



COLORADO

Department of
Regulatory Agencies

Division of Financial Services

To: Colorado State Chartered Credit Unions and Savings and Loan Institutions
From: Mark Valente, Interim Commissioner
Date: April 4, 2019
Subject: Guidance BSA Expectations Regarding Industrial Hemp

We are pleased to forward to you this important document pertaining to state chartered financial institution's obligation under BSA/ AML laws relating to government authorized industrial hemp programs. Federal regulation and examination procedures provide little guidance to depository institutions regarding BSA/ AML requirements relating to customers engaged in the production of industrial hemp.

The passage of the 2018 Farm Bill has essentially declassified hemp (defined as cannabis with less than 0.3% THC) as a Schedule I substance. This allows hemp to be treated like any other crop and opens the door for hemp businesses to obtain crop insurance, loans, grants, and tax write-offs. This does not, however, waive their responsibilities to register with the Dept. of Agriculture. Even one step further, the 2018 Farm Bill only addresses hemp from a farming perspective. It does not address hemp from a manufacturing, processing or importing/exporting perspective.

The 2018 Farm Bill also does not address cannabidiol (CBD) products, even those derived from hemp. The FDA still considers CBD as a drug ingredient and is still illegal to add to food or health products without FDA approval. As such, the CBD market is still in the gray zone when it comes to its legality from a Federal level.

In general, the decision to open, close or refuse any particular account or relationship should be made by each state chartered financial institution based on its particular business objectives, an evaluation of the risks associated with offering a particular product or service and its capacity to manage those risks effectively as part of the credit union's Enterprise Risk Management Program. Boards and management teams of our-chartered financial institutions should carefully review the risk and rewards of entering into the arena of providing financial services to industrial hemp businesses and consult with your legal counsel.

Accordingly, the Division of Financial Services believes that state chartered financial institution's obligations under BSA/ AML, as it relates to a customer engaged in the lawful production of industrial hemp, are satisfied as long as the financial institution:

- Complies with existing BSA/AML statutes;
- Implements an effective Customer Identification Program (CIP) and due diligence program;
- Creates a defined policy on hemp lending, underwriting guidelines, concentration limits and appropriate allowance considerations;
- Implements reasonable and effective enhanced due diligence procedures for high risk customers; and



- Follows Title 35, Article 61 of the state constitution, the law that addresses the Industrial Hemp Regulatory Program.

Additional Resources include: Bank Secrecy Act, 31 U.S.C Part 5311-5314, Colorado Revised Statute 35-61-109 and 7 U.S.C Part 5940 - Section 7606.

The Division of Financial Services, part of the Department of Regulatory Agencies (DORA), works to protect public interest and preserve public trust by regulating the business of state-chartered credit unions, savings and loan associations and the financial activities of life care institutions under its supervision.

