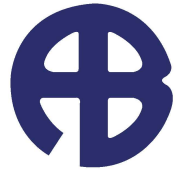


Asociación
de Bancos de
Puerto Rico

Aspectos Bancarios y el Cannabis Medicinal

Lcda. Zoimé Alvarez Rubio
Vicepresidenta Ejecutiva

Cannabis and Banking



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

Cannabis and Banking



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

Example: Letter to the Congress



September 19, 2019

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

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

Dear Speaker Pelosi and Minority Leader McCarthy:

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

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

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

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

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

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

Sincerely,

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

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

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



116TH CONGRESS
1ST SESSION

H. R. 1595

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

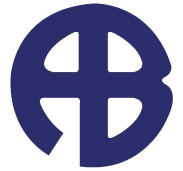
Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

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

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

Regulatory Guidance



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

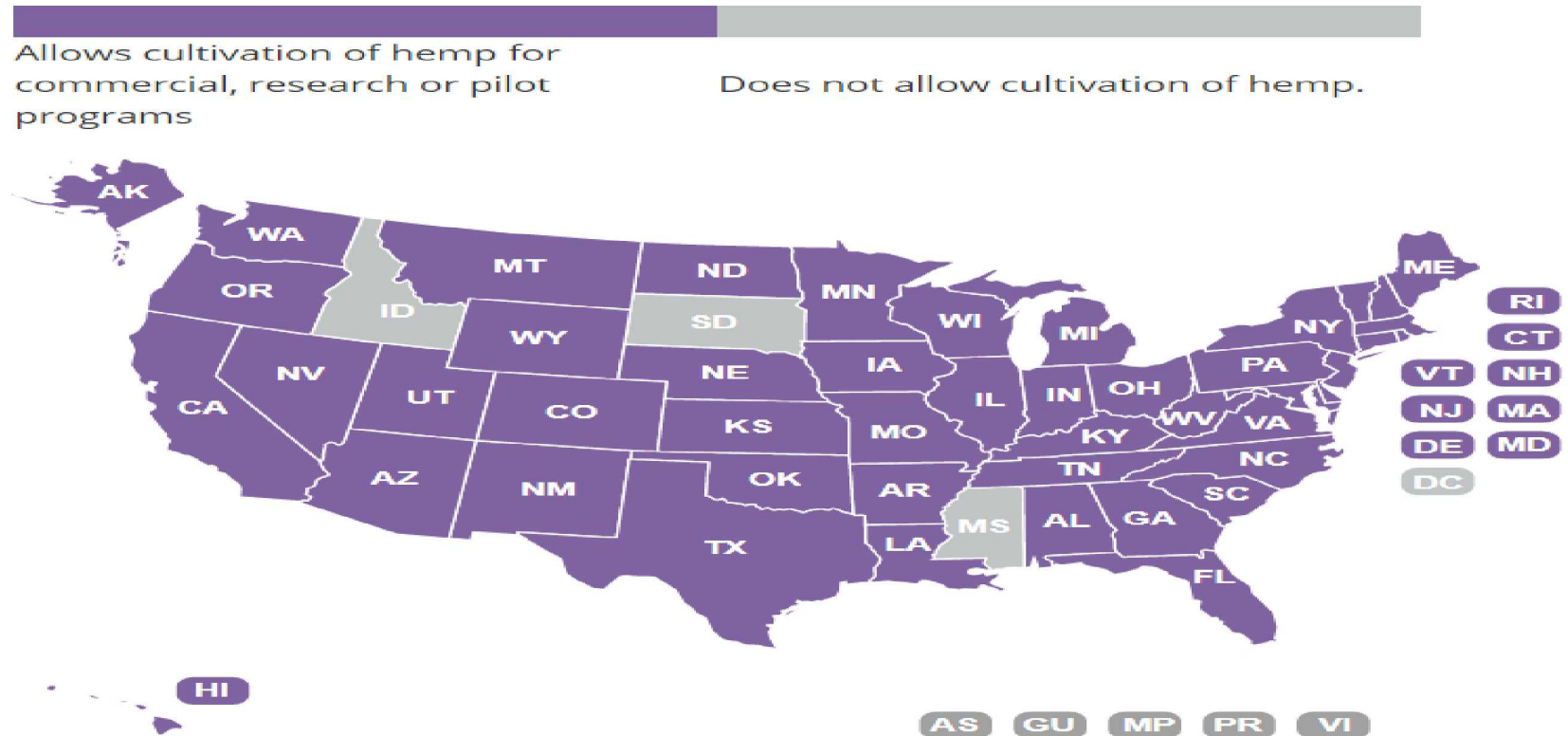
FDIC Presentation:

