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

IN THE HOUSE OF REPRESENTATIVES

Mr. PERLMUTTER (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 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 2019” or the “SAFE Banking
6 Act of 2019”.

7 SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.

8 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.) or the Federal Credit Union Act (12 U.S.C. 1751 et seq.) solely because the depository institution provides or has provided financial services to a cannabis-related legitimate business;

(2) prohibit, penalize, or otherwise discourage a depository institution from providing financial services to a cannabis-related legitimate business 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 manufacturer or producer, or is the owner, operator, or employee of a cannabis-related legitimate business;
(B) the account holder later becomes an owner or operator of a cannabis-related legitimate business; or

(C) the depository institution was not aware that the account holder is the owner or operator of a cannabis-related legitimate business; and

(4) take any adverse or corrective supervisory action on a loan made to an owner or operator of—

(A) a cannabis-related legitimate business, solely because the owner or operator owns or operates a cannabis-related legitimate business; or

(B) real estate or equipment that is leased to a cannabis-related legitimate business, solely because the owner or operator of the real estate or equipment leased the equipment or real estate to a cannabis-related legitimate business.

SEC. 3. TREATMENT OF PROCEEDS UNDER FEDERAL LAW.

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 shall not be considered
as proceeds from an unlawful activity solely because the
transaction was conducted by a cannabis-related legiti-
mate business.

SEC. 4. PROTECTIONS UNDER FEDERAL LAW.

(a) IN GENERAL.—In a State, political subdivision of
a State, or Indian country that allows the cultivation, pro-
duction, manufacture, sale, transportation, display, dis-
pensing, 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 finan-
cial services to a cannabis-related legitimate business, 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
pursuant to the law or regulation of such State, po-
litical subdivision, or Indian Tribe; 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 to an owner or oper-
ator of real estate or equipment that is leased or sold to
a cannabis-related legitimate business, 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.

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,
the report shall comply with appropriate guid-
ance issued by the Financial Crimes Enforce-
ment 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 inhibit the provision of financial services to a cannabis-related legitimate business 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 he 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).”.

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.

(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 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; and

(B)(i) 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 or distributing or deriving any proceeds, directly or
indirectly, from cannabis or cannabis products;

or

(ii) provides—

(I) any financial service, including re-

tirement plans or exchange traded funds,

relating to cannabis; or

(II) any business services, including

the sale or lease of real or any other prop-

erty, legal or other licensed services, or any

other ancillary service, relating to can-

nabis.

(4) DEPOSITORY INSTITUTION.—The term “de-

pository 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 sec-

tion 101 of the Federal Credit Union Act (12


(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 de-
partment that regulates banking or financial serv-
ices, as determined by the Secretary of the Treas-
ury.

(6) **FINANCIAL SERVICE.**—The term “financial
service” means a financial product or service as de-
fined 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 coun-
try” 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

(9) **MANUFACTURER.**—The term “manufac-
turer” means a person who manufactures, com-
pounds, 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) **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.