-  
17          lated Businesses’ (FIN-2014-G001) or issue  
18          new guidance to ensure consistency with the  
19          purpose and intent of the Secure And Fair En-  
20          forcement Banking Act of 2023, and the  
21          amendments made by that Act, and that such  
22          guidance ensures that a financial institution,  
23          and any director, officer, employee, or agent of  
24          a financial institution, continues to report sus-  
25          picious transactions pursuant to this subsection,

1 as applicable, relating to State-sanctioned mari-  
2 juana businesses and service providers to pre-  
3 serve the ability of the Financial Crimes En-  
4 forcement Network to prevent and combat illicit  
5 activity.

6 “(B) DEFINITIONS.—In this paragraph:

7 “(i) FINANCIAL SERVICE; SERVICE  
8 PROVIDER; STATE; STATE-SANCTIONED  
9 MARIJUANA BUSINESS.—The terms ‘finan-  
10 cial service’, ‘service provider’, ‘State’, and  
11 ‘State-sanctioned marijuana business’ have  
12 the meanings given the terms in section 2  
13 of the SAFE Banking Act of 2023.

14 “(ii) INDIAN COUNTRY.—The term  
15 ‘Indian country’ has the meaning given the  
16 term in section 1151 of title 18.

17 “(iii) INDIAN TRIBE.—The term ‘In-  
18 dian Tribe’ has the meaning given the  
19 term ‘Indian tribe’ in section 102 of the  
20 Federally Recognized Indian Tribe List  
21 Act of 1994 (25 U.S.C. 5130).

22 “(iv) MARIJUANA.—The term ‘mari-  
23 juana’ has the meaning given the term  
24 ‘marihuana’ in section 102 of the Con-  
25 trolled Substances Act (21 U.S.C. 802).”.

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

2 (a) UNIFORM GUIDANCE AND EXAMINATION PROCE-  
3 DURES.—Not later than 180 days after the date of enact-  
4 ment of this Act, the Federal Financial Institutions Ex-  
5 amination Council, in consultation with the Department  
6 of the Treasury, shall develop uniform guidance and exam-  
7 ination procedures for depository institutions that provide  
8 financial services to State-sanctioned marijuana busi-  
9 nesses and service providers.

10 (b) LEGACY DEPOSITS.—The guidance and examina-  
11 tion procedures described in subsection (a) shall permit  
12 a depository institution to accept a deposit of currency  
13 from a State-sanctioned marijuana business if—

14 (1) the business received the currency during  
15 the 90-day period ending on the date on which the  
16 business commenced its relationship with the deposi-  
17 tory institution;

18 (2) the business provided the depository institu-  
19 tion with records sufficient to demonstrate the  
20 source of the currency being deposited by the busi-  
21 ness;

22 (3) the amount of the currency is reasonable in  
23 light of the expected revenue of the business, as de-  
24 termined by the depository institution consistent  
25 with the risk-based procedures for ensuring compli-  
26 ance with the section 5318(h) of title 31, United

1 States Code, and any applicable regulations imple-  
2 menting that section; and

3 (4) the depository institution complies with any  
4 other applicable reporting requirements pursuant to  
5 subchapter II of chapter 53 of title 31, United  
6 States Code, and any applicable regulations imple-  
7 menting that subchapter.

8 **SEC. 8. BANKING SERVICES FOR HEMP-RELATED LEGITI-**  
9 **MATE BUSINESSES AND HEMP-RELATED**  
10 **SERVICE PROVIDERS.**

11 (a) FINDINGS.—Congress finds that—

12 (1) section 12619 of the Agriculture Improve-  
13 ment Act of 2018 (Public Law 115–334; 132 Stat.  
14 5018) legalized hemp by removing it from the defini-  
15 tion of marihuana under section 102 of the Con-  
16 trolled Substances Act (21 U.S.C. 802);

17 (2) despite the legalization of hemp, some hemp  
18 businesses (including producers, manufacturers, and  
19 retailers) continue to have difficulty gaining access  
20 to banking products and services; and

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

24 (b) DEFINITION.—In this section, the term “financial  
25 institution”—

1           (1) has the meaning given the term in section  
2           5312(a) of title 31, United States Code; and

3           (2) includes a bank holding company, as de-  
4           fined in section 2(a) of the Bank Holding Company  
5           Act of 1956 (12 U.S.C. 1841(a)).

