



CSBS Cannabis Job Aid

Industrial hemp was legalized federally by the 2018 Farm Bill. States across the country are now establishing regulatory schemes for hemp production. The job aid is an examiner reference tool providing state-specific information, such as legalization status and other general information, on both hemp and marijuana. As new federal and state hemp regulations are issued, we expect that updates will be necessary. This will be a *living document* as cannabis regulation at the state and federal level continues to evolve.

The CSBS State Supervisory Processes Committee approved the release of this job aid to assist state examiners in the examination of a financial institution that may be banking cannabis-related businesses.

If you notice something in the job aid that needs to be edited contact Daniel Berkland (dberkland@csbs.org).

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Hemp Job Aid

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
<p>Part I - Background Information</p> <p>This section is designed to help examiners understand the hemp industry.</p>			
<p>1. What is hemp (or industrial hemp)?</p>	<ul style="list-style-type: none"> Hemp is any part of the Cannabis sativa L. plant that contains less than 0.3% of THC. 	<p>Hemp is defined as the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis</p>	

¹ This job aid uses the term Hemp Related Business (HRB) to mean any business that is directly or indirectly related to the hemp industry.

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
<p>2. What are the rules in place now for hemp production?</p>	<ul style="list-style-type: none"> • Until new USDA rules are available as provided for in the 2018 Farm Bill, the rules that were applicable under the 2014 Farm Bill remain in effect. One year after the new rules are published, the old rules found at 7 USC 5940 are repealed. 	<p>The USDA has not yet approved of any state's or tribe's plan. It also has not created its own plan under Section 297C. That means that any hemp legally cultivated in the US was done so under Section 7606 of the 2014 Farm Bill. The 2014 Farm Bill allows states to implement agricultural pilot programs to research the cultivation of industrial hemp. State departments of agriculture can issue licenses for the cultivation of hemp. Some states have interpreted this to cover commercial activity. However, the 2014 Farm Bill provides no explicit protection for the interstate transfer of industrial hemp.</p>	
<p>3. When will the USDA issue its regulations on hemp?</p>	<ul style="list-style-type: none"> • Although the USDA said the interim final rule would be published in August 2019, the latest update from the USDA is "we're still on track to issue something this Fall." 	<p>The USDA will be issuing a new part 990 establishing rules and regulations for domestic hemp production.</p> <p>Hemp Production Program USDA web site.</p>	

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
<p>4. Must each state, territory, or tribe write rules that govern the local production of hemp?</p>	<ul style="list-style-type: none"> Each state, territory, or tribe <i>may</i> create its own plan for governing hemp production following the 2018 Farm Bill's provisions. The USDA will have 60 days to review these plans. Federal rules (when written) will apply to those jurisdictions that have not prohibited hemp and have not written their own rules. 	<p>States, territories, and tribes do not need to submit their plans until the USDA has issued its regulations, but the USDA has stated that plans that are submitted early will be held and reviewed within 60 days of the regulations being issued.</p> <p>Section 297C of the 2018 Farm Bill includes the specifics that must be included in a plan to monitor production in a state, territory, or tribe. If the production of hemp is not otherwise prohibited by the state or Indian tribe, the 2018 Farm Bill authorizes USDA to accept production plans from individual producers in the process of licensing them to operate according to future regulations. In those instances, individual producers would be subject to a plan established by the federal government.</p>	
<p>5. Can hemp and hemp products be transported across state lines?</p>	<ul style="list-style-type: none"> Interstate transportation of hemp and hemp products is specifically authorized by the 2018 Farm Bill. 	<p>No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.</p>	

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
6. What if my state prohibits the production of hemp?	<ul style="list-style-type: none"> States and tribes may prohibit the production of hemp. 	States or tribes may put more restrictive parameters on the production of hemp, but are not authorized to alter the definition of hemp or put in place policies that are less restrictive than the 2018 Farm Bill .	
7. Can hemp growers get federal crop insurance?	<ul style="list-style-type: none"> Hemp is now eligible for federal crop insurance. 	<p>Section 502(b) of the Federal Crop Insurance Act 7 USC 1502(b) was amended to include hemp as a commodity eligible for federal crop insurance.</p> <p>From the USDA July 17, 2019, "Hemp is now eligible for Federal crop insurance, but the program is not yet in effect. The USDA Risk Management Agency cannot offer a product until we issue the regulations establishing the US domestic hemp production program. We intend to issue these regulations in the fall."</p> <p>The USDA clarified on August 27, 2019 that farmers who were authorized under a Section 7606 state or university research pilot as part of the 2014 Farm Bill can get Federal crop insurance.</p>	
8. Can growers get intellectual property protection for new varieties of hemp?	<ul style="list-style-type: none"> The USDA is now accepting applications for plant variety protection under the Plant Variety Protection Act. If granted the protection lasts 20 years. 	Plant variety protection site of the USDA.	

