



FDIC Advisory Committee on Community Banking

October 10, 2019

**Depository Institutions and
Hemp Customers**



Hemp Definitions

- The Agricultural Act of 2014 (2014 Farm Bill) defined Industrial Hemp as “the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”
- The Agricultural Improvement Act of 2018 (2018 Farm Bill) defined Hemp as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”



2014 Farm Bill Details

- **The 2014 Farm Bill allowed for an institution of higher education or a state department of agriculture to grow or cultivate industrial hemp as part of a pilot program or other agricultural or academic research in states where it was legalized.**
- **The 2014 Farm Bill established an agricultural pilot program as the framework to study the growth, cultivation, or marketing of industrial hemp in states that permit its growth or cultivation.**
- **Pilot programs require that sites used for growing or cultivating industrial hemp be certified by, and registered with, the state department of agriculture.**



2018 Farm Bill Details

- **The 2018 Farm Bill excluded hemp with 0.3 percent or less THC as a controlled substance.**
- **The 2018 Farm Bill allowed broad hemp cultivation, across state lines with no restrictions on the sale, transport, or possession subject to USDA, state, territory, and tribal regulations and oversight.**
- **The 2018 Farm Bill requires that hemp production be subject to a plan and requirements established by the USDA.**
- **The 2018 Farm Bill authorizes state departments of agriculture (including agencies representing D.C., any other territory or possession of the U.S., and tribal governments) to submit regulatory plans to the USDA for approval.**



Status of USDA Guidance and Regulatory Requirements

- **The USDA issued a legal opinion and guidance interpreting the 2018 Farm Bill and is expected to issue regulations by year-end 2019 to accommodate the 2020 planting season.**
- **USDA regulations are expected to address sampling procedures, testing requirements, licensing, compliance, and other procedures that production facilities and overseeing agencies need to employ to receive a license.**
- **According to the USDA, hemp may be produced by properly licensed hemp producers in accordance with the 2018 Farm Bill only after the USDA issues regulations and guidance for the commercial production of hemp.**



Important Aspects of the 2018 Farm Bill

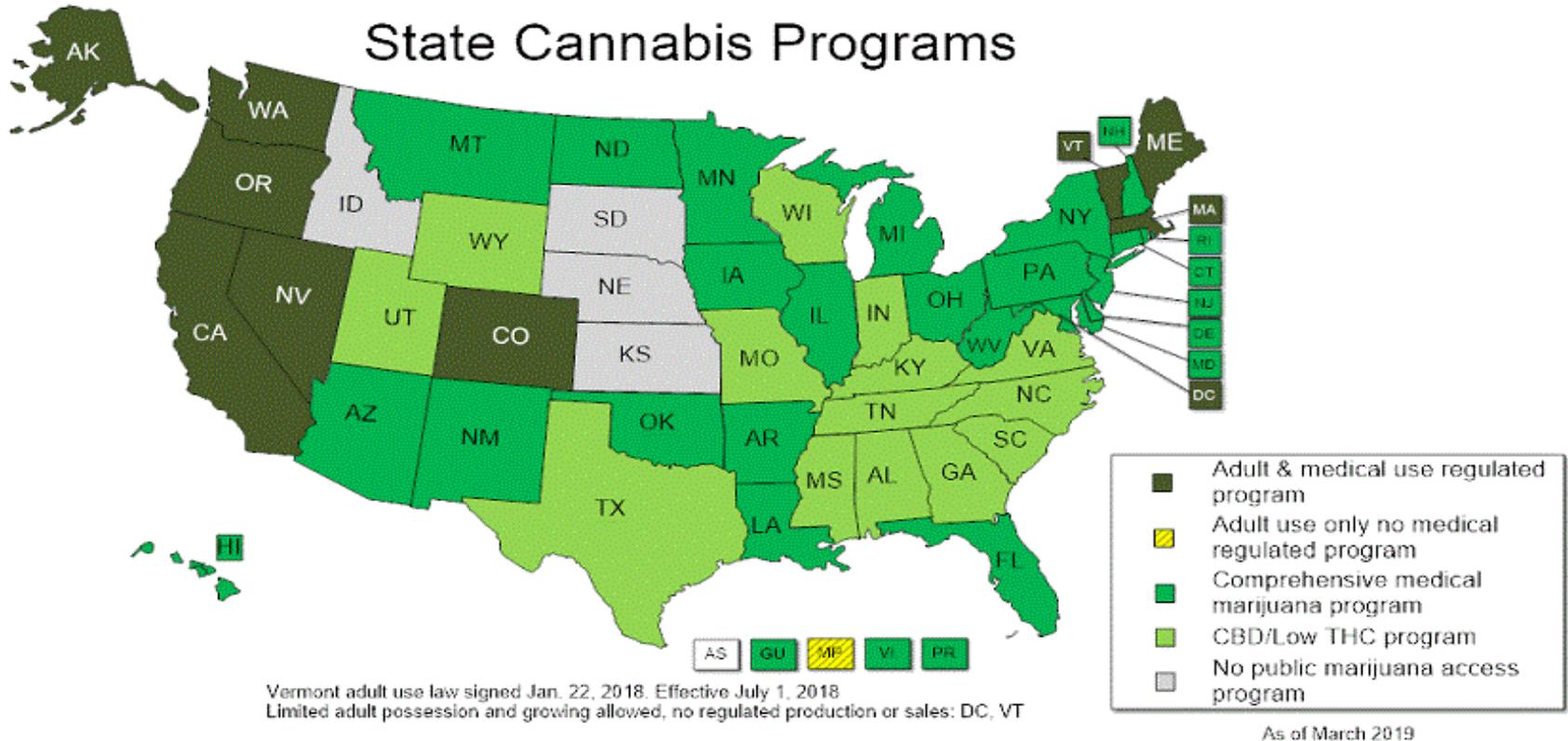
- **USDA regulations must become effective before hemp may be produced in accordance with the 2018 Farm Bill.**
- **Research and development initiatives authorized under the 2014 Farm Bill remain in effect.**
- **A state or tribal government may enact or continue to enforce laws prohibiting the production of hemp, even though it is legal under federal law.**
- **The 2018 Farm Bill did not preempt state or tribal laws regarding the production of hemp that are more stringent than federal law.**



