



**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF BANKING AND SECURITIES**

June 28, 2018

**TO: ALL PENNSYLVANIA STATE-CHARTERED, LICENSED, AND REGISTERED  
FINANCIAL SERVICES INSTITUTIONS AND COMPANIES:**

In 2016, Governor Tom Wolf signed the Industrial Hemp Research Act (Act 92), allowing industrial hemp to be legally grown in the commonwealth for the first time in 80 years. This followed the federal government's enactment of the Agriculture Act of 2014, Pub. L. 113-79, more commonly known as the 2014 Farm Bill, which authorized institutions of higher education and state departments of agriculture to research the cultivation and marketing of industrial hemp.<sup>1</sup> Despite being authorized by both state and federal law, industrial hemp has yet to gain acceptance apart from cannabis, and financial institutions nationwide have exercised caution in extending banking services to this new industry.

Pursuant to the federal and state authorizations, the Pennsylvania Department of Agriculture (PDA) launched the Industrial Hemp Research Program, which is now in its second year. In determining whether it is prudent for financial institutions to provide financial services to persons engaged in state and federal government-authorized industrial hemp research programs, financial institutions should conduct reasonable due diligence in verifying that a permitted grower conducts its activities in compliance with all PDA requirements. In addition, the Pennsylvania Department of Banking and Securities (DoBS) reminds financial institutions that there are obligations under the Bank Secrecy Act/ Anti-Money Laundering (BSA/AML) laws which financial service providers must observe when providing banking services. See, 31 U.S.C. §§ 5311-5330 and 31 CFR Chapter X. These include the following:

- The federal Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of Treasury states that, in general, the decision to open, close, or refuse any account or relationship, should be made by each financial institution based on a number of factors specific to that institution. These factors may include 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. Thorough customer due diligence is a critical aspect of making this assessment. See, February 14, 2014 memorandum issued by FinCEN.

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<sup>1</sup> Under both federal and state law, "industrial hemp" is defined 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." 7 U.S.C. § 5940(b)(2); 3 Pa.C.S. § 702.

- In assessing the risk of providing services to an industrial hemp-related business, a financial institution should conduct customer due diligence that includes:
  - (i) verifying with the PDA that the business holds an industrial hemp research permit;
  - (ii) reviewing the permit application (and related documentation) submitted to PDA;
  - (iii) developing an understanding of the normal and expected activity for the type of industrial hemp research to be conducted;
  - (iv) ongoing monitoring of publicly available sources for adverse information about the business and related parties;
  - (v) ongoing monitoring for suspicious activity; and
  - (vi) periodically refreshing information obtained as part of customer due diligence commensurate with the risk.

In compiling information from state industrial hemp research permit files, a financial institution may reasonably rely on the accuracy of information provided by the state regulatory authorities.

Due diligence on whether the industrial hemp-related business is conducted in compliance with state law enables the financial institution to provide information in BSA reports pertinent to law enforcement's priorities. A financial institution that decides to provide financial services to an industrial hemp-related business are required to file suspicious activity reports (SARs) consistent with FinCEN regulations, see, 31 CFR Chapter X, if the financial institution knows, suspects, or has reason to suspect that a transaction conducted or attempted by, at, or through the financial institution: (i) involves funds derived from illegal activity or is an attempt to disguise funds derived from illegal activity; (ii) is designed to evade regulations promulgated under the BSA, or (iii) lacks a business or apparent lawful purpose.

In addition to the federal BSA/AML and SARs requirements, financial service providers should be familiar with the legal framework for the PDA-administered industrial research hemp program:

- Pennsylvania Statute: Industrial Hemp Research Pilot Program, Act 92 of 2016: Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, 3 Pa.C.S. §§ 701-710.
- Federal Law: Section 7606 of the Agricultural Act of 2014, Pub. L. 113-79, (the 2014 Farm Bill), which was signed into law on February 7, 2014, and codified as 7 U.S.C. § 5940. This legislation allows state departments of agriculture, when authorized by their state legislatures, to administer industrial hemp research pilot research programs, including in conjunction with universities. Guidance on the interpretation of Section 7606 was provided in a Statement of Principles on Industrial Hemp issued by the U.S. Department of Agriculture, in consultation with the U.S. Drug Enforcement Administration and the U.S. Food and Drug Administration.<sup>2</sup>

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<sup>2</sup> Statement of Principles on Industrial Hemp, 81 FR 53395 (Aug. 12, 2016).

The PDA industrial hemp research program allows growers contracting with PDA, and researchers from institutions of higher education to apply for permits from PDA to grow industrial hemp and conduct research on the plant material produced, on the following topics:

- Planting methods
- Seed variety trials
- Optimum fertility levels
- Best management practices in crop production
- Pest management strategies
- Development of harvesting methods/equipment uses
- Development of hemp seed products, including oil derived from seed
- Development of hemp fiber products
- Biomass, seed and fiber yield trials
- Conservation/remediation
- Seed certification trials
- Biofuel

For additional reference, DoBS has links to various federal BSA/AML information on its [website](#), which you may consult and reference to help your financial institution implement an adequate BSA/AML compliance system, properly service these accounts and comply with all federal and state laws.

The boards and management teams of our state-chartered and licensed financial institutions should carefully review this guidance, as well as the applicable federal and state law and guidance, and consult legal counsel when considering whether to offer services to industrial hemp research program participants.

Sincerely,  
/s/  
Robin L. Wiessmann  
Secretary