Onboarding and Maintaining Hemp Customers



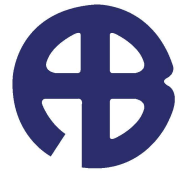
- ▶ Depository institutions providing, or planning to provide, services to hemp customers may wish to consult qualified legal counsel.
- ▶ Obligations include suspicious activity monitoring and reporting (as appropriate) as well as risk-based customer due diligence for all customer relationships including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

FDIC Presentation: Landscape of Hemp Industry

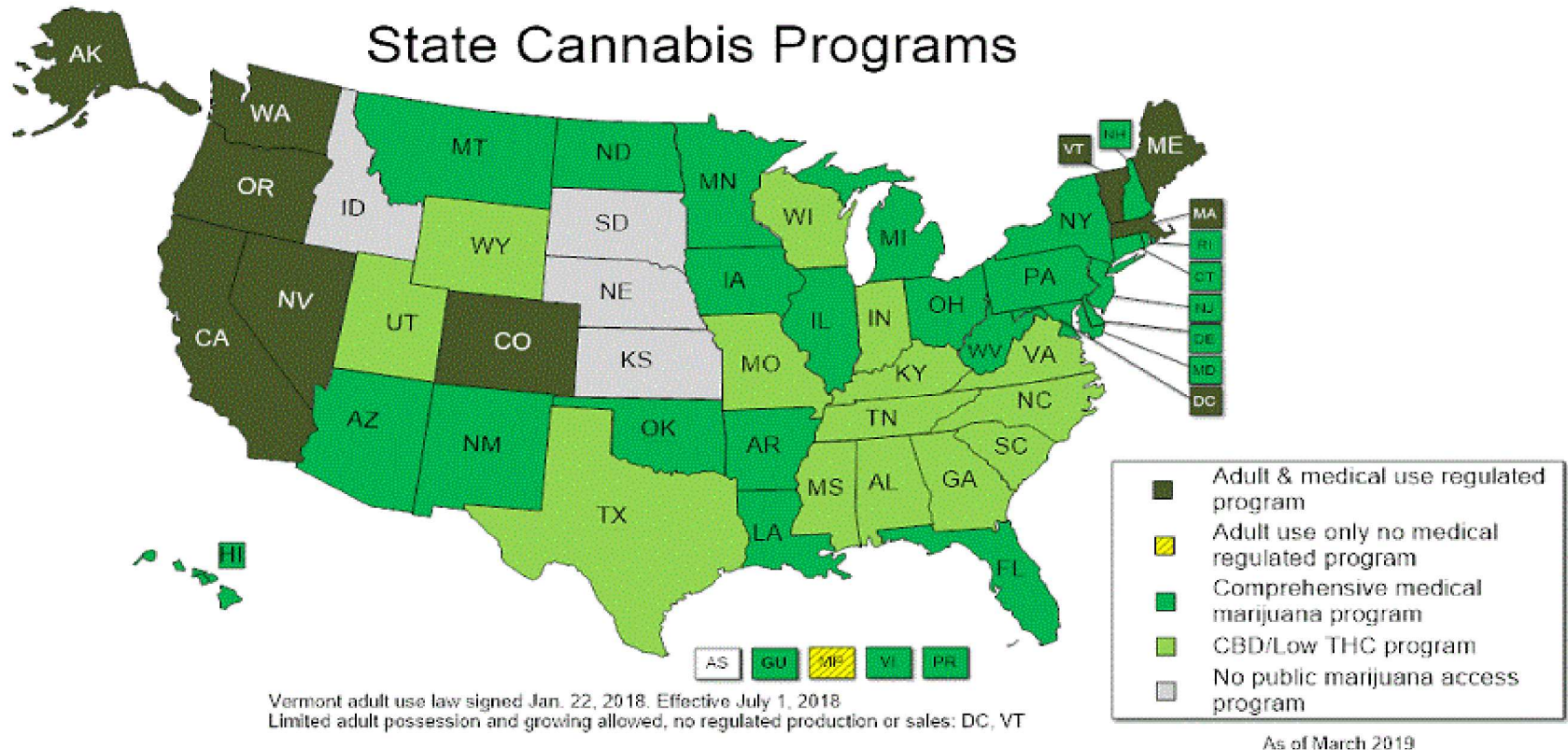


Each state, territory or tribal agency's plan will provide details on practices and procedures that enable hemp producers in their jurisdiction to operate according to their individual regulatory program and in compliance with federal laws.

FDIC Presentation: Landscape of Cannabis Industry



- **Marijuana/Cannabis is still illegal under federal law.**



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

Conclusion



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

