AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R.1595
OFFERED BY MR. PERLMUTTER OF COLORADO

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the “Secure And Fair Enforcement Banking Act of 2019” or the “SAFE Banking Act of 2019”.

(b) PURPOSE.—The purpose of this Act is to increase public safety by ensuring access to 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 De-
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; or

(5) prohibit or penalize a depository institution (or entity performing a financial service for or in association with a depository institution) for, or otherwise discourage a depository institution (or entity performing a financial service for or in association with a depository institution) from, engaging in a financial service for a cannabis-related legitimate business or service provider.

SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.

For purposes of 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 a financial service to a cannabis-related legitimate business or service provider within a State, political subdivision of a State, or Indian country that allows the cultivation, pro-
duction, 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 or entity performing a financial service for or in association with a depository institution that provides a financial service to a cannabis-related legitimate business or service provider, and the officers, directors, and employees of that depository institution or entity may not be held liable pursuant to any Federal law or regulation—

(1) solely for providing such a financial service;

or

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

(b) Protections for Federal Reserve Banks.—With respect to providing a service to a depository institution that provides a financial service to a cannabis-related legitimate business or service provider (where such financial service is provided 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 Federal reserve
bank, and the officers, directors, and employees of the
Federal reserve bank, may not be held liable pursuant to
any Federal law or regulation—

(1) solely for providing such a service; or

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

(c) FORFEITURE.—

(1) DEPOSITORY INSTITUTIONS.—A depository
institution that has a legal interest in the collateral
for a loan or another financial service provided to an
owner, employee, or operator of a cannabis-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 pro-
viding such loan or other financial service.

(2) FEDERAL RESERVE BANKS.—A Federal re-
serve bank that has a legal interest in the collateral
for a loan or another financial service provided to an
owner, employee, or operator of a depository institu-
tion that provides a financial services to a cannabis-
related legitimate business or service provider, or to
an owner or operator of real estate or equipment
that is leased or sold to such a depository institu-
tion, shall not be subject to criminal, civil, or admin-
istrative forfeiture of that legal interest pursuant to
any Federal law for providing such loan or other fi-
nancial service.

SEC. 5. RULE OF CONSTRUCTION.
Nothing in this Act shall require a depository institu-
tion or entity performing a financial service for or in asso-
ciation with a depository institution to provide financial
services to a cannabis-related legitimate business or serv-
ice 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 fi-
nancial institution or any director, officer, em-
ployee, or agent of a financial institution that
reports a suspicious transaction pursuant to
this subsection, if the reason for the report re-
lates 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 10 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’ has the meaning given that term in section 10 of the SAFE Banking Act of 2019.

“(vi) SERVICE PROVIDER.—The term ‘service provider’ has the meaning given that term in section 10 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.
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.

SEC. 8. ANNUAL DIVERSITY AND INCLUSION REPORT.
The Federal banking regulators shall issue an annual report to Congress containing—

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

(2) any regulatory or legislative recommendations for expanding access to financial services for minority-owned and women-owned cannabis-related legitimate businesses.

SEC. 9. GAO STUDY ON DIVERSITY AND INCLUSION.
(a) Study.—The Comptroller General of the United States shall carry out a study on the barriers to marketplace entry, including in the licensing process, and the access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.
(b) REPORT.—The Comptroller General shall issue a report to the Congress—

(1) containing all findings and determinations made in carrying out the study required under subsection (a); and

(2) containing any regulatory or legislative recommendations for removing barriers to marketplace entry, including in the licensing process, and expanding access to financial services for potential and existing minority-owned and women-owned cannabis-related legitimate businesses.

SEC. 10. 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(c) 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 Finan-
cial Crimes Enforcement Network, the Office of For-
egn Asset Control, the Office of the Comptroller of 
the Currency, the National Credit Union Adminis-
tration, the Department of the Treasury, or any 
Federal agency or department that regulates bank-
ing or financial services, as determined by the Sec-
retary of the Treasury.

(6) FINANCIAL SERVICE.—The term “financial 
service”—

(A) 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);

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

(C) includes acting as a money transmitting business which directly or indirectly makes use of a depository institution in connection with effectuating or facilitating a payment for a cannabis-related legitimate business or service provider in compliance with section 5330 of title 31, United States Code, and any applicable State law; and

(D) includes acting as an armored car service for processing and depositing with a depository institution or the Board of Governors of the Federal Reserve System with respect to any monetary instruments (as defined under section 1956(e)(5) of title 18, United States Code.

(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, distrib-
uting, 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.