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9. Can felons participate in hemp production?	<ul style="list-style-type: none"> There is a prohibition against hemp production by persons convicted of certain felonies. 	Unless previously approved under the provisions of the 2014 Farm Bill, no person convicted of a felony related to a controlled substance may participate in hemp production for ten years following the date of conviction.	
10. Can hemp seeds be imported?	<ul style="list-style-type: none"> 2018 Farm Bill, Section 10113, removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. This action removed hemp and hemp seeds from DEA authority for products containing THC levels less than 0.3 percent. Therefore, DEA no longer has authority to require hemp seed permits for import purposes. 	Hemp seeds can be imported from Canada if accompanied by either: 1) a phytosanitary certification from Canada's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected; or 2) a Federal Seed Analysis Certificate (SAC, PPQ Form 925) for hemp seeds grown in Canada. Hemp seed may be imported from other countries if accompanied by a phytosanitary certificate from the exporting country to verify the origin and lack of pests.	
11. Can hemp be sent through the US mail?	<ul style="list-style-type: none"> The US Postal System allows hemp products to be mailed if the mailer complies with applicable federal, state, and local laws. The mailer must retain proof of compliance with such laws for at least two years after mailing. 	USPS web site policy document	

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
<p>12. What is CBD or CBD oil? Is it legal?</p>	<ul style="list-style-type: none"> • Cannabidiol (CBD), which is regulated by the Food and Drug Administration, remains illegal for human consumption. • Hemp seeds and seed oil generally do not contain CBD. 	<p>One of the main byproducts of industrial hemp is cannabidiol or CBD oil. The Farm Bill authorizes CBD only to the extent that is contained in hemp grown in a manner consistent with the Farm Bill and other federal and state regulations. While hemp is now off the Schedule I list, it remains subject to regulation by the Food and Drug Administration (FDA), which considers CBD a drug and an illegal food ingredient.</p> <p>Hemp seed oil (which does not contain CBD) has been deemed “generally recognized as safe” by the FDA. One anti-seizure drug for children produced from CBD has been approved for use, Epidiolex.</p>	
<p>13. Where is the most current information from the FDA?</p>	<ul style="list-style-type: none"> • The FDA maintains a question and answer website on cannabis with the latest information. 	<p>FDA website Q&A</p>	
<p>14. Hemp ingredients in alcohol beverages</p>	<ul style="list-style-type: none"> • The Alcohol and Tobacco Tax and Trade Bureau of Treasury previously banned hemp ingredients because it was a Schedule I drug. Their guidance is in process of being updated to reflect hemp's new legal status. 	<p>TTB Industry Circular 2019-1</p>	

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
<p>Part II - Current and Planned Activities</p> <p>The questions in this section are intended to help the examiner build an understanding of an institution's posture regarding the hemp industry.</p>			
<p>15. Is the institution currently banking any customers related to the hemp industry?</p>	<ul style="list-style-type: none"> Hemp industry may include growers, transporters, processors, and manufacturers (among others). 	<p>Pursuant to the 2018 Farm Bill, hemp is no longer a Schedule I controlled substance, and it is legal under federal law to manufacture, distribute or dispense hemp. The US Department of Agriculture is writing regulations for hemp governance by states and territories, as well as for Indian tribes.</p>	
<p>16. What discussions have taken place at the Board of Directors about HRB?</p>	<ul style="list-style-type: none"> This question is intended to help develop an understanding of how the institution's management team views banking the HRB industry. It is not intended to imply that specific provisions or steps should have been taken by the institution. 	<p>Not addressed in federal policy.</p>	
<p>Part III - Risk Management Consideration</p> <p>The questions in this section are intended to build an understanding of the institution's posture regarding the hemp industry.</p>			

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
17. What if my financial institution is engaged in banking HRB?	<ul style="list-style-type: none"> The financial institution is making a risk management decision. Financial institutions considering whether to bank hemp-related businesses should be confident in their ability to assess the risk of agriculture operations of similar size and business models. 		
18. What is the state's hemp regulatory setup?	<ul style="list-style-type: none"> A state may prohibit the production of hemp (see SEC 297B(a)(3)). If not prohibited, the primary regulator may be the USDA unless state regulatory plans have been approved by the USDA. 	See your state's department of agriculture for updated information. Links are provided in the <i>State by State Cannabis Policy</i> section.	
19. Did management perform a review of applicable federal and state laws prior to the banking of HRB customers?	<ul style="list-style-type: none"> Management would be expected to ensure that any applicable licenses or regulatory requirements have been met before establishing a relationship with any HRB. These reviews should occur on a regular basis to ensure that no licenses have lapsed, or no regulatory requirements have been missed by the HRB that could jeopardize their ability to operate their business. 	Not addressed in federal policy.	
20. How will the financial institution monitor compliance with applicable state (or federal) requirements?	<ul style="list-style-type: none"> If the state is not the primary regulator of hemp the federal government is (unless hemp is prohibited by the state). 	Not addressed in federal policy.	

Hemp Related Businesses ¹	Information for Examiners	Relevant Policy	Examiner Notes
21. Do the institution's policies address banking of HRBs?	<ul style="list-style-type: none"> • There is no requirement that separate policies or procedures be developed for HRBs, but if an institution has HRB customers, the handling of such relationships should be addressed in existing or separate policies. 	Not addressed in federal policy.	
22. Has the institution adjusted their risk management practices to include HRBs?	<ul style="list-style-type: none"> • Risks specific to HRBs should be included in the institution's risk assessments if they have current or planned HRB relationships. 	Not addressed in federal policy.	
23. What challenges has the institution encountered in banking HRBs?	<ul style="list-style-type: none"> • Responses should help an examiner understand how HRBs have impacted the institution's risk profile. 	Not addressed in federal policy.	
24. What training has been done for employees regarding HRBs?	<ul style="list-style-type: none"> • Specific training requirements have not been articulated. 	Not addressed in federal policy.	

