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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

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

Mr. PERLMUTTER 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 2017” of the “SAFE Act of
6 2017”.

1 **SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

2 A Federal banking regulator may not—

3 (1) terminate or limit the deposit insur-
4 ance or share insurance of a depository institu-
5 tion under the Federal Deposit Insurance Act
6 (12 U.S.C. 1811 et seq.) or the Federal Credit
7 Union Act (12 U.S.C. 1751 et seq.) solely be-
8 cause the depository institution provides or has
9 provided financial services to a cannabis-related
10 legitimate business;

11 (2) prohibit, penalize, or otherwise discour-
12 age a depository institution from providing fi-
13 nancial services to a cannabis-related legitimate
14 business or to a State or political subdivision of
15 a State that exercises jurisdiction over can-
16 nabis-related legitimate businesses;

17 (3) recommend, incentivize, or encourage a
18 depository institution not to offer financial serv-
19 ices to an account holder, or to downgrade or
20 cancel the financial services offered to an ac-
21 count holder solely because—

22 (A) the account holder is a manufac-
23 turer or producer, or is the owner, oper-
24 ator, or employee of a cannabis-related le-
25 gitimate business;

1 (B) the account holder later becomes
2 an owner or operator of a cannabis-related
3 legitimate business; or

4 (C) the depository institution was not
5 aware that the account holder is the owner
6 or operator of a cannabis-related legitimate
7 business.

8 (4) take any adverse or corrective super-
9 visory action on a loan made to an owner or op-
10 erator of—

11 (A) a cannabis-related legitimate busi-
12 ness, solely because the owner or operator
13 owns or operates a cannabis-related legiti-
14 mate business; or

15 (B) real estate or equipment that is
16 leased to a cannabis-related legitimate
17 business, solely because the owner or oper-
18 ator of the real estate or equipment leased
19 the equipment or real estate to a cannabis-
20 related legitimate business.

21 **SEC. 3. PROTECTIONS UNDER FEDERAL LAW.**

22 (a) IN GENERAL.—In a State or a political subdivi-
23 sion of a State that allows the cultivation, production,
24 manufacture, sale, transportation, display, dispensing, dis-
25 tribution, or purchase of cannabis pursuant to a law or

1 regulation of such State or political subdivision a deposi-
2 tory institution that provides financial services to a can-
3 nabis-related legitimate business, and the officers, direc-
4 tors, and employees of that depository institution may not
5 be held liable pursuant to any Federal law or regulation—

6 (1) solely for providing such financial services
7 pursuant to the law or regulation of such State or
8 political subdivision; or

9 (2) for further investing any income derived
10 from such financial services.

11 (b) FORFEITURE.—A depository institution that has
12 a legal interest in the collateral for a loan or another fi-
13 nancial service provided to an owner or operator of a can-
14 nabis-related legitimate business, or to an owner or oper-
15 ator of real estate or equipment that is leased or sold to
16 a cannabis-related legitimate business, shall not be subject
17 to criminal, civil, or administrative forfeiture of that legal
18 interest pursuant to any Federal law for providing such
19 loan or other financial service.

20 **SEC. 4. RULE OF CONSTRUCTION.**

21 Nothing in this Act shall require a depository institu-
22 tion to provide financial services to a cannabis-related le-
23 gitimate business.

1 **SEC. 5. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
2 **REPORTS.**

3 Section 5318(g) of title 31, United States Code, is
4 amended by adding at the end the following:

5 “(5) REQUIREMENTS FOR CANNABIS-RELATED
6 BUSINESSES.—A financial institution or any direc-
7 tor, officer, employee, or agent of a financial institu-
8 tion that reports a suspicious transaction pursuant
9 to this subsection and the reason for the report re-
10 lates to a cannabis-related legitimate business (as
11 defined in section 6 of the Secure and Fair Enforce-
12 ment Banking Act of 2017), the report shall comply
13 with appropriate guidance issued by the Financial
14 Crimes Enforcement Network. The Secretary shall
15 ensure that the guidance is consistent with the pur-
16 pose and intent of the Secure and Fair Enforcement
17 Banking Act of 2017 and does not inhibit the provi-
18 sion of financial services to a cannabis-related legiti-
19 mate business in a State or political subdivision of
20 a State that has allowed the cultivation, production,
21 manufacture, transportation, display, dispensing,
22 distribution, sale, or purchase of cannabis pursuant
23 to law or regulation of such State or political sub-
24 division.”.

25 **SEC. 6. DEFINITIONS.**

26 In this Act:

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

3 (A) a depository institution as defined in
4 section 3(c) of the Federal Deposit Insurance
5 Act (12 U.S.C. 1813(c));

6 (B) a Federal credit union as defined in
7 section 101 of the Federal Credit Union Act
8 (12 U.S.C. 1752); or

9 (C) a State credit union as defined in sec-
10 tion 101 of the Federal Credit Union Act (12
11 U.S.C. 1752).

12 (2) FEDERAL BANKING REGULATOR.—The
13 term “Federal banking regulator” means each of the
14 Board of Governors of the Federal Reserve System,
15 the Bureau of Consumer Financial Protection, the
16 Federal Deposit Insurance Corporation, the Office of
17 the Comptroller of the Currency, the National Credit
18 Union Administration, or any Federal agency or de-
19 partment that regulates banking or financial serv-
20 ices, as determined by the Secretary of the Treas-
21 ury.

22 (3) FINANCIAL SERVICE.—The term “financial
23 service” means a financial product or service as de-
24 fined in section 1002 of the Dodd-Frank Wall Street

1 Reform and Consumer Protection Act (12 U.S.C.
2 5481).

3 (4) MANUFACTURER.—The term “manufac-
4 turer” means a person who manufactures, com-
5 pounds, converts, processes, prepares, or packages
6 cannabis or cannabis products.

7 (5) CANNABIS-RELATED LEGITIMATE BUSI-
8 NESS.—The term “cannabis-related legitimate busi-
9 ness” means a manufacturer, producer, or any per-
10 son that—

11 (A) engages in an activity described in sub-
12 paragraph (B) pursuant to a law or regulation
13 of a State, political subdivision of a State, or a
14 Tribal-State compact; or

15 (B) participates in any business or orga-
16 nized activity that involves handling cannabis or
17 cannabis products, including cultivating, pro-
18 ducing, manufacturing, selling, transporting,
19 displaying, dispensing, distributing, or pur-
20 chasing cannabis or cannabis products.

21 (6) CANNABIS.—The term “cannabis” has the
22 meaning given the term “marihuana” in section 102
23 of the Controlled Substances Act (21 U.S.C. 802).

24 (7) CANNABIS PRODUCT.—The term “cannabis
25 product” means any article which contains cannabis,

1 including an article which is a concentrate, an edi-
2 ble, a tincture, a cannabis-infused product, or a top-
3 ical.

4 (8) PRODUCER.—The term “producer” means a
5 person who plants, cultivates, harvests, or in any
6 way facilitates the natural growth of cannabis.

7 (9) STATE.—The term “State” means each of
8 the several States, the District of Columbia, Puerto
9 Rico, and any territory or possession of the United
10 States.