6           (c) FEDERAL BANKING REGULATORS' HEMP BANK-  
7           ING GUIDANCE.—Not later than the end of the 90-day pe-  
8           riod beginning on the date of enactment of this Act, each  
9           Federal banking regulator shall update guidance, as in ef-  
10          fect on the date of enactment of this Act, regarding pro-  
11          viding financial services to hemp-related legitimate busi-  
12          nesses and hemp-related service providers to address—

13           (1) compliance with obligations of financial in-  
14          stitutions, as of the date of enactment of this Act,  
15          under Federal laws (including regulations) deter-  
16          mined relevant by the Federal banking regulator and  
17          the Department of the Treasury, including sub-  
18          chapter II of chapter 53 of title 31, United States  
19          Code, and its implementing regulation in conformity  
20          with this Act and the regulations relating to domes-  
21          tic hemp production under part 990 of title 7, Code  
22          of Federal Regulations; and

23           (2) best practices for financial institutions to  
24          follow when providing financial services, including



1 processing payments, to hemp-related legitimate  
2 businesses and hemp-related service providers.

3 **SEC. 9. TREATMENT OF INCOME DERIVED FROM A STATE-**  
4 **SANCTIONED MARIJUANA BUSINESS FOR**  
5 **QUALIFICATION FOR A FEDERALLY BACKED**  
6 **SINGLE-FAMILY MORTGAGE LOAN.**

7 (a) DEFINITION.—In this section, the term “federally  
8 backed mortgage loan” means any loan secured by a first  
9 or subordinate lien on residential real property, including  
10 individual units of condominiums and cooperatives, de-  
11 signed principally for the occupancy of 1 to 4 families that  
12 is—

13 (1) insured by the Federal Housing Administra-  
14 tion under title I or title II of the National Housing  
15 Act (12 U.S.C. 1702 et seq., 1707 et seq.);

16 (2) insured under section 255 of the National  
17 Housing Act (12 U.S.C. 1715z–20);

18 (3) guaranteed under section 184 or 184A of  
19 the Housing and Community Development Act of  
20 1992 (12 U.S.C. 1715z–13a, 1715z–13b);

21 (4) guaranteed, insured, or made by the De-  
22 partment of Veterans Affairs;

23 (5) guaranteed, insured, or made by the De-  
24 partment of Agriculture; or

1           (6) purchased or securitized by the Federal  
2 Home Loan Mortgage Corporation or the Federal  
3 National Mortgage Association.

4           (b) TREATMENT OF INCOME.—

5           (1) IN GENERAL.—Income derived from a  
6 State-sanctioned marijuana business that operates  
7 within a State, an Indian Tribe, or a political sub-  
8 division of a State that allows the cultivation, pro-  
9 duction, manufacture, sale, transportation, display,  
10 dispensing, distribution, or purchase of marijuana  
11 pursuant to a law or regulation of the State, Indian  
12 Tribe, or political subdivision, as applicable, or a  
13 service provider (wherever located), shall be consid-  
14 ered in the same manner as any other legal income  
15 for purposes of determining eligibility for a federally  
16 backed mortgage loan for a 1- to 4-unit property  
17 that is the principal residence of the mortgagor.

18           (2) LIABILITY.—The mortgagee or servicer of a  
19 federally backed mortgage loan described in para-  
20 graph (1), or any Federal agency, the Federal Na-  
21 tional Mortgage Association, or the Federal Home  
22 Loan Mortgage Corporation, may not be held liable  
23 pursuant to any Federal law or regulation solely  
24 for—

1           (A) providing, insuring, guaranteeing, pur-  
2           chasing, or securitizing a mortgage to an other-  
3           wise qualified borrower on the basis of the in-  
4           come described in paragraph (1); or

5           (B) accepting the income described in  
6           paragraph (1) as payment on the federally  
7           backed mortgage loan.

8           (c) IMPLEMENTATION.—Not later than 180 days  
9           after the date of enactment of this Act—

10           (1) the Federal Housing Administration shall  
11           implement subsection (b)—

12           (A) by notice or mortgagee letter for loans  
13           insured under title I, title II, or section 255 of  
14           the National Housing Act (12 U.S.C. 1702 et  
15           seq., 1707 et seq., 1715z–20); and

16           (B) by lender letter for loans guaranteed  
17           under section 184 or 184A of the Housing and  
18           Community Development Act of 1992 (12  
19           U.S.C. 1715z–13a, 1715z–13b);

20           (2) the Department of Veterans Affairs shall  
21           implement subsection (b) by circular or handbook  
22           for loans guaranteed, insured, or made by the De-  
23           partment;

1           (3) the Department of Agriculture shall imple-  
2           ment subsection (b) by bulletin for loans guaranteed  
3           or made by the Department;

4           (4) the Federal Home Loan Mortgage Corpora-  
5           tion shall implement subsection (b) by updating its  
6           Single-Family Seller/Service Guide for loans pur-  
7           chased or securitized by the Corporation; and

8           (5) the Federal National Mortgage Association  
9           shall implement subsection (b) by updating its Sin-  
10          gle Family Selling Guide for loans purchased or  
11          securitized by the Association.

