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

IN THE SENATE OF THE UNITED STATES

JULY 9, 2015

Mr. MERKLEY (for himself, Mr. GARDNER, Mr. BENNET, Mr. PAUL, Mr. WYDEN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marijuana Businesses

Access to Banking Act of 2015”.

SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.

A Federal banking regulator may not—

(1) terminate or limit the deposit insur-

ance or share insurance of a depository institu-
tion 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 be-
cause the depository institution provides or has 
provided financial services to a marijuana-re-
lated legitimate business;

(2) prohibit, penalize, or otherwise discour-
age a depository institution from providing fi-
nancial services to a marijuana-related legiti-
mate business;

(3) recommend, incentivize, or encourage a 
depository institution not to offer financial serv-
ices to an individual, or to downgrade or cancel 
the financial services offered to an individual 
solely because—

(A) the individual is a manufacturer 
or producer, or is the owner or operator of 
a marijuana-related legitimate business;

(B) the individual later becomes an 
owner or operator of a marijuana-related 
legitimate business; or

(C) the depository institution was not 
aware that the individual is the owner or 
operator of a marijuana-related legitimate 
business; and
(4) take any adverse or corrective supervisory action on a loan to an owner or operator of—

(A) a marijuana-related legitimate business solely because the business owner or operator is a marijuana-related business; or

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

SEC. 3. PROTECTIONS UNDER FEDERAL LAW.

(a) IN GENERAL.—In a State or political subdivision that allows the cultivation, production, manufacturing, transportation, display, dispensing, distribution, sale, or purchase of marijuana pursuant to a law (including regulations) of the State or political subdivision, a depository institution and the officers, director, and employees of the depository institution that provides financial services to a marijuana-related legitimate business may not be held liable pursuant to any Federal law (including regulations)—
(1) solely for providing the financial services pursuant to the law (including regulations) of the State or political subdivision; or

(2) for further investing any income derived from the financial services.

(b) FORFEITURE.—A depository institution that has a legal interest in the collateral for a loan made to an owner or operator of a marijuana-related legitimate business, or to an owner or operator of real estate or equipment that is leased to a marijuana-related legitimate business, shall not be subject to criminal, civil, or administrative forfeiture of that legal interest pursuant to any Federal law for providing the loan.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act shall require a depository institution to provide financial services to a marijuana-related legitimate business.

SEC. 5. 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 MARIJUANA-RELATED BUSINESSES.—A financial institution or any director, officer, employee, or agent of a financial institution that reports a suspicious transaction pursuant
to a marijuana-related legitimate business (as defined in section 6 of the Marijuana Businesses Access to Banking Act of 2015) shall comply with appropriate guidance issued by the Financial Crimes Enforcement Network. The Secretary shall ensure that the guidance is consistent with the purpose and intent of the Marijuana Businesses Access to Banking Act of 2015 and does not inhibit the provision of financial services to a marijuana-related legitimate business in a State or political subdivision of a State that has allowed the cultivation, production, manufacturing, transportation, display, dispensing, distribution, sale, or purchase of marijuana pursuant to law or regulation of the State or political subdivision.”

SEC. 6. DEFINITIONS.

In this Act:

(1) Depository institution.—The term “depository 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 section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(2) **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 department that regulates banking or financial services, as determined by the Secretary of the Treasury.

(3) **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).

(4) **Manufacturer.**—The term “manufacturer” means a person who manufactures, compounds, converts, processes, prepares, or packages marijuana or marijuana products.

(5) **Marijuana-related legitimate business.**—The term “marijuana-related legitimate
“business” means a manufacturer, producer, or any
person that—

(A) participates in any business or orga-
nized activity that involves handling marijuana
or marijuana products, including cultivating,
producing, manufacturing, selling, transporting,
displaying, dispensing, distributing, or pur-
chasing marijuana or marijuana products; and

(B) engages in such activity pursuant to a
law established by a State or a political subdivi-
sion of a State.

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

(7) MARIJUANA PRODUCT.—The term “mari-
juana product” means any article which contains
marijuana, including an article which is a con-
centrate, an edible, a tincture, a marijuana-infused
product, or a topical.

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

(9) 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.