

Support the Secure and Fair Enforcement Banking Act of 2019

Dear Members of the Senate Committee on Banking, Housing and Urban Affairs,

We are heartened by the committee's decision to host a hearing on challenges to cannabis banking. In particular, we hope the hearing brings attention to legislation that would provide clarity and transparency to financial services firms that serve the legal cannabis industry, such as S. 1200, the Secure and Fair Enforcement Banking Act of 2019 (SAFE Banking Act), introduced by Sens Jeff Merkley (D-Ore.) and Cory Gardner (R-Colo.).

The legal distribution and use of medical marijuana are currently permitted under local law in 33 states and the District of Columbia, while D.C. and 11 states permit adult recreational marijuana use. Some banks and financial services providers are willing to serve this emerging legal cannabis industry. According to the most recent data from the U.S. Treasury Department's Financial Crime Enforcement Network, there were 493 banks and 140 credit unions serving cannabis-related business accounts as of the first quarter of 2019.

However, the potential for criminal and civil liability under federal law and banking regulations remains a stumbling block. As a result, only about 30 percent of marijuana-based businesses report using a depository institution. This has created perverse incentives and given rise to robberies and tax evasion.

If enacted, the SAFE Banking Act would prohibit federal banking and credit union regulators from sanctioning regulated lenders or limit their access to deposit insurance on the grounds that they provided service to legitimate cannabis businesses in jurisdictions that have legalized marijuana consumption. To be clear, the bill does not force states to legalize marijuana or in any way inhibit state regulation of the marijuana or banking industries.

According to a recent study, more than 210,000 Americans are employed in cannabis and cannabis-related jobs. In 2018 alone, more than \$10 billion was invested in the industry and nearly 65,000 full time jobs were created. Regulatory certainty for the financial services industry will help facilitate this nascent market.

Even where lenders are providing financial services to the legal marijuana industry, the compliance processes that currently would be appropriate to service this sector effectively are daunting and beyond what many smaller lenders could manage. Federal law is needed to provide guidance, clarity and a permanent safe harbor for depositories who work with state-sanctioned cannabis businesses.

Sincerely,

R.J. Lehmann, Senior Fellow, R Street Institute

Michelle Minton, Senior Fellow, Competitive Enterprise Institute

Brent Wm. Gardener, Chief Government Affairs Officer, Americans for Prosperity

Pete Sepp, President, National Taxpayers Union

Don Murphy, Director of Federal Policies, Marijuana Policy Project