Marijuana Job Aid

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>Part I - Current and Planned Activities</p> <p>The questions in this section are intended to build an understanding of the institution's posture regarding the marijuana industry.</p>			
<p>1. Is the institution currently banking any customers related to the marijuana industry?</p>	<ul style="list-style-type: none"> • The distinction between a direct marijuana relationship and an indirect marijuana relationship is not well defined. Customer due diligence (CDD) guidance requires that for customers who pose higher money laundering risks, enhanced procedures and processes should be followed. • The FFIEC BSA/AML Examination Manual discusses enhanced CDD for higher-risk customers, including obtaining the following from the customer: description of the business operations, the anticipated volume of currency and total sales, and a list of major customers and sales. 	<p>Pursuant to the Controlled Substances Act, 21 USC §812, marijuana is a Schedule I controlled substance, and it is illegal under federal law to manufacture, distribute or dispense marijuana.</p> <p>31 CFR 1020.210(b)(5) is the regulation governing CDD.</p>	

² This job aid uses the term marijuana related business (MRB) to mean any business that is directly or indirectly related to the marijuana industry. States may define the term MRB differently.

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>2. How does the institution determine whether current customers are related to the marijuana industry?</p>	<ul style="list-style-type: none"> • Be aware that the identification of MRBs, especially indirect MRBs, can be difficult. Use this question to assess the robustness of the institution's CDD processes and to identify whether gaps exist related to MRB identification. 	<p>2014 FinCEN Guidance (FIN-2014-G001) directs financial institutions, when assessing the risk of providing services to a MRB, to collect and verify the following information from relevant state authorities: whether the MRB is duly licensed and registered, if the MRB license application (and related documentation) was submitted by the business to the state authorities, and any available information about the MRB and related parties. State licensing authorities are listed on the <i>State by State Cannabis Policy</i> page within this Job Aid.</p>	
<p>3. Is the institution planning to permit the opening of relationships with MRBs? If so, when?</p>	<ul style="list-style-type: none"> • This question is intended to help develop an understanding of the institution's strategy (if any) related to banking MRBs. 	<p>2014 FinCEN Guidance (FIN-2014-G001) lays out factors that banks should consider when banking an MRB: 1) Whether the MRB is violating any Cole Memo Priorities, 2) whether money laundering is still occurring unrelated to marijuana, 3) whether the MRB can produce sufficient documentation for licensing, 4) whether the state cannabis board has levied an enforcement action, etc.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>4. Summarize the discussions that have taken place at Board of Directors meetings about banking MRBs.</p>	<ul style="list-style-type: none"> This question is intended to help develop an understanding of how the institution's management team views banking the MRB industry. It is not intended to imply that specific provisions or steps should have been taken by the management team. 	<p>2014 FinCEN Guidance (FIN-2014-G001) states that the decision to open, close or refuse any particular account or relationship should be made by each financial institution based on a number of specific factors to that institution, including: the institution's particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively.</p>	
<p>If the answers to the first four questions indicate that this institution does not have any current or planned banking relationships that are related to the marijuana industry, the remaining questions on this job aid may be disregarded.</p>			
<p>5. What types of MRBs have relationships with the institution and approximately how many accounts does this include?</p>	<ul style="list-style-type: none"> Your state may have a regulatory body that issues certain license types to MRBs. As a starting point, identify the license types that your state licenses and ask whether any such customers have relationships at this institution. Links to state websites are listed in the <i>State by State Cannabis Policy</i> section. 	<p>Pursuant to the Controlled Substances Act, 21 USC §812, marijuana is a Schedule I controlled substance, and it is illegal under federal law to manufacture, distribute or dispense marijuana.</p>	
<p>Part II - Risk Management</p> <p>The questions in this section are designed to help examiners assess the sufficiency of the institution's risk management practices for MRBs.</p>			

