# Bank Regulators Get into the Weeds About Industrial Hemp

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Four key federal banking regulatory agencies, joined by the Conference of State Bank Supervisors, issued joint guidance providing important regulatory information to financial institutions banking hemp-related business customers. The Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, the Federal Reserve, and Financial Crimes Enforcement Network's interagency Statement addressed several important Bank Secrecy Act (BSA) questions of the banking community concerning hemp-related business customers. *See also*, FDIC's Bank Secrecy Act: Interagency Statement on Providing Banking Services to Customers Engaged in Hemp Production.

This Statement by the federal and state banking regulators, including the Financial Crimes Enforcement Network (FinCEN) with its preeminent role over the BSA, follows the October 31 issuance of the U.S. Department of Agriculture's (USDA) Interim Rule concerning the regulation of the domestic hemp industry. It provides additional certainty to banks serving, or that are on the fence about servicing, the industrial hemp marketplace. As many have already argued, including U.S. Senators Mitch McConnell (R-KY) and Ron Wyden (D-OR), making the country's banking infrastructure available to this now lawful industry is essential to its full growth and potential.

Among the interagency Statement's key points, these regulators emphasized the lawful nature of hemp and the scope and character of licensure available to growers and processors. Respecting BSA matters, the Statement directs that Suspicious Activity Reports (SAR) are not required to be filed by financial institutions serving hemp-related businesses "solely because a business is engaged in the growth or cultivation of hemp." Also, "[f]or hemp-related customers, banks are expected to follow standard SAR procedures, and file a SAR if … suspicious activity warrants," the Statement said.

All of this is indeed a positive development for the banking industry. Further good news and clarity is forecasted. The FinCEN release announced plans to issue additional guidance in the future, as it


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completes its study of the USDA's Interim Rule. Many of us practicing in the banking area hope that the near future brings express direction cementing current regulatory attitudes that hemp-related businesses are not high-risk accounts *per se* under the BSA's Customer Due Diligence structure and that essential payment issues can be soon ironed out, particularly in the areas of card services and bank sponsorship.

To be clear, the regulators' latest statement does not require banks or credit unions to on-board hemp businesses. Nor is there specific mention of hemp-derived CBD or businesses that engage in that commerce. But for today, we will thankfully take all that has been offered.

If you would a deeper dive into issues relating to banking hemp-related businesses, including establishing account relationships, making loans to or providing treasury management service to the burgeoning hemp industry, you can watch our recent webinar, *Banking America's Hemp Businesses*.

For additional information about this blog article, contact Bill Repasky with Frost Brown Todd's Industrial Hemp Service Team at (502) 779-8184 or brepasky@fbtlaw.com.

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