Onboarding and Maintaining Hemp Customers

- **Depository institutions providing, or planning to provide, services to hemp customers may wish to consult qualified legal counsel.**
- **Obligations include suspicious activity monitoring and reporting (as appropriate) as well as risk-based customer due diligence for all customer relationships including participants in the hemp industry.**
- **Depository institutions are required to establish reasonably designed procedures to ensure compliance with Bank Secrecy Act/anti-money laundering regulations.**

- Marijuana/Cannabis is still illegal under federal law.



- FinCEN’s 2014 guidance, **BSA Expectations Regarding Marijuana-Related Businesses**, is applicable.



Industry Hemp Questions

- **When will the USDA and states (including territories and tribal entities) issue rules related to hemp sampling procedures, testing requirements, licensing, compliance, and other procedures that production facilities and overseeing agencies need to employ to receive a license?**
- **Where does CBD oil fit into the regulatory structure?**
- **Do I need to file a SAR on these businesses?**
- **Does the FDA also have a role?**



Possible Guidance Regarding Hemp-Related Businesses

- **Consider issuing guidance to provide clarity for depository institutions considering providing banking services to hemp-related businesses, which:**
 - **addresses the current legal status of hemp production,**
 - **describes the authority for state departments of agriculture, including agencies representing the District of Columbia, any other territory or possession of the United States, and tribal governments, to submit regulatory plans to the USDA for approval, and**
 - **includes regulatory obligations regarding any customer type, including hemp-related businesses.**



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IT Strategies: Examiner Observations and
Recommendations



How Do Examiners Analyze IT and Cybersecurity?*

Example:

Evaluate the adequacy of the short- and long-term IT strategic planning and budgeting process. Consider the following:

- Involvement of appropriate parties
- Identification of significant planned changes
- Alignment of business and technology objectives
- Ability to promptly incorporate new or updated technologies to adapt to changing business needs
- Coverage of any controls, compliance, or regulatory issues which may arise or need to be considered

* Information Technology Risk Examination procedures available on [FDIC.gov](https://www.fdic.gov)



What Do Examiners Observe & Recommend?

- **Board oversight**
- **Use of IT security audits to guide resource allocation**
- **Increased consideration of business continuity**
- **Use of standard assessments to guide increasing cybersecurity maturity**
- **Improved vendor management**
- **Better identification of the IT changes necessary to support strategic objectives**

Ask a Question >

Get answers from experts

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Promoting uniformity and consistency in the supervision of financial institutions

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Press Release

For Immediate Release August 28, 2019

FFIEC Encourages Standardized Approach to Assessing Cybersecurity Preparedness

The Federal Financial Institutions Examination Council (FFIEC) members today emphasized the benefits of using a standardized approach to assess and improve cybersecurity preparedness.

The members note that firms adopting a standardized approach are better able to track their progress over time, and share information and best practices with other financial institutions and with regulators.

Institutions may choose from a variety of standardized tools aligned with industry standards and best practices to assess their cybersecurity preparedness. These tools include the FFIEC Cybersecurity Assessment Tool, the National Institute of Standards and Technology Cybersecurity Framework, the Financial Services Sector Coordinating Council Cybersecurity Profile, and the Center for Internet Security Critical Security Controls.

FFIEC members welcome collaborative approaches to advance and support cyber preparedness and enhance the efficiency and effectiveness of the supervisory process. While the FFIEC does not endorse any particular tool, these standardized tools support institutions their self-assessment activities. The tools are not examination programs and the FFIEC members take a risk-focused approach to examinations. As cyber risk evolves, examiners may address areas not covered by all tools.

REFERENCES

- [FFIEC Cybersecurity Assessment Tool](#)
- [FSSCC Cybersecurity Profile](#)
- [NIST Cybersecurity Framework](#)
- [Center for Internet Security Controls](#)

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Business Continuity update coming ...



What Challenges Do You Face?





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REFERENCES

FFIEC Cybersecurity Assessment Tool

<https://www.ffiec.gov/cyberassessmenttool.htm>

FSSCC Cybersecurity Profile

<https://www.fsscc.org/Financial-Sector-Cybersecurity-Profile>

NIST Cybersecurity Framework
<https://www.nist.gov/cyberframework>

Center for Internet Security Controls
<https://www.cisecurity.org/controls/>

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The FFIEC was established in March 1979 to prescribe uniform principles, standards, and report forms and to promote uniformity in the supervision of financial institutions. It also conducts schools for examiners employed by the five federal member agencies represented on the FFIEC and makes those schools available to employees of state agencies that supervise financial institutions. The Council consists of the following six voting members: a member of the Board of Governors of the Federal Reserve System; the Chairman of the Federal Deposit Insurance Corporation; the Director of the Consumer Financial Protection Bureau; the Comptroller of the Currency; the Chairman of the National Credit Union Administration; and the Chairman of the State Liaison Committee.

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