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>6. Does the institution have policies and procedures specific to the banking of MRBs?</p>	<ul style="list-style-type: none"> • There is no requirement that separate policies or procedures be developed for MRBs, but if an institution has MRB customers, the handling of such relationships should be addressed in existing policies or separate policies. One important consideration is that MRBs may not be treated as non-listed businesses for Currency Transaction Report (CTR) purposes, and are not eligible for an exemption from CTR requirements. 	<p>Financial institutions should adjust policies and procedures related to MRBs per FIN-2014-G001.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>7. Has the institution adjusted their risk assessment to include MRBs?</p>	<ul style="list-style-type: none"> Risks specific to MRBs should be included in the institution's risk assessment if they have current or planned MRB relationships. 	<p>FIN-2014-G001 lays out the following risk assessment priorities if a financial institution is considering banking MRBs:</p> <ol style="list-style-type: none"> 1) verifying with the appropriate state authorities if the business is duly licensed and registered; 2) reviewing the license application submitted by the business for obtaining a state license to operate its marijuana related business, 3) requesting from state licensing and enforcement authorities available information about the business and related parties, 4) developing an understanding of the normal and expected activity from the business, including types of products to be sold and the type of customers to be served, 5) ongoing monitoring of publicly available sources for adverse information about the business and related parties, 6) ongoing monitoring for suspicious activity and 7) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk. 	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>8. What challenges have been encountered through banking MRBs?</p>	<ul style="list-style-type: none"> This question is not intended to elevate the current disagreement between state and federal legal status of marijuana. Rather, it is intended to encourage dialogue between the institution and examiner about specific account or relationship challenges that have been encountered. Responses should help an examiner understand whether MRB relationships at this institution have been unexpectedly challenging or are carrying more inherent risks. 	<p>FIN-2014-G001 gives guidance to financial institutions that deem it necessary to terminate a relationship with a marijuana-related business in order to maintain an effective anti-money laundering program. Financial institutions should file a SAR and note in the narrative the basis for termination. In this instance, financial institutions should use the term "MARIJUANA TERMINATION" in the narrative section. FinCEN encourages institutions that have been made aware of previous accountholders seeking banking relationships to utilize the voluntary information sharing process as outlined in Section 314(b) of the BSA.</p>	
<p>9. How have account opening procedures been adjusted to consider MRBs?</p>	<ul style="list-style-type: none"> There are no standards for account opening procedures specifically related to MRBs. However, if an institution is engaged in this industry, processes to help determine MRBs would be expected as part of customer due diligence. 	<p>Financial institutions should adjust policies and procedures related to MRBs per FIN-2014-G001.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>10. Did management perform a legal review of applicable federal and state laws prior to the banking of MRB customers?</p>	<ul style="list-style-type: none"> • Management would be expected to ensure that any applicable licenses or regulatory requirements have been met before establishing a relationship with any MRB. These reviews should occur on a regular basis to ensure that no licenses have lapsed, or no regulatory requirements have been missed by the MRB that could jeopardize their ability to operate their business. 	<p>FIN-2014-G001 directs financial institutions to file a "Marijuana Priority SAR" if the MRB violates state law or Cole Memo priorities.</p>	
<p>11. What processes are in place to identify whether existing loan customers have a relationship with an MRB?</p>	<ul style="list-style-type: none"> • This question is intended to encourage discussion about the institution's processes for reviewing loan customer relationships. For instance, an indirect MRB relationship would be possible if a borrower for a commercial property was leasing that property, or a portion of that property, to an MRB. 	<p>FIN-2014-G001 directs financial institutions to seek licensee information from the state licensing authority. In many instances, state law requires MRBs to disclose, through the licensing process, individuals that have financial interest in the MRB.</p>	
<p>12. Have the cash handling demands of the MRB been considered?</p>	<ul style="list-style-type: none"> • Given the current legal disagreements between state and federal law related to marijuana, some MRBs may have substantial cash inflows or outflows. Institution management should evaluate, with the MRB, what level of cash services would be anticipated. Understanding these needs prior to the establishment of a relationship would allow the institution to better detect suspicious activities. 	<p>FIN-2014-G001 states that financial institutions should reach out to state licensing authorities to obtain data on MRBs. In many jurisdictions, MRBs are required to disclose transactional data. Contact your relevant state licensing authority for available information within your state.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>13. For MRB borrowers, has the institution evaluated, through their allowance for credit losses or otherwise, the impact a change in marijuana's legal status may have on the institution's collateral position as a creditor?</p>	<ul style="list-style-type: none"> This question is intended to help an examiner understand what, if any, contingency plans the institution or MRB has made for a change in legal status of marijuana. For example, if federal enforcement of marijuana law changes, there is a possibility that collateral securing the borrower's debt could be encumbered in an enforcement case or its value could deteriorate rapidly. 	<p>Not directly addressed in federal guidance, but financial institutions should consider preparing a strategy in the event of a legislative or policy change at the State or Federal level.</p>	
<p>14. Does management have a contingency plan that considers a possible quick exit from this business should there be a change in the policies and forbearances from the Federal and State governments?</p>	<ul style="list-style-type: none"> As in the previous question, it would be prudent for an institution to have a plan to quickly exit or terminate MRB relationships. The assessment should consider liquidity, collateral positions, and other impacts an abrupt separation from these relationships were to become necessary. 	<p>This is not directly addressed in federal guidance, but financial institutions should consider preparing a strategy in the event of a legislative or policy change at the State or Federal level.</p>	
<p>15. Does the institution's blanket bond insurer require that MRB customer relationships be disclosed to the blanket bond insurance provider? If so, have those disclosures been made?</p>	<ul style="list-style-type: none"> Beyond what may be required by a bonding company or blanket bond provider, there are no requirements to notify the institution's bonding company of the existence of MRB customer relationships. This question is intended to determine whether the institution has taken whatever steps may be required under their specific blanket bond. 	<p>This is not directly addressed in federal guidance.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>16. What training has been provided to staff related to the marijuana industry?</p>	<ul style="list-style-type: none"> • An effective risk management process includes maintaining an aware and well-trained staff. Training on MRBs for financial institution employees should consider BSA/AML risks, account opening procedures specific to the institution, and an internal escalation processes if an employee detects changes in a customer's risk profile. 	<p>This is not directly addressed in federal guidance.</p>	

Part III - Cole Memo Priorities

A memo released by the Department of Justice, often known as "The Cole Memo," provided parameters around which federal enforcement of marijuana laws will be prioritized. While the provisions of the memo could not be considered a safe harbor for financial institutions, taking steps to comply with the provisions in the memo may have reduced the risk of federal enforcement. A link to The Cole Memo can be found on the "Reference Documents" table in this Job Aid. The Cole Memo provisions are the included in the FIN-2014-G001 guidance. **In January 2018 the Cole Memo was rescinded by the Attorney General. However, FinCEN has not yet updated their guidance or reference to the Cole Memo provisions.** FinCEN has advised FI's to continue to follow FIN-2014-G001 in its entirety as such examiners should continue to examine banks in compliance with that guidance.