12 **SEC. 10. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**  
13 **NATION REQUESTS AND ORDERS.**

14          (a) **CONDITIONS FOR TERMINATION.—**

15           (1) **IN GENERAL.—**An appropriate Federal  
16          banking agency may not formally or informally re-  
17          quest or order a depository institution to terminate  
18          a specific customer account or group of customer ac-  
19          counts (including, but not limited to, any account of  
20          any customer that is a State-sanctioned marijuana  
21          business or service provider) or to otherwise restrict  
22          or discourage a depository institution from entering  
23          into or maintaining a banking relationship with a  
24          specific customer or group of customers (including,  
25          but not limited to, with any customer that is a

1 State-sanctioned marijuana business or service pro-  
2 vider), unless—

3 (A) the agency has made a written deter-  
4 mination that the depository institution is—

5 (i) engaging in an unsafe or unsound  
6 practice; or

7 (ii) violating a rule, law, regulation, or  
8 order with respect to the relationship of  
9 the depository institution with the cus-  
10 tomer (or, in the case of a group of cus-  
11 tomers, specific customers within the  
12 group); and

13 (B) such reason is not based primarily on  
14 reputational risk.

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

19 (A) poses a threat to national security;

20 (B) is involved in terrorist financing;

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

1 (D) is located in, or is subject to the juris-  
2 diction of, any country specified in subpara-  
3 graph (C); or

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

12 (b) NOTICE REQUIREMENT.—

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

18 (A) provide such request or order to the  
19 institution in writing; and

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

1           (2) JUSTIFICATION REQUIREMENT.—A jus-  
2           tification described under paragraph (1)(B) may not  
3           be based solely on the reputational risk to the depos-  
4           itory institution.

5           (c) CUSTOMER NOTICE.—

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

15          (2) NOTICE PROHIBITED.—

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

1 customers of the justification for the customer's  
2 account termination.

3 (B) NOTICE PROHIBITED IN OTHER  
4 CASES.—If an appropriate Federal banking  
5 agency determines that the notice required  
6 under paragraph (1) may interfere with an au-  
7 thorized criminal investigation, neither the de-  
8 pository institution nor the appropriate Federal  
9 banking agency may inform the specific cus-  
10 tomer or group of customers of the justification  
11 for the customer's account termination.

12 (d) REPORTING REQUIREMENT.—Each appropriate  
13 Federal banking agency shall submit to the Committee on  
14 Banking, Housing, and Urban Affairs of the Senate and  
15 the Committee on Financial Services of the House of Rep-  
16 resentatives an annual report stating—

17 (1) the aggregate number of specific customer  
18 accounts that the agency requested that a depository  
19 institution terminate, or ordered a depository insti-  
20 tution to terminate, during the previous year; and

21 (2) the legal authority on which the agency re-  
22 lied in making each request and order under para-  
23 graph (1) and the frequency on which the agency re-  
24 lied on each such authority.

25 (e) DEFINITIONS.—In this section:



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

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

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

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

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

14                   (B) an insured credit union.

15 **SEC. 11. ANNUAL DIVERSITY AND INCLUSION REPORT.**

16          The Federal banking regulators shall submit to Con-  
17          gress an annual report containing—

18                   (1) information and data on the availability of  
19                   access to financial services for minority-owned, vet-  
20                   eran-owned, women-owned, and small State-sanc-  
21                   tioned marijuana businesses; and

22                   (2) any regulatory or legislative recommenda-  
23                   tions for expanding access to financial services for  
24                   minority-owned, veteran-owned, women-owned, and

1 small State-sanctioned marijuana businesses and  
2 hemp-related legitimate businesses.

3 **SEC. 12. GAO STUDY ON DIVERSITY AND INCLUSION.**

4 (a) STUDY.—The Comptroller General of the United  
5 States shall conduct a study on the barriers to market-  
6 place entry, including in the licensing process, and the ac-  
7 cess to financial services for potential and existing minor-  
8 ity-owned, veteran-owned, women-owned, and small State-  
9 sanctioned marijuana businesses and hemp-related legiti-  
10 mate businesses.