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>17. Is the institution aware of the following Cole Memo priorities? Pursuant to FinCEN guidance, if an insured depository institution (IDI) becomes aware of an MRB violating Cole Memo priorities and/or state law, then FIN-2014-G001 directs IDIs to file a Priority SAR.</p>	<ul style="list-style-type: none"> • Use the following questions to assess provisions of FIN-2014-G001. 		
<p>a. Preventing the distribution of marijuana to minors</p>	<ul style="list-style-type: none"> • Each provision is separated and designed to be answered in a yes/no manner. 	<p>FIN-2014-G001 guidance directs institutions to consider whether an MRB implicates one of the Cole Memo priorities or related state law(s) when performing customer due diligence. Additionally, if a financial institution finds that an MRB has violated a Cole Memo priority, FIN-2014-G001 directs the institution to file a "Marijuana Priority" SAR. The guidance also lists several "red flags" that may indicate that an MRB may be engaged in activity that implicates one of the Cole Memo priorities, or violates state law.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
b. Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels	See above	See above	
c. Preventing the diversion of marijuana from states where it is legal under state law in some form to other states	See above	See above	
d. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity	See above	See above	
e. Preventing violence and the use of firearms in the cultivation and distribution of marijuana	See above	See above	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
f. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use	See above	See above	
g. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands	See above	See above	
h. Preventing marijuana possession or use on federal property	See above	See above	
<p>Part IV - FinCEN Filings³</p> <p>FinCEN has provided guidance for financial institutions that governs how CTRs and SARs are to be handled for MRBs. The questions in this section are intended to help examiners assess an institution's understanding of, and compliance with, the provisions of this guidance.</p>			

³ Consistent with FinCEN regulations, the obligation to file a SAR is unaffected by any state law that legalizes marijuana-related activity.

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>1. Are SAR filing requirements understood and followed by institution employees?</p>	<ul style="list-style-type: none"> As an example, a financial institution providing financial services to an MRB that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a "Marijuana Limited" SAR. The content of this SAR should be limited to the following information: (i) identifying information of the subject and related parties; (ii) addresses of the subject and related parties; (iii) the fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and (iv) the fact that no additional suspicious activity has been identified. Financial institutions should use the term "MARIJUANA LIMITED" in the narrative section. FIN-2014-G001 established three new SAR filings pertaining to MRB's. These should be included in a Banks BSA/AML policy if they operate in a state where there is some form of legalized marijuana. 	<p>Pursuant to FAQs released by FinCEN regarding SAR filing in combination with FIN-2014-G001, financial institutions that do <u>not</u> suspect that MRB account holders have violated state law or Cole Memo priorities should file a continuing activity report, with the filing deadline being 120 days after the date of the previously related SAR filing. A "Marijuana Limited" SAR should be filed using those prescribed guidelines. A "Marijuana Priority" SAR should be filed on an MRB that the institution reasonably believes, based on customer due diligence, implicates one of the Cole Memo priorities or violates state law. A "Marijuana Termination" SAR should be filed if a financial institution deems it necessary to terminate a relationship with an MRB in order to maintain an effective anti-money laundering compliance program.</p>	

Marijuana Related Businesses ²	Information for Examiners	Relevant Policy	Examiner Notes
<p>2. Does management review customer information obtained as part of their customer due diligence program at least every 90 days to determine whether a change in SAR filing is warranted?</p>	<ul style="list-style-type: none"> An MRB's risk profile may change quickly. This question is intended to assess how an institution manages these changing risks and whether the necessary adjustments are made to remain in compliance with FinCEN rules and guidance. If management deems it necessary to terminate a relationship with a marijuana-related business the term "Marijuana Termination" should be used in the narrative portion of the accompanying SAR. 	<p>FIN-2014-G001 recommends refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk presented by the MRB. With respect to information the state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.</p>	

State by State Cannabis Policy

State	Medical Use	Recreational Use	State Marijuana Authority	Hemp	State Hemp Authority	Additional Notes
Alabama	No	No	N/A	Yes	http://agi.alabama.gov/s/industrial-hemp---home---w-o	Medical marijuana is only allowed in the form of non-psychoactive CBD oil in clinical studies at one hospital in the state. This law is called Carly's Law. Pub. Act 2014-277
Alaska	Yes	Yes	www.commerce.alaska.gov/web/amco/Home.aspx	Yes	http://plants.alaska.gov/industrialhempFAQs.htm	
Arizona	Yes	No	https://azdhs.gov/licensing/medical-marijuana/index.php#physician	Yes	https://agriculture.az.gov/plantsproduce/industrial-hemp-program	
Arkansas	Yes	No	www.healthy.arkansas.gov/programs-services/topics/medical-marijuana	Yes	www.agriculture.arkansas.gov/industrial-hemp	
California	Yes	Yes	https://cannabis.ca.gov/	Yes	www.cdffa.ca.gov/plant/industrialhemp/	The attorney general released new medicinal cannabis guidelines August 6, 2019. link
Colorado	Yes	Yes	https://colorado.gov/pacific/enforcement/marijuanaenforcement	Yes	www.colorado.gov/pacific/agplants/industrial-hemp	