11 (b) REPORT.—Not later than 2 years after the date  
12 of enactment of this Act, the Comptroller General of the  
13 United States shall submit to Congress a report con-  
14 taining—

15 (1) all findings and determinations made in  
16 conducting the study required under subsection (a);  
17 and

18 (2) any regulatory or legislative recommenda-  
19 tions for removing barriers to marketplace entry and  
20 success, including in the licensing process, and ex-  
21 panding access to financial services for potential and  
22 existing minority-owned, veteran-owned, women-  
23 owned, and small State-sanctioned marijuana busi-  
24 nesses and hemp-related legitimate businesses.

1 **SEC. 13. GAO STUDY ON EFFECTIVENESS OF CERTAIN RE-**  
2 **PORTS ON FINDING CERTAIN PERSONS.**

3 (a) IN GENERAL.—Not later than 2 years after the  
4 date of enactment of this Act, the Comptroller General  
5 of the United States, in consultation with the Attorney  
6 General, shall conduct a study on—

7 (1) the effectiveness of reports on suspicious  
8 transactions filed pursuant to section 5318(g) of  
9 title 31, United States Code, at finding individuals  
10 or organizations suspected or known to be engaged  
11 with transnational criminal organizations; and

12 (2) whether any engagement described in para-  
13 graph (1) exists in a State, an Indian Tribe, or a  
14 political subdivision of a State that allows the cul-  
15 tivation, production, manufacture, sale, transpor-  
16 tation, display, dispensing, distribution, or purchase  
17 of marijuana.

18 (b) REQUIREMENTS.—The study required under sub-  
19 section (a) shall examine reports on suspicious trans-  
20 actions—

21 (1) relating to marijuana-related businesses, as  
22 described in the guidance entitled “BSA Expecta-  
23 tions Regarding Marijuana-Related Businesses”,  
24 published by the Financial Crimes Enforcement Net-  
25 work of the Department of the Treasury on Feb-  
26 ruary 14, 2014, during the period beginning on Jan-

1 uary 1, 2014, and ending on the date of enactment  
2 of this Act; and

3 (2) relating to State-sanctioned marijuana busi-  
4 nesses during the period beginning on January 1,  
5 2014, and ending on the date that is 1 year after  
6 the date of enactment of this Act.

7 **SEC. 14. APPLICABILITY TO HEMP-RELATED LEGITIMATE**  
8 **BUSINESSES AND HEMP-RELATED SERVICE**  
9 **PROVIDERS.**

10 The provisions of this Act (other than sections 6 and  
11 13) shall apply with respect to hemp-related legitimate  
12 businesses and hemp-related service providers in the same  
13 manner as such provisions apply with respect to State-  
14 sanctioned marijuana businesses and service providers.

15 **SEC. 15. RULES OF CONSTRUCTION.**

16 (a) **NO REQUIREMENT TO PROVIDE FINANCIAL**  
17 **SERVICES.**—Nothing in this Act shall require a depository  
18 institution, an entity performing a financial service for or  
19 in association with a depository institution, a community  
20 development financial institution, or an insurer to provide  
21 financial services to a State-sanctioned marijuana busi-  
22 ness, service provider, or any other business.

23 (b) **GENERAL EXAMINATION, SUPERVISORY, AND**  
24 **ENFORCEMENT AUTHORITY.**—Nothing in this Act may be  
25 construed in any way to limit or otherwise restrict the gen-

1 eral examination, supervisory, and enforcement authority  
2 of the Federal banking regulators (including the Depart-  
3 ment of the Treasury), provided that any supervisory or  
4 enforcement action is not being taken solely because the  
5 provision of financial services to a State-sanctioned mari-  
6 juana business or service provider.

7 (c) BUSINESS OF INSURANCE.—Nothing in this Act  
8 shall interfere with the regulation of the business of insur-  
9 ance in accordance with the Act entitled “An Act to ex-  
10 press the intent of the Congress with reference to the reg-  
11 ulation of the business of insurance”, approved March 9,  
12 1945 (commonly known as the “McCarran-Ferguson  
13 Act”; 15 U.S.C. 1011 et seq.) and the Dodd-Frank Wall  
14 Street Reform and Consumer Protection Act (12 U.S.C.  
15 5301 et seq.).

16 (d) LAW ENFORCEMENT AUTHORITY.—Nothing in  
17 this Act shall restrict or limit the ability of Federal law  
18 enforcement agencies to investigate and prosecute money-  
19 laundering crimes involving proceeds of illegal activity  
20 other than marijuana-related activities conducted in com-  
21 pliance with the law of the State, Indian Tribe, or political  
22 subdivision of a State by a State-sanctioned marijuana  
23 business or service provider.