State	Medical Use	Recreational Use	State Marijuana Authority	Hemp	State Hemp Authority	Additional Notes
Connecticut	Yes	No	https://portal.ct.gov/DCP/Medical-Marijuana-Program/Medical-Marijuana-Program	Yes	www.ct.gov/doag/cwp/view.asp?a=1367&Q=608496&PM=1	
Delaware	Yes	No	http://dhss.delaware.gov/dph/hsp/medmarhome.html	Yes	https://agriculture.delaware.gov/plant-industries/hemp-program/	
District of Columbia	Yes	Yes	https://dchealth.dc.gov/service/medical-marijuana-and-integrative-therapy	No	N/A	Recreational marijuana in DC is not taxed and regulated in DC, but individuals over 21 are able to legally possess and cultivate limited amounts of marijuana for recreational use under Initiative 71 . Marijuana can be donated, but not sold.
Florida	Yes	No	http://knowthefactsmmj.com/	Yes	www.freshfromflorida.com/Cannabis/Hemp-CBD-in-Florida	
Georgia	Yes	No	https://dph.georgia.gov/low-thc-oil-registry	Yes	http://agr.georgia.gov/industrial-hemp-production.aspx	Qualified persons in Georgia can possess up to 20 fluid ounces of low THC oil.
Hawaii	Yes	No	http://health.hawaii.gov/medicalcannabis/	Yes	https://hdoa.hawaii.gov/hemp/	

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Idaho	No	No	N/A	No		
Illinois	Yes	Yes	www2.illinois.gov/sites/agr/Plants/MCPP/Pages/default.aspx	Yes	www2.illinois.gov/sites/agr/Plants/Pages/Industrial-Hemp.aspx	The first state to fully legalize through the <u>legislative process</u> – effective January 1, 2020.
Indiana	No	No	N/A	Yes	www.oisc.purdue.edu/hemp/index.html	
Iowa	Yes	No	http://idph.iowa.gov/omc	Yes	http://iowaagriculture.gov/hemp	The Attorney General issued a <u>statement</u> clarifying that CBD is not legal for products in Iowa.
Kansas	No	No	N/A	Yes	http://agriculture.ks.gov/divisions-programs/plant-protect-weed-control/industrial-hemp	<u>Draft hemp regulation</u> is circulating for public comment through September 13.
Kentucky	No	No	N/A	Yes	www.kyagr.com/marketing/hemp-pilot.html	
Louisiana	Yes	No	http://www.ldaf.state.la.us/medical-marijuana/	Yes	http://www.ldaf.state.la.us/industrial-hemp/	
Maine	Yes	Yes	www.maine.gov/dafs/bbm/mmmp/	Yes	www.maine.gov/dacf/php/hemp/	
Maryland	Yes	No	https://mmcc.health.maryland.gov/registry/landingpage.aspx	Yes	http://mda.maryland.gov/plants-pests/Pages/Industrial-Hemp.aspx	

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Massachusetts	Yes	Yes	www.mass.gov/orgs/cannabis-control-commission	Yes	www.mass.gov/industrial-hemp-program	
Michigan	Yes	Yes	www.michigan.gov/mra	Yes	www.michigan.gov/mdard/0,4610,7-125-1569_74018---,00.html	www.michigan.gov/marijuana is a good landing page for a variety of marijuana-related information from the state
Minnesota	Yes	No	www.health.state.mn.us/people/cannabis/index.html	Yes	www.mda.state.mn.us/plants/hemp	
Mississippi	No	No	N/A	No	www.mdac.ms.gov/hemp-cultivation-task-force/	A hemp cultivation task force is expected to provide a report in December 2019.
Missouri	Yes	No	https://health.mo.gov/safety/medical-marijuana/	Yes	http://agriculture.mo.gov/hemp-pilot/	
Montana	Yes	No	http://dphhs.mt.gov/marijuana/MMPForms	Yes	http://agr.mt.gov/Hemp	
Nebraska	No	No	N/A	Yes	www.nda.nebraska.gov/hemp/	
Nevada	Yes	Yes	http://dpbh.nv.gov/Reg/Medical_Marijuana/	Yes	http://agri.nv.gov/Plant/Seed_Certification/Industrial_Hemp/Industrial_Hemp_Home/	

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New Hampshire	Yes	No	www.dhhs.nh.gov/oos/tcp/	Yes	www.agriculture.nh.gov/	HB 459 allows for hemp growing and set up a committee to study federal guidelines with a report due November 1, 2019.
New Jersey	Yes	No	www.nj.gov/health/medicalmarijuana/	Yes	www.state.nj.us/agriculture/news/hottopics/approved/topics190122.html	New Jersey refers to cultivation and dispensary operations as Alternative Treatment Centers, or ATCs.
New Mexico	Yes	No	https://nmhealth.org/about/medical-svcs/	Yes	www.nmda.nmsu.edu/hemp-manufacturing-act-public-hearings-set-for-june-27-28/	
New York	Yes	No	www.health.ny.gov/regulations/medical_marijuana/	Yes	https://esd.ny.gov/industrial-hemp	
North Carolina	No	No	N/A	Yes	www.ncagr.gov/hemp/	
North Dakota	Yes	No	www.ndhealth.gov/MM/	Yes	www.nd.gov/ndda/plant-industries/hemp	
Ohio	Yes	No	www.medicalmarijuana.ohio.gov/cultivation	Yes	https://agri.ohio.gov/wps/portal/gov/oda/divisions/administration/resources/hemp-facts3	Senate Bill 57 legalized hemp and hemp-derived CBD on July 30, 2019
Oklahoma	Yes	No	http://omma.ok.gov/	Yes	www.ag.ok.gov/cps/IndustrialHemp.htm	

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Oregon	Yes	Yes	www.oregon.gov/olcc/marijuana/pages/default.aspx	Yes	oda.direct/hemp	
Pennsylvania	Yes	No	www.health.pa.gov/topics/programs/Medical%20Marijuana/Pages/Medical%20Marijuana.aspx	Yes	www.agriculture.pa.gov/Plants_Land_Water/industrial_hemp/Pages/default.aspx	
Rhode Island	Yes	No	www.health.ri.gov/healthcare/medicalmarijuana/for/patients/	Yes	www.dbr.ri.gov/divisions/medicalmarijuana/	
South Carolina	No	No	N/A	Yes	www.agriculture.sc.gov/divisions/consumer-protection/hemp/	
South Dakota	No	No	N/A	No	https://atg.sd.gov/OurOffice/Media/pressreleasesdetail.aspx?id=2167	A voter initiative supporting medical marijuana is now circulating and if it gathers enough signatures it will be on the ballot in November. link
Tennessee	No	No	N/A	Yes	www.tn.gov/content/tn/agriculture/farms/hemp-industry.html	

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Texas	Yes	No	www.dps.texas.gov/rsd/CUP/index.htm	Yes	https://texasagriculture.gov/RegulatoryPrograms/Hemp.aspx	On June 10, 2019, House Bill 1325 , was signed into law by Governor Greg Abbott. The bill authorizes the production, manufacture, retail sale, and inspection of industrial hemp crops and products in Texas.
Utah	Yes	No	https://ag.utah.gov/office-of-the-commissioner/cannabis-programs/	Yes	https://ag.utah.gov/office-of-the-commissioner/cannabis-programs/	
Vermont	Yes	Yes	https://medicalmarijuana.vermont.gov/	Yes	https://agriculture.vermont.gov/public-health-agricultural-resource-management-division/hemp-program	
Virginia	No	No	N/A	Yes	www.vdacs.virginia.gov/plant-industry-services-hemp.shtml	Historical Note: In 1619, the Virginia colony passed a law requiring farmers to grow hemp. Medical marijuana is generally not legal. In 2019 SB 1557 expanded the limited medical use of CBD or THC-A.

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Washington	Yes	Yes	https://lcb.wa.gov/mj-education/general-info	Yes	https://agr.wa.gov/departments/agricultural-products/hemp	
West Virginia	Yes	No	www.dhhr.wv.gov/bph/Pages/Medical-Cannabis-Program.aspx	Yes	https://agriculture.wv.gov/divisions/plantindustries/Pages/Industrial-Hemp-.aspx	
Wisconsin	No	No	N/A	Yes	https://datcp.wi.gov/Pages/Programs_Services/IndustrialHemp.aspx	
Wyoming	No	No	N/A	Yes	http://agriculture.wy.gov/divisions/ts/wyindustrialhemp	The governor issued an update on hemp August 6. link
Territories						
American Samoa	No	No		No		
Guam	Yes	Yes	www.guamtax.com/ccb/index.html			Rules for cultivation and sale are expected in April 2020 - link to news report

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Northern Marianas	Yes	Yes		Yes		Recreational use law amended August 2019 Public Law 21-05
Puerto Rico	Yes	No		Yes		
Virgin Islands	Yes	No		No		

Reference Documents

Document	Description	Link
2014 Farm Bill – 7 U.S.C. 5940	With the passage of the 2014 Farm Bill, a State department of agriculture or institution of higher education can grow or cultivate industrial hemp if 1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and 2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs. This page has been updated for the 2018 Farm Bill.	www.nifa.usda.gov/industrial-hemp
2014 Farm Bill - general information	USDA web page with links to reference materials	www.fsa.usda.gov/programs-and-services/farm-bill/index
2014 Farm Bill pdf	Signed 7 February 2014	https://www.ams.usda.gov/sites/default/files/media/2014FarmBill.pdf

Document	Description	Link
2018 Farm Bill – 7 USC 1621	The 2018 Farm Bill removed hemp from the list of Schedule I drugs and authorized industrial hemp cultivation, transportation, and research. Hemp is defined as any part of the plant Cannabis sativa L. that includes a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent. The USDA plans to issue implementing regulations in 2019 to support the 2020 growing season.	www.congress.gov/bill/115th-congress/house-bill/2/text
2018 Farm Bill pdf	Signed 20 December 2018 The 2018 Farm Bill (the Agriculture Improvement Act of 2018) directed USDA to develop a program by which it will review and approve plans submitted by each state, territory and Indian tribal agency outlining their production of hemp for commercial uses.	www.ams.usda.gov/sites/default/files/media/2018FarmBill.pdf
2018 Farm Bill Webinar	USDA conducted a three-hour webinar to solicit public comments on the hemp sections of the 2018 Farm Bill. The recorded webinar and written comments are available for review	www.ams.usda.gov/event/2018-farm-bill-webinar-domestic-hemp-production-program
21 CFR Part 1308	Established marihuana extract as a separate Schedule I drug	www.gpo.gov/fdsys/pkg/FR-2016-12-14/pdf/2016-29941.pdf
Cole Memorandum	The Cole Memorandum was rescinded on January 4, 2018.	www.justice.gov/opa/pr/justice-department-issues-memo-marijuana-enforcement

Document	Description	Link
Controlled Substances Act 21 USC §812	The Controlled Substances Act (CSA), passed into law in 1970, is the statute prescribing federal U.S. drug policy. The statute places all substances into five schedules, and is based upon the substance's medical use, potential for abuse, and safety or dependence liability. Schedules also determine the extent of prosecution and regulation. Marijuana is a Schedule I drug.	www.dea.gov/druginfo/csa.shtml
Controlled Substances Act changes	SEC. 12619 Conforming Changes to Controlled Substances Act removes hemp from Schedule I	21 U.S.C. 802(16)
EPA Pesticide Notices for Hemp	The Environmental Protection Agency (EPA) published a notice August 23, 2019 indicating that they had received applications to add hemp labeling. Comments will be taken for thirty days. The EPA noted increased interest in hemp production and that the availability of particular tools, such as pesticides registered under FIFRA, will likely be essential to supporting the success of this industry going forward.	www.govinfo.gov/content/pkg/FR-2019-08-23/pdf/2019-18151.pdf?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list
FDA FAQs on Cannabis and Cannabis Derived Products	FDA has concluded that THC and CBD products are excluded from the dietary supplement definition. FDA held a hearing in May 2019 to gather information about CBD.	www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers

Document	Description	Link
FDA Statement on regulation of products containing cannabis and cannabis derived compounds	<p>It is unlawful under the FD&C Act to introduce food containing added CBD or THC into interstate commerce, or to market CBD or THC products as, or in, dietary supplements, regardless of whether the substances are hemp-derived</p>	<p>www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm628988.htm</p>
FIN-2014- G001 FinCEN BSA Guidance	<p>FinCEN guidance, titled <i>BSA Expectations Regarding Marijuana Related Businesses</i>, clarifies how financial institutions can provide services to marijuana related businesses (MRB). The guidance provides detail on how to assess the risk of a marijuana-related business, including information that should be collected during customer due-diligence. Additionally, FinCEN provides guidance on how to file suspicious activity reports (SARs) and currency transaction reports (CTRs) for MRBs, including red flags that should be considered when filing a Priority SAR.</p>	<p>www.fincen.gov/sites/default/files/shared/FIN-2014-G001.pdf</p>

Document	Description	Link
FinCEN Marijuana Banking Update	<p>As of 31 March 2019, FinCEN has received a total of 81,725 SARs using the key phrases associated with MRBs. Several of the SARs contain more than one key phrase, which accounts for the numbers for each key phrase being greater than the total.</p> <ul style="list-style-type: none"> • FinCEN received 61,036 SARs from filers using the key phrase “Marijuana Limited.” • FinCEN received 6,067 SARs from filers using the key phrase “Marijuana Priority.” • FinCEN received 19,368 SARs from filers using the key phrase “Marijuana Termination.” 	<p>www.fincen.gov/frequently-requested-foia-processed-records</p>
For more information on hemp	<p>USDA is required to establish a plan to monitor and regulate the production of hemp in those States or Indian tribes that do not have an approved State or Tribal plan. The rulemaking will provide for the publishing of a proposed rule, comment period, and a final rule.</p>	<p>Send questions or request for information to farbill.hemp@usda.gov</p>
USDA Agricultural Marketing Service Hemp Website	<p>The Agricultural Marketing Service has been designated as the lead USDA agency to administer the new Hemp Production Program.</p>	<p>www.ams.usda.gov/content/hemp-production-program</p>

Document	Description	Link
USDA Agricultural Marketing Service Q&As	Hemp production questions and answers maintained by the USDA	www.ams.usda.gov/publications/content/hemp-production-program-questions-and-answers
USDA Clarification for Tribes	USDA clarified hemp production for Indian Tribes on May 28, 2019	www.ams.usda.gov/content/usda-clarifies-industrial-hemp-production-indian-tribes
USDA Hemp Web Site for Farmers	The USDA maintains a web site with information for hemp farmers that includes links to policies and frequently asked questions.	www.farmers.gov/manage/hemp
USDA Notice of Interim Final Rule	Publication of the August 2019 date for the interim final hemp rules (7 CFR 990).	www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=0581-AD82
USDA Notice to Trade	The USDA issued a Notice to Trade in February 2019 stating that the USDA had begun the process of gathering information to initiate a rulemaking to implement the hemp production program.	www.ams.usda.gov/content/hemp-production-program